

INCOME TAX ASSESSMENT.

No. 10 of 1943.

An Act to amend the *Income Tax Assessment Act* 1936-1942.

[Assented to 20th March, 1943.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Income Tax Assessment Act* 1943.

(2.) The *Income Tax Assessment Act* 1936-1942* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1936-1943.

Commencement.

2.—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Section seventeen of this Act, and section twenty-six of this Act (insofar as it inserts sections two hundred and fifty-one L and two hundred and fifty-one O in the Principal Act) shall come into operation on a date to be fixed by proclamation.

(3.) Sections nineteen to twenty-five (both inclusive) of this Act shall come into operation on the first day of April, One thousand nine hundred and forty-three.

* Act No. 27, 1936, as amended by No. 88, 1936; No. 5, 1937; No. 43, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; and Nos. 22 and 50, 1942.

3. Section five of the Principal Act is amended by inserting after the words "PART VII.—Penal Provisions and Prosecutions." the words "PART VIIA.—REGISTRATION OF TAX AGENTS."

Parts.

4. Section sixteen of the Principal Act is amended by omitting paragraph (b) of sub-section (4.) and inserting in its stead the following paragraph :—

Officers to observe secrecy.

"(b) any board exercising any function under any Act administered by the Commissioner of Taxation or the Commissioner of Land Tax or under any State Act administered by the Commissioner of Income Tax of any State, or any member of any such Board ;".

5. Section seventeen of the Principal Act is amended by omitting the words "One hundred and fifty-six pounds" and inserting in their stead the words "One hundred and four pounds".

Income Tax.

6. Section twenty-three of the Principal Act is amended—

Exemptions.

(a) by omitting the proviso to paragraph (s) and inserting in its stead the following proviso :—

"Provided that sub-paragraph (ii) or (iii) of this paragraph shall not apply to exempt the pay and allowances earned by a member of the Defence Force who is not appointed as a member of a body, contingent or detachment of that Force out of Australia"; and

(b) by omitting paragraph (t) and inserting in its stead the following paragraph :—

"(t) in the case of a member of the Defence Force—

(i) payments made by way of dependants' allowances; and

(ii) deferred pay, including interest thereon, payable in respect of his service as a member of that Force; and".

7. Section twenty-three A of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections :—

Partial exemption of income from certain mining operations.

"(1.) Where a person carries on mining operations in Australia (other than coal mining) for the purpose of, or for purposes which include, the production of any base metal or rare mineral which is specified in the regulations as required for use in, or in connexion with, the prosecution of the present war, an amount equal to twenty per centum of the amount remaining after deducting from so much of the assessable income of that person as is attributable to the production or is derived from the sale of the base metal or rare mineral so specified produced by those operations—

(a) all allowable deductions which relate to that income; and

(b) any other allowable deductions, or part thereof, which, in the opinion of the Commissioner, may appropriately be related to that income,

shall be exempt from income tax.

“(1A.) For the purposes of the last preceding sub-section, any base metal or rare mineral used in manufacture by the person who produced the base metal or rare mineral shall be deemed to have been sold by that person in the year of income in which it is used in manufacture for an amount equal to the market value of the base metal or rare mineral at the time it is used in manufacture, and his assessable income of that year of income shall be deemed to include that amount.

“(2.) Any person carrying on such operations may make an application in writing to the Commissioner for the exemption from income tax of a part of the income to which sub-section (1.) of this section applies greater than that specified in that sub-section, on the ground that, in consequence of the national needs occasioned by the present war, the output of the base metal or rare mineral from the mine has been, or will be, such that the value of the mine has depreciated, or will depreciate, to an extent which makes it just that a greater part of that income than that specified in that sub-section should be exempt from income tax.”.

Certain items
of assessable
income.

8. Section twenty-six of the Principal Act is amended—

(a) by omitting paragraph (c) and inserting in its stead the following paragraph:—

“(c) the amount of any annuity, excluding, in the case of an annuity which has been purchased, that part of the annuity which represents so much of the purchase price as has not been allowed or is not allowable as a deduction or in respect of which a rebate of income tax has not been allowed or is not allowable in assessments for income tax under this Act or any previous law of the Commonwealth;” and

(b) by adding at the end of the proviso to paragraph (d) the words “, or in respect of deferred pay, including interest thereon, paid to a person who is or has been a member of the Defence Force in respect of his service as a member of that Force;”.

