

# Income Tax Assessment (No. 2)

No. 93 of 1969

An Act to amend the Law relating to Income Tax.

[Assented to 27 September 1969]

**B**E 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 Assessment Act* (No. 2) 1969. Short title and citation.

(2.) The *Income Tax Assessment Act* 1936–1968,\* as amended by the *Income Tax Assessment Act* 1969,† is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Income Tax Assessment Act* 1969 is amended by omitting sub-section (3.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1936–1969.

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

3.—(1.) Section 6 of the Principal Act is amended by omitting from the definition of “apportionable deductions” in sub-section (1.) the words “section seventy-seven A, section seventy-seven AA, section seventy-seven B, section seventy-seven C” and inserting in their stead the words “section seventy-seven B, section seventy-seven C, section seventy-seven D”. Interpretation.

(2.) Notwithstanding the amendment made by the last preceding sub-section, the definition of “apportionable deductions” in sub-section (1.) of section 6 of the Principal Act, as amended by this Act, shall be deemed to include deductions allowed or allowable under either of the sections 77A and 77AA that are repealed by this Act.

4. Section 44 of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (2c.) and inserting in their stead the following paragraphs:— Dividends.

“(a) a company has duly lodged a declaration under section seventy-seven D of this Act, or under sub-section (3.) of the section seventy-seven AA that was repealed by the *Income Tax Assessment Act* (No. 2) 1969;

\* 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; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; and Nos. 4, 60, 70, 87 and 148, 1968.

† Act No. 18, 1969.

“(b) the Commissioner is satisfied that any of the moneys duly specified in the declaration were expended upon—

- (i) mining or prospecting outgoings as defined by sub-section (1.) of section seventy-seven D of this Act, being outgoings in relation to minerals other than petroleum; or
- (ii) mining or prospecting outgoings as defined by sub-section (1.) of the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969*,

incurred in relation to a particular area in Australia or in the Territory of Papua and New Guinea;”.

**Depreciation.**

5. Section 54 of the Principal Act is amended by omitting from subparagraph (ii) of paragraph (b) of sub-section (2.) the words “under paragraph (g), (ga), (gb), (h), (i) or (j) of sub-section (1.) of section seventy-five” and inserting in their stead the words “under paragraph (g), (ga), (gb), (h), (i), (j) or (l) of sub-section (1.) of section seventy-five”.

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

6. Section 75 of the Principal Act is amended—

(a) by omitting paragraph (h) of sub-section (1.) and inserting in its stead the following paragraph:—

“(h) the construction of—

(i) structural improvements for the purpose of conserving water for use in carrying on primary production on the land (including dams, earth tanks, underground tanks, concrete tanks and stands for tanks); or

(ii) irrigation channels or similar improvements for the purpose of conveying water for such use,

including the sinking of bores or wells for water for such use;”;

(b) by omitting from paragraph (j) of sub-section (1.) the word “or”(last occurring);

(c) by inserting after paragraph (k) of sub-section (1.) the following word and paragraph:—

“; or (l) the construction on the land of buildings or other structural improvements for the purpose of the storage of grain, hay or fodder in the course of carrying on primary production on the land;”;

(d) by omitting from sub-section (2.) the words “under paragraph (g), (ga), (gb), (h), (i), (j) or (k) of the last preceding sub-section” and inserting in their stead the words “under paragraph (g), (ga), (gb), (h), (i), (j), (k) or (l) of the last preceding sub-section”.

7.—(1.) Sections 77A and 77AA of the Principal Act are repealed.

Repeal of  
sections 77A  
and 77AA.

(2.) The repeal effected by the last preceding sub-section has effect, and shall be deemed to have had effect, in relation to moneys paid on shares on or after the first day of July, One thousand nine hundred and sixty-nine, and, notwithstanding that repeal, sections 77A and 77AA of the Principal Act continue to apply in respect of moneys paid on shares before that date.

8.—(1.) Section 77C of the Principal Act is amended by omitting from sub-section (3.) the words “ sub-section (11.) of section seventy-seven A, section seventy-seven B ” and inserting in their stead the words “ section seventy-seven B, sub-section (11.) of section seventy-seven D ”.

Calls paid  
on shares for  
purposes of  
exploration or  
prospecting for  
minerals or of  
afforestation.

