

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT (NO. 3).

No. 101 of 1956.

An Act to amend the Law relating to Income Tax.

[Assented to 15th November, 1956.]

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

1.—(1.) This Act may be cited as the *Income Tax and Social Services Contribution Assessment Act (No. 3) 1956*. Short title
and citation.

(2.) The *Income Tax and Social Services Contribution Assessment Act 1936–1955*,* as amended by the *Income Tax and Social Services Contribution Assessment Act 1956*† and by the *Income Tax and Social Services Contribution Assessment Act (No. 2) 1956*,‡ is in this Act referred to as the Principal Act.

(3.) Section one of the *Income Tax and Social Services Contribution Assessment Act (No. 2) 1956* is amended by omitting sub-section (4.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936–1956*.

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

* Act No. 27, 1936, as amended by No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; and Nos. 18 and 62, 1955.

† Act No. 25, 1956.

‡ Act No. 30, 1956.

(2.) The amendment made by paragraph (c) of section thirteen of this Act shall be deemed to have come into operation on the first day of July, One thousand nine hundred and fifty-six.

3. Section five of the Principal Act is repealed and the following section inserted in its stead :—

Parts.

“ 5. This Act is divided into Parts, as follows :—

Part I.—Preliminary (Sections 1-7).

Part II.—Administration (Sections 8-16).

Part III.—Liability to Taxation.

Division 1.—General (Sections 17-24).

Division 2.—Income.

Subdivision A.—Assessable Income Generally (Sections 25-27).

Subdivision B.—Trading Stock (Sections 28-37).

Subdivision C.—Business Carried on Partly in and Partly out of Australia (Sections 38-43).

Subdivision D.—Dividends (Sections 44-47).

Division 3.—Deductions.

Subdivision A.—General (Sections 48-82).

Subdivision B.—Concessional Deductions (Sections 82A-82J).

Division 4.—Leases (Sections 83-89).

Division 5.—Partnerships (Sections 90-94).

Division 6.—Trustees (Sections 95-102AA).

Division 7.—Private Companies (Sections 103-109).

Division 8.—Life Assurance Companies (Sections 110-116).

Division 9.—Co-operative and Mutual Companies (Sections 117-121).

Division 9A.—Friendly Society Dispensaries (Sections 121A-121B).

Division 10.—Mining (Sections 122-124D).

Division 10A.—Timber Operations (Sections 124E-124J).

Division 10B.—Industrial Property (Sections 124K-124Z).

Division 11.—Interest Paid by Companies (Sections 125-128).

Division 12.—Oversea Ships (Sections 129-135A).

Division 13.—Australian Business Controlled Abroad (Section 136).

Division 14.—Film Business Controlled Abroad (Sections 137-140).

Division 15.—Insurance with Non-Residents (Sections 141-148).

Division 16.—Averaging of Incomes (Sections 149-158A).

Division 16A.—Abnormal Income of Authors and Inventors (Sections 158B-158E).

Division 17.—Rebates (Sections 160-160AD).

- Division 18.—Partial Liability to Tax on Income of a Certain Period (Sections 160AF–160AM).
- Division 19.—Tax Credit in Relation to Certain Plant and Machinery used in Connexion with the War (Sections 160AN–160AT).
- Part IV.—Returns and Assessments (Sections 161–177).
- Part V.—Objections and Appeals.
- Division 1.—Constitution of Boards of Review (Sections 178–184).
- Division 2.—Reviews and Appeals (Sections 185–202).
- Part VI.—Collection and Recovery of Tax.
- Division 1.—General (Sections 204–221).
- Division 2.—Collection of Income Tax and Social Services Contribution by Instalments (Sections 221A–221YAA).
- Division 3.—Provisional Tax and Contribution and Advance Payments (Sections 221YA–221YH).
- Part VII.—Penal Provisions and Prosecutions (Sections 222–251).
- Part VIIA.—Registration of Tax Agents (Sections 251A–251Q).
- Part VIII.—Miscellaneous (Sections 252–266)."
- 4.—(1.) Section twenty-three of the Principal Act is amended— Exemptions.
- (a) by inserting after paragraph (ea) the following paragraph :—
- “(eb) the income of an organization which—
- (i) is a registered medical benefits organization or a registered hospital benefits organization for the purposes of the *National Health Act* 1953, or of that Act as amended ; and
- (ii) is an organization carried on otherwise than for the purposes of profit or gain to the individual members of the organization ;” ;
- (b) by omitting paragraph (k) and inserting in its stead the following paragraph :—
- “(k) pensions and attendants’ allowances paid, and payments of a like nature made, under the *Repatriation Act* 1920–1956, the *Repatriation (Far East Strategic Reserve) Act* 1956 or the *Seamen’s War Pensions and Allowances Act* 1940–1955 ;” ;
- (c) by omitting from paragraph (y) the word “and” (last occurring) ; and
- (d) by adding at the end thereof the following word and paragraph :—
- “ ; and (za) a grant by the United States Educational Foundation in Australia from the funds specified in Article 11 of the Agreement

dated the twenty-sixth day of November, One thousand nine hundred and forty-nine, between the Government of the United States of America and the Government of the Commonwealth under which the Foundation was established.”.

