

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT.

No. 55 of 1958.

An Act to amend the Law relating to Income Tax.

[Assented to 1st October, 1958.]

BE it enacted by the Queen'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 and Social Services Contribution Assessment Act* 1958.

(2.) The *Income Tax and Social Services Contribution Assessment Act* 1936–1957* 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 and Social Services Contribution Assessment Act* 1936–1958.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation.

3. Section six of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the definition of “exempt income”, the following definition:—

“ ‘ fishing operations ’ means—

(a) operations relating directly to the taking or catching of fish, turtles, dugong, crustacea or oysters or other shell-fish; or

(b) pearling operations,

and includes oyster farming, but does not include whaling and also does not include operations conducted otherwise than for the purposes of a business; ”;

* 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; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; and Nos. 39 and 65, 1957.

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(b) by inserting in sub-section (1.), after the definition of “partnership”, the following definition:—

“ ‘pearling operations’ means operations relating directly to the taking of pearl shell or the culture of pearls or pearl shell, and includes operations relating directly to the taking or catching of trochus, bêche-de-mer or green snails, but does not include operations conducted otherwise than for the purposes of a business; ”; and

(c) by omitting from sub-section (1.) the definition of “primary production” and inserting in its stead the following definition:—

“ ‘primary production’ means production resulting directly from—

(a) the cultivation of land;

(b) the maintenance of animals or poultry for the purpose of selling them or their bodily produce, including natural increase; or

(c) fishing operations,

and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture; ”.

4. Section fifty-four of the Principal Act is amended by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:— Depreciation.

“ (b) fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits and structural improvements completed after the thirtieth day of June, One thousand nine hundred and fifty-eight, which are used wholly and exclusively for the purposes of pearling operations and are situated at or in the vicinity of a port or harbour from which those operations are conducted, other than—

(i) structural improvements used for domestic or residential purposes except where the improvements are provided for the accommodation of employees, tenants or share-farmers engaged in or in connexion with those pursuits or operations, as the case may be; or

- (ii) structural improvements, bores or wells expenditure on which has been allowed, or is or has been allowable, as a deduction under paragraph (g), (h) or (i) of sub-section (1.) of section seventy-five of this Act from the assessable income, of any year of income, of the taxpayer or of any other person; and ”.

Special
depreciation
allowance to
primary
producers.

5. Section fifty-seven AA of the Principal Act is amended—

- (a) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections :—

“ (2.) Subject to the next succeeding sub-section, this section applies to units of property in respect of which depreciation is allowable to the taxpayer under section fifty-four of this Act and which—

- (a) are used during the year of income wholly and exclusively for the purposes of agricultural or pastoral pursuits or fishing operations; or

- (b) being structural improvements—

- (i) are situated on land used during the year of income for the purposes of agricultural or pastoral pursuits ; or

- (ii) are used during the year of income for the purposes of pearling operations,

but does not apply to motor vehicles designed primarily and principally for the transport of persons.

“ (3.) This section does not apply—

- (a) to a unit of property, being a structural improvement, unless—

- (i) in the case of a unit situated on land used during the year of income for the purposes of agricultural or pastoral pursuits, the unit was completed after the thirtieth day of June, One thousand nine hundred and fifty-one; and

- (ii) in any case, the unit was completed before the first day of July, One thousand nine hundred and sixty-two, or, if the construction of the unit was commenced on or before that date, before the first day of July, One thousand nine hundred and sixty-three;
 - (b) to a unit of property, not being a structural improvement, unless the unit was first used by the taxpayer for the purpose of producing assessable income or was first installed ready for use for that purpose—
 - (i) in the case of a unit used during the year of income wholly and exclusively for the purposes of agricultural or pastoral pursuits, after the thirtieth day of June, One thousand nine hundred and fifty-one, or, in any other case, after the thirtieth day of June, One thousand nine hundred and fifty-eight; and
 - (ii) before the first day of July, One thousand nine hundred and sixty-two; or
 - (c) to a unit of property in respect of which depreciation was allowed or is allowable under section fifty-seven A of the *Income Tax Assessment Act* 1936–1946, or of that Act as amended.”; and
 - (b) by omitting from sub-section (4.) all the words before paragraph (a) of that sub-section and inserting in their stead the following words:—
 - “(4.) Where this section applies in relation to structural improvements provided for residential accommodation—”.
6. Section seventy-five of the Principal Act is amended—
- (a) by inserting in sub-section (1.), after the word “Australia”, the words “, or on any land in the Territory of New Guinea used by the taxpayer for the purpose of gaining or producing assessable income,”; and

**Certain
expenditure
on land used
for primary
production.**

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- (b) by omitting from sub-section (2.) the words “by the Commonwealth or a State or any public authority of the Commonwealth or a State” and inserting in their stead the words “by the Commonwealth, by a State, by the Administration of a Territory of the Commonwealth, by an authority constituted by or under a law of the Commonwealth, a State or a Territory of the Commonwealth”.