Expenditure
for enemy raids
precautions.

9. Section seventy-two B of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where, in the year of income, the taxpayer has, for the protection of persons or property from hostile action by the forces of any country with which His Majesty is at war, incurred expenditure on or in connexion with premises or part of premises owned or used by him primarily and principally for the purpose of producing assessable income, or in carrying on a business for that purpose, that expenditure shall be an allowable deduction.”.

Gifts and
contributions.

10. Section seventy-eight of the Principal Act is amended by inserting in sub-paragraph (ix) of paragraph (a) of sub-section (1.), after the word “Commonwealth”, the words “or a State”.

11. Section eighty-one of the Principal Act is repealed and the following section is inserted in its stead :—

“81.—(1.) Where the income of any member of the Defence Force includes pay or allowances earned by him as a member of that Force or the income of any taxpayer includes salary, wages, fees, bonuses or allowances earned by him as a mariner employed on a sea-going ship, and in either case—

Deduction for members of Defence Force and merchant seamen.

- (a) the income does not exceed Two hundred and fifty pounds—the amount of the income ;
- (b) the income exceeds Two hundred and fifty pounds but does not exceed Two hundred and fifty-eight pounds—the amount of One hundred and forty-six pounds ;
- (c) the income exceeds Two hundred and fifty-eight pounds but does not exceed Three hundred pounds—the amount of One hundred and forty-six pounds less One pound for every One pound by which the income exceeds Two hundred and fifty-eight pounds ;
- (d) the income exceeds Three hundred pounds but does not exceed Three hundred and fifty pounds—the amount of One hundred and four pounds less One pound for every Two pounds by which the income exceeds Three hundred pounds ; or
- (e) the income exceeds Three hundred and fifty pounds—the amount of Seventy-nine pounds less One pound for every Three pounds by which the income exceeds Three hundred and fifty pounds,

shall be an allowable deduction.

In paragraphs (a), (b), (c), (d) and (e) of this sub-section, ‘income’ means the amount remaining after deducting from the assessable income all allowable deductions other than the deduction allowable under this section.

“(2.) In the case of a taxpayer who is a mariner and whose income during the year of income was not derived wholly from employment on a sea-going ship, the deduction allowable under sub-section (1.) of this section shall not exceed the amount of the income derived by him during the year of income from his employment on a sea-going ship.

“(3.) The deduction allowable under this section shall be made successively from income from property and from income from personal exertion.

“(4.) For the purposes of this section—

‘mariner’ means any person employed as a master, officer, seaman, apprentice, or in any other sea-going capacity whatever on board a sea-going ship by the owner or charterer thereof, or employed as a pilot or radio operator on sea-going ships ; and

‘ sea-going ship ’ does not include any ship which during the year of income is principally employed within the limits of any port, harbour, bay, gulf or river within Australia, or within the limits of any two or more of them.”.

Definitions

12. Section one hundred and three of the Principal Act is amended by adding at the end of paragraph (e) of sub-section (2.) the following proviso :—

“ Provided that, in the case of a company which, owing to enemy action in the present war, has been unable, within the time specified in this paragraph, to pay in dividends out of the taxable income of the year of income the whole of its distributable income, the Commissioner may extend that time for such further period as in his opinion the circumstances warrant ; ”.

Assessment of additional tax.

13. Section one hundred and four of the Principal Act is amended by adding at the end of sub-section (1.) the following proviso :—

“ Provided that, in the case of a company which, owing to enemy action in the present war, has been unable to make a sufficient distribution within the time specified in this sub-section, the Commissioner may extend that time for such further period as in his opinion the circumstances warrant.”.

Interest paid by a company to a non-resident.

14. Section one hundred and twenty-five of the Principal Act is amended by omitting from paragraph (ii) of sub-section (1.) the words “ One hundred and fifty-six pounds ” and inserting in their stead the words “ One hundred and four pounds ”.

