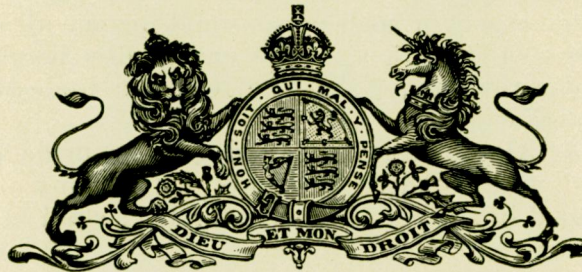


*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 27 March, 1912. }*

*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SECUNDO

## GEORGII V REGIS.

\*\*\*\*\*

### Act No. 11, 1912.

An Act to provide for the assessment and collection of a tax on incomes, and for purposes consequent thereon or incidental thereto ; and to repeal and amend certain Acts. [Assented to, 4th April, 1912.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

#### *Preliminary.*

**1.** This Act may be cited as the "Income Tax (Management) Short title. Act, 1912."

**2.** Except as hereinafter provided, the Acts mentioned in the Repeal Schedule hereto are hereby repealed to the extent therein stated.

**3.** (1) All existing regulations and forms made or prescribed under any Act hereby repealed shall continue in force and shall apply to proceedings under this Act, so far as such regulations and forms may be applicable, until regulations and forms are made and prescribed under this Act. (2)

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*R. D. MEAGHER,  
Chairman of Committees of the Legislative Assembly.*



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*Income Tax (Management).*

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Saving as to income  
received before  
1st January, 1911.

(2) In respect of income received previous to the first day of January, one thousand nine hundred and eleven, on which any person is at the date of this Act liable to pay, or who has paid, income tax, every such person shall have the same rights and be subject to the same liabilities as if this Act had not been passed, except that in respect of such persons and income all references to the Commissioners of Taxation in the enactments hereby repealed and the regulations thereunder shall be read and understood as referring to the Commissioners.

Notices.

(3) All notices given and returns made during the year one thousand nine hundred and twelve under any of the enactments hereby repealed in respect of income for 1911 shall be deemed to have been made or given under this Act.

Definitions.

**4.** In this Act, unless the context requires another meaning,—

“Absentee” means person, other than a company, who, during the twelve months next preceding the day fixed for furnishing returns for the purpose of the assessment of income tax, has been absent from Australia, unless he satisfies the Commissioners that he resides in Australia; but does not include a public officer of the Commonwealth or of a State who is absent in the performance of his duty.

“Agent” includes sub-agent.

“Business” includes any profession, trade, employment, or vocation.

“Commissioners” means the Commissioners of Taxation under this Act.

“Company” means a company duly incorporated under any law.

“Foreign company” means a company incorporated under the law of any State or country other than New South Wales.

“Income” means income derived from any source in the State, and shall be deemed to exclude the incomes, revenues, and profits exempted from the operation of this Act by section ten, but shall not include moneys or property devolving on a person under the will or intestacy of a deceased person, or under a marriage settlement.

Interest upon money secured by the mortgage of any property in the State shall be deemed to be derived from a source in the State.

“Income derived from personal exertion” means income consisting of the proceeds of any business, earnings, salaries, wages, fees, bonuses, pensions, or payments made upon superannuation or retirement from employment.

“Income derived from property” means income derived from any source in the State other than from personal exertion.

“Mortgage” includes any charge, lien, or encumbrance to secure the repayment of money upon which interest is payable.

“Prescribed”



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*Income Tax (Management).*

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“Prescribed” means prescribed by this Act or by any rules or regulations made under this Act, or by any Act hereby repealed, or the rules and regulations thereunder.

“Resident out of the State” means a person whose usual or principal place of abode is not in the State.

“Tax” means income tax.

“Taxable income” means the amount of income remaining after any deductions allowed by this Act have been subtracted from the income of any taxpayer, and shall be the amount on which tax is payable.

“Taxpayer” means any person or company by whom income tax is payable and includes both representative and principal taxpayer.

“The Court” means the Court of Review.

“The State” means the State of New South Wales.

“Year of income” means the year during which the income in question was received by any person.

Income shall be deemed to have been received by a taxpayer although it has not been actually paid over to him, but has been credited in account or reinvested or accumulated or capitalised or otherwise dealt with in his name and interest or on his behalf.

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PART II.*Administration.*

5. (1) This Act shall be administered by three officers who shall be appointed by the Governor, and shall be entitled the Commissioners of Taxation, and may sue and be sued by that name. Administration of Commissioners.

(2) In the event of the absence, incapacity, or suspension of any Commissioner his powers and duties may be exercised and performed during such absence, incapacity, or suspension by a Deputy Commissioner appointed by the Governor.

(3) The Governor may appoint such other officers as may be deemed necessary for the carrying out of this Act.

(4) A notification in the Gazette that any person has been appointed as Commissioner or Deputy Commissioner or other officer for the purpose of this Act shall be conclusive evidence of such appointment.

(5) Provided that the Commissioners under the Acts hereby repealed holding office at the commencement of this Act shall be deemed to have been appointed Commissioners under this Act.

(6) Any two of the Commissioners shall, subject to the next following provision have all the powers and authority by this Act and the regulations conferred upon the Commissioners. (7)



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*Income Tax (Management).*

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Delegation of duties

(7) If at any meeting of the Commissioners, at which two Commissioners only are present, such Commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

(8) The Commissioners may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon them as it may be considered expedient by the Commissioners so to delegate.

Secrecy.

**6.** (1) Every Commissioner shall, before acting in the execution of his office, take and subscribe before a police magistrate or a justice of the peace such oath of fidelity and secrecy as may be prescribed.

Every other person so appointed shall before so acting take and subscribe such oath before a Commissioner or a justice of the peace.

(2) Every person so appointed who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding two years with or without hard labour.

(3) If any person so appointed acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

Tax or fine recoverable by Commissioners.

**7.** Any tax or fine due to the Commissioners under this Act shall be deemed to be a debt due to the King, and shall be collected and received by the Commissioners on account of, and shall be paid into the Consolidated Revenue.

Court of Review.

**8.** The Governor may by notice in the Gazette declare that any court, judge, or police magistrate shall be a Court of Review within the meaning of this Act, and thereupon every Court of Review constituted as aforesaid shall within such limit and in such cases as the Governor may prescribe in the said notice have jurisdiction to hear and determine appeals from assessments made under this Act, or under any Act hereby repealed.

Until a Court of Review is constituted under this Act, the Court of Review existing at the date of this Act shall have jurisdiction as aforesaid.

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**PART III.***Liability to taxation.*

Incidence of tax.

**9.** Subject to the provisions of this Act, and of any regulations made in pursuance thereof, income tax at such rates as may be fixed by any Act shall be paid to the Commissioners in respect of taxable income which has been received by any person during the year one thousand nine hundred and eleven, or during any subsequent year.

**10.**



*Income Tax (Management).*

**10.** Nothing in this Act shall apply to—

- (a) the revenues of municipal corporations or of other local authorities ; Exemptions.
- (b) the incomes of mutual life assurance societies and of other companies or societies carrying on business otherwise than for purposes of profit or gain, not being interest upon money secured by the mortgage of any land in the State ;
- (c) the profits of the Government Savings Bank, or of the Savings Bank of New South Wales ;
- (d) the incomes of societies registered under the Friendly Societies Act, 1899, or under any Act relating to trade unions ;
- (e) the incomes of any ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not ;
- (f) income arising from Government Debentures, Government Inscribed Stock, and Treasury Bills ;
- (g) income earned from sources outside the State.

**11.** (1) The tax upon any income shall be payable by the person (hereinafter called the principal taxpayer) who is beneficially entitled to such income : Principal and representative taxpayers.

Provided that—

- (a) if the principal taxpayer is a company, the tax upon the income of the company shall be also payable by the public officer of the company ;
- (b) if the principal taxpayer is a resident out of the State, or is a foreign company not registered in the State and is entitled to income from goods sold in the State by an agent, or to income from any business carried on in the State by an agent, or to income received in the State by an agent, the tax on such income shall be also payable by such agent or by any person who may be declared by the Commissioners to be the agent of such principal taxpayer ;
- (c) if the principal taxpayer is entitled to income received on his behalf by a trustee, guardian, committee, receiver, or other person lawfully empowered or authorised to receive such income, the tax on such income shall be also payable by such trustee, guardian, committee, receiver, or other person ;
- (d) if the principal taxpayer is resident out of the State and is entitled to income being interest payable upon money secured by a mortgage of any land in the State the tax on such income shall be also payable by the mortgagor of such land ;

The



*Income Tax (Management).*

The persons by whom income tax is payable under paragraphs (a) (b) (c) and (d) are hereinafter called representative taxpayers.

(2) Any tax payable by a company as representative taxpayer shall also be payable by the public officer of such company, who shall also be deemed to be a representative taxpayer in respect of such tax. No such company or public officer thereof shall be liable as such representative taxpayer to the payment of a tax of a greater amount than would be payable by the principal taxpayer if his income consisted solely of the moneys due to him by such company.

Duties of representative taxpayers.

**12.** A representative taxpayer shall, in respect of any tax payable by him as such representative taxpayer, be subject to the same duties and liabilities, and have the same rights as are by this Act imposed upon and allowed to the principal taxpayer in respect of such tax, and a discharge by either the representative or principal taxpayer of any of such duties or liabilities shall be deemed to be a discharge thereof by the other of them.

Saving of personal liability.

**13.** A representative taxpayer shall not be personally liable as such to the payment of tax upon the income of the principal taxpayer to a greater amount than the income of which he has the receipt or disposal.

Indemnity.

**14.** A representative taxpayer shall be indemnified by the principal taxpayer against any payment made by him as such representative under this Act or shall be entitled to retain the amount of any such payment out of the income of the principal taxpayer :

Provided that a representative taxpayer shall not have such right of indemnity or retainer in respect of the payment of any fine imposed in consequence of his own failure to comply with the provisions of this Act.

Public officer.

**15.** (1) Every company liable to pay income tax shall at all times be represented by a public officer residing in the State and the name and place of abode or business of such public officer shall be registered by the company in the office of the Commissioners immediately upon the appointment of such public officer :

Provided that a public officer registered under the Companies Amendment Act, 1906, shall be deemed to be a public officer appointed for the purposes of this Act, and any company which registers the name and place of abode or business of such public officer in the office of the Commissioners shall be deemed to have complied with the provisions of this section.

(2) Such public officer shall be deemed to be the agent of such company, and shall do all acts and discharge all liabilities which are required to be done or discharged by such company by virtue of this Act, and shall be personally liable for all penalties imposed on such company for any breach of the provisions of this Act.



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*Income Tax (Management).*

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(3) The place of abode or business so registered shall be within the State, and shall be the place at which all notices or other instruments under this Act may be delivered to or served upon such public officer.

(4) Every company failing to appoint a public officer, or failing to fill any vacancy in such office, or failing to register the name and place of abode or business of such officer, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure shall continue.

(5) In the event of any such failure or neglect the Commissioners may register any director, agent, or employee of the company as such public officer, and such director, agent, or employee shall thereupon be the public officer of the company for the purposes of this Act.

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PART IV.

*Taxable income.*

**16.** (1) Except as hereinafter provided, the Commissioners shall deduct from the income of every principal taxpayer, not being a company or a taxpayer, coming within the provisions of section nineteen of this Act, the moneys and expenses hereunder mentioned, and the amount of income remaining after such deduction shall be the income on which tax shall be payable:—

- (a) The sum of three hundred pounds.
- (b) The sum of fifty pounds in respect of each child who is wholly maintained by him and who is under the age of eighteen at the end of the year of income.
- (c) Any premium or sum paid during the year of income by the taxpayer for the insurance of the taxpayers own life, or that of the wife or husband of the taxpayer, or for a deferred annuity or other provision for the husband, wife, or children of such taxpayer, or in respect of any fidelity guarantee or bond which such taxpayer is required to provide for the exercise of his business:

Provided that the total deduction to be allowed under this subsection shall not exceed fifty pounds.

- (d) Any payments by way of deduction or otherwise made during the year of income by any person to the Treasury under the Civil Service Act of 1884 or any Act amending the same, or the Railway Service Superannuation Act, 1910, or any similar payment.

(e)



*Income Tax (Management).*

- (e) Losses, outgoings, including commission, discount, travelling expenses, and expenses actually incurred in New South Wales by the taxpayer in the production of his income; including—
- (i) any sums expended by the taxpayer for repairs of premises occupied for the purpose of his business or producing income, and for the repair of machinery, implements, and plant used by the taxpayer in his business;
  - (ii) any sums such as the Commissioners may think just and reasonable representing the diminished value, by reason of wear and tear of any machinery, implements, and plant used by the taxpayer in his business and owned by him:

Provided where a taxpayer, either alone or with other persons, carries on, or is interested as a partner in, more than one business, and makes a profit in one or more of such businesses, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits:

Provided also that the Commissioners may deduct losses and expenses incurred or paid by the taxpayer outside the State during the year of income exclusively in the production of such income, and may deduct bad debts in any case in which the taxpayer has in that or any former year returned such debts as income:

Provided also that, except the deduction allowed under subsection (b) hereof, no deduction shall be made in respect of the costs incurred in the maintenance of any taxpayer or of his family, or in respect of domestic or private expenses, or in respect of any loss or expense which is recoverable under any insurance or indemnity, or rates and taxes other than those imposed by Acts of the Parliament of New South Wales or by any authority constituted by or under any such Act.