(2.) The amendment made by the last preceding sub-section applies, and shall be deemed to have applied, in relation to calls paid on or after the first day of July, One thousand nine hundred and sixty-nine, and does not apply in relation to calls paid before that date.

9. After section 77C of the Principal Act the following section is inserted:—

“ 77D.—(1.) In this section—

‘ Australia ’ includes the Territory of Papua and New Guinea;

‘ eligible operations ’ means operations of any one or more of the following kinds, namely, exploration, prospecting and mining for minerals;

Moneys paid  
on shares for  
the purposes  
of certain  
exploration,  
prospecting  
or mining.

‘ minerals ’ means—

- (a) minerals obtainable by prescribed mining operations; and
- (b) petroleum;

‘ mining company ’ means a company that carries on, or that the Commissioner is satisfied proposes to carry on, eligible operations in Australia as its principal business;

‘ mining or prospecting information ’ means geological, geophysical or technical information, being information that—

- (i) relates to the presence, absence or extent of deposits of minerals in an area; or
- (ii) is likely to be of assistance in determining the presence, absence or extent of such deposits in an area,

and has been obtained from eligible operations;

‘ mining or prospecting outgoings ’, in relation to a company, means outgoings of the company in carrying on eligible operations in Australia, and, except as otherwise provided by this definition, includes all expenditure of the company that is—

- (a) allowable capital expenditure within the meaning of section one hundred and twenty-two A of this Act or expenditure of a kind referred to in sub-section (1.) of section one hundred and twenty-two J of this Act; or

(b) allowable capital expenditure within the meaning of section one hundred and twenty-four DD of this Act,

but does not include—

(c) any other expenditure of a capital nature; or

(d) expenditure in the acquisition of a mining or prospecting right or mining or prospecting information;

‘ mining or prospecting right ’ means an authority, licence, permit or right under a law of the Commonwealth, a State or a Territory of the Commonwealth to explore, prospect or mine for minerals in a particular area in Australia or a lease under such a law of land in Australia by virtue of which the lessee is entitled to explore, prospect or mine for minerals on land included in the lease, and includes an interest in such an authority, licence, permit, right or lease;

‘ moneys paid on shares ’, in relation to a company, means moneys paid to the company on or after the first day of July, One thousand nine hundred and sixty-nine, in respect of shares in the company by the owners of the shares, including owners who are beneficial owners only, but does not include—

(a) 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;

(b) moneys paid to the company on application for a share 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; or

(c) moneys paid to the company, after the twenty-eighth day of August, One thousand nine hundred and sixty-nine, in respect of a share that is, or at the option of the company may become, liable to be redeemed;

‘ prescribed mining operations ’ has the same meaning as in Division 10 of this Part;

‘ resident ’ includes a resident of the Territory of Papua and New Guinea.

“(2.) Where a payment made in respect of a share in a company (whether on application for or allotment of the share, to meet calls or otherwise) is not applied by the company towards the paid-up value of the share, the payment shall, for the purposes of this section, be deemed not to have been made in respect of the share.

“(3.) Subject to this section, a mining company that has, in a year of income, received moneys paid on shares may, for the purposes of the next succeeding sub-section and Divisions 10 and 10AA of this Part, within one month after the end of that year of income 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 upon mining or prospecting outgoings.

“(4.) 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 this section, be an allowable deduction from the assessable income derived by that person in that year of income.

“(5.) If, at any time, the Commissioner is not satisfied, as to any moneys specified in a declaration duly lodged by a company under sub-section (3.) of this section, that those moneys have been or will be expended by the company in accordance with the declaration, the Commissioner may inform the company, by notice in writing given for the purposes of this sub-section, that he is not so satisfied and, upon the company being so informed, the amount of any deduction allowable 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.

“(6.) Subject to this section, a company that is a resident and has not, during a year of income of the company in which the company has received moneys paid on shares, carried on any business other than—

- (a) eligible operations;
- (b) the treatment in Australia of minerals obtained from eligible operations carried on by the company in Australia; or
- (c) providing capital (whether by investment in shares or otherwise) to mining companies,

may, for the purposes of sub-section (10.) of this section and Divisions 10 and 10AA of this Part, within one month after the end of that year of income 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 upon outgoings of either or both of the following kinds, namely—

- (d) mining or prospecting outgoings; and
- (e) the making of payments to mining companies in respect of shares in those companies for the purpose of enabling the moneys included in the payments to be expended by those companies on mining or prospecting outgoings.

