

SPECIAL INCOME AND WAGES TAX (MANAGEMENT) AMEND- MENT ACT.

Act No. 13, 1937.

George VI.
N.J. 13, 1937. An Act to make certain provisions in relation to rebates from Special Income Tax and from Wages Tax; for these and other purposes to amend the Special Income and Wages Tax (Management) Act, 1936, in certain respects; and for purposes connected therewith. [Assented to, 15th October, 1937.]

BE 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:—

Short title. **1.** (1) This Act may be cited as the "Special Income and Wages Tax (Management) Amendment Act, 1937."
(2) The Special Income and Wages Tax (Management) Act, 1936, is in this Act referred to as the Principal Act.

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(3) The Principal Act as amended by this Act may be cited as the Special Income and Wages Tax (Management) Act, 1936-1937.

2. The Principal Act is amended—

(a) (i) by omitting from the definition of "Assessable income" in subsection two of section two the words "on New South Wales articles" and by inserting in lieu thereof the words "who are not on articles entered into out of New South Wales";

Amendment of
Act No. 43,
1936, s. 2 (2).
(Definitions.)

(ii) by omitting from the same definition the words "income exempt from tax under this Act or";

(b) by inserting after the definition of "Assessable income" in the same subsection the following new definition:—

"Dependant" means a person who resides in Australia and who is wholly maintained by the taxpayer and who is the spouse of the taxpayer or is a child under the age of sixteen years. A spouse shall be deemed to be wholly maintained if the net amount of income derived by her from all sources does not exceed one hundred pounds.

3. (1) The Principal Act is further amended—

(a) by inserting in subsection one of section eight after the word "shall" where firstly occurring, the words "subject to this Act";

Further
amendment of
Act No. 43,
1936, s. 8.
(Exemptions.)

(b) by inserting in paragraph (h) of the same subsection after the word "hundred" the words "and fifty-six";

(c) by omitting paragraph (i) of the same subsection and by inserting in lieu thereof the following paragraph:—

(i) the income from wages of an employee while he is in receipt of such income at a rate less than two pounds per week or the equivalent hourly or daily rate, or at a rate not exceeding three pounds per week

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week or the equivalent hourly or daily rate if derived after the thirtieth day of November, one thousand nine hundred and thirty-seven:

Provided that this exemption shall not apply to any income from wages derived by an employee whose total income from all sources during the years of income ended on the thirtieth day of June, one thousand nine hundred and thirty-six and one thousand nine hundred and thirty-seven exceeds one hundred and four pounds or if derived in any subsequent year of income exceeds one hundred and fifty-six pounds, in either of which cases such income from wages shall be deemed to be net assessable income of the year of income in which it is received.

(d) by inserting at the end of the same subsection the following new paragraph:—
(m) income derived from a pension by any person domiciled in this State, whose total income from all sources during the year of income does not exceed two hundred pounds.

(2) The amendments effected by paragraphs (b) and (d) of subsection one of this section shall apply only to income derived during the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-eight or during any subsequent year of income.

Further
amendment of
Act No. 43,
1936, s. 10.
(Net assessable
income.)

4. The Principal Act is further amended—

(a) by inserting in subsection three of section ten after the word "paragraph" the symbol and words "(l) of subsection";
(b) by inserting in paragraph (b) of subsection six of the same section after the word "under" the words "paragraph (a) of subsection one of";
(c) (i) by omitting from paragraph (b) of subsection seven of the same section the symbols "(b), (c)" and by inserting in lieu thereof the symbols "(a), (b), (c), (d)."

(ii)

(ii) by inserting at the end of the same subsection the following new paragraph:—

(c) where a dividend is appropriated wholly and exclusively from the profits or income specified in paragraphs (a), (b), (c), (d) or (f) of section fifty-three of the Principal Act, such profit or income shall be excluded from the apportionment under paragraph (b) of this subsection.

5. The Principal Act is further amended by inserting Further
amendment of
Act No. 43,
1936, s. 12.
(Rebate of
tax.) at the end of section twelve the following new subsections:—

(3) Any person (other than a company) who is domiciled in this State shall be entitled to a rebate of tax in his assessment of—

(a) in the case of net assessable income derived during the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-seven—a sum of fifteen shillings in respect of each dependant;

(b) in the case of net assessable income derived during the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-eight, and during any subsequent year of income—a sum of one pound six shillings in respect of each dependant.

(4) (a) The rebate allowable under paragraph (a) of subsection three of this section shall be deemed to be allowed in respect of the period commencing on the first day of December, one thousand nine hundred and thirty-six, and ending on the thirtieth day of June, one thousand nine hundred and thirty-seven (or in respect of the final seven months where a return is furnished for the twelve months ending on a date other than the thirtieth day of June, one thousand nine hundred and thirty-seven). Where any person

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person is a dependant for part only of that period a proportionate part of the sum of fifteen shillings shall be allowed as a rebate in respect of that person.

