

Income Tax Assessment (No. 3)

No. 76 of 1967

An Act to amend the law relating to Income Tax.

[Assented to 6 November 1967]

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 Assessment Act* (No. 3) 1967.

(2.) The *Income Tax Assessment Act* 1936–1966,* as amended by the *Income Tax Assessment Act* 1967† and by the *Income Tax Assessment Act* (No. 2) 1967,‡ is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Income Tax Assessment Act* (No. 2) 1967 is amended by omitting sub-section (4.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1936–1967.

*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; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; and Nos. 50 and 83, 1966.

† Act No. 19, 1967.

‡ Act No. 38, 1967.

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

3.—(1.) Section 26BA of the Principal Act is amended—

Double wool clips.

- (a) by omitting sub-section (1.);
- (b) by omitting from paragraph (a) of sub-section (2.) the words “ to which this section applies ”;
- (c) by omitting from paragraph (c) of sub-section (2.) the word “ drought ” (wherever occurring) and inserting in its stead the words “ fire, drought or flood ”; and
- (d) by omitting sub-section (8.) and inserting in its stead the following sub-section:—

“ (8.) An election under sub-section (3.) of this section shall be made in writing and lodged with the Commissioner on or before the date of lodgment of the return of income of the taxpayer to which the election relates, or, if the taxpayer has died and the election is made under the last preceding sub-section by the trustee of his estate, the date of lodgment of the return of income of the deceased taxpayer of the year of income to which the income relates, or on or before such later date as the Commissioner allows.”.

(2.) A taxpayer is not entitled to make an election under sub-section (3.) of section 26BA of the Principal Act as amended by this Act by reason of the amendment made by paragraph (c) of the last preceding sub-section except in relation to the year of income that commenced on the first day of July, One thousand nine hundred and sixty-six, or any subsequent year of income.

(3.) Notwithstanding anything contained in sub-section (8.) of section 26BA of the Principal Act as amended by this Act, an election under sub-section (3.) of that section that relates to the year of income that ended on the thirtieth day of June, One thousand nine hundred and sixty-seven, may be lodged with the Commissioner on or before the thirty-first day of December in that year.

4. Section 36 of the Principal Act is amended by inserting in sub-section (8.), after the word “ section ”, the words “ and the next succeeding section ”. Disposal of trading stock.

5.—(1.) After section 36 of the Principal Act the following section is inserted:—

“ 36AAA.—(1.) Where—

- (a) in consequence of the loss or destruction of pastures or fodder by reason of fire, drought or flood, a taxpayer, a partnership or the trustee of a trust estate, in a year of income, disposes, by sale or otherwise, of live stock being assets of a business of primary

Alternative election in respect of income resulting from forced disposal of live stock.

production carried on by the taxpayer, the partnership or the trustee, as the case may be, in Australia or in the Territory of Papua and New Guinea;

- (b) the value of that live stock is, by virtue of sub-section (1.) of the last preceding section, required to be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of that year of income;
- (c) it is established to the satisfaction of the Commissioner that the proceeds, if any, of the disposal have been or will be applied by the taxpayer, the partnership or the trustee, as the case may be, wholly or principally in the purchase of live stock, or in the maintenance of breeding stock, for the purpose of replacing the live stock disposed of; and
- (d) no election has been made under the last preceding section in relation to the disposal,

the taxpayer, the partnership or the trustee, together with each beneficiary entitled to make an election under the last preceding section in relation to the disposal, as the case may be, may, in lieu of any election that a person is entitled to make under the last preceding section in relation to the disposal, elect that the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income in which the live stock were disposed of shall be reduced by an amount equal to the profit on the disposal of the live stock.