“(7.) A company that has expended moneys in making payments to a mining company in respect of shares in the mining company is not entitled to lodge a declaration under the last preceding sub-section in respect of those moneys unless—

- (a) the mining company has lodged a declaration under sub-section (3.) of this section in respect of those moneys;
- (b) the Commissioner has informed the first-mentioned company, in writing, that he is satisfied that the mining company has expended or will expend those moneys in accordance with that declaration; and
- (c) the first-mentioned company has not been allowed a deduction under sub-section (4.) of this section in respect of those moneys.

“(8.) A declaration lodged by a company under sub-section (6.) of this section shall be deemed not to be duly lodged, in relation to moneys specified in the declaration that have not been expended by the company in accordance with the declaration before the declaration is lodged (not being moneys that the company has, by the declaration, declared that it proposes to expend on mining or prospecting outgoings only), unless the declaration is accompanied by an undertaking in writing signed by the public officer of the company that the company will not, without the approval of the Commissioner, pay any of those moneys to a mining company in respect of shares in that company unless, before the payment—

- (a) the mining company has lodged with the Commissioner, for the purposes of the undertaking, Division 10 and Division 10AA of this Part, a declaration in writing signed by the public officer of the company that the company proposes to expend the moneys on mining or prospecting outgoings; and
- (b) the Commissioner has informed the first-mentioned company, in writing, that he is satisfied that the mining company will so expend the moneys.

“(9.) The Commissioner shall not, for the purposes of an undertaking given by a company under the last preceding sub-section, approve the payment of moneys by that company to a mining company unless he is satisfied that the mining company—

- (a) will expend the moneys on mining or prospecting outgoings; and
- (b) will lodge with the Commissioner, within one month after the end of the year of income of the mining company in which it receives the moneys, a declaration under sub-section (3.) of this section in respect of the moneys,

and, if, in respect of any part of the moneys, the mining company fails so to lodge such a declaration, the Commissioner may inform the first-mentioned company, by notice in writing, of that failure and, upon the company being so informed, the notice shall have effect as if it were a notice given under sub-section (13.) of this section informing the company

that the Commissioner is of the opinion that the company has failed to comply, in relation to that part of the moneys, with the undertaking given by it under the last preceding sub-section.

“(10.) 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 duly lodged by the company under sub-section (6.) of this section shall, subject to this section, be an allowable deduction from the assessable income derived by that person in that year of income.

“(11.) Where a company duly lodges a declaration under sub-section (6.) of this section in respect of any moneys, a deduction in respect of those moneys is not allowable under sub-section (4.) of this section, under section seventy-seven C of this Act, or under paragraph (b) of sub-section (1.) of section seventy-eight of this Act, from the assessable income of the company.

“(12.) Where—

- (a) a company has given an undertaking under sub-section (8.) of this section in respect of any moneys;
- (b) a mining company has, for the purposes of the undertaking, duly lodged with the Commissioner in respect of those moneys a declaration of the kind referred to in paragraph (a) of that sub-section;
- (c) the Commissioner has informed the first-mentioned company, in writing, that he is satisfied that the mining company will expend those moneys on mining or prospecting outgoings; and
- (d) the mining company has received those moneys as moneys paid on shares,

the mining company is not entitled to lodge a declaration under sub-section (3.) or (6.) of this section in respect of those moneys.

“(13.) If, at any time, the Commissioner—

- (a) is not satisfied, as to any moneys specified in a declaration duly lodged by a company under sub-section (6.) of this section, that those moneys have been or will be expended by the company in accordance with the declaration; or
- (b) is of the opinion that a company by which a declaration has been so lodged has, in relation to any moneys specified in the declaration, failed to comply with the undertaking given by the company under sub-section (8.) of this section in connexion with the declaration,

the Commissioner may inform the company, by notice in writing given for the purposes of this sub-section, that he is not so satisfied or that he is of that opinion, as the case may be, and, upon the company being so informed—

- (c) the amount of any deduction allowable under sub-section (10.) of this 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 or is of that opinion bears to the amount of the moneys specified in the declaration;

- (d) the undertaking given under sub-section (8.) of this section in connexion with the declaration shall cease to apply to the moneys as to which the Commissioner is not so satisfied or is of that opinion; and
- (e) the declaration shall, for the purposes of sub-section (11.) of this section, be deemed not to have specified the moneys as to which the Commissioner is not so satisfied or is of that opinion.