(2.) Income derived on or after the first day of January, One thousand nine hundred and fifty-two, and before the fourteenth day of April, One thousand nine hundred and fifty-four (being the date on which Part VI. of the *National Health Act* 1953 came into operation), by an organization which, at the time when it derived the income, was an organization carried on otherwise than for the purposes of profit or gain to the individual members of the organization and was registered under—

- (a) the National Health (Medical Benefits) Regulations, being the regulations repealed by sub-section (1.) of section twelve of that Act;
- (b) Part V. of the Hospital Benefits Regulations, being the regulations referred to in sub-section (2.) of section thirty-eight of that Act; or
- (c) Part V. of the Hospital Benefits (Private Hospitals) Regulations, being the regulations repealed by the Hospital Benefits Regulations,

shall be deemed to have been exempt from income tax and social services contribution.

(3.) Nothing in section one hundred and seventy of the Principal Act as amended by this Act prevents the amendment, at any time, of an assessment for the purpose of giving effect to paragraph (cb) of section twenty-three of the Principal Act as so amended or to the last preceding sub-section.

Exemption of
pay and
allowances of
members of the
Defence Force.

5.—(1.) Section twenty-three B of the Principal Act is repealed.

(2.) The area consisting of the Federation of Malaya, the Colony of Singapore and the waters contiguous to the coast of that Federation and the coast of that Colony, for a distance of one hundred nautical miles seaward, shall, in relation to members of the Naval Forces of the Commonwealth, be deemed to have been an operational area for the purposes of the section repealed by the last preceding sub-section during the period that commenced on the first day of July, One thousand nine hundred and fifty-five, and ended on the date of commencement of this section.

(3.) Nothing in section one hundred and seventy of the Principal Act as amended by this Act prevents the amendment, at any time, of an assessment for the purpose of giving effect to the last preceding sub-section.

6. Section twenty-six B of the Principal Act is amended by adding **at the end of sub-section (1.) the words "or a loss by fire of trees"**.

Insurance recoveries on losses of live stock and trees.

7. Section fifty-nine of the Principal Act is amended—

(a) by inserting in sub-section (2.), after the word "shall", the words "**, subject to the succeeding provisions of this section,**" ; and

Disposal, loss or destruction of depreciated property.

(b) by omitting sub-sections (2A.), (2B.) and (2C.) and inserting in their stead the following sub-sections :—

"(2A.) Where an amount, being the whole or a part of the consideration receivable in respect of the loss or destruction of a unit of property in the year of income (in this sub-section referred to as 'the balancing charge') would, but for this sub-section, be included in the assessable income of the taxpayer under the last preceding sub-section, the Commissioner shall, if the taxpayer so requests in writing when lodging the return of income of the year of income, or within such further time as the Commissioner allows, in lieu of including the balancing charge in the assessable income, successively reduce—

(a) the cost, for the purpose of calculating depreciation allowable under this Act, of any unit of property acquired by the taxpayer during the year of income to replace the unit of property so lost or destroyed ;

(b) the cost, for the purpose of calculating depreciation allowable under this Act, of any other unit of property acquired by the taxpayer during the year of income ; and

(c) the depreciated values, at the beginning of the year of income, of other units of property,

by such amounts as do not exceed, in the aggregate, the balancing charge.

"(2B.) The cost or depreciated value of a unit of property shall not be reduced under the last preceding sub-section unless—

(a) at the end of the year of income the unit is used wholly for the purpose of producing assessable income or has been installed ready for use wholly for that purpose and is held in reserve ; and

(b) depreciation under this Act is allowable to the taxpayer in respect of the unit.

"(2C.) Where an amount which would, but for sub-section (2A.) of this section, be included in the assessable income of the taxpayer of the year of income under sub-section (2.) of this section exceeds the sum of reductions

made under sub-section (2A.) of this section, the amount of that excess shall be included in his assessable income of the year of income.

“(2D.) Where, during a year of income not later than the second year of income after the year of income in which a unit of property is lost or destroyed, a taxpayer acquires, to replace that unit, a unit of property which, at the end of the year of income, is used wholly for the purpose of producing assessable income, or has been installed ready for use wholly for that purpose and is held in reserve, and the taxpayer has not made a request under sub-section (2A.) of this section in relation to that loss or destruction, the Commissioner shall, if the taxpayer so requests in writing not later than the date of lodgment of the return of income of the first-mentioned year, or within such further time as the Commissioner allows—

- (a) exclude from the assessable income of the year of income in which the property was lost or destroyed so much of the amount that would otherwise be included in that assessable income under sub-section (2.) of this section by reason of the loss or destruction as does not exceed the cost of the unit of property so acquired; and
- (b) reduce by an amount equal to the amount so excluded the cost, for the purpose of calculating depreciation allowable under this Act, of the unit of property so acquired.