“(2.) Where an election has been made by a taxpayer, a partnership or the trustee of, or the trustee of and any beneficiaries in, a trust estate under the last preceding sub-section in relation to the disposal of live stock—

- (a) the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which the election relates shall be reduced by an amount equal to the profit on the disposal of the live stock;
- (b) if, during the year of income referred to in the last preceding paragraph or any of the next five succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, purchases live stock to replace any of the live stock disposed of, the purchase price of any animal included in the live stock so purchased shall, for the purposes of this Act, be deemed to be an amount equal to the consideration actually paid for the animal less—
 - (i) the amount applicable in relation to the animal under the next succeeding sub-section; or
 - (ii) if the product of the number equal to the number of animals included in the live stock so purchased and the amount applicable in relation to each of those animals under the next succeeding sub-section exceeds the amount that is the

reduced profit on the disposal of the live stock on the date of purchase—an amount that bears to the amount applicable in relation to the animal under the next succeeding sub-section the same proportion as that reduced profit on the disposal of the live stock bears to that product;

- (c) if, in relation to the year of income referred to in paragraph (a) of this sub-section or any of the next five succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, makes an election under sub-section (4.) of this section, there shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which that election relates the amount specified in the election; and
- (d) there shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the last year of income of the five years of income next succeeding the year of income referred to in paragraph (a) of this sub-section the amount, if any, that is the reduced profit on the disposal of the live stock on the last day of that last year of income.

“(3.) For the purposes of paragraph (b) of the last preceding sub-section, the amount applicable in relation to any animal (in this sub-section referred to as ‘ the replacement animal ’) included in live stock purchased by a taxpayer, partnership or trustee to replace live stock disposed of by the taxpayer, the partnership or the trustee, as the case may be, is—

- (a) if the live stock in which the replacement animal is included are of the same species as that of the live stock replaced—
 - (i) an amount ascertained by dividing the profit on the disposal of live stock of that species by the number of live stock of that species disposed of; or
 - (ii) the consideration actually paid by the taxpayer, the partnership or the trustee, as the case may be, for the replacement animal,

whichever is the less;

- (b) if the live stock in which the replacement animal is included are not of the same species as that of the live stock replaced and the next succeeding paragraph does not apply—
 - (i) an amount ascertained by dividing the profit on the disposal of live stock of the species of live stock that the live stock purchased replace by the number of live stock of that species disposed of; or
 - (ii) the consideration actually paid by the taxpayer, the partnership or the trustee, as the case may be, for the replacement animal,

whichever is the less; or

- (c) if the live stock in which the replacement animal is included are not of the same species as that of the live stock replaced and the consideration actually paid by the taxpayer, the partnership or the trustee, as the case may be, for the live stock purchased substantially exceeds the cost at which the live stock disposed of could be replaced by live stock of the same species—such amount as the Commissioner determines as being reasonable in the circumstances, being an amount not greater than the consideration actually paid by the taxpayer, the partnership or the trustee, as the case may be, for the animal and not less than the amount that would be applicable in relation to the replacement animal under paragraph (a) of this sub-section if the live stock in which the replacement animal is included were of the same species as that of the live stock replaced.

“(4.) Where an election has been made by a taxpayer, a partnership or the trustee of, or the trustee of and any beneficiaries in, a trust estate under sub-section (1.) of this section and, during the year of income to which the election relates or any of the next five succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, replaces by breeding any of the live stock disposed of, the taxpayer, the partnership or the trustee, as the case may be, may elect that there shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income in which the live stock are so replaced such amount as is specified in the election.

“(5.) Where—

(a) a taxpayer has made an election under sub-section (1.) of this section in relation to the disposal of live stock; and

(b) in any year of income—

(i) the taxpayer leaves Australia or appears to the Commissioner to be about to leave Australia;

(ii) the taxpayer dies;

(iii) the taxpayer ceases to carry on the business of primary production of which the live stock disposed of were assets or a partnership in which the taxpayer is a partner commences to carry on that business and the partnership does not make an election under sub-section (12.) of this section;

(iv) the taxpayer becomes bankrupt, applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of any of his property for their benefit; or

(v) the taxpayer, being a company, commences to be wound up,

there shall, if the Commissioner so determines, be included in the assessable income of the taxpayer of that year of income an amount equal to the amount that is the reduced profit on the disposal of the live stock on the last day of that year of income.