7. After section seventy-seven of the Principal Act the following section is inserted:—

Moneys paid
to a company
in respect of
shares and
expended in
prospecting for
petroleum, &c.

“77A.—(1.) In this section—

‘Australia’ includes the Territory of New Guinea;

‘moneys paid on shares’, in relation to a company, means moneys paid to the company in respect of shares in the company (whether on application for, or allotment of, the shares or to meet calls, or otherwise) by the owners of the shares (including owners who are beneficial owners only) and applied by the company towards the paid-up value of the shares, but does not include—

- (a) moneys paid to the company before the commencement of this section;
- (b) moneys paid to the company in respect of a share allotted by the company before the commencement of this section;
- (c) moneys paid to the company in respect of a share the beneficial owner, or any one of the beneficial owners, of which was not a resident at the time of payment; or
- (d) moneys paid to the company on application for shares and applied by the company towards the paid-up value of a share the beneficial owner, or any one of the beneficial owners, of which, on the allotment of the share, was not a resident;

‘petroleum’ has the same meaning as in section one hundred and twenty-three A of this Act.

“(2.) A mining or prospecting company carrying on as its principal business mining or prospecting operations for petroleum in Australia may, for the purposes of this section and section one hundred and twenty-three A of this Act, before the expiration of one month after the end of a year of income of the company in which the company has received moneys paid on shares, or

within such further time as the Commissioner allows, lodge with the Commissioner a declaration in writing signed by the public officer of the company that the company has expended, or proposes to expend, such of those moneys as are specified in the declaration in mining or prospecting for petroleum in Australia or in plant necessary for the treatment of that petroleum.

“(3.) The amount of any moneys paid on shares paid by a person in a year of income of that person to a company and included in moneys specified in a declaration lodged by the company under the last preceding sub-section shall, subject to sub-sections (5.), (6.) and (7.) of this section, be an allowable deduction from the assessable income derived by that person in that year of income.

“(4.) Where—

- (a) the last preceding sub-section applies to an amount of moneys paid on shares paid by a company but a deduction has not been allowed to the company under that sub-section in respect of those moneys; and
- (b) the company has not, prior to or during the year of income of the company in which it paid the moneys, carried on any business other than mining or prospecting operations for petroleum or providing capital (whether by investment in shares or otherwise) to mining or prospecting companies each of which carries on as its principal business such mining or prospecting operations in Australia,

the company may, for the purposes of this section, within one month after the time when the last preceding sub-section became applicable to those moneys or within such further time as the Commissioner allows, lodge with the Commissioner a declaration in writing signed by the public officer of the company that those moneys comprise or include such moneys paid on shares received by the company on or after a date specified in the declaration (being a date not earlier than the commencement of that year of income or such earlier time as the Commissioner, before the lodging of the declaration, approves) as are specified in the declaration.

“(5.) Upon the lodging by a company of a declaration under the last preceding sub-section—

- (a) a deduction is not allowable under sub-section (3.) of this section, or under paragraph (b) of sub-section (1.) of the next succeeding section, from the assessable income of the company in respect of the moneys specified in the declaration; and

- (b) the amount of any moneys paid on shares paid by a person in a year of income of that person to the company and included in moneys specified in the declaration shall, subject to the next succeeding sub-section, be an allowable deduction from the assessable income derived by that person in that year of income.

“(6.) Where moneys specified in a declaration lodged by a company under sub-section (2.) of this section include moneys which the Commissioner is not satisfied have been or will be expended by the company in mining or prospecting for petroleum in Australia or in plant necessary for the treatment of that petroleum—

- (a) the amount of any deduction allowable under sub-section (3.) of this section, or under the last preceding sub-section, by virtue of the declaration shall be reduced by an amount which bears to the amount of the deduction before being so reduced the same proportion as the amount of the moneys as to which the Commissioner is not so satisfied bears to the amount of the moneys specified in the declaration;
- (b) the declaration shall, for the purposes of section one hundred and twenty-three A of this Act, be deemed not to have specified the moneys as to which the Commissioner is not so satisfied; and
- (c) the Commissioner shall inform the company that he is not satisfied that those last-mentioned moneys have been or will be so expended.

“(7.) Sub-section (1.) of section eighty-two of this Act does not prevent a deduction from being allowable in respect of an amount both under sub-section (3.) of this section and under paragraph (b) of sub-section (1.) of the next succeeding section, but where a deduction is allowable under sub-section (3.) of this section in respect of any moneys to which a deduction allowable under paragraph (b) of sub-section (1.) of the next succeeding section is, in whole or in part, attributable, the amount of that first-mentioned deduction shall, after taking into account any reduction of that amount under the last preceding sub-section, be reduced by one-third.

“(8.) A declaration lodged by a company under sub-section (2.) of this section purporting to be a declaration in respect of moneys paid on shares received by the company in a year of income of the company is not invalid in relation to such of the moneys specified in the declaration as are moneys paid on shares received by the company in that year by reason only that the declaration also specifies other moneys.

