

## INCOME TAX ACT.

Act No. 35, 1940.

George VI.  
No. 35, 1940. An Act to impose an Income Tax; and for purposes connected therewith. [Assented to, 15th November, 1940.]

**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 :—

Short title. **1.** This Act may be cited as the "Income Tax Act, 1940," and shall be construed with the Income Tax (Management) Act, 1936, as amended by subsequent Acts, in this Act hereinafter referred to as the Principal Act.

Levy of income tax. **2.** In respect of the taxable income which has been derived by any person during the year of income ended on the thirtieth day of June, one thousand nine hundred and forty, or such other period as may be accepted by the Commissioner in lieu thereof, there shall be charged, levied,

levied, collected and paid under the provisions of the Principal Act and in the manner therein prescribed, income tax at the respective rates in this Act provided.

No. 35, 1940.

3. (1) In the case of any person (other than a company or a primary producer to whom the provisions of Division 18 of Part III of the Principal Act apply), then subject to section four of this Act—

Rates of  
income  
tax.

- (a) the rate of income tax in respect of income derived from property shall be as set out in the First Schedule to this Act;
- (b) the rate of income tax in respect of income derived from personal exertion shall be as set out in the Second Schedule to this Act;
- (c) the rate of income tax in respect of a total taxable income, part being income derived from personal exertion and the remainder being income derived from property, shall be as set out in the Third Schedule to this Act:

Provided that where it is necessary for the purposes of section ninety-seven, section ninety-eight or section one hundred and ten of the Principal Act to ascertain the rate of tax applicable to a taxable income equal to an amount other than the actual taxable income that rate shall be ascertained by dividing the rate applicable under this Act in respect of a taxable income from property of that amount (if the amount is wholly income derived from property) or in respect of the appropriate remainder of a taxable income of that amount (if the amount is only in part income derived from property) by the actual taxable income and then multiplying the result by the actual taxable income (where the same is wholly income derived from property) or by an amount obtained by reducing the actual taxable income (where the same is only in part income derived from property) by one-fifth of the part of the actual taxable income which is income from personal exertion or by nine hundred pounds, whichever is the less.

(2) Subject to section four of this Act the rate of income tax payable by a primary producer to whom the provisions

No. 35, 1940.

provisions of Division 18 of Part III of the Principal Act apply shall be as set out in the Fourth Schedule to this Act.

(3) Subject to section four of this Act the rate of income tax payable by a trustee shall be as set out in the Fifth Schedule to this Act.

(4) Subject to subsection three of this section, the rate of income tax payable by a company shall be as set out in the Sixth Schedule to this Act.

Reduction  
of rates  
of income  
from  
personal  
exertion  
and  
property.

4. In respect of the taxable income which has been derived by any person (other than a company), the rate of income tax fixed by the First Schedule to this Act shall be reduced by eight per centum and the provisions of the Second, Third, Fourth and Fifth Schedules to this Act shall be applied having regard to such reduction.

Rates of  
tax in  
certain  
special  
cases.

5. (1) Where a trust estate falls to be distributed or a person is about to leave this State or the Commissioner, pursuant to Division 15 of Part III of the Principal Act, requires a return to be made by or on behalf of a person (other than a company), and the estate or person has derived taxable income after the close of the year of income ended on the thirtieth day of June, one thousand nine hundred and forty, and an assessment of income tax becomes necessary before the commencement of an Act fixing the rates of income tax in respect of taxable income derived after such year of income, the rates of tax to be paid in respect of such taxable income shall, subject to section four of this Act, be those set out in the First, Second, Third, Fourth or Fifth Schedule to this Act, as the case requires.

(2) Where a company is being wound up or the Commissioner, pursuant to Division 15 of Part III of the Principal Act, requires a return to be made by or on behalf of a company, and the company has derived taxable income after the close of the year of income ended on the thirtieth day of June, one thousand nine hundred and forty, and an assessment of income tax becomes necessary before the commencement of an Act fixing the rates of income tax in respect of taxable income derived

derived after such year of income, the rate of tax to be paid in respect of such taxable income shall be that set out in the Sixth Schedule to this Act.

6. In addition to the income tax payable under the preceding provisions of this Act there shall be payable, as and by way of income tax, a super tax of one shilling in the pound upon so much of the taxable income derived by any person (other than a company) as exceeds two thousand pounds.

Super tax  
on certain  
income.

7. Where, prior to the commencement of the Income Tax Act, 1939, an assessment has been made and income tax has been charged at the rates provided by the Income Tax Act, 1936, upon income derived after the year of income ended on the thirtieth day of June, one thousand nine hundred and thirty-nine, or such other period as has, under the provisions of the Principal Act, been accepted by the Commissioner in lieu of that year—

Rates of  
tax under  
this Act  
not to  
apply in  
certain  
cases.