“(2E.) An amount by which the cost or depreciated value of a unit of property has been reduced in pursuance of sub-section (2A.) of this section or the last preceding sub-section shall, for all purposes of this Act, be deemed to be depreciation which has been allowed in respect of that unit in the assessment in which the reduction was made.”.

Definition of
depreciated
value.

8. Section sixty-two of the Principal Act is amended by omitting sub-section (3.).

9. After section sixty-eight of the Principal Act the following section is inserted :—

Expenses
relating to
grant of
patents, &c.

“68A. Expenditure incurred by the taxpayer (whether by payment of fees or otherwise) in the year of income in obtaining, or seeking to obtain, for the purpose of producing assessable income—

- (a) the grant, or the extension of the term, of a patent for an invention;

(b) the registration, or the extension of the period of registration, of a design ; or
 (c) the registration of a copyright,
 shall be an allowable deduction.”.

10. Sections sixty-nine and seventy of the Principal Act are repealed. Repeal of sections 69 and 70.

11. Section seventy-eight of the Principal Act is amended—

- (a) by omitting from sub-paragraph (xvii) of paragraph (a) of sub-section (1.) the word “and” (last occurring) ; and Gifts, contributions, allowances and pensions.
 (b) by adding at the end of that paragraph the following sub-paragraphs :—
 “(xix) the Commonwealth, when made for the purposes of research in the Australian Antarctic Territory ;
 “(xx) the Royal Australasian College of Surgeons ;
 “(xxi) the Royal Australasian College of Physicians ;
 “(xxii) the Australian Regional Council of the Royal College of Obstetricians and Gynaecologists ;
 “(xxiii) the New South Wales College of Nursing ;
 “(xxiv) the College of Nursing, Australia ; and
 “(xxv) the Council for Christian Education in Schools ;”.

12. Section seventy-nine A of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “One hundred and twenty pounds” (wherever occurring) and inserting in their stead the words “One hundred and eighty pounds” ; and Deductions for residents of isolated areas.
 (b) by omitting from sub-section (2.) the words “Twenty pounds” (wherever occurring) and inserting in their stead the words “Thirty pounds”.

13. Section seventy-nine B of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “One hundred and twenty pounds” (wherever occurring) and inserting in their stead the words “One hundred and eighty pounds” ; Deductions for members of Defence Force serving overseas.
 (b) by omitting from sub-section (4.) the words “One hundred and twenty pounds” and inserting in their stead the words “One hundred and eighty pounds” ; and
 (c) by inserting in sub-section (6.), before the definition of “overseas locality”, the following definition :—
 “ ‘locality’ means an area of land or waters or an area of land and waters ;”.

Losses of
previous years.

14. Section eighty of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ the deduction allowable ” and inserting in their stead the words “ the deductions allowable ” ; and
- (b) by inserting after sub-section (4.) the following sub-sections :—

“ (4A.) Where, in the year of income, a taxpayer pays an amount in respect of a debt incurred by him in one of the seven years next preceding the year of income, being a year in which the taxpayer incurred a loss to which the last preceding sub-section applies, the amount paid by the taxpayer in respect of the debt shall, subject to the next succeeding sub-section, be an allowable deduction to the extent that it does not exceed so much of the debt as the Commissioner is satisfied was taken into account in ascertaining the amount of the loss.

“ (4B.) The aggregate of the deductions allowable under the last preceding sub-section from the income of the taxpayer of the year of income in relation to the payment of amounts in respect of debts incurred by the taxpayer in a year in which he incurred a loss (in this sub-section referred to as ‘ the year of loss ’) shall not exceed the amount of that loss less the sum of—

- (a) any deductions allowed under the last preceding sub-section from his income of a year or years of income prior to the year of income in relation to the payment of other amounts in respect of debts incurred by the taxpayer in the year of loss ;
- (b) so much of the loss as has been allowed under sub-section (2.) of this section as a deduction or deductions from his income (including his net exempt income) of a year or years of income prior to the year of income ; and
- (c) so much of the loss as, but for sub-section (4.) of this section, would have been allowed or allowable under sub-section (2.) of this section as a deduction or deductions from his net exempt income of the year of income or a year or years of income prior to that year.”.

Life insurance
premiums, &c.

15. Section eighty-two H of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word “ income ”, the words “ (not being amounts referred to in the next succeeding section) ” ;
- (b) by omitting sub-paragraph (ii) of paragraph (b) of sub-section (1.) ; and
- (c) by omitting from sub-section (2.) the words “ Two hundred pounds ” and inserting in their stead the words “ Three hundred pounds ”.

16. After section eighty-two H of the Principal Act the following section is inserted :—

“ 82HA. Amounts paid by the taxpayer in the year of income to a medical or hospital benefits fund for the personal benefit of the taxpayer or his spouse or child shall be allowable deductions.”.

Payments to medical and hospital benefits funds.

17. Section eighty-two J of the Principal Act is amended by omitting from sub-section (2.) the words “ Seventy-five pounds ” and inserting in their stead the words “ One hundred pounds ”.

Education expenses.