- (f) A sum at the rate of five pounds in every hundred pounds of the unimproved value of any land owned by the taxpayer and occupied by him for the purpose of business and at the rate of five pounds in every hundred pounds of the value of the improvements thereon which are used for the purposes of such business.

(2) (a) The deductions (a), (b), (c), and (d) shall be made in the first place from income derived from personal exertion.

(b) The deduction (e) shall be made in the first place from income from personal exertion unless such loss, expense, or interest was incurred or paid in the production of income from property, in which case such deduction shall be made in the first place from income from property.

(c) The deduction (f) shall be made from income derived from the business.



*Income Tax (Management).*

**17.** The Commissioners shall make the said deductions (e) and (f), so far as they may be applicable, from the income of any company being a principal taxpayer, and shall further deduct any sum paid or credited to a shareholder or policy holder by the company during the year of income as dividend or bonus, and the amount of income remaining after such deductions shall be the income on which tax shall be payable by the company :

Deduction from  
income of company.

Provided that if a company pays or credits to any shareholder or policy holder by way of dividend or bonus any sum upon which such company has previously paid tax, the amount of such tax shall be repaid to the company, or allowed in account, by the Commissioners :

Provided further that the Commissioners shall not deduct any sum so paid or credited to a shareholder or policy holder unless the company in its return of income states the name, occupation, and address of such shareholder or policy holder, and the amount paid or credited to him. Such deduction shall be made in the first place from income derived by the company from personal exertion.

**18.** In the case of an agent selling goods in the State on account of a resident out of the State, or on account of a foreign company not registered in the State, the principal shall be deemed to have derived from such sale an amount of taxable income equal to five pounds per centum upon the price at which such goods were sold.

Agent.

**19.** (1) The taxable income of any taxpayer engaged in the business of owner or charterer of ships trading from a port in the State to a port outside the State, and the taxable income of any insurance company carrying on business both within and outside of the State, shall be assessed in accordance with regulations to be made in that behalf by the Governor, and until such regulations are made in accordance with the regulations now in force, subject to all rights of objection and review as provided by this Act.

Taxable income of  
owner or charterer  
and insurance  
company.

(2) In the case of any other taxpayer carrying on business both in and outside of the State his taxable income shall be deemed to be a sum which shall bear the same proportion to the net profits of such business as the assets of the business in the State bear to the total assets of the business :

Other taxpayers.

Provided that in any case under this subsection the Commissioners may assess the actual income, and shall do so if required by the taxpayer :

Provided further, that in the case of a person under this subsection the Commissioners shall make all the deductions allowed by section sixteen, paragraphs (a), (b), (c), (d), and (f) ; and in the case of a company under this section, the deduction provided by section sixteen, paragraph (f), and the deductions provided by section seventeen.



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*Income Tax (Management).*


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## PART V.

*Assessment and payment.*

Notice and returns.

**20.** (1) In the year one thousand nine hundred and twelve and in each succeeding year the Commissioners may in the prescribed manner give not less than thirty days public notice of the time and place at which and the person to whom taxpayers shall furnish the returns hereinafter prescribed for the then next preceding year of income.

(2) Such notice shall state a place at which the prescribed forms of return may be obtained.

(3) Within the time mentioned in such notice every taxpayer shall deliver in the prescribed manner to the person appointed to receive the same a return in the prescribed form signed by such taxpayer, or by his agent duly authorised in that behalf, setting out the prescribed particulars in respect of all his income during the then next preceding year.

Assessment on return.

**21.** The Commissioners shall assess the tax payable by every taxpayer who has sent in a return.

Assessment, increase, or reduction.

**22.** Notwithstanding that no notice to furnish a return has been given to any taxpayer, or notwithstanding that any taxpayer has not delivered a return of income, the Commissioners may—

- (a) assess any tax payable by such taxpayer;
- (b) increase any assessment of tax in respect of the income of such taxpayer by assessing additional income in respect of the same year, or by assessing tax on the same income at a higher rate;
- (c) reduce any assessment of tax.

The assessment book.

**23.** (1) The Commissioners shall keep a book (hereinafter called the assessment book) for each year of income.

(2) The Commissioners shall make in the assessment book an entry of every assessment of tax made in respect of the year of income to which such book relates and an entry of every increase or reduction of such assessment.

(3) The entry of an assessment shall show—

- (a) the name, occupation, and address of the taxpayer;
- (b) the amount at which his taxable income is assessed;
- (c) the amount at which the tax payable by him is assessed.

(4) The Commissioners may amend or cancel any entry in the assessment book.

(5) Every taxpayer who has received an assessment notice shall, on request, be informed by the Commissioners of the amount at which the income of such taxpayer has been assessed, the amount of the deductions allowed therefrom, and the rate at which tax has been assessed thereon.

**24.**



*Income Tax (Management).*

**24.** (1) The Commissioners shall send through the post to every taxpayer a notice in writing (herein called the assessment notice) of any assessment of tax payable by such taxpayer, or of any increase or reduction of such assessment. Notice of assessment.

(2) In the case of an assessment of tax or an increase of such assessment the assessment notice shall state the amount of tax or additional tax payable by the taxpayer, and shall fix a day upon which such tax or additional tax shall become due and payable, and such tax or additional tax shall become due and payable to the Commissioners at their office by the taxpayer upon the day so fixed. Contents of notice.

(3) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him the Commissioners may sue him therefor in any court of competent jurisdiction. Action for recovery of tax.

(4) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him, he shall be liable to pay by way of fine ten pounds per centum upon the amount of such tax, and the Commissioners may sue for such fine in any court of competent jurisdiction. Fine.

(5) In any action or proceeding the production by the Commissioners or on their behalf of a certificate purporting to be signed by them certifying that tax upon any income of any taxpayer has been duly assessed at a certain sum and has become due and payable on a certain day, shall be conclusive evidence of the facts so certified. Evidence.

PART VI.

*Appeals.*

**25.** Any taxpayer may within thirty days after the date of the assessment notice, or within such further time as may be agreed by the Commissioners or allowed by the Court of Review and upon payment of the tax stated in such notice, appeal from the assessment of such tax to the Court of Review by filing with the prescribed officer and serving on the Commissioners a notice specifying the grounds of such appeal. Right of appeal.

**26.** (1) The Court of Review constituted under this Act or existing at the date of this Act shall be a Court of record, and shall hear and determine any appeal under this Act or under any Act repealed by this Act, and assess the tax payable by the taxpayer in respect of the assessment appealed against. Court of review.

(2)



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*Income Tax (Management).*

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**Powers of the Court.**

(2) In addition to any other powers conferred upon it by this Act the Court may—

- (a) allow further time within which an appeal may be instituted notwithstanding that any time allowed for such appeal under this Act or any Act repealed by this Act may have expired or that the Commissioners may have obtained judgment or taken out execution in respect of the assessment intended to be appealed against ;
- (b) order subject to any conditions that any such judgment or execution be stayed pending the result of the appeal ;
- (c) make rules to be observed by the parties to any proceedings in the Court ;
- (d) fix the time and place for the sittings of the Court and adjourn such sittings to another time and place ;
- (e) amend any order of the Court ;
- (f) order the Commissioners to pay to the appellant his costs of an appeal from any assessment in respect of which the Commissioners may have acted unreasonably or oppressively towards the appellant ;
- (g) order the appellant to pay to the Commissioners their costs of any frivolous or vexatious appeal ;
- (h) on the application of the appellant exclude from the Court during the hearing of an appeal all or any persons other than the parties or their representatives ;
- (i) assess any costs payable under any order of the Court or order that such costs be taxed by the taxing officer of the Supreme Court or of any District Court, whereupon such costs shall be taxed by such officer accordingly.
- (j) exercise all the powers for the time being of a District Court with reference to the issue of summonses and subpoenas compelling the attendance of witnesses and production of documents, and punishing persons who have disobeyed subpoenas, or who being in Court refuse to be sworn in or to give evidence.

**Enforcement of order of Court.**

**27.** Any order of the Court for the payment of any tax, fine, or costs, may be made subject to conditions, and shall have the effect of and shall be deemed to be a judgment for the amount of such payment in the District Court for the district in which the person resides who is liable to pay under such order ; and the said amount may be recovered by process of such Court as in pursuance of such judgment.

**28.**



*Income Tax (Management).*

**28.** Twenty-one days' notice of the day and place fixed for the hearing of any appeal shall be given by the Court to the Commissioners and to the appellant. Notice of hearing.

**29.** The Commissioners and the appellant may appear on any appeal by counsel, solicitor, or agent authorised in that behalf. Appearance by parties.

**30.** In conformity with the determination of the Court on any appeal, the Commissioners shall— Amendment of assessment or judgment.

(a) amend or cancel the entry of any assessment of tax in the assessment book; and

(b) cause any judgment to be amended or vacated.

**31.** The determination of the court on appeal shall relate solely to the income the subject of the assessment appealed from, and shall not affect the right of the Commissioners to assess any other income of the appellant. Limitation of appeal.

**32.** The Court shall, if required in writing by any party, within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court on any question of law arising before the court. Appeal to Supreme Court.

The Supreme Court, for the purposes of this section, may consist of two judges only, and shall have power to deal with the costs of and incidental to any case submitted under this section as it may think fit.

The Governor may by regulation prescribe the rules to be observed in proceedings under this section.

**33.** (1) The Governor may, by regulation, prescribe, in addition to any other powers given to him by this Act— Regulations.

(a) the duties of all persons appointed or employed under or in the administration of this Act, and the security to be given by any such persons for the performance of such duties;

(b) the returns to be furnished to the Commissioners and the form and contents thereof and the time and mode of furnishing the same, and the form, time, and manner of giving notices of appeal and of any other notices required by this Act;

(c) the mode of payment of any tax or fine;

(d) the means of determining what portion of the income of a taxpayer engaged in any business carried on partly in and partly out of the State shall be deemed to be income from any source in the State,

and may make all such other regulations, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the object or purposes of this Act or as may be convenient for the purposes thereof.

(2) All such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then sitting, and if Parliament



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*Income Tax (Management).*


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Parliament be not then sitting then within fourteen days after the beginning of the next session; and, unless Parliament by resolution otherwise determines, all such regulations shall, upon publication, have the force of law.

Production of a copy of the Gazette purporting to contain regulations under this Act shall be evidence that such regulations are in force.

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## PART VII.

*Miscellaneous.*

Refund by  
Commissioners.

**34.** If any taxpayer shall have paid to the Commissioners more than is due from such taxpayer the Commissioners shall give a certificate to that effect, on production whereof the Colonial Treasurer shall refund the proper amount to the taxpayer or person authorised or entitled to receive the same:

Provided that the Commissioners shall not certify for any refund under this section unless a claim was made for such refund within three years from the date when such payment became due by the taxpayer.

Remissions.

**35.** The Commissioners may remit any fine incurred and may refund the amount of any fine paid to them, and may in any case in which it shall appear to them that serious hardship would otherwise be caused to any taxpayer forego the whole or any part of any tax due, or give time for the payment thereof.

Penalty.

**36.** If any person knowingly and wilfully makes any false statement in any return he shall be liable to a penalty not exceeding one hundred pounds, and shall be guilty of perjury.

Penalty.

**37.** If any person fails or neglects to furnish any returns within the prescribed time he shall be liable to a penalty not exceeding twenty pounds.

Penalty.

**38.** Any person guilty of a breach of this Act, for which no penalty is otherwise provided, shall be liable to a penalty not exceeding twenty pounds, and the Governor may by regulation impose a penalty not exceeding ten pounds for the breach of any regulation made under this Act.

Recovery of  
penalties.

**39.** Any penalty imposed by this Act, or by the regulations thereunder, may be recovered summarily before a court of petty sessions.

Action against  
officer.

**40.** In any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers conferred thereby or by the regulations, the defendant in such action may plead the general issue and give the special matter in evidence at the trial.

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SCHEDULE.



*Income Tax (Management).*

## SCHEDULE.

Number of Act.	Title.	Extent of Repeal.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	So much as relates to taxation of incomes.
59 Vic. No. 17 ...	Income Tax Act of 1895 ...	The whole.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897.	So much as relates to taxation of incomes.
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898.	So much as relates to taxation of incomes.
No. 17, 1904 ...	Land and Income Tax (Amendment) Act, 1904.	So much as relates to taxation of incomes.
No. 31, 1905 ...	Taxation Amending Act, 1905 ...	The unrepealed provisions.
No. 47, 1906 ...	Taxation Amending Act, 1906 ...	The unrepealed provisions.
No. 7, 1907 ...	Income Tax Deduction Act, 1907 ...	The whole.
No. 27, 1908 ...	Sydney Corporation (Amendment) Act, 1908.	The last proviso to section 5.
No. 24, 1911 ...	Income Tax Act, 1911 ...	The whole, except sections 1, 8, 9, 10, and the Schedule.

*In the name and on behalf of His Majesty I assent to this Act.*

*State Government House,  
Sydney, 4th April, 1912.*

CHELMSFORD,  
*Governor.*







INCOME TAX (MANAGEMENT) BILL.