Concessional rebates.

15. Section one hundred and sixty of the Principal Act is amended—

(a) by inserting after paragraph (a) of sub-section (2.) the following paragraphs :—

“(aa) in respect of a daughter of the taxpayer where the taxpayer is a widower or widow and the daughter is wholly engaged in keeping house for the taxpayer and is wholly maintained by the taxpayer an amount of One hundred pounds.

For the purpose of this paragraph the daughter shall be deemed to be wholly maintained by the taxpayer if her separate net income derived from all sources in the year of income does not exceed Fifty pounds and the taxpayer contributes to the maintenance of the daughter and not otherwise :

Provided that if the daughter is wholly engaged in keeping house for the taxpayer during part only of the year of income and is wholly maintained by the taxpayer during that part of the year, the amount shall be

such part of One hundred pounds as, in the opinion of the Commissioner, is reasonable in the circumstances :

Provided further that the rebate of tax allowed in respect of this paragraph shall not exceed Forty-five pounds ; ” ;

- “ (ab) in respect of a person keeping house for a taxpayer where the taxpayer is a widower or widow and that person is a resident and is wholly engaged in keeping house for the taxpayer and has the care of any of the taxpayer’s children who are under sixteen years of age—an amount of One hundred pounds :

Provided that if that person is wholly engaged in keeping house for the taxpayer and in the care of those children during part only of the year of income the amount shall be such part of One hundred pounds as, in the opinion of the Commissioner, is reasonable in the circumstances :

Provided further that not more than one rebate of tax shall be allowed in respect of this paragraph and that rebate shall not exceed Forty-five pounds ; ” ;

- (b) by omitting from the second proviso to paragraph (b) of sub-section (2.) the words “ Five pounds ” and inserting in their stead the words “ Eight pounds ” ;
- (c) by inserting after paragraph (b) of sub-section (2.) the following paragraph :—

“ (ba) in respect of any invalid child of the taxpayer of the age of sixteen years or over at the beginning of the year of income who is a resident and is wholly maintained by the taxpayer, or would be wholly maintained by the taxpayer if an invalid pension under the provisions of the *Invalid and Old-age Pensions Act 1908-1942* were not being paid in respect of the child—

- (i) in respect of each child who is wholly maintained by the taxpayer—an amount of Seventy-five pounds ;
- (ii) in respect of each child in respect of whom an invalid pension under the *Invalid and Old-age Pensions Act 1908-1942* is being paid—the amount by which the sum of Seventy-five pounds exceeds the total amount of invalid pension paid in respect of the child during the year of income :

Provided that, where the child attains the age of sixteen years during the year of income, or becomes an invalid during the year, or is wholly maintained by the taxpayer (or would be wholly maintained by the taxpayer if an invalid pension were not being paid in respect of the child) during part only of the year, or is only partially maintained by him during the whole or part of the year, the amount for the purposes of this paragraph shall be such part of what the amount would be if the child had, throughout the year of income, been an invalid child over the age of sixteen years wholly maintained by the taxpayer as, in the opinion of the Commissioner, is reasonable in the circumstances :

Provided further that the rebate of tax allowed in respect of this paragraph shall not exceed Forty-five pounds.

For the purposes of this paragraph 'invalid child' means—

- (a) a child in respect of whom an invalid pension is being paid under the *Invalid and Old-age Pensions Act* 1908-1942 ; or
- (b) a child in respect of whom the taxpayer produces to the Commissioner a certificate of a medical officer of the Commonwealth Department of Health or of a Commonwealth Medical Referee appointed for the purposes of that Act that the child is permanently incapacitated for work within the meaning of that Act ;” ;
- (d) by inserting in sub-paragraph (ix) of paragraph (g) of sub-section (2.), after the word “ Commonwealth ”, the words “ or a State ” ; and
- (e) by adding at the end thereof the following sub-section :—

“ (4.) Where a taxpayer would, but for this sub-section, be entitled to a rebate based on amounts specified in any two or more of paragraphs (a), (aa), (ab), (b), (ba) and (c) of sub-section (2.) of this section in respect of the same person, the taxpayer shall be entitled to a rebate in respect of that person based on one only of those amounts, being an amount which is not less than any other of those amounts.”.