“(6.) Where—

- (a) a partnership has made an election under sub-section (1.) of this section in relation to the disposal of live stock; and
- (b) in any year of income—
 - (i) a partner in the partnership leaves Australia or appears to the Commissioner to be about to leave Australia;
 - (ii) the partnership ceases to carry on the business of primary production of which the live stock disposed of were assets;
 - (iii) a partner in the partnership becomes bankrupt, applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of any of his property for their benefit;
 - (iv) a partner, being a company, in the partnership commences to be wound up; or
 - (v) there is a variation in the constitution of the partnership or in the interests of the partners,

there shall, if the Commissioner so determines and neither of the next two succeeding sub-sections applies in relation to the partnership, be included in the assessable income of the partnership of that year of income an amount equal to the amount that is the reduced profit on the disposal of the live stock on the last day of that year of income.

“(7.) Where—

- (a) a partnership has made an election under sub-section (1.) of this section in relation to the disposal of live stock; and
- (b) in any year of income the partnership is dissolved,

there shall, subject to the next succeeding sub-section, be included in the assessable income of the partnership of that year of income an amount equal to the amount that is the reduced profit on the disposal of the live stock on the day on which the partnership is dissolved.

“(8.) Where—

- (a) immediately after the partnership is dissolved, another partnership commences to carry on the business of primary production of which the live stock disposed of were assets;
- (b) some or all of the partners in the dissolved partnership are partners in the other partnership; and
- (c) the partners in the other partnership who were partners in the dissolved partnership are together entitled to not less than one-quarter of any income of the other partnership,

the other partnership may elect that this section shall apply to the other partnership in relation to the disposal of the live stock and, where such an election is made, then, for the purposes of this section, the other partnership shall be deemed to be a continuation of the dissolved partnership as if that partnership had not been dissolved.

“(9.) Where—

- (a) the trustee of a trust estate has, or the trustee of and any beneficiaries in a trust estate have, made an election under sub-section (1.) of this section in relation to the disposal of live stock; and
- (b) in any year of income—
 - (i) the trustee or a beneficiary leaves Australia or appears to the Commissioner to be about to leave Australia;
 - (ii) a beneficiary dies;
 - (iii) the trustee ceases to carry on the business of primary production of which the live stock disposed of were assets or a partnership in which the trustee is a partner commences to carry on that business and the partnership does not make an election under sub-section (12.) of this section;
 - (iv) an order for the administration of the trust estate is made under any law relating to bankruptcy or a beneficiary becomes bankrupt, applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of any of his property for their benefit; or
 - (v) a beneficiary, being a company, commences to be wound up,

there shall, if the Commissioner so determines and the next succeeding sub-section does not apply in relation to the trust estate, be included in the assessable income of the trust estate of that year of income an amount equal to the amount that is the reduced profit on the disposal of the live stock on the last day of that year of income.

“(10.) Where—

- (a) the trustee of a trust estate has, or the trustee of and any beneficiaries in a trust estate have, made an election under sub-section (1.) of this section in relation to the disposal of live stock; and
- (b) in any year of income the trust estate ceases to exist,

there shall be included in the assessable income of the trust estate of that year of income an amount equal to the amount that is the reduced profit on the disposal of the live stock on the day on which the trust estate ceases to exist.

“(11.) Where—

- (a) an election has been made by a taxpayer, a partnership or the trustee of, or the trustee of and any beneficiaries in, a trust estate under sub-section (1.) of this section in relation to the disposal of live stock; and
- (b) the amount, or the aggregate of the amounts, to be included, by virtue of this section, in the assessable income of the taxpayer, partnership or trust estate, as the case may be, of a year of income

in relation to that disposal exceeds the amount that is the reduced profit on that disposal on the last day of that year of income, the amount of that excess shall not be included in that assessable income.

“(12.) Where—

- (a) an election has been made by a taxpayer or the trustee of, or the trustee of and any beneficiaries in, a trust estate under sub-section (1.) of this section in relation to the disposal of live stock;
- (b) during the year of income in which the live stock were disposed of or during any of the five years of income next succeeding that year of income, a partnership in which the taxpayer or trustee, as the case may be, is a partner commences to carry on the business of primary production of which the live stock disposed of were assets; and
- (c) the taxpayer or trust estate, as the case may be, is entitled to not less than one-quarter of any income of the partnership,

the partnership may elect that, as from the day on which the partnership commenced to carry on that business of primary production, the next succeeding sub-section shall apply in relation to the disposal of the live stock.