*SCHEDULE of the Amendments referred to in Message of 27th March, 1912.*

- Page 2, clause 3, line 3. After "pay" insert "or who has paid"
- Page 2, clause 4. After line 14, insert—  
" 'Absentee' means person, other than a company, who during the twelve months next  
" preceding the day fixed for furnishing returns for the purpose of the assessment  
" of income tax has been absent from Australia, unless he satisfies the Commissioners  
" that he resides in Australia; but does not include a public officer of the Common-  
" wealth or of a State who is absent in the performance of his duty."
- Page 2, clause 4, line 30. Omit "gross"
- Page 2, clause 4, line 33. After "ten" insert "but shall not include moneys or property devolving  
" on a person under the will or intestacy of a deceased person or under a marriage  
" settlement"
- Page 4, clause 8, line 29. After "or" insert "police"
- Page 4, clause 8, line 42. After "of" insert "taxable"
- Page 5, clause 10, line 19. After "earned" insert "from sources"
- Page 6, clause 11. At end of clause add "No such company or public officer thereof shall be liable  
" as such representative taxpayer to the payment of a tax of a greater amount than would  
" be payable by the principal taxpayer if his income consisted solely of the moneys due  
" to him by such company"
- Page 6, clause 13, lines 17 and 18. Omit "not being the public officer of a company"
- Page 7, clause 16, line 19. After "company" insert "or a taxpayer coming within the provisions of  
" section nineteen of this Act"
- Page 7, clause 16, line 28. Omit "of his own life, or that of his wife" insert "of the taxpayer's own  
" life or that of the wife or husband of the taxpayer"
- Page 7, clause 16, line 31. Omit "his wife or children" insert "the husband, wife, or children of  
" such taxpayer"
- Page 8, clause 16. Omit paragraph (e) insert new paragraph (e)
- Page 8, clause 16. At end of paragraph (e) add "or rates and taxes other than those imposed by  
" Acts of the Parliament of New South Wales or by any authority constituted by or  
" under any such Act"
- Page 9, clause 17, line 3. After "paid" insert "or credited"
- Page 9, clause 17, line 4. After "shareholder" insert "or policy holder"
- Page 9, clause 17, line 8. After "pays" insert "or credits"
- Page 9, clause 17, line 8. After "shareholder" insert "or policy holder"
- Page 9, clause 17, line 13. After "paid" insert "or credited"
- Page 9, clause 17, line 13. After "shareholder" insert "or policy holder"
- Page 9, clause 17, line 15. After "shareholder" insert "or policy holder"
- Page 9, clause 17, line 15. After "paid" insert "or credited"
- Page 9, clause 18, line 23. Omit "whether such price has been received by any person or not"
- Page 9, clause 19. At end of subclause (1) add "subject to all rights of objection and review, as  
" provided by this Act"
- Page 9, clause 19. At end of clause add new proviso.
- Page 15, Schedule, third column, lines 19 to 21. Omit "and the definition of 'absentee' in section 3"



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 8 March, 1912.* }

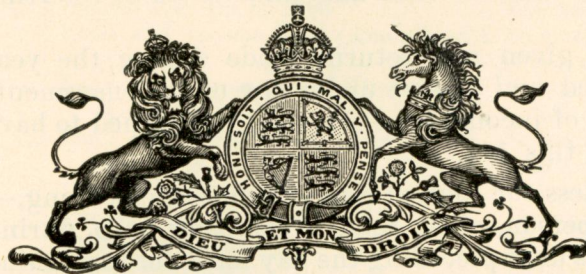
*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 27th March, 1912.* }

*E. A. GARLAND,  
For the Clerk of the Parliaments.*

## New South Wales.



ANNO SECUNDO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1912.

An Act to provide for the assessment and collection of a tax on incomes, and for purposes consequent thereon or incidental thereto ; and to repeal and amend certain Acts.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

### *Preliminary.*

**1.** This Act may be cited as the “Income Tax (Management) Short title. Act, 1912.”

**2.** Except as hereinafter provided, the Acts mentioned in the Repeal. Schedule hereto are hereby repealed to the extent therein stated.

10 **3.** (1) All existing regulations and forms made or prescribed Regulations to remain in force. under any Act hereby repealed shall continue in force and shall apply to proceedings under this Act, so far as such regulations and forms may be applicable, until regulations and forms are made and prescribed under this Act.

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2—

(2)

NOTE.—The words to be omitted are ruled through ; those to be inserted are printed in black letter.



*Income Tax (Management).*

(2) In respect of income received previous to the first day of January, one thousand nine hundred and eleven, on which any person is at the date of this Act liable to pay, or who has paid, income tax, every such person shall have the same rights and be 5 subject to the same liabilities as if this Act had not been passed, except that in respect of such persons and income all references to the Commissioners of Taxation in the enactments hereby repealed and the regulations thereunder shall be read and understood as referring to the Commissioners.

Saving as to income  
received before  
1st January, 1911.

10 (3) All notices given and returns made during the year one thousand nine hundred and twelve under any of the enactments hereby repealed in respect of income for 1911 shall be deemed to have been made or given under this Act.

Notices.

15 **4.** In this Act, unless the context requires another meaning,—  
“Absentee” means person, other than a company, who, during the twelve months next preceding the day fixed for furnishing returns for the purpose of the assessment of income tax, has been absent from Australia, unless he satisfies the Commis-  
20 sioners that he resides in Australia, but does not include a public officer of the Commonwealth or of a State who is absent in the performance of his duty.

Definitions.

“Agent” includes sub-agent.

“Business” includes any profession, trade, employment, or vocation.

25 “Commissioners” means the Commissioners of Taxation under this Act.

“Company” means a company duly incorporated under any law.

“Foreign company” means a company incorporated under the law of any State or country other than New South Wales.

30 “Income” means gross income derived from any source in the State, and shall be deemed to exclude the incomes, revenues, and profits exempted from the operation of this Act by section ten, but shall not include moneys or property devolving on a person under the will or intestacy of a  
35 deceased person, or under a marriage settlement.

Interest upon money secured by the mortgage of any property in the State shall be deemed to be derived from a source in the State.

40 “Income derived from personal exertion” means income consisting of the proceeds of any business, earnings, salaries, wages, fees, bonuses, pensions, or payments made upon superannuation or retirement from employment.

“Income derived from property” means income derived from any source in the State other than from personal exertion.

45 “Mortgage” includes any charge, lien, or encumbrance to secure the repayment of money upon which interest is payable.

“Prescribed”



*Income Tax (Management).*

- “Prescribed” means prescribed by this Act or by any rules or regulations made under this Act, or by any Act hereby repealed, or the rules and regulations thereunder.
- 5 “Resident out of the State” means a person whose usual or principal place of abode is not in the State.
- “Tax” means income tax.
- “Taxable income” means the amount of income remaining after any deductions allowed by this Act have been subtracted from the income of any taxpayer, and shall be the amount on
- 10 which tax is payable.
- “Taxpayer” means any person or company by whom income tax is payable and includes both representative and principal taxpayer.
- “The Court” means the Court of Review.
- 15 “The State” means the State of New South Wales.
- “Year of income” means the year during which the income in question was received by any person.
- Income shall be deemed to have been received by a taxpayer although it has not been actually paid over to him, but has been credited in account or reinvested or accumulated or capitalised or otherwise dealt with in his name and
- 20 interest or on his behalf.

PART II.

*Administration.*

- 25 **5.** (1) This Act shall be administered by three officers who shall be appointed by the Governor, and shall be entitled the Commissioners of Taxation, and may sue and be sued by that name. Administration of Commissioners.
- (2) In the event of the absence, incapacity, or suspension of any Commissioner his powers and duties may be exercised and
- 30 performed during such absence, incapacity, or suspension by a Deputy Commissioner appointed by the Governor.
- (3) The Governor may appoint such other officers as may be deemed necessary for the carrying out of this Act.
- (4) A notification in the Gazette that any person has been
- 35 appointed as Commissioner or Deputy Commissioner or other officer for the purpose of this Act shall be conclusive evidence of such appointment.
- (5) Provided that the Commissioners under the Acts hereby repealed holding office at the commencement of this Act shall
- 40 be deemed to have been appointed Commissioners under this Act.
- (6) Any two of the Commissioners shall, subject to the next following provision have all the powers and authority by this Act and the regulations conferred upon the Commissioners. (7)



*Income Tax (Management).*

(7) If at any meeting of the Commissioners, at which two Commissioners only are present, such Commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present. Delegation of duties

5 (8) The Commissioners may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon them as it may be considered expedient by the Commissioners so to delegate. Secrecy.

10 6. (1) Every Commissioner shall, before acting in the execution of his office, take and subscribe before a police magistrate or a justice of the peace such oath of fidelity and secrecy as may be prescribed.

Every other person so appointed shall before so acting take and subscribe such oath before a Commissioner or a justice of the peace.

(2) Every person so appointed who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding two years with or without hard labour.

(3) If any person so appointed acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

25 7. Any tax or fine due to the Commissioners under this Act shall be deemed to be a debt due to the King, and shall be collected and received by the Commissioners on account of, and shall be paid into the Consolidated Revenue. Tax or fine recoverable by Commissioners.

30 8. The Governor may by notice in the Gazette declare that any court, judge, or police magistrate shall be a Court of Review within the meaning of this Act, and thereupon every Court of Review constituted as aforesaid shall within such limit and in such cases as the Governor may prescribe in the said notice have jurisdiction to hear and determine appeals from assessments made under this Act, or under any Act hereby repealed. Court of Review.

35 Until a Court of Review is constituted under this Act, the Court of Review existing at the date of this Act shall have jurisdiction as aforesaid.

PART III.

*Liability to taxation.*

40 9. Subject to the provisions of this Act, and of any regulations made in pursuance thereof, income tax at such rates as may be fixed by any Act shall be paid to the Commissioners in respect of taxable income which has been received by any person during the year one thousand nine hundred and eleven, or during any subsequent year. Incidence of tax:

10.



*Income Tax (Management).*

**10.** Nothing in this Act shall apply to—

- (a) the revenues of municipal corporations or of other local authorities ;
- 5 (b) the incomes of mutual life assurance societies and of other companies or societies carrying on business otherwise than for purposes of profit or gain, not being interest upon money secured by the mortgage of any land in the State ;
- (c) the profits of the Government Savings Bank, or of the Savings Bank of New South Wales ;
- 10 (d) the incomes of societies registered under the Friendly Societies Act, 1899, or under any Act relating to trade unions ;
- (e) the incomes of any ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not ;
- 15 (f) income arising from Government Debentures, Government Inscribed Stock, and Treasury Bills ;
- (g) income earned from sources outside the State.

20 **11.** (1) The tax upon any income shall be payable by the person (hereinafter called the principal taxpayer) who is beneficially entitled to such income : Principal and representative taxpayers.

Provided that—

- 25 (a) if the principal taxpayer is a company, the tax upon the income of the company shall be also payable by the public officer of the company ;
- (b) if the principal taxpayer is a resident out of the State, or is a foreign company not registered in the State and is entitled to income from goods sold in the State by an agent, or to income from any business carried on in the State by an agent, or to income received in the State by an agent, the tax on such income shall be also payable by such agent or by any person who may be declared by the Commissioners to be the agent of such principal taxpayer ;
- 30 (c) if the principal taxpayer is entitled to income received on his behalf by a trustee, guardian, committee, receiver, or other person lawfully empowered or authorised to receive such income, the tax on such income shall be also payable by such trustee, guardian, committee, receiver, or other person ;
- 35 (d) if the principal taxpayer is resident out of the State and is entitled to income being interest payable upon money secured by a mortgage of any land in the State the tax on such income shall be also payable by the mortgagor of such land ;
- 40

The



*Income Tax (Management).*

The persons by whom income tax is payable under paragraphs (a) (b) (c) and (d) are hereinafter called representative taxpayers.

(2) Any tax payable by a company as representative taxpayer shall also be payable by the public officer of such company, who shall also be deemed to be a representative taxpayer in respect of such tax. No such company or public officer thereof shall be liable as such representative taxpayer to the payment of a tax of a greater amount than would be payable by the principal taxpayer if his income consisted solely of the moneys due to him by such company.

10 **12.** A representative taxpayer shall, in respect of any tax payable by him as such representative taxpayer, be subject to the same duties and liabilities, and have the same rights as are by this Act imposed upon and allowed to the principal taxpayer in respect of such tax, and a discharge by either the representative or principal taxpayer of any of such duties or liabilities shall be deemed to be a discharge thereof by the other of them. Duties of representative taxpayers.

15 **13.** A representative taxpayer, ~~not being the public officer of a company~~ shall not be personally liable as such to the payment of tax upon the income of the principal taxpayer to a greater amount than the income of which he has the receipt or disposal. Saving of personal liability.

20 **14.** A representative taxpayer shall be indemnified by the principal taxpayer against any payment made by him as such representative under this Act or shall be entitled to retain the amount of any such payment out of the income of the principal taxpayer: Indemnity.

25 **Provided that** a representative taxpayer shall not have such right of indemnity or retainer in respect of the payment of any fine imposed in consequence of his own failure to comply with the provisions of this Act.

**15.** (1) Every company liable to pay income tax shall at all times be represented by a public officer residing in the State and the name and place of abode or business of such public officer shall be registered by the company in the office of the Commissioners immediately upon the appointment of such public officer: Public officer.

**Provided that** a public officer registered under the Companies Amendment Act, 1906, shall be deemed to be a public officer appointed for the purposes of this Act, and any company which registers the name and place of abode or business of such public officer in the office of the Commissioners shall be deemed to have complied with the provisions of this section.

40 (2) Such public officer shall be deemed to be the agent of such company, and shall do all acts and discharge all liabilities which are required to be done or discharged by such company by virtue of this Act, and shall be personally liable for all penalties imposed on such company for any breach of the provisions of this Act.



*Income Tax (Management).*

(3) The place of abode or business so registered shall be within the State, and shall be the place at which all notices or other instruments under this Act may be delivered to or served upon such public officer.