16. Section one hundred and sixty c of the Principal Act is amended— Undistributed
income of
company.

- (a) by omitting from paragraph (iii) of sub-section (1.) the word "and";
- (b) by adding at the end of that paragraph the following proviso :—
 " Provided that in the case of a company which, owing to enemy action in the present war, has been unable to pay a dividend within the time specified in this paragraph, the Commissioner may extend that time for such further period as in his opinion the circumstances warrant ; and " ; and
- (c) by omitting from sub-section (2.) the words " the last preceding sub-section " and inserting in their stead the words " sub-section (1.) of this section ".

17. Section one hundred and sixty-five of the Principal Act is amended by inserting after sub-section (1.) the following sub-section :— Certificate of
sources of
information.

" (1A.) The agent's certificate shall, for the purposes of this Act, be deemed to be duly signed, in the case of a partnership or a company which is registered as a tax agent in pursuance of Part VIIA. of this Act, if it is signed in the name of the partnership or company, as the case requires, by a person who is registered as a nominee of that partnership or company for the purposes of that Part, and that person's name is also appended, and not otherwise."

18. Section one hundred and eighty of the Principal Act is amended by adding at the end of sub-section (1.) the words " , and until such appointment is made the member of the Board (other than the Chairman) whose first appointment to the Board was the earlier shall act as Chairman." Illness or
suspension of
Chairman or
member.

19. Section two hundred and twenty-one A of the Principal Act is amended by inserting before the definition of "employee" the following definition :— Definitions.

" 'certificate of credit' means a certificate of credit issued in pursuance of section two hundred and twenty-one H of this Act ; ".

20. Section two hundred and twenty-one c of the Principal Act is amended— Deductions
by employer
from salaries
and wages.

- (a) by omitting from sub-section (1.) the word "Three" and inserting in its stead the word "Two";
- (b) by inserting after sub-section (1.) the following sub-section :—
 " (1A.) For the purposes of this section, where an employee receives from an employer salary or wages in respect of a period of time in excess of one week, the employee shall be deemed to be entitled to receive in respect of each week or part of a week in that period an

amount of salary or wages ascertained by dividing the salary or wages by the number of days in the period and multiplying the resultant amount—

(a) in the case of each week—by seven; and

(b) in the case of a part of a week—by the number of days in the part of a week.”; and

(c) by inserting in sub-section (2.), after the word “for”, the words “, or deemed to have been received in respect of,”.

Variation of deductions.

21. Section two hundred and twenty-one D of the Principal Act is amended by omitting paragraph (b) of sub-section (1.) and inserting in its stead the following paragraph:—

“(b) for the purpose of meeting the special circumstances of any case or class of case; or”.

Application of tax stamps.

22. Section two hundred and twenty-one H of the Principal Act is amended—

(a) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“(2.) If there is no tax payable by the employee, or if the amount represented by the face value of the stamps so produced is greater than the tax payable by the employee, the Commissioner shall, if so requested by the employee, pay to him—

(a) where there is no tax payable by the employee—
an amount equal to the face value of the stamps so produced; or

(b) in any case in which paragraph (a) of this sub-section does not apply, where—

(i) the stamps are produced on or before the thirty-first day of March of the latest year of tax for which the employee has received a notice of assessment—the amount by which the face value of the stamps exceeds the tax payable by the employee for that year of tax and any preceding year; or

(ii) the stamps are produced after the thirty-first day of March of that year of tax—the amount by which the face value of the tax stamps held by the employee on that date, or the amount deducted from his salary or wages to that date and dealt with in pursuance of section two hundred and twenty-one K of this Act in respect of which he has not previously received credit, exceeds

the tax payable by him for that year of tax and any preceding year :

Provided that where the amount of the excess is less than One pound the Commissioner shall pay that amount to the employee.