18. Section one hundred and three of the Principal Act is amended by omitting from sub-section (1.) the definition of “ special fund dividends ” and inserting in its stead the following definition :—

Interpretation.

“ ‘ special fund dividends ’, in relation to a private company, means dividends or parts of dividends paid by the private company, being dividends or parts of dividends that are, by virtue of sub-section (2.) of section forty-four, or section one hundred and seven, of this Act, excluded from the assessable income of the shareholders ; ”.

19. Section one hundred and seven of the Principal Act is amended—

Exemption of certain dividends.

(a) by omitting from sub-section (1.) all the words before paragraph (c) and inserting in their stead the words—

“ The assessable income of a person shall not include—

(a) a dividend or a part of a dividend paid before the first day of January, One thousand nine hundred and sixty-three, to him by a company ;
or

(b) amounts in respect of a dividend or a part of a dividend paid before that date by a company to a company, trustee or partnership interposed between that person and the company paying the dividend,

being a dividend or a part of a dividend, as the case may be, which is paid out of one or more of the following amounts :—” ; and

(b) by omitting sub-section (2.).

20. After Division 10 of Part III. of the Principal Act the following Divisions are inserted :—

“ Division 10A.—Timber Operations.

“ 124E. In this Division—

Definitions.

‘ access road ’ means a road (including a bridge, culvert or similar work forming part of the road) constructed primarily

and principally for the purpose of providing access to an area so as to enable—

- (a) the planting or tending of trees in the area ; or
- (b) the removal from the area of timber felled in the area :

‘ timber operations ’ means—

- (a) the planting or tending of trees for felling ;
- (b) the felling of standing timber ;
- (c) the removal of felled timber ; or
- (d) the milling or other processing of felled timber.

**Deduction of
expenditure.**

“ 124F.—(1.) Where a person, in connexion with the carrying on by him of timber operations for the purpose of gaining or producing assessable income, has incurred expenditure of a capital nature on an access road (not being expenditure in respect of which a deduction has been allowed or is allowable under a provision of the previous Act or of this Act, other than a provision of this Division, or which has been or is taken into account in ascertaining the amount of an allowable deduction under such a provision), an amount ascertained in accordance with this section shall be an allowable deduction in respect of the expenditure.

“(2.) The deduction allowable is the amount ascertained by dividing the residual capital expenditure, as at the end of the year of income, ascertained in accordance with the succeeding provisions of this section, by—

- (a) a number equal to the number of whole years, as at the end of the year of income, in the estimated period during which the access road will be used for the purpose for which it was primarily and principally constructed ; or
- (b) twenty-five,

whichever number is the less.

“(3.) For the purposes of this section, but subject to the next two succeeding sub-sections, the residual capital expenditure shall be ascertained by deducting from the amount of expenditure specified in sub-section (1.) of this section any part of that expenditure which—

- (a) has been allowed or is allowable as a deduction under this section from the assessable income of a year of income prior to the year of income ; or
- (b) was incurred on—
 - (i) property which has been disposed of or destroyed or
 - (ii) property the use of which by the taxpayer for the purpose for which the access road was primarily and principally constructed has been otherwise terminated,

and has not been allowed and is not allowable as a deduction under this section from the assessable income of any year of income which ended before the year of income in which the disposal, destruction or termination of use took place.

“(4.) Where property referred to in sub-paragraph (ii) of paragraph (b) of the last preceding sub-section again comes into use for the purpose for which the access road was primarily and principally constructed, the residual capital expenditure shall be deemed to be increased by so much of the expenditure on that property as the Commissioner determines.

“(5.) Where any of the expenditure specified in sub-section (1.) of this section was incurred in a year of income prior to the year of income which commenced on the first day of July, One thousand nine hundred and fifty-six, the residual capital expenditure shall be deemed to be the amount that would have been the residual capital expenditure if the provisions of this Division had applied to assessments in respect of income of that first-mentioned year of income and to assessments in respect of income of each subsequent year of income.

“124G.—(1.) This section applies where deductions have been allowed or are allowable under the last preceding section in respect of expenditure of a capital nature on an access road and, in the year of income, property on which any of that expenditure was incurred has been disposed of or destroyed, or the use by the taxpayer of that property for the purpose for which the access road was primarily and principally constructed has been otherwise terminated.

Disposal,
destruction or
termination of
use of property

“(2.) Where—

- (a) the consideration receivable in respect of the disposal or destruction of the property; or
- (b) in the case of other termination of the use of the property, the value of the property at the date of the termination of use,

exceeds the portion of the residual capital expenditure which, at the time of the disposal, destruction or termination of use, is attributable to expenditure on the property, so much of the amount of the excess as does not exceed the sum of the deductions allowed or allowable under the last preceding section in respect of expenditure on the property so disposed of or destroyed, or the use of which has been so terminated, shall be included in the assessable income.

“(3.) Where the portion of the residual capital expenditure which, at the time of the disposal, destruction or termination of use of the property, is attributable to expenditure on the property exceeds—

- (a) the consideration receivable in respect of the disposal or destruction of the property; or

(b) in the case of other termination of the use of the property, the value of the property at the date of the termination of use, the amount of the excess shall be an allowable deduction.