5 (4) Every company failing to appoint a public officer, or failing to fill any vacancy in such office, or failing to register the name and place of abode or business of such officer, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure shall continue.

10 (5) In the event of any such failure or neglect the Commissioners may register any director, agent, or employee of the company as such public officer, and such director, agent, or employee shall thereupon be the public officer of the company for the purposes of this Act.

PART IV.

*Taxable income.*

15 **16.** (1) Except as hereinafter provided, the Commissioners shall deduct from the income of every principal taxpayer, not being a company or a taxpayer, coming within the provisions of section  
20 nineteen of this Act, the moneys and expenses hereunder mentioned, and the amount of income remaining after such deduction shall be the income on which tax shall be payable:—

- (a) The sum of three hundred pounds.
- 25 (b) The sum of fifty pounds in respect of each child who is wholly maintained by him and who is under the age of eighteen at the end of the year of income.
- 30 (c) Any premium or sum paid during the year of income by the taxpayer for the insurance of his own life, or that of his wife, of the taxpayer's own life, or that of the wife or husband of the taxpayer, or for a deferred annuity or other provision for his wife or children, the husband, wife, or children of such taxpayer, or in respect of any fidelity guarantee, or bond which such taxpayer is required to provide for the exercise of his business:

35 Provided that the total deduction to be allowed under this subsection shall not exceed fifty pounds.

- (d) Any payments by way of deduction or otherwise made during the year of income by any person to the Treasury under the Civil Service Act of 1884 or any Act amending the same, or the Railway Service Superannuation Act, 1910, or any similar payment.

(e)



*Income Tax (Management).*

- (e) Losses, expenses, and interest incurred or paid by the taxpayer in the State during the year of income exclusively in the production of such income; including:—
- 5 (e) Losses, outgoings, including commission, discount, travelling expenses, and expenses actually incurred in New South Wales by the taxpayer in the production of his income; including—
- (i) any sums expended by the taxpayer for repairs of premises occupied for the purpose of his business or producing income, and for the repair of machinery, implements, and plant used by the taxpayer in his business;
- 10 (ii) any sums such as the Commissioners may think just and reasonable representing the diminished value, by reason of wear and tear of any machinery, implements, and plant used by the taxpayer in his business and owned by him:

15 Provided where a taxpayer, either alone or with other persons, carries on, or is interested as a partner in, more than one business, and makes a profit in one or more of such businesses, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits:

20 Provided also that the Commissioners may deduct losses and expenses incurred or paid by the taxpayer outside the State during the year of income exclusively in the production of such income, and may deduct bad debts in any case in which the taxpayer has in that or any former year returned such debts as income:

25 Provided also that, except the deduction allowed under subsection (b) hereof, no deduction shall be made in respect of the costs incurred in the maintenance of any taxpayer or of his family, or in respect of domestic or private expenses, or in respect of any loss or expense which is recoverable under any insurance or indemnity, or rates and taxes other than those imposed by Acts of the Parliament of New South Wales or by any authority constituted by or under any such Act.

- 30 (f) A sum at the rate of five pounds in every hundred pounds of the unimproved value of any land owned by the taxpayer and occupied by him for the purpose of business and at the rate of five pounds in every hundred pounds of the value of the improvements thereon which are used for the purposes of such business.

40 (2) (a) The deductions (a), (b), (c), and (d) shall be made in the first place from income derived from personal exertion.

(b) The deduction (e) shall be made in the first place from income from personal exertion unless such loss, expense, or interest was incurred or paid in the production of income from property, in which case such deduction shall be made in the first place from income from property.

50 (c) The deduction (f) shall be made from income derived from the business.



*Income Tax (Management).*

**17.** The Commissioners shall make the said deductions (e) and (f), so far as they may be applicable, from the income of any company being a principal taxpayer, and shall further deduct any sum paid or credited to a shareholder or policy holder by the company during the 5 year of income as dividend or bonus, and the amount of income remaining after such deductions shall be the income on which tax shall be payable by the company :

Provided that if a company pays or credits to any shareholder or policy holder by way of dividend or bonus any sum upon which 10 such company has previously paid tax, the amount of such tax shall be repaid to the company, or allowed in account, by the Commissioners :

Provided further that the Commissioners shall not deduct any sum so paid or credited to a shareholder or policy holder unless the company in its return of income states the name, occupation, and 15 address of such shareholder or policy holder, and the amount paid or credited to him. Such deduction shall be made in the first place from income derived by the company from personal exertion.

**18.** In the case of an agent selling goods in the State on Agent. account of a resident out of the State, or on account of a foreign 20 company not registered in the State, the principal shall be deemed to have derived from such sale an amount of taxable income equal to five pounds per centum upon the price at which such goods were sold ~~whether such price has been received by any person or not.~~

**19.** (1) The taxable income of any taxpayer engaged in the Taxable income of owner or charterer and insurance company. 25 business of owner or charterer of ships trading from a port in the State to a port outside the State, and the taxable income of any insurance company carrying on business both within and outside of the State, shall be assessed in accordance with regulations to be made in that behalf by the Governor, and until such regulations are made 30 in accordance with the regulations now in force, subject to all rights of objection and review as provided by this Act.

(2) In the case of any other taxpayer carrying on Other taxpayers. business both in and outside of the State his taxable income shall be deemed to be a sum which shall bear the same proportion to the net 35 profits of such business as the assets of the business in the State bear to the total assets of the business :

. Provided that in any case under this subsection the Commissioners may assess the actual income, and shall do so if required by the taxpayer :

40 Provided further, that in the case of a person under this subsection the Commissioners shall make all the deductions allowed by section sixteen, paragraphs (a), (b), (c), (d), and (f); and in the case of a company under this section, the deduction provided by section sixteen, paragraph (f), and the deductions provided by section seventeen.

PART



*Income Tax (Management).*

## PART V.

*Assessment and payment.*

**20.** (1) In the year one thousand nine hundred and twelve and in each succeeding year the Commissioners may in the prescribed manner give not less than thirty days public notice of the time and place at which and the person to whom taxpayers shall furnish the returns hereinafter prescribed for the then next preceding year of income.

(2) Such notice shall state a place at which the prescribed forms of return may be obtained.

(3) Within the time mentioned in such notice every taxpayer shall deliver in the prescribed manner to the person appointed to receive the same a return in the prescribed form signed by such taxpayer, or by his agent duly authorised in that behalf, setting out the prescribed particulars in respect of all his income during the then next preceding year.

**21.** The Commissioners shall assess the tax payable by every taxpayer who has sent in a return.

**22.** Notwithstanding that no notice to furnish a return has been given to any taxpayer, or notwithstanding that any taxpayer has not delivered a return of income, the Commissioners may—

- (a) assess any tax payable by such taxpayer;
- (b) increase any assessment of tax in respect of the income of such taxpayer by assessing additional income in respect of the same year, or by assessing tax on the same income at a higher rate;
- (c) reduce any assessment of tax.

**23.** (1) The Commissioners shall keep a book (hereinafter called the assessment book) for each year of income.

(2) The Commissioners shall make in the assessment book an entry of every assessment of tax made in respect of the year of income to which such book relates and an entry of every increase or reduction of such assessment.

(3) The entry of an assessment shall show—

- (a) the name, occupation, and address of the taxpayer;
- (b) the amount at which his taxable income is assessed;
- (c) the amount at which the tax payable by him is assessed.

(4) The Commissioners may amend or cancel any entry in the assessment book.

(5) Every taxpayer who has received an assessment notice shall, on request, be informed by the Commissioners of the amount at which the income of such taxpayer has been assessed, the amount of the deductions allowed therefrom, and the rate at which tax has been assessed thereon.

**24.**



*Income Tax (Management).*

**24.** (1) The Commissioners shall send through the post to every taxpayer a notice in writing (herein called the assessment notice) of any assessment of tax payable by such taxpayer, or of any increase or reduction of such assessment. Notice of assessment.

5 (2) In the case of an assessment of tax or an increase of such assessment the assessment notice shall state the amount of tax or additional tax payable by the taxpayer, and shall fix a day upon which such tax or additional tax shall become due and payable, and such tax or additional tax shall become due and payable to the  
10 Commissioners at their office by the taxpayer upon the day so fixed. Contents of notice.

(3) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him the Commissioners may sue him therefor in any court of competent jurisdiction. Action for recovery of tax.

15 (4) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him, he shall be liable to pay by way of fine ten pounds per centum upon the amount of such tax, and the Commissioners may sue for such fine in any court of competent jurisdiction. Fine.

20 (5) In any action or proceeding the production by the Commissioners or on their behalf of a certificate purporting to be signed by them certifying that tax upon any income of any taxpayer has been duly assessed at a certain sum and has become due and payable on a certain day, shall be conclusive evidence of the facts so certified. Evidence.

**PART VI.***Appeals.*

25 **25.** Any taxpayer may within thirty days after the date of the assessment notice, or within such further time as may be agreed by the Commissioners or allowed by the Court of Review and upon payment of the tax stated in such notice, appeal from the assessment  
30 of such tax to the Court of Review by filing with the prescribed officer and serving on the Commissioners a notice specifying the grounds of such appeal. Right of appeal.

**26.** (1) The Court of Review constituted under this Act or existing at the date of this Act shall be a Court of record, and shall  
35 hear and determine any appeal under this Act or under any Act repealed by this Act, and assess the tax payable by the taxpayer in respect of the assessment appealed against. Court of review.

(2)



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*Income Tax (Management).*

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(2) In addition to any other powers conferred upon it by Powers of the Court.  
this Act the Court may—

- 5 (a) allow further time within which an appeal may be instituted notwithstanding that any time allowed for such appeal under this Act or any Act repealed by this Act may have expired or that the Commissioners may have obtained judgment or taken out execution in respect of the assessment intended to be appealed against;
- 10 (b) order subject to any conditions that any such judgment or execution be stayed pending the result of the appeal;
- (c) make rules to be observed by the parties to any proceedings in the Court;
- (d) fix the time and place for the sittings of the Court and adjourn such sittings to another time and place;
- 15 (e) amend any order of the Court;
- (f) order the Commissioners to pay to the appellant his costs of an appeal from any assessment in respect of which the Commissioners may have acted unreasonably or oppressively towards the appellant;
- 20 (g) order the appellant to pay to the Commissioners their costs of any frivolous or vexatious appeal;
- (h) on the application of the appellant exclude from the Court during the hearing of an appeal all or any persons other than the parties or their representatives;
- 25 (i) assess any costs payable under any order of the Court or order that such costs be taxed by the taxing officer of the Supreme Court or of any District Court, whereupon such costs shall be taxed by such officer accordingly.
- 30 (j) exercise all the powers for the time being of a District Court with reference to the issue of summonses and subpoenas compelling the attendance of witnesses and production of documents, and punishing persons who have disobeyed subpoenas, or who being in Court refuse to be sworn in or to give evidence.

35 **27.** Any order of the Court for the payment of any tax, fine, or costs, may be made subject to conditions, and shall have the effect of and shall be deemed to be a judgment for the amount of such payment in the District Court for the district in which the person resides who is liable to pay under such order; and the said amount  
40 may be recovered by process of such Court as in pursuance of such judgment.

**28.**



*Income Tax (Management).*

**28.** Twenty-one days' notice of the day and place fixed for the hearing of any appeal shall be given by the Court to the Commissioners and to the appellant. Notice of hearing.

**29.** The Commissioners and the appellant may appear on any appeal by counsel, solicitor, or agent authorised in that behalf. Appearance by parties.

**30.** In conformity with the determination of the Court on any appeal, the Commissioners shall— Amendment of assessment or judgment.

(a) amend or cancel the entry of any assessment of tax in the assessment book; and

(b) cause any judgment to be amended or vacated.

**31.** The determination of the court on appeal shall relate solely to the income the subject of the assessment appealed from, and shall not affect the right of the Commissioners to assess any other income of the appellant. Limitation of appeal.

**32.** The Court shall, if required in writing by any party, within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court on any question of law arising before the court. Appeal to Supreme Court.

The Supreme Court, for the purposes of this section, may consist of two judges only, and shall have power to deal with the costs of and incidental to any case submitted under this section as it may think fit.

The Governor may by regulation prescribe the rules to be observed in proceedings under this section.

**33.** (1) The Governor may, by regulation, prescribe, in addition to any other powers given to him by this Act— Regulations.

(a) the duties of all persons appointed or employed under or in the administration of this Act, and the security to be given by any such persons for the performance of such duties;

(b) the returns to be furnished to the Commissioners and the form and contents thereof and the time and mode of furnishing the same, and the form, time, and manner of giving notices of appeal and of any other notices required by this Act;

(c) the mode of payment of any tax or fine;

(d) the means of determining what portion of the income of a taxpayer engaged in any business carried on partly in and partly out of the State shall be deemed to be income from any source in the State,

and may make all such other regulations, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the object or purposes of this Act or as may be convenient for the purposes thereof.

(2) All such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then sitting, and if Parliament



*Income Tax (Management).*

Parliament be not then sitting then within fourteen days after the beginning of the next session; and, unless Parliament by resolution otherwise determines, all such regulations shall, upon publication, have the force of law.

- 5        Production of a copy of the Gazette purporting to contain regulations under this Act shall be evidence that such regulations are in force.