“(2A.) Where tax stamps are produced in pursuance of sub-section (1.) of this section, the Commissioner shall, if the case requires, issue to the employee a certificate of credit showing an amount equal to so much of the face value of the stamps produced as is not applied in payment of tax and in respect of which the Commissioner has not made and does not make a payment to the employee.” ; and

(b) by omitting from sub-section (3.) the words “so produced” and inserting in their stead the words “produced in pursuance of sub-section (1.) of this section”.

23. After section two hundred and twenty-one H of the Principal Act the following section is inserted :—

“221HA.—(1.) The amount for which a certificate of credit is issued shall bear simple interest at the rate of two pounds per centum per annum calculated (to the nearest shilling) from the date of issue of the certificate to the date on which the amount or any part thereof is applied by the Commissioner in payment of any tax or a payment is made by the Commissioner to the employee in respect of the amount or any part thereof.

Certificates of credit.

“(2.) Subject to this Division, a certificate of credit shall, for the purposes of this Division, be deemed to be a page of a book to which were duly affixed tax stamps issued to the employee in accordance with this Division of a face value equal to the total of the amount for which the certificate is issued and the interest accrued thereon, and where any such certificate is produced in accordance with the provisions of this Division, tax stamps of a face value equal to the amount shown in the certificate shall be deemed to be produced.

“(3.) A certificate of credit shall not be liable to stamp duty or other tax under any law of the Commonwealth or of any State or Territory of the Commonwealth.

“(4.) Except in accordance with the provisions of this Division or with the consent of the Commissioner, a person shall not sell or otherwise dispose of, or purchase or otherwise acquire, a certificate of credit.

Penalty : Fifty pounds.”

24. Section two hundred and twenty-one K of the Principal Act is amended— Group schemes.

(a) by omitting from sub-section (3.) the words “the provisions of sub-section (1.) or (2.) of this section” and inserting in their stead the words “any of the foregoing provisions of this section” ;

(b) by omitting sub-section (4.) ;

(c) by inserting in sub-section (5.), after the word "section" (first occurring), the words "and every authority with which the Commissioner has entered into an arrangement in pursuance of sub-section (2A.) of this section"; and

(d) by adding at the end thereof the following sub-section:—

"(6.) A certificate issued in pursuance of paragraph (b) of the last preceding sub-section shall, for the purposes of this Division, be deemed to be a page of a book to which were duly affixed tax stamps issued to the employee in accordance with this Division of a face value equal to the amount shown in the certificate, and where any such certificate is produced in accordance with the provisions of this Division, tax stamps of a face value equal to the amount shown in the certificate shall be deemed to be produced."

Payment of
tax by tax
stamps by
persons
other than
employees.

25. Section two hundred and twenty-one M of the Principal Act is amended—

(a) by inserting after the word "Division" the words "other than the provisions of sub-sections (2.) and (2A.) of section two hundred and twenty-one H,"; and

(b) by adding at the end thereof the following sub-section:—

"(2.) Where a person who has purchased tax stamps in pursuance of this section produces those stamps to the Commissioner, and there is no tax payable by that person or the amount represented by the face value of the stamps so produced is greater than the tax payable by that person, the Commissioner shall pay to that person an amount equal to the face value of the stamps, or an amount equal to the difference between that face value and the tax payable by that person, as the case may be."

Definitions.

23. After Part VII. of the Principal Act the following Part is inserted:—

"PART VIIA.—REGISTRATION OF TAX AGENTS.

"251A. In this Part, unless the contrary intention appears—

'application' means an application to a Board in pursuance of this Part;

'Board' means a Tax Agents' Board constituted, or deemed to be constituted, under this Part;

'registered tax agent' means a person or partnership who or which is registered as a tax agent in pursuance of this Part.

Territories.

"251B. For the purposes of this Part—

(a) the Australian Capital Territory shall be deemed to be part of the State of New South Wales;

(b) the Territory of Papua shall be deemed to be part of the State of Queensland; and

(c) the Northern Territory of Australia shall be deemed to be part of the State of South Australia.

Tax Agents'
Boards.

"251C. For the purposes of this Part there shall be in each State a Tax Agents' Board.

“ 251D.—(1.) Subject to this Part, each Board shall consist of three members who shall be— Constitution of Board.