“(4.) In this section, ‘the consideration receivable in respect of the disposal or destruction’ means—

- (a) in the case of a sale of the property—the sale price less the expenses of the sale of the property ;
- (b) in the case of destruction of the property—the amount or value received or receivable under a policy of insurance or otherwise in respect of the destruction ;
- (c) in the case where the property is sold with other property and no separate value is allocated to the property—the amount determined by the Commissioner ; and
- (d) in the case where the property is disposed of otherwise than by sale—the value, if any, of the property at the date of disposal,

but does not include an amount which is included, or will, when received, be included, in the assessable income of any year of income under Division 4 of this Part.

Acquisition of
property.

“124H.—(1.) Where a person has purchased property from another person carrying on timber operations for the purpose of gaining or producing assessable income, so much (if any) of the purchase price as exceeds the sum of—

- (a) the amount which, if the property had not been sold, would have been, at the end of the year of income in which the sale took place, the portion of the residual capital expenditure of the vendor attributable to expenditure on that property ; and
- (b) any part of the purchase price which is included in the assessable income of the vendor in pursuance of sub-section (2.) of the last preceding section,

shall not, for the purposes of this Division, be included in the expenditure of the purchaser on that property.

“(2.) This section does not apply where the Commissioner is of opinion that the circumstances are such that it should not apply.

Timber felled
upon acquired
land or under
right.

“124J. Where—

(a) a taxpayer has acquired—

- (i) land carrying standing timber and part of the price paid for the land is attributable to the timber ; or
- (ii) a right to fell standing timber ; and

(b) during the year of income, the whole or a part of the timber is felled—

- (i) for sale, or for use in manufacture, by the taxpayer for the purpose of producing assessable income ;
or
- (ii) in pursuance of a right to fell timber granted by the taxpayer to another person in consideration of payments to be made to the taxpayer as or by way of royalty,

so much of that part of the price so paid by the taxpayer to acquire the land, or so much of the amount paid by him to acquire the right, as the case may be, as is attributable to the timber felled during the year shall be an allowable deduction.

“ Division 10B.—Industrial Property.

“ 124K.—(1.) In this Division, unless the contrary intention appears— Definitions.

‘ the owner ’, in relation to a unit of industrial property, means the person who possesses the rights in respect of that unit of industrial property ;

‘ unit of industrial property ’ means rights possessed by a person as—

- (a) the grantee or proprietor of a patent for an invention granted in Australia ;
- (b) the owner of a copyright subsisting in Australia ;
- (c) the owner of a design registered in Australia ; or
- (d) a licensee under such a patent, copyright or design, and includes equitable rights in respect of such a patent, copyright or design or in respect of a licence under such a patent, copyright or design.

“ (2.) A reference in this Division to expenditure of a capital nature does not include a reference to expenditure in respect of which a deduction has been allowed or is allowable under a provision of the previous Act or of this Act, other than a provision of this Division, or which has been or is taken into account in ascertaining the amount of an allowable deduction under such a provision.

“ 124L.—(1.) This Division applies to the owner of a unit of industrial property who— Application.

(a) became the owner of the unit by reason—

- (i) of being the inventor of an invention and being granted a patent for that invention ;
- (ii) of being the first owner of the copyright to which the unit relates ; or

(iii) of being the author of the design to which the unit relates and obtaining the registration of that design,

and, before the unit came into existence, incurred expenditure of a capital nature directly in relation to devising the invention, producing the work in which the copyright subsists or producing the design, as the case may be ;

(b) incurred expenditure of a capital nature on the purchase of the unit of industrial property ; or

(c) acquired the unit of industrial property by virtue of the disposal, in whole or in part and otherwise than for valuable consideration, of a unit of industrial property by the owner of that last-mentioned unit in a case where a deduction under this Division in respect of that unit has been allowed or is allowable in an assessment in respect of income of that last-mentioned owner or would have been so allowable if that unit, or the invention, work or design to which that unit relates, had been used by that owner for the purpose of producing assessable income,

and, in the year of income or a previous year of income, has used the unit of industrial property of which he is the owner, or the invention, work or design to which that unit relates, for the purpose of producing assessable income.

“(2.) Where the owner of a unit of industrial property—

(a) became the owner of the unit by reason of being granted a patent for an invention as the assignee of the inventor or by reason of obtaining the registration of a design as the assignee of the author of the design ; and

(b) incurred expenditure of a capital nature in obtaining the assignment,

he shall, for the purposes of this Division, be deemed to have incurred that expenditure on the purchase of the unit of industrial property.

Annual
deductions.

“124M.—(1.) Where, at any time during the year of income, a taxpayer is the owner of a unit of industrial property to whom this Division applies, an amount equal to the residual value of the unit in relation to the taxpayer as at the end of the year of income divided by a number equal to the number of whole years in the effective life of the unit in relation to the taxpayer as at the commencement of the year of income shall, subject to this Act, be an allowable deduction in respect of the unit.