## PART VII.

*Miscellaneous.*

- 10        **34.** If any taxpayer shall have paid to the Commissioners more than is due from such taxpayer the Commissioners shall give a certificate to that effect, on production whereof the Colonial Treasurer shall refund the proper amount to the taxpayer or person authorised or entitled to receive the same: Refund by Commissioners.
- 15        Provided that the Commissioners shall not certify for any refund under this section unless a claim was made for such refund within three years from the date when such payment became due by the taxpayer.
- 20        **35.** The Commissioners may remit any fine incurred and may refund the amount of any fine paid to them, and may in any case in which it shall appear to them that serious hardship would otherwise be caused to any taxpayer forego the whole or any part of any tax due, or give time for the payment thereof. Remissions.
- 25        **36.** If any person knowingly and wilfully makes any false statement in any return he shall be liable to a penalty not exceeding one hundred pounds, and shall be guilty of perjury. Penalty.
- 30        **37.** If any person fails or neglects to furnish any returns within the prescribed time he shall be liable to a penalty not exceeding twenty pounds. Penalty.
- 30        **38.** Any person guilty of a breach of this Act, for which no penalty is otherwise provided, shall be liable to a penalty not exceeding twenty pounds, and the Governor may by regulation impose a penalty not exceeding ten pounds for the breach of any regulation made under this Act. Penalty.
- 35        **39.** Any penalty imposed by this Act, or by the regulations thereunder, may be recovered summarily before a court of petty sessions. Recovery of penalties.
- 40        **40.** In any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers conferred thereby or by the regulations, the defendant in such action may plead the general issue and give the special matter in evidence at the trial. Action against officer.



*Income Tax (Management).*

## SCHEDULE.

Number of Act.	Title.	Extent of Repeal.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	So much as relates to taxation of incomes.
5 59 Vic. No. 17 ...	Income Tax Act of 1895 ...	The whole.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897.	So much as relates to taxation of incomes.
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898.	So much as relates to taxation of incomes.
10 No. 17, 1904 ...	Land and Income Tax (Amendment) Act, 1904.	So much as relates to taxation of incomes.
No. 31, 1905 ...	Taxation Amending Act, 1905 ...	The unrepealed provisions.
No. 47, 1906 ...	Taxation Amending Act, 1906 ...	The unrepealed provisions.
No. 7, 1907 ...	Income Tax Deduction Act, 1907 ...	The whole.
15 No. 27, 1908 ...	Sydney Corporation (Amendment) Act, 1908.	The last proviso to section 5.
No. 24, 1911.	Income Tax Act, 1911 ...	The whole, except sections 1, 8, 9, 10, and the Schedule. and the definition of "absentee" in section 3.
20		







*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 8 March, 1912.*

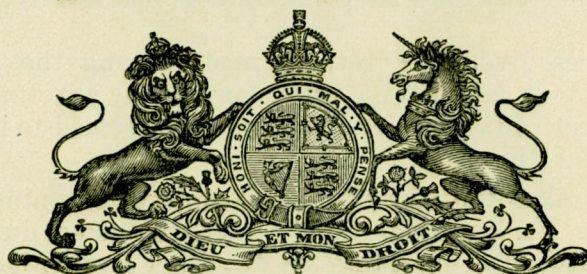
*RICH'D. A. ARNOLD,  
Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, March, 1912.*

*For the Clerk of the Parliaments.*

## New South Wales.



ANNO SECUNDO

GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1912.

An Act to provide for the assessment and collection of a tax on incomes, and for purposes consequent thereon or incidental thereto ; and to repeal and amend certain Acts.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

*Preliminary.*

**1.** This Act may be cited as the "Income Tax (Management) Short title. Act, 1912."

**2.** Except as hereinafter provided, the Acts mentioned in the Repeal. Schedule hereto are hereby repealed to the extent therein stated.

10 **3.** (1) All existing regulations and forms made or prescribed Regulations to remain in force. under any Act hereby repealed shall continue in force and shall apply to proceedings under this Act, so far as such regulations and forms may be applicable, until regulations and forms are made and prescribed under this Act.

13939

2—

(2)

NOTE.—The words to be omitted are ruled through ; those to be inserted are printed in black letter.



*Income Tax (Management).*

(2) In respect of income received previous to the first day of January, one thousand nine hundred and eleven, on which any person is at the date of this Act liable to pay, or who has paid, income tax, every such person shall have the same rights and be subject to the same liabilities as if this Act had not been passed, except that in respect of such persons and income all references to the Commissioners of Taxation in the enactments hereby repealed and the regulations thereunder shall be read and understood as referring to the Commissioners.

Saving as to income received before 1st January, 1911.

(3) All notices given and returns made during the year one thousand nine hundred and twelve under any of the enactments hereby repealed in respect of income for 1911 shall be deemed to have been made or given under this Act.

Notices.

4. In this Act, unless the context requires another meaning,—  
“Absentee” means person, other than a company, who, during the twelve months next preceding the day fixed for furnishing returns for the purpose of the assessment of income tax, has been absent from Australia, unless he satisfies the Commissioners that he resides in Australia, but does not include a public officer of the Commonwealth or of a State who is absent in the performance of his duty.

Definitions.

“Agent” includes sub-agent.

“Business” includes any profession, trade, employment, or vocation.

“Commissioners” means the Commissioners of Taxation under this Act.

“Company” means a company duly incorporated under any law.

“Foreign company” means a company incorporated under the law of any State or country other than New South Wales.

“Income” means gross income derived from any source in the State, and shall be deemed to exclude the incomes, revenues, and profits exempted from the operation of this Act by section ten, but shall not include moneys or property devolving on a person under the will or intestacy of a deceased person, or under a marriage settlement.

Interest upon money secured by the mortgage of any property in the State shall be deemed to be derived from a source in the State.

“Income derived from personal exertion” means income consisting of the proceeds of any business, earnings, salaries, wages, fees, bonuses, pensions, or payments made upon superannuation or retirement from employment.

“Income derived from property” means income derived from any source in the State other than from personal exertion.

“Mortgage” includes any charge, lien, or encumbrance to secure the repayment of money upon which interest is payable.

“Prescribed”



*Income Tax (Management).*

- “Prescribed” means prescribed by this Act or by any rules or regulations made under this Act, or by any Act hereby repealed, or the rules and regulations thereunder.
- 5 “Resident out of the State” means a person whose usual or principal place of abode is not in the State.
- “Tax” means income tax.
- “Taxable income” means the amount of income remaining after any deductions allowed by this Act have been subtracted from the income of any taxpayer, and shall be the amount on
- 10 which tax is payable.
- “Taxpayer” means any person or company by whom income tax is payable and includes both representative and principal taxpayer.
- “The Court” means the Court of Review.
- 15 “The State” means the State of New South Wales.
- “Year of income” means the year during which the income in question was received by any person.
- Income shall be deemed to have been received by a taxpayer although it has not been actually paid over to him, but has been credited in account or reinvested or accumulated or capitalised or otherwise dealt with in his name and
- 20 interest or on his behalf.

PART II.

*Administration.*

- 25 **5.** (1) This Act shall be administered by three officers who shall be appointed by the Governor, and shall be entitled the Commissioners of Taxation, and may sue and be sued by that name. Administration of Commissioners.
- (2) In the event of the absence, incapacity, or suspension of any Commissioner his powers and duties may be exercised and
- 30 performed during such absence, incapacity, or suspension by a Deputy Commissioner appointed by the Governor.
- (3) The Governor may appoint such other officers as may be deemed necessary for the carrying out of this Act.
- (4) A notification in the Gazette that any person has been
- 35 appointed as Commissioner or Deputy Commissioner or other officer for the purpose of this Act shall be conclusive evidence of such appointment.
- (5) Provided that the Commissioners under the Acts hereby repealed holding office at the commencement of this Act shall
- 40 be deemed to have been appointed Commissioners under this Act.
- (6) Any two of the Commissioners shall, subject to the next following provision have all the powers and authority by this Act and the regulations conferred upon the Commissioners. (7)



*Income Tax (Management).*

(7) If at any meeting of the Commissioners, at which two Commissioners only are present, such Commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present. Delegation of duties

5 (8) The Commissioners may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon them as it may be considered expedient by the Commissioners so to delegate. Secrecy.

10 6. (1) Every Commissioner shall, before acting in the execution of his office, take and subscribe before a police magistrate or a justice of the peace such oath of fidelity and secrecy as may be prescribed.

Every other person so appointed shall before so acting take and subscribe such oath before a Commissioner or a justice of the peace.

(2) Every person so appointed who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding two years with or without hard labour.

(3) If any person so appointed acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

25 7. Any tax or fine due to the Commissioners under this Act shall be deemed to be a debt due to the King, and shall be collected and received by the Commissioners on account of, and shall be paid into the Consolidated Revenue. Tax or fine recoverable by Commissioners.

8. The Governor may by notice in the Gazette declare that any court, judge, or police magistrate shall be a Court of Review within the meaning of this Act, and thereupon every Court of Review constituted as aforesaid shall within such limit and in such cases as the Governor may prescribe in the said notice have jurisdiction to hear and determine appeals from assessments made under this Act, or under any Act hereby repealed. Court of Review.

35 Until a Court of Review is constituted under this Act, the Court of Review existing at the date of this Act shall have jurisdiction as aforesaid.

## PART III.

*Liability to taxation.*

40 9. Subject to the provisions of this Act, and of any regulations made in pursuance thereof, income tax at such rates as may be fixed by any Act shall be paid to the Commissioners in respect of taxable income which has been received by any person during the year one thousand nine hundred and eleven, or during any subsequent year. Incidence of tax.

10.



*Income Tax (Management).*

**10.** Nothing in this Act shall apply to—

- (a) the revenues of municipal corporations or of other local authorities ;
- 5 (b) the incomes of mutual life assurance societies and of other companies or societies carrying on business otherwise than for purposes of profit or gain, not being interest upon money secured by the mortgage of any land in the State ;
- (c) the profits of the Government Savings Bank, or of the Savings Bank of New South Wales ;
- 10 (d) the incomes of societies registered under the Friendly Societies Act, 1899, or under any Act relating to trade unions ;
- (e) the incomes of any ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not ;
- 15 (f) income arising from Government Debentures, Government Inscribed Stock, and Treasury Bills ;
- (g) income earned from sources outside the State.

20 **11.** (1) The tax upon any income shall be payable by the person (hereinafter called the principal taxpayer) who is beneficially entitled to such income : Principal and representative taxpayers.

Provided that—

- 25 (a) if the principal taxpayer is a company, the tax upon the income of the company shall be also payable by the public officer of the company ;
- (b) if the principal taxpayer is a resident out of the State, or is a foreign company not registered in the State and is entitled to income from goods sold in the State by an agent, or to income from any business carried on in the State by an agent, or to income received in the State by an agent, the tax on such income shall be also payable by such agent or by any person who may be declared by the Commissioners to be the agent of such principal taxpayer ;
- 30 (c) if the principal taxpayer is entitled to income received on his behalf by a trustee, guardian, committee, receiver, or other person lawfully empowered or authorised to receive such income, the tax on such income shall be also payable by such trustee, guardian, committee, receiver, or other person ;
- 35 (d) if the principal taxpayer is resident out of the State and is entitled to income being interest payable upon money secured by a mortgage of any land in the State the tax on such income shall be also payable by the mortgagor of such land ;
- 40

The



*Income Tax (Management).*

The persons by whom income tax is payable under paragraphs (a) (b) (c) and (d) are hereinafter called representative taxpayers.

(2) Any tax payable by a company as representative taxpayer shall also be payable by the public officer of such company, who shall also be deemed to be a representative taxpayer in respect of such tax. No such company or public officer thereof shall be liable as such representative taxpayer to the payment of a tax of a greater amount than would be payable by the principal taxpayer if his income consisted solely of the moneys due to him by such company.

10 **12.** A representative taxpayer shall, in respect of any tax payable by him as such representative taxpayer, be subject to the same duties and liabilities, and have the same rights as are by this Act imposed upon and allowed to the principal taxpayer in respect of such tax, and a discharge by either the representative or principal  
15 taxpayer of any of such duties or liabilities shall be deemed to be a discharge thereof by the other of them.

Duties of representative taxpayers.

**13.** A representative taxpayer, ~~not being the public officer of a company~~ shall not be personally liable as such to the payment of tax upon the income of the principal taxpayer to a greater amount  
20 than the income of which he has the receipt or disposal.

Saving of personal liability.

**14.** A representative taxpayer shall be indemnified by the principal taxpayer against any payment made by him as such representative under this Act or shall be entitled to retain the amount of any such payment out of the income of the principal taxpayer:

Indemnity.

25 Provided that a representative taxpayer shall not have such right of indemnity or retainer in respect of the payment of any fine imposed in consequence of his own failure to comply with the provisions of this Act.

**15.** (1) Every company liable to pay income tax shall at all times be represented by a public officer residing in the State and the name and place of abode or business of such public officer shall be registered by the company in the office of the Commissioners immediately upon the appointment of such public officer:

Public officer.

30 Provided that a public officer registered under the Companies Amendment Act, 1906, shall be deemed to be a public officer appointed for the purposes of this Act, and any company which registers the name and place of abode or business of such public officer in the office of the Commissioners shall be deemed to have complied with the provisions of this section.

40 (2) Such public officer shall be deemed to be the agent of such company, and shall do all acts and discharge all liabilities which are required to be done or discharged by such company by virtue of this Act, and shall be personally liable for all penalties imposed on such company for any breach of the provisions of this  
45 Act.



*Income Tax (Management).*

(3) The place of abode or business so registered shall be within the State, and shall be the place at which all notices or other instruments under this Act may be delivered to or served upon such public officer.

5 (4) Every company failing to appoint a public officer, or failing to fill any vacancy in such office, or failing to register the name and place of abode or business of such officer, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure shall continue.