- (a) by a trust estate which has been distributed;
- (b) by a non-resident whilst temporarily in this State who has paid income tax upon that income before leaving Australia;
- (c) by a person by whom or on whose behalf the Commissioner, pursuant to Division 15 of Part III of the Principal Act, has required a return to be made; or
- (d) by a company which has been wound up,

the rates so charged shall apply in lieu of those provided in this Act.

## SCHEDULES.

### FIRST SCHEDULE.

#### *Rate of Tax upon Income Derived from Property.*

1. If the taxable income does not exceed five thousand five hundred pounds, the rate of tax per pound of the taxable income shall be nine-pence plus as many times three five-hundredths of one penny as there are pounds in the taxable income.

2. If the taxable income exceeds five thousand five hundred pounds the rate of tax per pound of the taxable income shall be ascertained by calculating the total amount of tax which would be payable upon the

No. 35, 1940. — the taxable income at a rate of forty-two pence on every pound of the first five thousand five hundred pounds and at a rate of sixty pence on every pound of the taxable income in excess of five thousand five hundred pounds and dividing that total by the amount of the taxable income.

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#### SECOND SCHEDULE.

*Rate of Tax upon Income Derived from Personal Exertion.*

The taxable income shall be reduced by an amount equal to one-fifth of the taxable income or by nine hundred pounds whichever is the less and the rate of tax on each pound of the remainder of the taxable income shall be the rate which would be payable under the First Schedule to this Act in respect of a taxable income derived from property equal to that remainder.

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#### THIRD SCHEDULE.

*Rate of Tax Payable in Respect of a Total Taxable Income, part being Income Derived from Personal Exertion and the remainder being Income Derived from Property.*

The taxable income shall be reduced by an amount equal to one-fifth of the part of the taxable income which is income derived from personal exertion or by nine hundred pounds whichever is the less and the rate of tax on each pound of the remainder of the taxable income shall be the rate which would be payable under the First Schedule to this Act in respect of a taxable income derived from property equal to that remainder.

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#### FOURTH SCHEDULE.

*Rate of Tax upon Income Derived by a Primary Producer to whom the provisions of Division 18 of Part III of the Principal Act apply.*

The taxable income shall be reduced by an amount equal to one-fifth of the part of the taxable income which is income derived from personal exertion or one-fifth of the whole of the taxable income if it is all so derived or by nine hundred pounds whichever is the less and the rate of tax on each pound of the remainder of the taxable income shall be the rate which would under the First Schedule to this Act be payable in respect of a taxable income from property equal to the amount which would be the average income of the taxpayer if for each average year the part of the taxable income derived in that year which is income from personal exertion (or the whole

whole of the taxable income if it is all income from personal exertion), or the excess of allowable deductions over assessable income brought into account in arriving at the average income were reduced by one-fifth or by nine hundred pounds whichever is the less. No. 35, 1940.

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#### FIFTH SCHEDULE.

##### *Rate of Tax Payable by a Trustee.*

For every pound of the taxable income in respect of which a trustee is liable to be separately assessed and to pay tax, the rate of tax shall be the rate which would be payable—

- (a) where the trustee qua trustee is not a primary producer to whom the provisions of Division 18 of Part III of the Principal Act apply—under the First, Second or Third Schedule to this Act, as the case requires; and
- (b) where the trustee qua trustee is a primary producer to whom the provisions of Division 18 of Part III of the Principal Act apply—under the Fourth Schedule to this Act,

if one individual were liable to be separately assessed and to pay tax on that taxable income.

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#### SIXTH SCHEDULE.

##### *Rates of Tax Payable by a Company.*

1. The rate of tax per pound of the taxable income of a company shall, except as is hereinafter specifically provided, be thirty pence.

2. The rate of tax per pound of the taxable income of every mutual life assurance company shall be eighteen pence.

3. The rate of tax per pound of the taxable income of a company (other than a mutual life assurance company) carrying on the business of life assurance in this State shall be as follows:—

- (a) On so much of that part of the taxable income of the company which has been derived from its life assurance business as bears the same proportion to such part of the taxable income as the amount of the profits divided for the same year of income amongst the life assurance policy holders of the company bears to the total profits of the company's life assurance business for the same year of income, the rate of tax per pound of the taxable income shall be eighteen pence.

- (b) On the remainder of the taxable income of the company the rate of tax per pound shall be thirty pence.

4. For every pound of the taxable income of a company as is assessed under the provisions of subsection one of section one hundred and sixty-eight of the Principal Act the rate of tax shall be eighteen pence.