- (a) the officer for the time being performing the duties of Accountant at the Commonwealth Sub-Treasury in the State, who shall be the Chairman of the Board ;
- (b) the officer for the time being performing the duties of Commonwealth Chief Auditor for the State, or such substitute for that officer as the Governor-General at any time appoints ; and
- (c) a person appointed by the Governor-General.

“ (2.) A vacancy in the office of a member shall not invalidate the proceedings of a Board.

“ (3.) A member of a Board who is not an officer of the Public Service of the Commonwealth or of a State shall be paid such fees and expenses as the Governor-General directs.

“ 251E. At all meetings of a Board—

- (a) any two members shall form a quorum ;
- (b) all questions shall be decided by a majority of the members present ;
- (c) in the absence of the Chairman of the Board, the officer for the time being performing the duties of Commonwealth Chief Auditor for the State, or the person appointed as his substitute (as the case may be) shall act as Chairman ; and
- (d) the Chairman or Acting Chairman (as the case may be) shall have a deliberative, but not a casting, vote.

Conduct
of business
of Board.

“ 251F. No action or suit shall be brought or maintained against any person who is or has been a member of a Board for any non-feasance or misfeasance in connexion with his duties. Board not to be sued.

“ 251G. A Board or a member of a Board shall have such powers as are prescribed with respect to the taking of evidence, the administration of oaths or affirmations, the summoning of witnesses and the production of documents. Summoning of witnesses, &c.

“ 251H. Notwithstanding anything contained in this Part, where a Board for the registration of tax agents has been duly constituted under any State Act relating to income tax, that Board, while it continues to be so constituted, shall, upon an arrangement to that effect between the Governor-General and the Governor in Council of the State concerned being notified by the Treasurer in the *Gazette*, be deemed for the purposes of this Part to be a Board constituted under this Part having the same powers and functions and entitled to the same privileges, and, except as provided in this section, subject to the same provisions of this Act and the Regulations as a Board constituted under this Part : Use of Boards constituted under State Acts.

Provided that the Chairman or Acting Chairman of any Board so constituted under any such State Act shall be the person appointed or holding office as Chairman or Acting Chairman in accordance with the relevant provisions of that State Act.

Registration of
tax agents.

“ 251J.—(1.) A person or partnership desiring to be registered as a tax agent may make application to a Board for registration.

“ (2.) Every application under this section shall be accompanied by a lodgment fee of One pound, which the Board shall pay to the Commissioner.

“ (3.) If the applicant satisfies the Board that—

(a) in the case of an individual—the applicant ;

(b) in the case of a partnership—a member of the partnership specified in the application ; or

(c) in the case of a company—a person, specified in the application, employed by the company,

is a fit and proper person to prepare income tax returns and transact business on behalf of taxpayers in income tax matters, the Board shall register the applicant as a tax agent.

“ (4.) Where a partnership or company is registered as a tax agent, the member or person referred to in paragraph (b) or (c) of the last preceding sub-section shall be registered by the Board as a nominee of the tax agent for the purposes of this Part.

“ (5.) A partnership or a company may, either in an application for registration as a tax agent or, if it is already so registered, in an application made for the purpose, request a Board to register as additional or substituted nominees of the partnership or company for the purposes of this Part any other members of the partnership or persons employed by the company, and shall pay, in respect of each such proposed nominee, a lodgment fee of One pound, which the Board shall pay to the Commissioner.

“ (6.) If the Board is satisfied that any person in respect of whom a request is made under the last preceding sub-section is a fit and proper person to prepare income tax returns and transact income tax business on behalf of taxpayers, it may register that person as an additional or substituted nominee of the tax agent for the purposes of this Part.

“ (7.) Where an application is made to a Board by an individual who is registered as a tax agent under the law of any State, the Board shall grant the application, and no lodgment fee shall be required.

“ (8.) Where an application is made to a Board by a company or partnership which is registered as a tax agent under the law of any State, and a person specified in the application as a proposed nominee for the purposes of this Part is a person who the Board which granted registration under the law of the State was satisfied was qualified and fit to act as a tax agent, the Board shall grant the application, and no lodgment fee shall be required except in respect of any proposed additional nominees.