10 (5) In the event of any such failure or neglect the Commissioners may register any director, agent, or employee of the company as such public officer, and such director, agent, or employee shall thereupon be the public officer of the company for the purposes of this Act.

15

PART IV.

*Taxable income.*

**16.** (1) Except as hereinafter provided, the Commissioners shall deduct from the income of every principal taxpayer, not being a company or a taxpayer, coming within the provisions of section **19** of this Act, the moneys and expenses hereunder mentioned, and the amount of income remaining after such deduction shall be the income on which tax shall be payable:—

- (a) The sum of three hundred pounds.
- 25 (b) The sum of fifty pounds in respect of each child who is wholly maintained by him and who is under the age of eighteen at the end of the year of income.
- 30 (c) Any premium or sum paid during the year of income by the taxpayer for the insurance of his own life, or that of his wife, of the taxpayer's own life, or that of the wife or husband of the taxpayer, or for a deferred annuity or other provision for his wife or children, the husband, wife, or children of such taxpayer, or in respect of any fidelity guarantee, or bond which such taxpayer is required to provide for the exercise of his business:

35 Provided that the total deduction to be allowed under this subsection shall not exceed fifty pounds.

- (d) Any payments by way of deduction or otherwise made during the year of income by any person to the Treasury under the Civil Service Act of 1884 or any Act amending the same, or the Railway Service Superannuation Act, 1910, or any similar payment.

40

(e)



*Income Tax (Management).*

- (e) Losses, expenses, and interest incurred or paid by the taxpayer in the State during the year of income exclusively in the production of such income; including:—
- 5 (e) **Losses, outgoings, including commission, discount, travelling expenses, and expenses actually incurred in New South Wales by the taxpayer in the production of his income; including—**
- (i) any sums expended by the taxpayer for repairs of premises occupied for the purpose of his business or producing income, and for the repair of machinery, implements, and plant used by the taxpayer in his business;
- 10 (ii) any sums such as the Commissioners may think just and reasonable representing the diminished value, by reason of wear and tear of any machinery, implements, and plant used by the taxpayer in his business and owned by him:
- 15 Provided where a taxpayer, either alone or with other persons, carries on, or is interested as a partner in, more than one business, and makes a profit in one or more of such businesses, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the
- 20 losses from that of the profits:
- Provided also that the Commissioners may deduct losses and expenses incurred or paid by the taxpayer outside the State during the year of income exclusively in the production of such income, and may deduct bad debts
- 25 in any case in which the taxpayer has in that or any former year returned such debts as income:
- Provided also that, except the deduction allowed under subsection (b) hereof, no deduction shall be made in respect of the costs incurred in the maintenance of any
- 30 taxpayer or of his family, or in respect of domestic or private expenses, or in respect of any loss or expense which is recoverable under any insurance or indemnity, or rates and taxes other than those imposed by Acts of the Parliament of New South Wales or by any authority constituted
- 35 by or under any such Act.
- (f) A sum at the rate of five pounds in every hundred pounds of the unimproved value of any land owned by the taxpayer and occupied by him for the purpose of business and at the rate of five pounds in every hundred pounds of the
- 40 value of the improvements thereon which are used for the purposes of such business.
- (2) (a) The deductions (a), (b), (c), and (d) shall be made in the first place from income derived from personal exertion.
- (b) The deduction (e) shall be made in the first place
- 45 from income from personal exertion unless such loss, expense, or interest was incurred or paid in the production of income from property, in which case such deduction shall be made in the first place from income from property.
- (c) The deduction (f) shall be made from income
- 50 derived from the business.



*Income Tax (Management).*

**17.** The Commissioners shall make the said deductions (e) and (f), so far as they may be applicable, from the income of any company being a principal taxpayer, and shall further deduct any sum paid or credited to a shareholder or policy holder by the company during the 5 year of income as dividend or bonus, and the amount of income remaining after such deductions shall be the income on which tax shall be payable by the company :

Deduction from  
income of company.

Provided that if a company pays or credits to any shareholder or policy holder by way of dividend or bonus any sum upon which 10 such company has previously paid tax, the amount of such tax shall be repaid to the company, or allowed in account, by the Commissioners :

Provided further that the Commissioners shall not deduct any sum so paid or credited to a shareholder or policy holder unless the company in its return of income states the name, occupation, and 15 address of such shareholder or policy holder, and the amount paid or credited to him. Such deduction shall be made in the first place from income derived by the company from personal exertion.

**18.** In the case of an agent selling goods in the State on Agent. account of a resident out of the State, or on account of a foreign 20 company not registered in the State, the principal shall be deemed to have derived from such sale an amount of taxable income equal to five pounds per centum upon the price at which such goods were sold ~~whether such price has been received by any person or not.~~

**19.** (1) The taxable income of any taxpayer engaged in the 25 business of owner or charterer of ships trading from a port in the State to a port outside the State, and the taxable income of any insurance company carrying on business both within and outside of the State, shall be assessed in accordance with regulations to be made in that behalf by the Governor, and until such regulations are made 30 in accordance with the regulations now in force, subject to all rights of objection and review as provided by this Act.

Taxable income of  
owner or charterer  
and insurance  
company.

(2) In the case of any other taxpayer carrying 35 business both in and outside of the State his taxable income shall be deemed to be a sum which shall bear the same proportion to the net profits of such business as the assets of the business in the State bear to the total assets of the business :

On Other taxpayers.

Provided that in any case under this subsection the Commissioners may assess the actual income, and shall do so if required by the taxpayer :

40 Provided further, that in the case of a person under this subsection the Commissioners shall make all the deductions allowed by section sixteen, paragraphs (a), (b), (c), (d), and (f) ; and in the case of a company under this section, the deduction provided by section sixteen, paragraph (f), and the deductions provided by section seventeen.

PART



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*Income Tax (Management).*

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## PART V.

*Assessment and payment.*

**20.** (1) In the year one thousand nine hundred and twelve and in each succeeding year the Commissioners may in the prescribed manner give not less than thirty days public notice of the time and place at which and the person to whom taxpayers shall furnish the returns hereinafter prescribed for the then next preceding year of income.

(2) Such notice shall state a place at which the prescribed forms of return may be obtained.

(3) Within the time mentioned in such notice every taxpayer shall deliver in the prescribed manner to the person appointed to receive the same a return in the prescribed form signed by such taxpayer, or by his agent duly authorised in that behalf, setting out the prescribed particulars in respect of all his income during the then next preceding year.

**21.** The Commissioners shall assess the tax payable by every taxpayer who has sent in a return.

**22.** Notwithstanding that no notice to furnish a return has been given to any taxpayer, or notwithstanding that any taxpayer has not delivered a return of income, the Commissioners may—

(a) assess any tax payable by such taxpayer;

(b) increase any assessment of tax in respect of the income of such taxpayer by assessing additional income in respect of the same year, or by assessing tax on the same income at a higher rate;

(c) reduce any assessment of tax.

**23.** (1) The Commissioners shall keep a book (hereinafter called the assessment book) for each year of income.

(2) The Commissioners shall make in the assessment book an entry of every assessment of tax made in respect of the year of income to which such book relates and an entry of every increase or reduction of such assessment.

(3) The entry of an assessment shall show—

(a) the name, occupation, and address of the taxpayer;

(b) the amount at which his taxable income is assessed;

(c) the amount at which the tax payable by him is assessed.

(4) The Commissioners may amend or cancel any entry in the assessment book.

(5) Every taxpayer who has received an assessment notice shall, on request, be informed by the Commissioners of the amount at which the income of such taxpayer has been assessed, the amount of the deductions allowed therefrom, and the rate at which tax has been assessed thereon.

**24.**



*Income Tax (Management).*

- 24.** (1) The Commissioners shall send through the post to every taxpayer a notice in writing (herein called the assessment notice) of any assessment of tax payable by such taxpayer, or of any increase or reduction of such assessment. Notice of assessment.
- 5 (2) In the case of an assessment of tax or an increase of such assessment the assessment notice shall state the amount of tax or additional tax payable by the taxpayer, and shall fix a day upon which such tax or additional tax shall become due and payable, and such tax or additional tax shall become due and payable to the Contents of notice.
- 10 Commissioners at their office by the taxpayer upon the day so fixed.
- (3) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him the Commissioners may sue him therefor in any court of competent Action for recovery of tax.
- 15 jurisdiction.
- (4) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him, he shall be liable to pay by way of fine ten pounds per centum upon the amount of such tax, and the Commissioners may sue for such fine in Fine.
- 20 (5) In any action or proceeding the production by the Commissioners or on their behalf of a certificate purporting to be signed by them certifying that tax upon any income of any taxpayer has been duly assessed at a certain sum and has become due and payable on a certain day, shall be conclusive evidence of the facts so certified. Evidence.

**PART VI.**

25

*Appeals.*

- 25.** Any taxpayer may within thirty days after the date of the assessment notice, or within such further time as may be agreed by the Commissioners or allowed by the Court of Review and upon payment of the tax stated in such notice, appeal from the assessment of such tax to the Court of Review by filing with the prescribed officer and serving on the Commissioners a notice specifying the grounds of such appeal. Right of appeal.

- 26.** (1) The Court of Review constituted under this Act or existing at the date of this Act shall be a Court of record, and shall hear and determine any appeal under this Act or under any Act repealed by this Act, and assess the tax payable by the taxpayer in respect of the assessment appealed against. Court of review.

(2)



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*Income Tax (Management).*

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(2) In addition to any other powers conferred upon it by Powers of the Court.  
this Act the Court may—

- 5 (a) allow further time within which an appeal may be instituted notwithstanding that any time allowed for such appeal under this Act or any Act repealed by this Act may have expired or that the Commissioners may have obtained judgment or taken out execution in respect of the assessment intended to be appealed against ;
- 10 (b) order subject to any conditions that any such judgment or execution be stayed pending the result of the appeal ;
- (c) make rules to be observed by the parties to any proceedings in the Court ;
- (d) fix the time and place for the sittings of the Court and adjourn such sittings to another time and place ;
- 15 (e) amend any order of the Court ;
- (f) order the Commissioners to pay to the appellant his costs of an appeal from any assessment in respect of which the Commissioners may have acted unreasonably or oppressively towards the appellant ;
- 20 (g) order the appellant to pay to the Commissioners their costs of any frivolous or vexatious appeal ;
- (h) on the application of the appellant exclude from the Court during the hearing of an appeal all or any persons other than the parties or their representatives ;
- 25 (i) assess any costs payable under any order of the Court or order that such costs be taxed by the taxing officer of the Supreme Court or of any District Court, whereupon such costs shall be taxed by such officer accordingly.
- 30 (j) exercise all the powers for the time being of a District Court with reference to the issue of summonses and subpoenas compelling the attendance of witnesses and production of documents, and punishing persons who have disobeyed subpoenas, or who being in Court refuse to be sworn in or to give evidence.

35 **27.** Any order of the Court for the payment of any tax, fine, or costs, may be made subject to conditions, and shall have the effect of and shall be deemed to be a judgment for the amount of such payment in the District Court for the district in which the person resides who is liable to pay under such order; and the said amount  
40 may be recovered by process of such Court as in pursuance of such judgment.



*Income Tax (Management).*

**28.** Twenty-one days' notice of the day and place fixed for the hearing of any appeal shall be given by the Court to the Commissioners and to the appellant. Notice of hearing.

**29.** The Commissioners and the appellant may appear on any appeal by counsel, solicitor, or agent authorised in that behalf. Appearance by parties.

**30.** In conformity with the determination of the Court on any appeal, the Commissioners shall— Amendment of assessment or judgment.

(a) amend or cancel the entry of any assessment of tax in the assessment book; and

(b) cause any judgment to be amended or vacated.

**31.** The determination of the court on appeal shall relate solely to the income the subject of the assessment appealed from, and shall not affect the right of the Commissioners to assess any other income of the appellant. Limitation of appeal.

**32.** The Court shall, if required in writing by any party, within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court on any question of law arising before the court. Appeal to Supreme Court.

The Supreme Court, for the purposes of this section, may consist of two judges only, and shall have power to deal with the costs of and incidental to any case submitted under this section as it may think fit.

The Governor may by regulation prescribe the rules to be observed in proceedings under this section.

**33.** (1) The Governor may, by regulation, prescribe, in addition to any other powers given to him by this Act— Regulations.

(a) the duties of all persons appointed or employed under or in the administration of this Act, and the security to be given by any such persons for the performance of such duties;

(b) the returns to be furnished to the Commissioners and the form and contents thereof and the time and mode of furnishing the same, and the form, time, and manner of giving notices of appeal and of any other notices required by this Act;

(c) the mode of payment of any tax or fine;

(d) the means of determining what portion of the income of a taxpayer engaged in any business carried on partly in and partly out of the State shall be deemed to be income from any source in the State,

and may make all such other regulations, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the object or purposes of this Act or as may be convenient for the purposes thereof.

(2) All such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then sitting, and if Parliament



*Income Tax (Management).*

Parliament be not then sitting then within fourteen days after the beginning of the next session; and, unless Parliament by resolution otherwise determines, all such regulations shall, upon publication, have the force of law.

- 5      Production of a copy of the Gazette purporting to contain regulations under this Act shall be evidence that such regulations are in force.