“(2.) Where the deduction allowable under the last preceding sub-section would, but for this sub-section, be less than Fifty pounds, the deduction allowable shall be Fifty pounds, or the amount of the residual value referred to in the last preceding sub-section, whichever is the less.

“(3.) Where the owner of a unit of industrial property ceases to be the owner at any time before the expiration of the effective life of the unit in relation to him, a deduction under this section in respect of the unit is not allowable in the assessment in respect of his income of the year of income in which he so ceased to be the owner.

“124N.—(1.) Where, at any time during the year of income, a taxpayer who is the owner of a unit of industrial property to whom this Division applies disposes of the unit in whole and the amount of the consideration receivable in respect of the disposal is less than the residual value of the unit in relation to him at that time, the amount of the residual value, less the amount of the consideration, shall be an allowable deduction.

Deductions on the disposal or lapse of a unit of industrial property.

“(2.) Where—

- (a) a unit of industrial property owned by a taxpayer who is an owner to whom this Division applies ceases to exist at any time during the year of income (being a time before the expiration of the effective life of the unit in relation to the taxpayer) by reason of the patent or copyright, or the registration of the design, to which the unit relates ceasing to be in force ; or
- (b) a unit of industrial property owned by a taxpayer who is an owner to whom this Division applies and became the owner by reason of the grant, by licence, to him of an interest in a patent, copyright or design ceases to exist at any time during the year of income (being a time before the expiration of the effective life of the unit in relation to the taxpayer) by reason of a surrender of the licence otherwise than in consideration of the payment of a lump sum,

the residual value of the unit in relation to the taxpayer at that time shall be an allowable deduction.

“124P.—(1.) Subject to sub-section (3.) of this section, where—

- (a) at any time during the year of income a taxpayer who is the owner of a unit of industrial property to whom this Division applies disposes of that unit in whole or in part ;
- (b) the effective life of the unit in relation to the taxpayer had not expired at that time ; and
- (c) the amount of the consideration receivable in respect of the disposal exceeds the residual value of the unit to the owner at that time,

Amount to be included in assessable income on disposal of a unit of industrial property.

the amount of the excess shall be included in his assessable income of the year of income.

“(2.) Subject to the next succeeding sub-section, where—

- (a) at any time during the year of income a taxpayer who is the owner of a unit of industrial property to whom this Division applies disposes of that unit in whole or in part ; and
- (b) the effective life of the unit in relation to the taxpayer had expired at that time,

the amount of the consideration receivable in respect of the disposal shall be included in his assessable income of the year of income.

“(3.) The amount which, under either of the last two preceding sub-sections, is required to be included in the assessable income of a taxpayer of a year of income in respect of a unit of industrial property shall not exceed the sum of the deductions which have been allowed or are allowable in respect of the unit under this Division in assessments of income of the taxpayer, less the sum of the amounts, if any, which have, under this section, been included in the assessable income of the taxpayer of a previous year, or previous years, of income in respect of that unit.

Disposal of
part of a
unit of
industrial
property.

“124Q. Subject to this Division, where the owner of a unit of industrial property disposes of that unit in part, that part of the unit of which he remains the owner shall, for the purposes of this Division, be deemed to be the same unit of industrial property as the unit of industrial property which he disposed of in part.

Cost of a
unit of
industrial
property.

“124R.—(1.) For the purposes of this Division the cost of a unit of industrial property to the owner of the unit is, subject to the next succeeding sub-section—

- (a) in the case of an owner referred to in paragraph (a) or (b) of sub-section (1.) of section one hundred and twenty-four L of this Act—the expenditure referred to in whichever of those paragraphs is applicable to him ; and
- (b) in the case of an owner referred to in paragraph (c) of that sub-section—
 - (i) if the owner acquired a unit of industrial property of another person in whole—the residual value of that unit in relation to that other person at the time of the acquisition ; or
 - (ii) in any other case—such amount as the Commissioner determines.

“(2.) Where—

- (a) the Commissioner is of the opinion that the expenditure of a capital nature incurred by the owner of a unit of industrial property on the purchase of the unit is, having regard to the value of the unit, excessive ; or

- (b) a unit of industrial property was purchased by the owner of the unit with other assets and no separate price is allocated to the unit,

the cost of the unit to the owner of the unit shall, for the purposes of this Division, be deemed to be such amount as is determined by the Commissioner.

“ 124s.—(1.) Subject to this section, the residual value of a unit of industrial property at any time in relation to the owner of the unit shall, for the purposes of this Division, be ascertained by deducting from the cost of the unit to the owner the sum of—

Residual
value.

- (a) any deductions allowed or allowable under this Division in respect of the unit in assessments in respect of income of the owner of a year or years of income which ended prior to that time ; and
- (b) the consideration receivable by the owner in respect of any disposal by him of the unit in part prior to that time.