“(14.) Where a company has duly lodged a declaration under sub-section (3.) or sub-section (6.) of this section in respect of any moneys, the company is not entitled to lodge a declaration in respect of any of those moneys under the other of those sub-sections except with the approval of the Commissioner and if, in accordance with such an approval of the Commissioner, the company duly lodges a further declaration in respect of any of those moneys, the declaration previously lodged by the company in respect of the moneys specified in the further declaration shall be deemed not to have been duly lodged.

“(15.) If—

- (a) a company has lodged a declaration with the Commissioner under this section; and
- (b) the manner in which moneys specified in the declaration have been dealt with by the company cannot be readily ascertained from the records of the company,

the Commissioner may, having regard to all the circumstances of the case, determine the manner in which, for the purposes of this section and Divisions 10 and 10AA of this Part, those moneys shall be regarded as having been dealt with by the company and those moneys shall, for those purposes, be deemed to have been so dealt with by the company.

“(16.) 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 this section and under section seventy-seven c or paragraph (b) of sub-section (1.) of section seventy-eight of this Act, but where a deduction is allowable under this section in respect of any moneys to which a deduction allowable under section seventy-seven c or paragraph (b) of sub-section (1.) of section seventy-eight of this Act is, in whole or in part, attributable, the amount of the deduction allowable under this section shall be reduced by one-third.

“(17.) Where moneys specified in a declaration lodged by a company under this section include moneys that the company is not entitled to specify in the declaration, the declaration is not invalid in relation to the moneys that the company is entitled to specify by reason only that the declaration also specifies the other moneys.



“(18.) Where the Commissioner is satisfied that any moneys that have been specified in a declaration duly lodged by a company under this section were paid by a person in pursuance of an agreement or arrangement made in connexion with the purchase by the company or by another company of a mining or prospecting right, mining or prospecting information or shares in a company holding such a right or possessing such information, the Commissioner may inform the company, by notice in writing, that he is so satisfied and, upon the company being so informed—

- (a) a deduction in respect of the amount of the moneys shall not be allowable, and shall be deemed not to have been allowable, under sub-section (4.) or sub-section (10.) of this section from assessable income derived by the person; and
- (b) the declaration shall, for the purposes of sub-section (20.) of this section, sub-section (2C.) of section forty-four of this Act and Divisions 10 and 10AA of this Part, be deemed not to have specified the moneys.

“(19.) For the purposes of the last preceding sub-section, every company that beneficially owns shares in a company that holds a mining or prospecting right or possesses mining or prospecting information (including a company that is, by virtue of any application or applications of this sub-section, deemed to hold a mining or prospecting right or to possess mining or prospecting information) shall be deemed to hold that right or possess that information, as the case may be.

“(20.) For the purposes of the application of section one hundred and twenty-two Q or section one hundred and twenty-four DF of this Act in relation to a company in respect of a year of income, where the company has duly specified moneys in a declaration or declarations lodged by the company under this section, being moneys received by that company before or during that year of income—

- (a) so much of the amounts so specified as has been expended by that company during that year by way of mining or prospecting outgoings in connexion with exploration, prospecting or mining for minerals other than petroleum shall be deemed to have been specified in relation to minerals other than petroleum; and
- (b) so much of the amounts so specified as has been expended by that company during that year by way of mining or prospecting outgoings in connexion with exploration, prospecting or mining for petroleum shall be deemed to have been specified in relation to petroleum.”.

**10.—(1.)** Section 78 of the Principal Act is amended by omitting from sub-section (1.) the words “sub-section (11.) of section seventy-seven A, section seventy-seven B” and inserting in their stead the words “section seventy-seven B, sub-section (11.) of section seventy-seven D”.

*Gifts, calls on  
mining shares,  
pensions, &c.*

(2.) The amendment made by the last preceding sub-section applies, and shall be deemed to have applied, in relation to calls paid on or after the first day of July, One thousand nine hundred and sixty-nine, and does not apply in relation to calls paid before that date.

Limitation  
of certain  
deductions.

11. Section 79C of the Principal Act is amended by omitting the words “ the last six preceding sections ” and inserting in their stead the words “ sections seventy-seven B, seventy-seven C, seventy-eight, seventy-nine, seventy-nine A and seventy-nine B of this Act ”.