## PART VII.

*Miscellaneous.*

- 10      **34.** If any taxpayer shall have paid to the Commissioners more than is due from such taxpayer the Commissioners shall give a certificate to that effect, on production whereof the Colonial Treasurer shall refund the proper amount to the taxpayer or person authorised or entitled to receive the same: Refund by Commissioners.
- 15      Provided that the Commissioners shall not certify for any refund under this section unless a claim was made for such refund within three years from the date when such payment became due by the taxpayer.
- 20      **35.** The Commissioners may remit any fine incurred and may refund the amount of any fine paid to them, and may in any case in which it shall appear to them that serious hardship would otherwise be caused to any taxpayer forego the whole or any part of any tax due, or give time for the payment thereof. Remissions.
- 25      **36.** If any person knowingly and wilfully makes any false statement in any return he shall be liable to a penalty not exceeding one hundred pounds, and shall be guilty of perjury. Penalty.
- 30      **37.** If any person fails or neglects to furnish any returns within the prescribed time he shall be liable to a penalty not exceeding twenty pounds. Penalty.
- 30      **38.** Any person guilty of a breach of this Act, for which no penalty is otherwise provided, shall be liable to a penalty not exceeding twenty pounds, and the Governor may by regulation impose a penalty not exceeding ten pounds for the breach of any regulation made under this Act. Penalty.
- 35      **39.** Any penalty imposed by this Act, or by the regulations thereunder, may be recovered summarily before a court of petty sessions. Recovery of penalties.
- 40      **40.** In any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers conferred thereby or by the regulations, the defendant in such action may plead the general issue and give the special matter in evidence at the trial. Action against officer.



*Income Tax (Management).*

## SCHEDULE.

Number of Act.	Title.	Extent of Repeal.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	So much as relates to taxation of incomes.
5 59 Vic. No. 17 ...	Income Tax Act of 1895 ...	The whole.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897.	So much as relates to taxation of incomes.
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898.	So much as relates to taxation of incomes.
10 No. 17, 1904 ...	Land and Income Tax (Amendment) Act, 1904.	So much as relates to taxation of incomes.
No. 31, 1905 ...	Taxation Amending Act, 1905 ...	The unrepealed provisions.
No. 47, 1906 ...	Taxation Amending Act, 1906 ...	The unrepealed provisions.
No. 7, 1907 ...	Income Tax Deduction Act, 1907 ...	The whole.
15 No. 27, 1908 ...	Sydney Corporation (Amendment) Act, 1908.	The last proviso to section 5.
No. 24, 1911.	Income Tax Act, 1911 ...	The whole, except sections 1, 8, 9, 10, and the Schedule. and the definition of "absentee" in section 3.
20		







*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 8 March, 1912.*

*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SECUNDO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1912.

An Act to provide for the assessment and collection of a tax on incomes, and for purposes consequent thereon or incidental thereto ; and to repeal and amend certain Acts.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

### *Preliminary.*

**1.** This Act may be cited as the "Income Tax (Management) Short title. Act, 1912."

**2.** Except as hereinafter provided, the Acts mentioned in the Repeal Schedule hereto are hereby repealed to the extent therein stated.

10 **3.** (1) All existing regulations and forms made or prescribed under any Act hereby repealed shall continue in force and shall apply to proceedings under this Act, so far as such regulations and forms may be applicable, until regulations and forms are made and prescribed under this Act. Regulations to remain in force.



*Income Tax (Management).*

(2) In respect of income received previous to the first day of January, one thousand nine hundred and eleven, on which any person is at the date of this Act liable to pay income tax, every such person shall have the same rights and be subject to the same liabilities as if this Act had not been passed, except that in respect of such persons and income all references to the Commissioners of Taxation in the enactments hereby repealed and the regulations thereunder shall be read and understood as referring to the Commissioners.

(3) All notices given and returns made during the year one thousand nine hundred and twelve under any of the enactments hereby repealed in respect of income for 1911 shall be deemed to have been made or given under this Act.

**4.** In this Act, unless the context requires another meaning,—

“Agent” includes sub-agent.

“Business” includes any profession, trade, employment, or vocation.

“Commissioners” means the Commissioners of Taxation under this Act.

“Company” means a company duly incorporated under any law.

“Foreign company” means a company incorporated under the law of any State or country other than New South Wales.

“Income” means gross income derived from any source in the State, and shall be deemed to exclude the incomes, revenues, and profits exempted from the operation of this Act by section ten.

Interest upon money secured by the mortgage of any property in the State shall be deemed to be derived from a source in the State.

“Income derived from personal exertion” means income consisting of the proceeds of any business, earnings, salaries, wages, fees, bonuses, pensions, or payments made upon superannuation or retirement from employment.

“Income derived from property” means income derived from any source in the State other than from personal exertion.

“Mortgage” includes any charge, lien, or encumbrance to secure the repayment of money upon which interest is payable.

“Prescribed” means prescribed by this Act or by any rules or regulations made under this Act, or by any Act hereby repealed, or the rules and regulations thereunder.

“Resident out of the State” means a person whose usual or principal place of abode is not in the State.

“Tax” means income tax.

“Taxable income” means the amount of income remaining after any deductions allowed by this Act have been subtracted from the income of any taxpayer, and shall be the amount on which tax is payable.

“Taxpayer”



*Income Tax (Management).*

"Taxpayer" means any person or company by whom income tax is payable and includes both representative and principal taxpayer.

"The Court" means the Court of Review.

5 "The State" means the State of New South Wales.

"Year of income" means the year during which the income in question was received by any person.

10 Income shall be deemed to have been received by a taxpayer although it has not been actually paid over to him, but has been credited in account or reinvested or accumulated or capitalised or otherwise dealt with in his name and interest or on his behalf.

PART II.

*Administration.*

15 **5.** (1) This Act shall be administered by three officers who shall be appointed by the Governor, and shall be entitled the Commissioners of Taxation, and may sue and be sued by that name. Administration of Commissioners,

(2) In the event of the absence, incapacity, or suspension of any Commissioner his powers and duties may be exercised and performed during such absence, incapacity, or suspension by a Deputy Commissioner appointed by the Governor.

(3) The Governor may appoint such other officers as may be deemed necessary for the carrying out of this Act.

25 (4) A notification in the Gazette that any person has been appointed as Commissioner or Deputy Commissioner or other officer for the purpose of this Act shall be conclusive evidence of such appointment.

(5) Provided that the Commissioners under the Acts hereby repealed holding office at the commencement of this Act shall 30 be deemed to have been appointed Commissioners under this Act.

(6) Any two of the Commissioners shall, subject to the next following provision have all the powers and authority by this Act and the regulations conferred upon the Commissioners.

35 (7) If at any meeting of the Commissioners, at which two Commissioners only are present, such Commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

(8) The Commissioners may, with the approval of the Governor, delegate to any public officer such powers, duties, and 40 functions by this Act or the regulations hereunder conferred or imposed upon them as it may be considered expedient by the Commissioners so to delegate. Delegation of duties,



*Income Tax (Management).*

**6.** (1) Every Commissioner shall, before acting in the execution of his office, take and subscribe before a police magistrate or a justice of the peace such oath of fidelity and secrecy as may be prescribed. Secrecy.

Every other person so appointed shall before so acting take  
5 and subscribe such oath before a Commissioner or a justice of the peace.

(2) Every person so appointed who without lawful excuse reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of a misdemeanour, and shall be liable  
10 to imprisonment for any term not exceeding two years with or without hard labour.

(3) If any person so appointed acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

**7.** Any tax or fine due to the Commissioners under this Act  
15 shall be deemed to be a debt due to the King, and shall be collected and received by the Commissioners on account of, and shall be paid into the Consolidated Revenue. Tax or fine recoverable by Commissioners.

**8.** The Governor may by notice in the Gazette declare that  
20 any court, judge, or magistrate shall be a Court of Review within the meaning of this Act, and thereupon every Court of Review constituted as aforesaid shall within such limit and in such cases as the Governor may prescribe in the said notice have jurisdiction to hear and determine appeals from assessments made under this Act, or under  
25 any Act hereby repealed. Court of Review.

Until a Court of Review is constituted under this Act, the Court of Review existing at the date of this Act shall have jurisdiction as aforesaid.

## PART III.

30

*Liability to taxation.*

**9.** Subject to the provisions of this Act, and of any regulations made in pursuance thereof, income tax at such rates as may be fixed by any Act shall be paid to the Commissioners in respect of income which has been received by any person during the year one thousand  
35 nine hundred and eleven, or during any subsequent year. Incidence of tax.

**10.** Nothing in this Act shall apply to—

- (a) the revenues of municipal corporations or of other local authorities;
- (b) the incomes of mutual life assurance societies and of other  
40 companies or societies carrying on business otherwise than for purposes of profit or gain, not being interest upon money secured by the mortgage of any land in the State;
- (c) the profits of the Government Savings Bank, or of the Savings Bank of New South Wales;
- (d)

Exemptions.



*Income Tax (Management).*

- (d) the incomes of societies registered under the Friendly Societies Act, 1899, or under any Act relating to trade unions ;
- 5 (e) the incomes of any ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not ;
- (f) income arising from Government Debentures, Government Inscribed Stock, and Treasury Bills ;
- 10 (g) income earned outside the State.

**11.** (1) The tax upon any income shall be payable by the person (hereinafter called the principal taxpayer) who is beneficially entitled to such income : Principal and representative taxpayers.

Provided that—

- 15 (a) if the principal taxpayer is a company, the tax upon the income of the company shall be also payable by the public officer of the company ;
- (b) if the principal taxpayer is a resident out of the State, or is a foreign company not registered in the State and is entitled to income from goods sold in the State by an agent, or to income from any business carried on in the State by an agent, or to income received in the State by an agent, the tax on such income shall be also payable by such agent or by any person who may be declared by the Commissioners to be the agent of such principal taxpayer ;
- 20 (c) if the principal taxpayer is entitled to income received on his behalf by a trustee, guardian, committee, receiver, or other person lawfully empowered or authorised to receive such income, the tax on such income shall be also payable by such trustee, guardian, committee, receiver, or other person ;
- 30 (d) if the principal taxpayer is resident out of the State and is entitled to income being interest payable upon money secured by a mortgage of any land in the State the tax on such income shall be also payable by the mortgagor of such land ;
- 35

The persons by whom income tax is payable under paragraphs (a) (b) (c) and (d) are hereinafter called representative taxpayers.

(2) Any tax payable by a company as representative taxpayer shall also be payable by the public officer of such company, who shall also be deemed to be a representative taxpayer in respect of such tax.



*Income Tax (Management).*

**12.** A representative taxpayer shall, in respect of any tax payable by him as such representative taxpayer, be subject to the same duties and liabilities, and have the same rights as are by this Act imposed upon and allowed to the principal taxpayer in respect of such tax, and a discharge by either the representative or principal taxpayer of any of such duties or liabilities shall be deemed to be a discharge thereof by the other of them. Duties of representative taxpayers.

**13.** A representative taxpayer, not being the public officer of a company, shall not be personally liable as such to the payment of tax upon the income of the principal taxpayer to a greater amount than the income of which he has the receipt or disposal. Saving of personal liability.

**14.** A representative taxpayer shall be indemnified by the principal taxpayer against any payment made by him as such representative under this Act or shall be entitled to retain the amount of any such payment out of the income of the principal taxpayer : Indemnity.

Provided that a representative taxpayer shall not have such right of indemnity or retainer in respect of the payment of any fine imposed in consequence of his own failure to comply with the provisions of this Act.

**15.** (1) Every company liable to pay income tax shall at all times be represented by a public officer residing in the State and the name and place of abode or business of such public officer shall be registered by the company in the office of the Commissioners immediately upon the appointment of such public officer : Public officer.

Provided that a public officer registered under the Companies Amendment Act, 1906, shall be deemed to be a public officer appointed for the purposes of this Act, and any company which registers the name and place of abode or business of such public officer in the office of the Commissioners shall be deemed to have complied with the provisions of this section.

(2) Such public officer shall be deemed to be the agent of such company, and shall do all acts and discharge all liabilities which are required to be done or discharged by such company by virtue of this Act, and shall be personally liable for all penalties imposed on such company for any breach of the provisions of this Act.

(3) The place of abode or business so registered shall be within the State, and shall be the place at which all notices or other instruments under this Act may be delivered to or served upon such public officer.

(4) Every company failing to appoint a public officer, or failing to fill any vacancy in such office, or failing to register the name



*Income Tax (Management).*

name and place of abode or business of such officer, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure shall continue.

(5) In the event of any such failure or neglect the  
5 Commissioners may register any director, agent, or employee of the company as such public officer, and such director, agent, or employee shall thereupon be the public officer of the company for the purposes of this Act.

PART IV.

*Taxable income.*

10

**16.** (1) Except as hereinafter provided, the Commissioners Deductions.  
shall deduct from the income of every principal taxpayer, not being a company, the moneys and expenses hereunder mentioned, and the amount of income remaining after such deduction shall be the income on  
15 which tax shall be payable:—

- (a) The sum of three hundred pounds.
- (b) The sum of fifty pounds in respect of each child who is wholly maintained by him and who is under the age of eighteen at the end of the year of income.
- 20 (c) Any premium or sum paid during the year of income by the taxpayer for the insurance of his own life, or that of his wife, or for a deferred annuity or other provision for his wife or children, or in respect of any fidelity guarantee, or bond which such taxpayer is required to provide for the exercise  
25 of his business:

Provided that the total deduction to be allowed under this subsection shall not exceed fifty pounds.

- (d) Any payments by way of deduction or otherwise made during  
30 the year of income by any person to the Treasury under the Civil Service Act of 1884 or any Act amending the same, or the Railway Service Superannuation Act, 1910, or any similar payment.