“(2.) Where the owner of a unit of industrial property has incurred expenditure of a capital nature in obtaining the surrender to him of a licence previously granted by him in respect of the patent, copyright or design, as the case may be, to which the unit relates, the residual value of the unit to the owner of the unit at any time after the surrender shall be increased by an amount equal to that expenditure or, if the Commissioner is of the opinion that, having regard to the value of the licence, that expenditure is excessive, by such amount as the Commissioner determines.

“(3.) Where a person was the owner of a unit of industrial property immediately before the year of income which commenced on the first day of July, One thousand nine hundred and fifty-six, being a unit the effective life of which in relation to that person had commenced at the commencement of a previous year of income, the residual value of the unit at any time in relation to the person shall be deemed to be the amount that would have been the residual value of the unit at that time if the provisions of this Division had applied to assessments in respect of income of the year of income at the commencement of which that effective life commenced and to assessments in respect of income of each subsequent year.

“ 124t. For the purposes of this Division, the consideration receivable by the owner of a unit of industrial property in respect of the disposal in whole or in part of the unit means—

Consideration
receivable on
disposal.

- (a) where the unit is disposed of in whole or in part, otherwise than as specified in the next succeeding paragraph, in consideration of the payment of a lump sum—that sum, less the expenses of the disposal ;

- (b) where the unit is disposed of in whole or in part together with other assets in consideration of the payment of a lump sum and no separate amount is allocated to the unit or the part of the unit—such amount as is determined by the Commissioner ; or
- (c) in any other case—
 - (i) if the unit is disposed of in whole—an amount equal to the residual value of the unit in relation to the owner at the time of the disposal ; or
 - (ii) if the unit is disposed of in part—such amount as is determined by the Commissioner.

Effective life.

“ 124U.—(1.) For the purposes of this Division, the effective life of a unit of industrial property shall, in relation to the owner of the unit, be deemed to have commenced at the commencement of the year of income during which the owner of the unit first used that unit, or the invention, work or design to which the unit relates, for the purpose of producing assessable income and shall end—

- (a) where the unit was purchased or otherwise acquired by him for a specified period—at the end of the year of income during which the patent, copyright or design to which the unit relates will terminate or at the end of the year of income during which the specified period will terminate, whichever will first occur ; or
- (b) in any other case—
 - (i) if the unit relates to a patent or design—at the end of the year of income during which the patent or design will terminate ; or
 - (ii) if the unit relates to a copyright—at the end of the year of income during which a period of twenty-five years, commencing on the date on which the owner of the unit became the owner, will expire or at the end of the year of income during which the copyright will terminate, whichever will first occur.

“ (2.) Subject to the next two succeeding sub-sections—

- (a) a patent shall be deemed to terminate at the expiration of a period of sixteen years after the date of the patent ;
- (b) a copyright shall be deemed to terminate on the date on which it ceases to subsist ; and
- (c) a design shall be deemed to terminate on a date fifteen years after the date on which the registration of the design took effect.

“(3.) Where a person acquires a unit of industrial property which relates to a patent the term of which had been extended before the date of the acquisition, the patent shall, for the purposes of the application of sub-section (1.) of this section in relation to that person, be deemed to terminate at the expiration of the extended term.

“(4.) Where a person acquires a unit of industrial property which relates to a copyright in respect of a work of joint authorship after the expiration of a period of fifty years after the death of the author who first died, the copyright shall, for the purposes of the application of sub-section (1.) of this section in relation to that person, be deemed to terminate on such date as, having regard to the expectation of life of the surviving author or authors, the Commissioner determines.

“124v.—(1.) For the purposes of this Division, the owner of a unit of industrial property who, by licence, grants to another person an interest in the patent, copyright or design to which the unit relates shall, subject to the next succeeding sub-section, be deemed to have disposed of the unit in part.

Interest by
 licence in
 patent, &c.

“(2.) For the purposes of this Division, where a person who became the owner of a unit of industrial property by reason of the grant to him, by licence, of an interest in a patent, copyright or design surrenders that licence—

- (a) that person shall not be deemed to have disposed of the unit unless the surrender was made in consideration of the payment to him of a lump sum ; and
- (b) the person to whom the licence was surrendered shall not, by reason only of the surrender, be deemed to have acquired a unit of industrial property.

“(3.) Where a unit of industrial property arises out of the grant, by licence, of an interest in a patent, copyright or design, an extension of the term of that licence shall, for the purposes of this Division, be deemed to be the grant of a new licence.

“124w. Where, for any reason, including—

- (a) the formation or dissolution of a partnership ; or
- (b) a variation in the constitution of a partnership, or in the interests of the partners,

Disposal of
 unit of
 industrial
 property on
 change of
 partnership, &c.

a change has occurred in the ownership of, or in the interests of persons in, a unit of industrial property and the person, or one or more of the persons, who owned the unit before the change has or have an interest in the unit after the change, the provisions of this Division apply as if the person or persons who owned the unit before the change had, on the day on which the change occurred, disposed of the unit in whole to the person, or all the persons, by whom the unit is owned after the change for a consideration equal to the amount

specified in the agreement in consequence of which the change occurred as the value of the unit for the purposes of that agreement, or, if there is no such agreement or no amount is so specified or the Commissioner is of the opinion that the amount so specified is excessive, an amount determined by the Commissioner.