“(13.) Where an election has been made by a partnership under the last preceding sub-section in relation to live stock disposed of by a taxpayer or the trustee of a trust estate—

- (a) this section, other than paragraph (a) of sub-section (2.), shall, subject to the succeeding paragraphs of this sub-section, apply in relation to the partnership in respect of the disposal of the live stock as if the live stock had been disposed of by the partnership and the election by the partnership under the last preceding sub-section had been an election by the partnership under sub-section (1.) of this section in relation to the disposal of the live stock;
- (b) the profit on the disposal of the live stock is, for the purposes of the application of this section, other than sub-section (16.), in relation to the partnership, the amount that is the profit on the disposal of the live stock in relation to the taxpayer or the trust estate, as the case may be;
- (c) the profit on the disposal of the live stock is, for the purposes of the application of sub-section (16.) of this section in relation to the partnership, the amount that, on the day immediately preceding the day on which the partnership commenced to carry on that business of primary production, was the reduced profit on the disposal of the live stock in relation to the taxpayer or the trust estate, as the case may be;

- (d) in the application to the partnership of any provision of this section that refers to the five years of income next succeeding the year of income in relation to which an election under sub-section (1.) of this section is made, the reference to those years of income shall be read as a reference to the five years of income next succeeding the year of income in relation to which the election under that sub-section was made by the taxpayer or by the trustee, or trustee and beneficiaries, as the case may be;
- (e) the election by the partnership shall not affect the operation of this section in relation to the taxpayer or trust estate, as the case may be, before the day on which the partnership commenced to carry on that business of primary production; and
- (f) the reduced profit on the disposal of the live stock shall, in relation to the taxpayer or trust estate, as the case may be, on the day on which the partnership commenced to carry on that business of primary production, be deemed to be nil.

“(14.) An election under this section shall be made in writing—

- (a) in the case of an election under sub-section (1.) of this section—on or before the date of lodgment of the return of income of the year of income in which the disposal of live stock to which the election relates occurred;
- (b) in the case of an election under sub-section (4.) of this section—on or before the date of lodgment of the return of the year of income to which the election relates;
- (c) in the case of an election under sub-section (8.) of this section—on or before the date of lodgment of the return of the partnership that commences to carry on the business of the dissolved partnership of the year of income in which the partnership commenced to carry on that business; or
- (d) in the case of an election under sub-section (12.) of this section—on or before the date of lodgment of the return of the partnership of the year of income in which the partnership commenced to carry on the business of primary production of which the live stock disposed of were assets,

or within such further time as the Commissioner allows, and, in the case of an election by a partnership, the election shall be signed by or on behalf of each of the partners.

“(15.) An amount included in the assessable income of a taxpayer, a partnership or a trust estate of any year of income by virtue of this section shall, for the purposes of this Act, be deemed to be assessable income derived by the taxpayer, the partnership or the trust estate, as the case may be, during that year from the carrying on by the taxpayer, the partnership or the trustee of the trust estate, as the case may be, in Australia during that year of a business of primary production.

“(16.) Where a taxpayer, a partnership or the trustee of, or the trustee of and any beneficiaries in, a trust estate, has or have made an election under sub-section (1.) of this section in relation to any live stock disposed of by the taxpayer, the partnership or the trustee, as the case may be, the reduced profit on the disposal of the live stock on any day is, for the purposes of this section, the profit on the disposal of the live stock less the sum of—

- (a) an amount equal to the total consideration actually paid for live stock purchased by the taxpayer, the partnership or the trust estate, as the case may be, on or before that day to replace any live stock disposed of less the total of the amounts that, by virtue of paragraph (b) of sub-section (2.) of this section, are deemed to be the purchase prices of the animals included in the live stock so purchased; and
- (b) each amount that, by virtue of this section, is included or required to be included, in relation to the disposal of the live stock, in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of any year of income prior to the year of income in which that day falls.

“(17.) Paragraph (b) of sub-section (8.) of the last preceding section has effect for the purpose of determining the profit on the disposal of live stock of a particular species included in live stock disposed of by a taxpayer, partnership or trustee and, for that purpose, any reference in that paragraph to live stock shall be read as a reference to live stock of that species.