(e)



*Income Tax (Management).*

(e) Losses, expenses, and interest incurred or paid by the taxpayer in the State during the year of income exclusively in the production of such income; including:—

5 (i) any sums expended by the taxpayer for repairs of premises occupied for the purpose of his business or producing income, and for the repair of machinery, implements, and plant used by the taxpayer in his business;

10 (ii) any sums such as the Commissioners may think just and reasonable representing the diminished value, by reason of wear and tear of any machinery, implements, and plant used by the taxpayer in his business and owned by him:

15 Provided where a taxpayer, either alone or with other persons, carries on, or is interested as a partner in, more than one business, and makes a profit in one or more of such businesses, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits:

20 Provided also that the Commissioners may deduct losses and expenses incurred or paid by the taxpayer outside the State during the year of income exclusively in the production of such income, and may deduct bad debts in any case in which the taxpayer has in that or any former year returned such debts as income:

25 Provided also that, except the deduction allowed under subsection (b) hereof, no deduction shall be made in respect of the costs incurred in the maintenance of any taxpayer or of his family, or in respect of domestic or private expenses, or in respect of any loss or expense which is recoverable under any insurance or indemnity.

30 (f) A sum at the rate of five pounds in every hundred pounds of the unimproved value of any land owned by the taxpayer and occupied by him for the purpose of business and at the rate of five pounds in every hundred pounds of the value of the improvements thereon which are used for the purposes of such business.

35 (2) (a) The deductions (a), (b), (c), and (d) shall be made in the first place from income derived from personal exertion.

40 (b) The deduction (e) shall be made in the first place from income from personal exertion unless such loss, expense, or interest was incurred or paid in the production of income from property, in which case such deduction shall be made in the first place from income from property.

45 (c) The deduction (f) shall be made from income derived from the business.



*Income Tax (Management).*

**17.** The Commissioners shall make the said deductions (e) and (f), so far as they may be applicable, from the income of any company being a principal taxpayer, and shall further deduct any sum paid to a shareholder by the company during the year of income as dividend or bonus, and the amount of income remaining after such deductions shall be the income on which tax shall be payable by the company :

Provided that if a company pays to any shareholder by way of dividend or bonus any sum upon which such company has previously paid tax, the amount of such tax shall be repaid to the company, or allowed in account, by the Commissioners :

Provided further that the Commissioners shall not deduct any sum so paid to a shareholder unless the company in its return of income states the name, occupation, and address of such shareholder, and the amount paid to him. Such deduction shall be made in the first place from income derived by the company from personal exertion.

**18.** In the case of an agent selling goods in the State on account of a resident out of the State, or on account of a foreign company not registered in the State, the principal shall be deemed to have derived from such sale an amount of taxable income equal to five pounds per centum upon the price at which such goods were sold whether such price has been received by any person or not.

**19.** (1) The taxable income of any taxpayer engaged in the business of owner or charterer of ships trading from a port in the State to a port outside the State, and the taxable income of any insurance company carrying on business both within and outside of the State, shall be assessed in accordance with regulations to be made in that behalf by the Governor, and until such regulations are made in accordance with the regulations now in force.

(2) In the case of any other taxpayer carrying on business both in and outside of the State his taxable income shall be deemed to be a sum which shall bear the same proportion to the net profits of such business as the assets of the business in the State bear to the total assets of the business :

Provided that in any case under this subsection the Commissioners may assess the actual income, and shall do so if required by the taxpayer.

## PART V.

*Assessment and payment.*

**20.** (1) In the year one thousand nine hundred and twelve and in each succeeding year the Commissioners may in the prescribed manner give not less than thirty days public notice of the time and place at which and the person to whom taxpayers shall furnish the returns hereinafter prescribed for the then next preceding year of income.

(2)



*Income Tax (Management).*

(2) Such notice shall state a place at which the prescribed forms of return may be obtained.

(3) Within the time mentioned in such notice every taxpayer shall deliver in the prescribed manner to the person appointed to receive the same a return in the prescribed form signed by such taxpayer, or by his agent duly authorised in that behalf, setting out the prescribed particulars in respect of all his income during the then next preceding year.

**21.** The Commissioners shall assess the tax payable by every taxpayer who has sent in a return. Assessment on return.

**22.** Notwithstanding that no notice to furnish a return has been given to any taxpayer, or notwithstanding that any taxpayer has not delivered a return of income, the Commissioners may— Assessment, increase, or reduction.

- (a) assess any tax payable by such taxpayer ;
- (b) increase any assessment of tax in respect of the income of such taxpayer by assessing additional income in respect of the same year, or by assessing tax on the same income at a higher rate ;
- (c) reduce any assessment of tax.

**23.** (1) The Commissioners shall keep a book (hereinafter called the assessment book) for each year of income. The assessment book.

(2) The Commissioners shall make in the assessment book an entry of every assessment of tax made in respect of the year of income to which such book relates and an entry of every increase or reduction of such assessment.

(3) The entry of an assessment shall show—

- (a) the name, occupation, and address of the taxpayer ;
- (b) the amount at which his taxable income is assessed ;
- (c) the amount at which the tax payable by him is assessed.

(4) The Commissioners may amend or cancel any entry in the assessment book.

(5) Every taxpayer who has received an assessment notice shall, on request, be informed by the Commissioners of the amount at which the income of such taxpayer has been assessed, the amount of the deductions allowed therefrom, and the rate at which tax has been assessed thereon.

**24.** (1) The Commissioners shall send through the post to every taxpayer a notice in writing (herein called the assessment notice) of any assessment of tax payable by such taxpayer, or of any increase or reduction of such assessment. Notice of assessment.



*Income Tax (Management).*

(2) In the case of an assessment of tax or an increase of such assessment the assessment notice shall state the amount of tax or additional tax payable by the taxpayer, and shall fix a day upon which such tax or additional tax shall become due and payable, and 5 such tax or additional tax shall become due and payable to the Commissioners at their office by the taxpayer upon the day so fixed. Contents of notice.

(3) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him the Commissioners may sue him therefor in any court of competent 10 jurisdiction. Action for recovery of tax.

(4) If any taxpayer does not pay tax within twenty-one days after such tax shall have become due and payable by him, he shall be liable to pay by way of fine ten pounds per centum upon the amount of such tax, and the Commissioners may sue for such fine in 15 any court of competent jurisdiction. Fine.

(5) In any action or proceeding the production by the Commissioners or on their behalf of a certificate purporting to be signed by them certifying that tax upon any income of any taxpayer has been duly assessed at a certain sum and has become due and payable 20 on a certain day, shall be conclusive evidence of the facts so certified. Evidence.

PART VI.

*Appeals.*

**25.** Any taxpayer may within thirty days after the date of the assessment notice, or within such further time as may be agreed by 25 the Commissioners or allowed by the Court of Review and upon payment of the tax stated in such notice, appeal from the assessment of such tax to the Court of Review by filing with the prescribed officer and serving on the Commissioners a notice specifying the grounds of such appeal. Right of appeal.

**26.** (1) The Court of Review constituted under this Act or 30 existing at the date of this Act shall be a Court of record, and shall hear and determine any appeal under this Act or under any Act repealed by this Act, and assess the tax payable by the taxpayer in respect of the assessment appealed against. Court of review.

(2)



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*Income Tax (Management).*

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(2) In addition to any other powers conferred upon it by Powers of the Court.  
this Act the Court may—

- 5 (a) allow further time within which an appeal may be instituted notwithstanding that any time allowed for such appeal under this Act or any Act repealed by this Act may have expired or that the Commissioners may have obtained judgment or taken out execution in respect of the assessment intended to be appealed against ;
- 10 (b) order subject to any conditions that any such judgment or execution be stayed pending the result of the appeal ;
- (c) make rules to be observed by the parties to any proceedings in the Court ;
- (d) fix the time and place for the sittings of the Court and adjourn such sittings to another time and place ;
- 15 (e) amend any order of the Court ;
- (f) order the Commissioners to pay to the appellant his costs of an appeal from any assessment in respect of which the Commissioners may have acted unreasonably or oppressively towards the appellant ;
- 20 (g) order the appellant to pay to the Commissioners their costs of any frivolous or vexatious appeal ;
- (h) on the application of the appellant exclude from the Court during the hearing of an appeal all or any persons other than the parties or their representatives ;
- 25 (i) assess any costs payable under any order of the Court or order that such costs be taxed by the taxing officer of the Supreme Court or of any District Court, whereupon such costs shall be taxed by such officer accordingly.
- 30 (j) exercise all the powers for the time being of a District Court with reference to the issue of summonses and subpoenas compelling the attendance of witnesses and production of documents, and punishing persons who have disobeyed subpoenas, or who being in Court refuse to be sworn in or to give evidence.

35 **27.** Any order of the Court for the payment of any tax, fine, or costs, may be made subject to conditions, and shall have the effect of and shall be deemed to be a judgment for the amount of such payment in the District Court for the district in which the person resides who is liable to pay under such order; and the said amount  
40 may be recovered by process of such Court as in pursuance of such judgment.

**28.**



*Income Tax (Management).*

**28.** Twenty-one days' notice of the day and place fixed for the hearing of any appeal shall be given by the Court to the Commissioners and to the appellant. Notice of hearing.

**29.** The Commissioners and the appellant may appear on any appeal by counsel, solicitor, or agent authorised in that behalf. Appearance by parties.

**30.** In conformity with the determination of the Court on any appeal, the Commissioners shall— Amendment of assessment or judgment.

(a) amend or cancel the entry of any assessment of tax in the assessment book; and

(b) cause any judgment to be amended or vacated.

**31.** The determination of the court on appeal shall relate solely to the income the subject of the assessment appealed from, and shall not affect the right of the Commissioners to assess any other income of the appellant. Limitation of appeal.

**32.** The Court shall, if required in writing by any party, within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court on any question of law arising before the court. Appeal to Supreme Court.

The Supreme Court, for the purposes of this section, may consist of two judges only, and shall have power to deal with the costs of and incidental to any case submitted under this section as it may think fit.

The Governor may by regulation prescribe the rules to be observed in proceedings under this section.

**33.** (1) The Governor may, by regulation, prescribe, in addition to any other powers given to him by this Act— Regulations.

(a) the duties of all persons appointed or employed under or in the administration of this Act, and the security to be given by any such persons for the performance of such duties;

(b) the returns to be furnished to the Commissioners and the form and contents thereof and the time and mode of furnishing the same, and the form, time, and manner of giving notices of appeal and of any other notices required by this Act;

(c) the mode of payment of any tax or fine;

(d) the means of determining what portion of the income of a taxpayer engaged in any business carried on partly in and partly out of the State shall be deemed to be income from any source in the State,

and may make all such other regulations, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the object or purposes of this Act or as may be convenient for the purposes thereof.

(2) All such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then sitting, and if

Parliament



*Income Tax (Management).*

Parliament be not then sitting then within fourteen days after the beginning of the next session; and, unless Parliament by resolution otherwise determines, all such regulations shall, upon publication, have the force of law.

- 5      Production of a copy of the Gazette purporting to contain regulations under this Act shall be evidence that such regulations are in force.

PART VII.

*Miscellaneous.*

- 10      **34.** If any taxpayer shall have paid to the Commissioners more than is due from such taxpayer the Commissioners shall give a certificate to that effect, on production whereof the Colonial Treasurer shall refund the proper amount to the taxpayer or person authorised or entitled to receive the same: Refund by Commissioners.
- 15      Provided that the Commissioners shall not certify for any refund under this section unless a claim was made for such refund within three years from the date when such payment became due by the taxpayer.
- 20      **35.** The Commissioners may remit any fine incurred and may refund the amount of any fine paid to them, and may in any case in which it shall appear to them that serious hardship would otherwise be caused to any taxpayer forego the whole or any part of any tax due, or give time for the payment thereof. Remissions.
- 25      **36.** If any person knowingly and wilfully makes any false statement in any return he shall be liable to a penalty not exceeding one hundred pounds, and shall be guilty of perjury. Penalty.
- 30      **37.** If any person fails or neglects to furnish any returns within the prescribed time he shall be liable to a penalty not exceeding twenty pounds. Penalty.
- 30      **38.** Any person guilty of a breach of this Act, for which no penalty is otherwise provided, shall be liable to a penalty not exceeding twenty pounds, and the Governor may by regulation impose a penalty not exceeding ten pounds for the breach of any regulation made under this Act. Penalty.
- 35      **39.** Any penalty imposed by this Act, or by the regulations thereunder, may be recovered summarily before a court of petty sessions. Recovery of penalties.
- 40      **40.** In any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers conferred thereby or by the regulations, the defendant in such action may plead the general issue and give the special matter in evidence at the trial. Action against officer.



*Income Tax (Management).*

## SCHEDULE.

Number of Act.	Title.	Extent of Repeal.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	So much as relates to taxation of incomes.
5 59 Vic. No. 17 ...	Income Tax Act of 1895 ...	The whole.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897.	So much as relates to taxation of incomes.
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898.	So much as relates to taxation of incomes.
10 No. 17, 1904 ...	Land and Income Tax (Amendment) Act, 1904.	So much as relates to taxation of incomes.
No. 31, 1905 ...	Taxation Amending Act, 1905 ...	The unrepealed provisions.
No. 47, 1906 ...	Taxation Amending Act, 1906 ...	The unrepealed provisions.
No. 7, 1907 ...	Income Tax Deduction Act, 1907 ...	The whole.
15 No. 27, 1908 ...	Sydney Corporation (Amendment) Act, 1908.	The last proviso to section 5.
No. 24, 1911.	Income Tax Act, 1911 ...	The whole, except sections 1, 8, 9, 10, and the Schedule, and the definition of "absentee" in section 3.
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