“ (9.) Where an application is made to a Board by a partnership or company on behalf of which a person is registered as a tax agent under the law of any State and that person is a proposed nominee, the Board shall grant the application, and no lodgment fee shall be required except in respect of any proposed additional nominees.

“(10.) Every partnership which is registered as a tax agent shall forthwith notify the Board by which it was registered of any change in the constitution of the partnership, and every company which is registered as a tax agent shall forthwith notify the Board by which it was registered if any person who is a nominee of the company for the purposes of this Part ceases to be employed by the company.

Penalty : Ten pounds.

“(11.) A person shall cease to be a nominee of a partnership or company—

- (a) in the case of a partnership—if he ceases to be a member of the partnership ;
- (b) in the case of a company—if he ceases to be employed by the company ;
- (c) upon notification by the partnership or company to the Board by which it was registered that it no longer desires that person to be its nominee ; or
- (d) if that Board serves upon the partnership or company a notice that in its opinion that person is no longer a fit and proper person to be a nominee of the partnership or company, as the case may be.

“251k.—(1.) Registration as a tax agent shall remain in force until cancelled in accordance with this Act.

Cancellation of
registration
of tax agents.

“(2.) A Board may cancel the registration of any tax agent upon being satisfied that—

- (a) any return which has been prepared by or on behalf of the tax agent is false in any material particular; unless the tax agent establishes to the satisfaction of the Board that he had no knowledge of the falsity or that the falsity was due to his inadvertence ;
- (b) the tax agent—
 - (i) has neglected the business of a principal ;
 - (ii) has been guilty of misconduct as a tax agent ; or
 - (iii) is not a fit and proper person to remain registered ;or
- (c) in the case of a partnership or company—a nominee of the tax agent is not a fit and proper person to be such a nominee.

“(3.) A Board shall cancel the registration of an individual as a tax agent upon his death or bankruptcy, or his permanently ceasing to carry on business as a tax agent.

“(4.) A Board shall cancel the registration of a tax agent which is a partnership or a company—

- (a) if there is no nominee registered in respect of the tax agent ;
- (b) in the case of a company, if the company goes into liquidation or, in the case of a partnership, if any partner becomes bankrupt ; or
- (c) if it permanently ceases to carry on business as a tax agent.

“(5.) Where the registration of a tax agent is cancelled, an appeal shall lie to a County Court, District Court, or Local Court of Full Jurisdiction, or a Court of Requests constituted by a barrister, solicitor, attorney or proctor of any State, or Territory being part of the Commonwealth, or any court exercising in any part of the Commonwealth a limited civil jurisdiction and presided over by a Judge or a Police, Stipendiary or Special Magistrate, and the decision of the court on the appeal shall be final and conclusive.

“(6.) The Regulations may prescribe the practice and procedure in connexion with appeals under the last preceding sub-section.

“(7.) A registered tax agent shall forthwith notify the Board by which the tax agent was registered of any event or matter specified in sub-section (3.) or (4.) of this section.

Penalty : Ten pounds.

Unregistered
tax agents
not to charge
fees.

“251L.—(1.) A person, other than a person exempted under this section, shall not demand or receive any fee for or in relation to the preparation of any income tax return or objection, or for or in relation to the transaction of any business on behalf of a taxpayer in income tax matters, unless he is a registered tax agent.

Penalty : Not less than Two pounds or more than One hundred pounds.

“(2.) A Board may, in its discretion, exempt any person from the operation of this section upon being satisfied—

(a) that the total income derived by that person as a tax agent during the period of twelve months immediately preceding the date of his application for such exemption did not exceed Twenty pounds ; and

(b) that there is no registered tax agent within a reasonable distance of the place where the applicant for such exemption resides or carries on business.

“(3.) An exemption under this section may, in the discretion of the Board, be renewed every twelve months, and shall lapse at the expiration of twelve months from the date of the grant of the exemption or, if it has been renewed, of the last renewal.