Use of patent
by Commonwealth or State.

“ 124x. Where—

- (a) a person is, or has been, the owner of a unit of industrial property which relates to a patent ; and
- (b) a lump sum is paid to that person in respect of the making, using, exercising or vending by the Commonwealth or a State, or by a person authorized by the Commonwealth or a State, of the patented invention for the purposes of the Commonwealth or the State,

that first-mentioned person shall, for the purposes of this Division, be deemed to have disposed of the unit in part, at the time of payment, in consideration of the payment of that lump sum.

Damages for
infringement.

“ 124y. Where, in pursuance of a judgment of a court or otherwise, a lump sum is paid to a person who is or has been the owner of a unit of industrial property in respect of an infringement, or an alleged infringement, of the patent, copyright or design to which the unit relates, that person shall, for the purposes of this Division, be deemed to have disposed of the unit in part, at the time of payment, in consideration of the payment of that lump sum.

Benefit from
overseas
rights.

“ 124z. Where the owner of a unit of industrial property has obtained or is obtaining a benefit from a right exercisable in a place outside Australia, being a right which relates to the invention, work or design to which the unit of industrial property relates, the Commissioner may determine that any deduction allowable under this Division in respect of the unit of industrial property shall be reduced by such amount as the Commissioner, having regard to that benefit thinks fit, and the deduction shall be reduced accordingly.”.

Amendment of
assessments.

21. Section one hundred and seventy of the Principal Act is amended by omitting from sub-section (10.) the words “ sub-section (2c.) of section fifty-nine ” and inserting in their stead the word “ sub-section (2d.) of section fifty-nine ”.

Release of
liability of
members of
Defence Force
on death.

22. Section two hundred and sixty-five A of the Principal Act is amended—

- (a) by omitting from sub-section (3.) the words “ *Australian Soldiers' Repatriation Act 1920-1943* ” and inserting in their stead the words “ *Repatriation Act 1920-1956* ” under the *Repatriation (Far East Strategic Reserve) Act 1956* ” ; and
- (b) by omitting from sub-section (4.) all the words to and including the words “ that Act ” and inserting in their stead the words “ Any decision of an authority constitute

under the *Repatriation Act* 1920-1956 on any question affecting the right of any dependants of a deceased member of the Forces to a pension under that Act or under the *Repatriation (Far East Strategic Reserve) Act* 1956 ”.

23. The Second Schedule to the Principal Act is amended by omitting paragraph 1 of Part I. and inserting in its stead the following paragraph :—

Second
Schedule.

“ 1. All that portion of the mainland of Australia lying north of a line commencing at the westernmost point at which the 26th parallel of south latitude intersects the western coastline thence east to the 141st meridian of east longitude thence north to the south-eastern boundary of the Shire of Boulia thence generally north-easterly by the boundaries dividing the Shires of Winton Flinders Dalrymple and Herberton from the Shires of Boulia Cloncurry McKinlay Richmond Etheridge and Mareeba to the 145th meridian of east longitude thence north to the northern boundary of the Shire of Mareeba thence by that boundary and the boundary dividing the Shires of Douglas and Cook to the eastern coastline.”.

24.—(1.) The amendment made by paragraph (a) of sub-section (1.) of section four of this Act applies in respect of income derived on or after the fourteenth day of April, One thousand nine hundred and fifty-four.

Application.

(2.) The amendment made by paragraph (d) of sub-section (1.) of section four of this Act applies in respect of income derived on or after the twenty-sixth day of November, One thousand nine hundred and forty-nine.

(3.) Subject to the next succeeding sub-section, the repeal effected by section five of this Act has effect in relation to pay and allowances earned by a person as a member of the Defence Force after the commencement of this section.

(4.) The repeal effected by section five of this Act does not have effect in relation to pay and allowances earned by a person as a member of the Defence Force after the commencement of this section during a period of hospital treatment.

(5.) Subject to the preceding provisions of this section, the amendments made by this Act apply to assessments in respect of income of the year of income that commenced on the first day of July, One thousand nine hundred and fifty-six, and in respect of income of all subsequent years.

25. For the purposes of the application of sub-section (3.) of section one hundred and sixty of the Principal Act as amended by this Act in relation to assessments of income tax and social services contribution imposed by the *Income Tax and Social Services Contribution (Individuals) Act* 1956, the last-mentioned Act shall be deemed to be the Act imposing tax for the year of tax.

Rebate in case
of disposal of
assets of a
business of
primary
production.

No. 101. *Income Tax and Social Services Contribution* 1956.
Assessment (No. 3).

Liability to
provisional tax
and
contribution.

26. For the purposes of sub-section (3.) of section two hundred and twenty-one YB of the Principal Act as amended by this Act, the *Income Tax and Social Services Contribution (Individuals) Act* 1956 shall be deemed to be the Act declaring the rates of income tax and social services contribution payable for the financial year which commenced on the first day of July, One thousand nine hundred and fifty-six.