- (b) Where during any year of income subsequent to the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-seven, a dependant is wholly maintained for part only of such year of income a proportionate part only of one pound six shillings shall be allowed as a rebate in respect of that dependant.
- (5) Where during the year of income the taxpayer also derives income from wages as defined in this Act the rebate to which the taxpayer would otherwise be entitled under subsections three and four of this section shall not be allowed unless he satisfies the Commissioner that he will not receive the full amount of rebate to which he is entitled from the Wages Tax payable by him during the year next succeeding the year of income, in which case the Commissioner may allow a rebate in his assessment to the extent to which the rebate that he would be entitled to has not been so allowed.
- (6) Any person (other than a company) domiciled in this State whose total income derived from all sources during the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-seven, did not exceed one hundred and fifty-six pounds shall be entitled to a rebate in his assessment for that year of income of an amount of tax equal to seven-twelfths of the tax otherwise payable by him. The rebate under this subsection shall be calculated upon the amount of tax payable before allowing any rebate under subsection three, subsection four or subsection five of this section.
- (7) Any person (other than a company) domiciled in this State whose total income derived from all sources during the year of income ended on the

the thirtieth day of June, one thousand nine hundred and thirty-seven, did not exceed two hundred pounds shall be entitled to a rebate in his assessment for that year of an amount of tax equal to seven-twelfths of the tax otherwise payable by him upon any income derived from a pension which is included in his net assessable income. The rebate under this subsection shall be calculated upon the amount of tax payable before allowing any rebate under subsection three, subsection four or subsection five of this section.

6. The Principal Act is further amended by omitting subsection seven of section eighteen and by inserting in lieu thereof the following subsection:—

(7) Every employer shall preserve the prescribed declarations made by his employees and the prescribed records unless he obtains the consent in writing of the Commissioner to the destruction of those declarations and records:

Provided that where a period of three years from the last date of payment of wages required to be entered in any such record has elapsed, an employer may in writing by registered post give to the Commissioner notice of his intention to destroy such declarations or records and may destroy the same after the expiration of three months from the giving of such notice unless the Commissioner has required him to preserve such declarations or records further.

7. The Principal Act is further amended by inserting after section eighteen the following new section:—

18A. (1) Subject to this section an employee shall be entitled to a rebate of an amount of sixpence in respect of each dependant from the amount of Wages Tax otherwise payable by him in respect of any week.

(2) Every employee who claims a rebate of tax in respect of a dependant shall furnish to his employer within such time and in such manner as

may

Further
amendment of
Act No. 43,
1936, s. 18.
(Preservation
of records.)

Further
amendment of
Act No. 43,
1936.

New sec. 18A.
Rebate from
wages tax—
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may be prescribed, a declaration in duplicate setting out such particulars of that dependant as may be prescribed.

- (3) An employee shall not be entitled to any rebate under this section unless he has lodged the prescribed declaration with his employer and shall not be entitled to any rebate in respect of any wages paid more than fourteen days prior to the date of furnishing the prescribed declaration to his employer.
- (4) Every employee who has furnished to his employer a prescribed declaration claiming a rebate in respect of a dependant shall, within fourteen days after any person ceases to be a dependant of such employee, furnish to his employer a further declaration as prescribed.
- (5) Every employee who claims a rebate in respect of any additional dependant shall furnish to his employer within the time and in the manner prescribed a further declaration setting out such particulars as may be prescribed of all dependants in respect of whom the rebate is claimed.
- (6) Every employer shall—
 - (a) send to the Commissioner, as and when prescribed, the declarations furnished by his employees or such part thereof as may be prescribed;
 - (b) send to the Commissioner, upon notice in writing from the Commissioner, such declarations as may be specified in such notice;
 - (c) produce such declarations for inspection to any person authorised either generally or in a particular case by the Commissioner to inspect such declarations. For the purpose of this paragraph any such person shall have the powers provided by section two hundred and ninety-nine of the Principal Act.

Any

Any employer who fails to comply with any of the provisions of this subsection shall be liable to a penalty of not less than *two* pounds and not exceeding fifty pounds.

- (7) Any employee who makes a declaration which is false in any material particular or who fails to furnish to his employer within fourteen days after any person ceases to be a dependant of that employee a further declaration in the prescribed manner shall be guilty of an offence and shall be liable to a penalty of not less than two pounds and not exceeding fifty pounds, and in addition the Court may order him to pay to the Commissioner a sum not exceeding double the amount of tax that would have been avoided if the declaration furnished by him to his employer had been accepted as correct, or, as the case may be, if each person shown in the declaration last furnished by him to his employer had been accepted as still being a dependant.
- (8) Notwithstanding anything contained in subsection seven of this section, any employee who makes a declaration which is false in any material particular, or who fails to furnish to his employer within fourteen days after any person ceases to be a dependant a further declaration as required by this section shall be liable to pay the tax avoided and shall also be liable to pay as additional tax the greater of the two following amounts:—
 - (a) the sum of one pound; or
 - (b) double the difference between the tax properly payable by him and the tax that would be payable if the declaration furnished by him had been accepted as correct, or, as the case may be, if each person shown in the declaration last furnished by him to his employer were accepted as still being a dependant.
- (9) The Commissioner may in any case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(10) If in any case in which a taxpayer is liable to pay additional tax under this section a taxation prosecution is instituted in respect of the same subject matter the additional tax shall not be payable unless and until the prosecution is withdrawn.