“(18.) Live stock of a particular species purchased by a taxpayer, partnership or trustee shall not, for the purposes of this section, be treated as replacing live stock of another species disposed of by the taxpayer, partnership or trustee unless the Commissioner is satisfied that the taxpayer, partnership or trustee purchased the live stock for the purpose of replacing live stock of that other species.

“(19.) A reference in this section to the last day of a year of income of a taxpayer, partnership or trust estate shall, if the assessment relating to income of the taxpayer, partnership or trust estate of a year of income is made in respect of a period ending before the end of that year of income, be read as a reference to the last day of that period.”.

(2.) An election shall not be made under section 36AAA of the Principal Act as amended by this Act except in relation to assessable income of the year of income that commenced on the first day of July, One thousand nine hundred and sixty-seven, or of any subsequent year of income.

6. Section 54 of the Principal Act is amended by inserting in sub-paragraph (ii) of paragraph (b) of sub-section (2.), after the symbols and letters “(ga),”, the symbols and letters “(gb),”. Depreciation.

Special
depreciation
allowance to
primary
producers.

7. Section 57AA of the Principal Act is amended—

(a) by omitting paragraph (a) of sub-section (3.) and inserting in its stead the following paragraph:—

“(a) to a unit of property, being a structural improvement, situated on land used during the year of income for the purposes of agricultural or pastoral pursuits unless the unit was completed after the thirtieth day of June, One thousand nine hundred and fifty-one;”;

(b) by adding at the end of sub-paragraph (iii) of paragraph (b) of sub-section (3.) the word “; or”; and

(c) by omitting from paragraph (b) of sub-section (3.) the words “and before the first day of July, One thousand nine hundred and sixty-seven; or”.

Certain
expenditure
on land used
for primary
production.

8. Section 75 of the Principal Act is amended—

(a) by inserting after paragraph (ga) of sub-section (1.) the following paragraph:—

“(gb) the erection of fences on the land to subdivide the land for the purposes of carrying on primary production on the land, other than boundary fences, fences enclosing yards or fences along public roads, public stock routes or other public rights of way;”;

(b) by inserting in sub-section (2.), after the symbols and letters “(ga),”, the symbols and letters “(gb),”.

Deductions for
dependants.

9. Section 82B of the Principal Act is amended by omitting the table set out in sub-section (2.) and inserting in its stead the following table:—

| First Column Class | Second Column Dependant | Third Column Amounts of Deduction |
|-----------------------|-------------------------------------------------|---------------------------------------------------------------------------------------|
| 1 | Spouse of the taxpayer | \$312.00 |
| 2 | Daughter-housekeeper | \$312.00 |
| 3 | Child less than sixteen years of age | In respect of one such child—\$208.00 In respect of each other such child—\$156.00 |
| 4 | Student child | \$208.00 |
| 5 | Invalid relative | \$208.00 |
| 6 | Parent of the taxpayer or of his spouse | \$312.00 |

Housekeeper.

10. Section 82D of the Principal Act is amended by omitting from sub-sections (2.), (4.) and (5.) the words “Two hundred and eighty-six dollars” (wherever occurring) and inserting in their stead the words “Three hundred and twelve dollars”.

Life insurance
premiums, &c.

11. Section 82H of the Principal Act is amended by omitting from sub-section (2.) the words “Eight hundred dollars” and inserting in their stead the words “One thousand two hundred dollars”.

12. Section 160 of the Principal Act is amended by omitting from paragraph (c) of sub-section (1.) the words " sub-section (3.), (4.) or (5.) of section thirty-six of this Act " and inserting in their stead the words " section thirty-six or thirty-six AAA of this Act ".

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

13. Section 160^{AE} of the Principal Act is amended by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:—

Interpretation.

" (b) an amount is included in the assessable income of a taxpayer of a year of income under section thirty-six or thirty-six AAA of this Act by virtue of an election made by the taxpayer under either of those sections in relation to the disposal of live stock being assets of a business of primary production carried on by him in the Territory; or ".

14. The amendments made by sections 6, 8, 9, 10 and 11 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 sixty-seven, and in respect of income of all subsequent years of income.

Application of amendments.