“(4.) Sub-section (1.) of this section shall not apply to any solicitor or counsel acting in the course of his profession in the preparation of any objection or in any litigation or proceedings before a board, or so acting in an advisory capacity either in connexion with the preparation of any income tax return or with any income tax matter.

“(5.) A person shall not be entitled to sue for, recover or set-off any fee which he is prohibited by this section from demanding.

Negligence of
registered
tax agent, &c.

“251M.—(1.) If, through the negligence of a registered tax agent, or of a person exempted under the last preceding section, a taxpayer becomes liable to pay a fine or other penalty or any additional tax, the registered tax agent, or the person, as the case may be, shall be

liable to pay to the taxpayer the amount of that fine or other penalty or additional tax, and that amount may be sued for and recovered by the taxpayer in any court of competent jurisdiction.

“(2.) Nothing in this section shall exonerate the taxpayer from his liability.

“251N.—(1.) A registered tax agent or a person exempted under section two hundred and fifty-one L of this Act shall not allow any person, not being his employee, a registered tax agent or, in the case of a partnership which is registered as a tax agent, a member of that partnership—

Preparation of returns, &c., on behalf of registered tax agent.

- (a) to prepare on his behalf, either directly or indirectly, his own or any other income tax return or objection ; or
- (b) to conduct on his behalf, either directly or indirectly, any business of himself or any other person relating to any income tax return or income tax matter.

Penalty : Not less than Two pounds or more than Fifty pounds.

“(2.) A partnership or company which is registered as a tax agent shall not allow any person to do anything specified in paragraph (a) or (b) of the last preceding sub-section except under the supervision and control of a nominee of the partnership or company.

Penalty : Not less than Two pounds or more than Fifty pounds.

“(3.) Nothing in this section shall be construed as prohibiting the employment by a registered tax agent or person exempted under section two hundred and fifty-one L of this Act of solicitor or counsel to act in the course of his profession in the preparation of any objection or in any litigation or proceedings before a board, or in an advisory capacity either in connexion with the preparation of any such return or the conduct of any such business.

“251O. A person, not being a registered tax agent or a person exempted under section two hundred and fifty-one L of this Act, shall not, directly or indirectly—

Advertising, &c., by persons other than registered tax agents.

- (a) describe himself as or represent himself to be a tax agent ; or
- (b) advertise in any manner whatsoever that income tax returns will be prepared by him or that any other matter in connexion with income tax will be attended to by him.

Penalty : Not less than Two pounds or more than Fifty pounds.

“251P. Where, under any provision of this Part, an obligation is imposed on a partnership to do, or refrain from doing, anything, every partner shall, upon the failure of the partnership to comply with the obligation, unless he proves that he had no knowledge of the failure, be guilty of an offence, and be liable to the penalty provided in respect of the obligation :

Offences by partnerships.

Provided that not more than one partner shall be punished for one offence.”.

27. After section two hundred and sixty-two of the Principal Act the following section is inserted—

Taxpayer to
keep records.

“262A.—(1.) Subject to sub-section (2.) of this section, every person carrying on a business shall keep sufficient records in the English language of his income and expenditure to enable his assessable income and allowable deductions to be readily ascertained and shall retain such records for a period of at least seven years after the completion of the transactions, acts or operations to which they relate.

Penalty : Not less than Two pounds or more than One hundred pounds.

“(2.) This section shall not require the preservation of any records—

(a) in respect of which the Commissioner has notified the taxpayer that their preservation is not required ; or

(b) of a company which has gone into liquidation and which has been finally dissolved.”.

Application of
amendments.

28.—(1.) The amendment effected by paragraph (a) of section six of this Act shall apply to all assessments for the financial year beginning on the first day of July, One thousand nine hundred and forty-one, and all subsequent years.

(2.) The amendments effected by paragraph (b) of section six and by sections seven, eight, nine, twelve, thirteen and sixteen of this Act shall apply to all assessments for the financial year beginning on the first day of July, One thousand nine hundred and forty-two, and all subsequent years.

(3.) The amendments effected by sections five, ten, eleven, fourteen and fifteen of this Act shall apply to all assessments for the financial year beginning on the first day of July, One thousand nine hundred and forty-three, and all subsequent years.