Double  
deductions.

12.—(1.) Section 82 of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “ is an allowable deduction ” (second occurring) and inserting in their stead the words “ has been allowed or is allowable as a deduction ”;
- (b) by adding at the end of paragraph (a) of sub-section (3.) the word “ or ”;
- (c) by omitting from paragraph (b) of sub-section (3.) the word “ or ” (last occurring);
- (d) by omitting paragraph (c) of sub-section (3.); and
- (e) by omitting from sub-section (4.) the words “ paragraph (a), (b) or (c) of the last preceding sub-section ” and inserting in their stead the words “ paragraph (a) or (b) of the last preceding sub-section ”.

(2.) Subject to the succeeding provisions of this section, the amendments made by the last preceding sub-section apply, and shall be deemed to have applied, in relation to expenditure incurred after the twelfth day of August, One thousand nine hundred and sixty-nine.

(3.) Notwithstanding the amendments made by sub-section (1.) of this section but subject to the succeeding provisions of this section, the reference in sub-section (2.) of section 82 of the Principal Act as amended by this Act 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 to a person as a deduction under the section 77A that is repealed by this Act or under section 77C or paragraph (b) of sub-section (1.) of section 78 of the Principal Act, or of the Principal Act as amended by this Act, or under section 77D of the Principal Act as amended by this Act, being expenditure incurred in respect of shares—

- (a) issued on or before the twelfth day of August, One thousand nine hundred and sixty-nine, being shares issued to that person or shares of which that person acquired the ownership (including ownership as beneficial owner only)—
  - (i) on or before that date; or
  - (ii) after that date in pursuance of an agreement made on or before that date; or

(b) issued after that date in pursuance of—

- (i) an application made on or before that date to the company issuing the shares;
- (ii) an agreement in writing (other than the articles of association of that company) made with that company on or before that date; or
- (iii) the exercise of an option acquired on or before that date, being shares issued to that person, or shares of which that person became the beneficial owner upon their issue by virtue of rights that became vested in him on or before that date.

(4.) The last preceding sub-section does not apply in relation to expenditure that has been allowed or is allowable as a deduction under section 77D of the Principal Act as amended by this Act unless the expenditure was in respect of moneys paid on shares to a company that was, during the year of income in which the moneys were paid, a petroleum exploration company or a company of a kind referred to in sub-section (6.) of the section 77A that is repealed by this Act.

(5.) Where sub-section (3.) of this section applies in relation to any expenditure incurred by a taxpayer in connexion with property, that expenditure may be deducted in ascertaining the amount of any profit or loss arising from the sale of the property only to the extent that the deduction of the expenditure does not result in the tax payable by the taxpayer for the year or years of income in relation to which the deduction is made being reduced by an amount that is greater than the difference between—

- (a) the amount of that expenditure; and
- (b) the amount, or the sum of the amounts, by which tax payable by the taxpayer for the year of income and previous years of income will be or has been reduced by reason of the deduction or deductions under any of the provisions referred to in sub-section (3.) of this section.

13. Section 122A of the Principal Act is amended—

- (a) by omitting from paragraph (c) of sub-section (1.) the word “ or ” (last occurring); and
- (b) by adding at the end of that sub-section the following word and paragraph:—

“ ; or (e) where the taxpayer is a company the sole or principal business, or proposed business, of which is the carrying on of prescribed mining operations or the providing of capital (whether by investment in shares or otherwise) to companies the sole or principal business, or proposed business, of which is the carrying on of prescribed mining operations—

- (i) expenditure of the company in respect of the formation and incorporation of the company; and

Allowable  
capital  
expenditure.

- (ii) so much of the expenditure incurred by the company in issuing, or making calls on, shares in the company as the Commissioner thinks reasonable having regard to the extent to which the moneys received by the company in relation to the issue of the shares, or the making of the calls, has been or, in the opinion of the Commissioner, will be, expended on mining or prospecting outgoings as defined in section seventy-seven D of this Act.”.

Purchase of  
mining or  
prospecting  
right or  
information

14. Section 122B of the Principal Act is amended by omitting from paragraph (a) of sub-section (6.) the words “section seventy-seven AA of this Act” and inserting in their stead the words “section seventy-seven D of this Act or the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969*”.

