

Act No. 37, 1898.

LAND AND INCOME
TAX
(DECLARATORY).

An Act to declare, in order to give effect to the intention of the Legislature, that for the purposes of the Land and Income Tax Assessment Act of 1895 the extracting from the soil, winning, producing, or manufacturing in this Colony of any product, commodity, or substance, and its export, shall be deemed to have been and to be the carrying on of such trade in New South Wales, and that the value of such product, commodity, or substance when exported shall be deemed to have been and to be income earned in the said Colony after making certain deductions; also, to give effect to the intention of the Legislature with respect to the deductions from land tax on mortgaged land and the deductions in assessing income tax in certain cases; and to validate certain payments of land and income tax. [24th December, 1898.]

Preamble.

WHEREAS the Legislature, in passing the Land and Income Tax Assessment Act of 1895, intended that the income from trades carried on in New South Wales, whether the income is received in the said Colony or elsewhere, should be subject to income tax, and that in assessing the amount upon which income tax is payable, deductions should only be allowed in respect of losses and outgoings incurred in the production of the income subject to the said tax: And whereas the Legislature further intended that in the assessing of land tax on mortgaged lands, the deductions allowed in respect on interest payable on the mortgages should be limited to interest payable on mortgages of property situated within the said Colony: And whereas in consequence of certain legal decisions it is impossible to fully carry out those intentions: Be it therefore enacted by the Queen's Most Excellent Majesty,

Land and Income Tax (Declaratory).

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:—

1. Any person, wheresoever residing or domiciled, who, either before or after the commencement of this Act, extracts from the soil, wins, produces, or manufactures in New South Wales any product, commodity, or substance, and exports the same shall be deemed to carry on in New South Wales the trade of extracting from the soil, winning, producing, or manufacturing such product, commodity, or substance; and the value of such product, commodity, or substance when exported shall be deemed to be the amount on which income tax shall be payable after reduction by the exemptions allowed by section seventeen of the Principal Act and by an allowance for such losses and outgoings, including interest and expenses, as shall have been incurred in New South Wales by the taxpayer in the production of such product, commodity, or substance so exported, and by such other deductions as are allowed by section twenty-eight of the Principal Act.

Certain trades deemed to have been and to be carried on in New South Wales.

The Governor shall, in order to adjust the incidence of the tax so that it shall not exceed the rate of tax payable on profits only by regulations published in the Gazette, fix rules for the calculation of income tax and deductions and exemptions therefrom in respect of any product, commodity, or substance within the provisions of this section, and such regulations shall have the force of law; and in fixing such rules income derived from the ownership, use, and cultivation of land subject to land tax shall be held to be exempted.

2. No deduction for land tax under section ten of the Principal Act shall be allowed in respect of the mortgage of lands not situate in New South Wales.

No deduction for mortgage of lands not situate in New South Wales.

3. The word "income" in subsection one of section twenty-eight of the Land and Income Tax Assessment Act of 1895 shall be deemed to have meant and to mean income which is not exempt from the payment of income tax under section seventeen of the said Act.

Deduction of losses, &c., in assessing income tax.

4. Where before the commencement of this Act money has been paid to the Commissioners for the use of Her Majesty as land or income tax, such payment shall be as valid as if this Act had been passed immediately after the passing of the Land and Income Tax Assessment Act of 1895. Nothing in this Act contained shall affect the decision of the Privy Council in the case of the Commissioners of Taxation against Teece, or the decision to be given by the Privy Council in the following cases now pending: The Commissioners of Taxation against Charles Grant Tindal, the Commissioners of Taxation against the Broken Hill Proprietary Company (Limited), and the Commissioners of Taxation against the Broken Hill Proprietary Block Ten Company (Limited), or those

Validation of payments.

Saving clause.

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those cases now before the Court of Review which would be governed by the decision of the Privy Council, given or to be given in the aforesaid cases.

Short title and
incorporation.

5. This Act may be cited as the "Land and Income Tax (Declaratory) Act, 1898," and shall be construed as one with the Land and Income Tax Assessment Act of 1895.