“(9.) Where—

- (a) persons who are not residents have a controlling interest in a company; or
- (b) more than one-half of the subscribed capital of a company relates to shares of which the beneficial owners are not residents,

the company shall, for the purposes of this section, be deemed not to be a resident.”.

8. Section seventy-nine A of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Deduction for residents of isolated areas.

“(2.) The deduction allowable under this section shall be—

- (a) in the case of a resident of Zone A—an amount equal to the sum of—

- (i) Two hundred and seventy pounds; and
- (ii) one-half of the sum of the deductions, if any, to which the resident is entitled in respect of the year of income under sections eighty-two B, eighty-two C and eighty-two D of this Act;

- (b) in the case of a resident of Zone B who has not resided or actually been in Zone A during any part of the year of income—an amount equal to the sum of—

- (i) Forty-five pounds; and
- (ii) one-twelfth of the sum of the deductions, if any, to which the resident is entitled in respect of the year of income under sections eighty-two B, eighty-two C and eighty-two D of this Act; or

- (c) in any other case—such amount as, in the opinion of the Commissioner, is reasonable in the circumstances, being an amount not greater than the amount of the deduction to which the resident would have been entitled under this section if paragraph (a) of this sub-section had applied to him in respect of the year of income and not less than the amount of the deduction to which he would have been so entitled if the last preceding paragraph had so applied to him.”.

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

Deductions for members of Defence Force serving overseas.

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

“(2.) The deduction allowable under this section shall be—

- (a) where the total period of service of the taxpayer at overseas localities during the year of

income is more than one-half of the year of income, or where the taxpayer dies at an overseas locality during the year of income—an amount equal to the sum of—

(i) Two hundred and seventy pounds; and

(ii) one-half of the sum of the deductions, if any, to which the taxpayer is entitled in respect of the year of income under sections eighty-two B, eighty-two C and eighty-two D of this Act; or

(b) in any other case—such amount as, in the opinion of the Commissioner, is reasonable in the circumstances, being an amount not greater than the amount of the deduction to which the taxpayer would have been entitled under this section if the last preceding paragraph had applied to him in respect of the year of income.”; and

(b) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“(4.) The aggregate of the deductions allowable under this section and under the last preceding section shall not exceed an amount equal to the sum of—

(a) Two hundred and seventy pounds; and

(b) one-half of the sum of the deductions, if any, to which the taxpayer is entitled in respect of the year of income under sections eighty-two B, eighty-two C and eighty-two D of this Act.”.

Double deductions.

10. Section eighty-two of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(3.) The reference in the last preceding sub-section to expenditure incurred by a person in connexion with property shall be read as not including a reference to expenditure that has been allowed or is allowable as a deduction—

(a) under section seventy-five or section seventy-six of this Act (including either of those sections as in force at any time before the commencement of this sub-section); or

(b) in assessments under the previous Act by virtue of a provision of that Act corresponding with section seventy-five or section seventy-six of this Act.”.

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11. Section one hundred and twenty-three A of the Principal Act is amended by omitting from sub-section (1.) the definition of "unrecouped capital expenditure" and inserting in its stead the following definition:—

Deduction of unrecouped capital expenditure on prospecting or mining for petroleum.

" 'unrecouped capital expenditure' means the amount remaining after deducting from the total amount of the capital expenditure incurred by the taxpayer prior to or during the year of income in prospecting or mining for petroleum in Australia or the Territory of New Guinea and in plant necessary for the treatment of that petroleum the total of—

- (a) the net assessable income derived by the taxpayer prior to the year of income (except income in respect of which the taxpayer has paid or is liable to pay tax under this Act);
- (b) the net exempt income derived by the taxpayer prior to and during the year of income; and
- (c) the sum of the moneys specified in declarations lodged by the taxpayer under sub-section (2.) of section seventy-seven A of this Act, being moneys received by the taxpayer prior to or during the year of income."

12. Section one hundred and seventy of the Principal Act is amended by omitting from sub-section (10.) the words "the deduction provided in sub-section (1A.) of section seventy-two" and inserting in their stead the words "a deduction provided in sub-section (1A.) of section seventy-two or in section seventy-seven A".

Amendment of assessments.

13.—(1.) Subject to the next succeeding sub-section, the amendments made by sections six, eight, nine and ten of 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-eight, and in respect of income of all subsequent years.

Application of amendments.

(2.) The amendment made by section ten of this Act does not apply in relation to the profit or loss arising from a sale of property effected before the first day of the year of income that commenced on the first day of July, One thousand nine hundred and fifty-eight.

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(3.) The amendments made by section three of this Act shall, subject to the next succeeding sub-section, be deemed to have had effect on and from the first day of the year of income that commenced on the first day of July, One thousand nine hundred and fifty-eight.

(4.) The amendments made by sections four and five of this Act, and, for the purposes of those amendments, the amendments made by section three of this Act, shall be deemed to have had effect on and from the first day of July, One thousand nine hundred and fifty-eight.