Reduction  
of allowable  
deductions  
where  
declaration  
lodged under  
section 77D.

15. Section 122Q of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the definitions of “mining company” and “net declared capital” and inserting in their stead the following definitions:—

“‘mining company’ has the same meaning as in section seventy-seven D of this Act;

‘net declared capital’, in relation to a mining company, means the amount, ascertained as at the end of the year of income, that is the sum of—

- (a) the amount, if any, that was the net declared capital of the company for the purposes of section one hundred and twenty-four DA of the *Income Tax Assessment Act 1936-1967* at the end of the year of income that ended on the thirtieth day of June, One thousand nine hundred and sixty-seven;

- (b) amounts received by the company after that last-mentioned year of income as moneys paid on shares being—

- (i) amounts specified in declarations duly lodged with the Commissioner by the company in pursuance of the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969*; or

- (ii) amounts specified in declarations duly lodged with the Commissioner by the company in pursuance of section seventy-seven D of this Act, to the extent that those amounts are, under sub-section (20.) of that section, to be deemed to have been specified in relation to minerals other than petroleum; and

- (c) any amount required to be added to the net declared capital in pursuance of sub-section (6.) of this section,

less the sum of—

- (d) any amounts that have been applied by the Commissioner in accordance with the next succeeding sub-section in the assessment of the income of the company for an earlier year of income; and

- (e) any amounts by which the amount that would otherwise be the net declared capital is required to be reduced in pursuance of paragraph (c) or (d) of sub-section (3.) of this section;”;

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

“ (a) that has at any time lodged a declaration or declarations under the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969* or under section seventy-seven D of this Act;”;

- (c) by omitting from sub-section (3.) the words “ section seventy-seven AA of this Act ” and inserting in their stead the words “ the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969* ”; and

- (d) by omitting from paragraph (d) of sub-section (8.) the words “ section seventy-seven AA of this Act ” and inserting in their stead the words “ the section seventy-seven AA that was repealed by the *Income Tax Assessment Act (No. 2) 1969* ”.

**16.** Section 124DD of the Principal Act is amended by omitting paragraph (a) and inserting in its stead the following paragraph:—

Allowable  
capital  
expenditure.

- “ (a) where the taxpayer is a company the sole or principal business, or proposed business, of which is the carrying on of prescribed petroleum operations or the providing of capital (whether by investment in shares or otherwise) to companies the sole or principal business, or proposed business, of which is the carrying on of prescribed petroleum operations—
  - (i) expenditure of the company in respect of the formation and incorporation of the company; and
  - (ii) so much of the expenditure incurred by the company in issuing, or making calls on, shares in the company as the Commissioner thinks reasonable having regard to the extent to which the moneys received by the company in

relation to the issue of the shares, or the making of the calls, has been, or, in the opinion of the Commissioner, will be, expended on mining or prospecting outgoings as defined in section seventy-seven D of this Act;”.

Unrecouped  
capital  
expenditure.

17. Section 124DF is amended by omitting paragraph (c) and inserting in its stead the following paragraph—

“(c) the sum of the moneys paid on shares received by the taxpayer before or during that year of income, being—

(i) amounts specified in declarations lodged by the taxpayer under sub-section (3.) or sub-section (6.) of the section seventy-seven A that was repealed by the *Income Tax Assessment Act (No. 2) 1969*, other than moneys specified in declarations lodged by the taxpayer under sub-section (6.) of that section and expended before or during that year of income in making payments referred to in paragraph (e) of that sub-section; or

(ii) amounts specified in declarations duly lodged by the taxpayer under section seventy-seven D of this Act, to the extent that those moneys are, under sub-section (20.) of that section, to be deemed to have been specified in relation to petroleum;”.

Amendment of  
assessments.

18.—(1.) Section 170 of the Principal Act is amended by omitting from sub-section (10.) the words “ section seventy-seven A, section seventy-seven AA, section seventy-seven C ” and inserting in their stead the words “ section seventy-seven C, section seventy-seven D ”.

(2.) Notwithstanding the amendment made by the last preceding sub-section, nothing in section 170 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 provisions of either of the sections 77A and 77AA that are repealed by this Act, in their application in relation to moneys paid on shares before the first day of July, One thousand nine hundred and sixty-nine.

Application of  
amendments.

19. The amendments made by sections 5 and 6 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-nine, and in respect of income of all subsequent years of income.