

Income Tax Assessment (No. 2)

No. 46 of 1972

An Act to amend the Law relating to Income Tax
with respect to Income derived from the Sale of Shares.

[Assented to 7 June 1972]

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 Assessment Act* (No. 2) 1972. Short title
and citation.

(2.) Section 1 of the *Income Tax Assessment Act* 1972 is amended by omitting sub-section (2.).

(3.) The *Income Tax Assessment Act* 1936–1971,* as amended by the *Income Tax Assessment Act* 1972† and by this Act, may be cited as the *Income Tax Assessment Act* 1936–1972.

2. This Act shall be deemed to have come into operation on the twelfth day of April, One thousand nine hundred and seventy-two. Commence-
ment.

3. After section 6C of the *Income Tax Assessment Act* 1936–1971, as amended by the *Income Tax Assessment Act* 1972, the following section is inserted:—

“6D.—(1.) Subject to this section, where—

- (a) after the commencement of this section, a person, otherwise than by virtue of a transaction that is incidental to, or is part of, the carrying on of a business by him, becomes the owner, or one of two or more joint owners, of a share, being a share included in shares that, at the time when, or within three months after the time when, the person or persons became the owner or joint owners of the share, were listed for quotation in the official list of a stock exchange in Australia or elsewhere; and
- (b) there is no change in the ownership of the share for a period of at least eighteen months after the person or persons became the owner or joint owners of the share,

Transactions
involving
shares held
for eighteen
months or
more.

the person shall be treated, for the purposes of this Act, as not having acquired the share or his interest as a joint owner in the share, as the case may be, for the purpose of profit-making by sale.

* 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; Nos. 4, 60, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; and Nos. 6, 54 and 93, 1971.

† Act No. 5, 1972.

“(2.) Where a taxpayer has duly notified the Commissioner under section fifty-two of this Act that property acquired by the taxpayer, being a share or an interest in a share, has been acquired by him for a purpose specified in that section, the last preceding sub-section does not apply in relation to the share or the interest in the share.

“(3.) Where—

- (a) a person is the owner, or persons are the joint owners, of shares in the capital of a company and the shares are converted into stock in the capital of the company;
- (b) a person is the owner, or persons are the joint owners, of stock in the capital of a company and the stock is re-converted into shares in the capital of the company; or
- (c) a person is the owner, or persons are the joint owners, of shares or stock in the capital of a company and shares in the capital of the company are allotted to that person or those persons in substitution for those shares or that stock,

this section has effect as if—

- (d) the stock resulting from the conversion, the shares resulting from the re-conversion or the shares resulting from the allotment, as the case may be, and the converted shares, the re-converted stock or the shares or stock replaced by the substituted shares, as the case may be, were identical; and
- (e) that person had become the owner, or those persons had become the owners, of the stock resulting from the conversion, the shares resulting from the re-conversion or the shares resulting from the allotment, as the case may be, at the time he became the owner or they became the owners of the converted shares, the re-converted stock or the shares or stock replaced by the substituted shares, as the case may be.

“(4.) A change that occurs in the ownership of a share—

- (a) by reason of the death of a person; or
- (b) by reason of the ownership of a share vesting in a trustee under, or by reason of anything done under, a law relating to bankruptcy,

shall, for the purposes of sub-section (1.) of this section, be disregarded.

“(5.) The ownership by a person of an interest in a share as one of two or more of the owners in common of the share shall, for the purposes of this section, be deemed to be the ownership of a share.

“(6.) For the purposes of this section, any ownership of a share other than the beneficial ownership of a share shall be disregarded.

“(7.) A reference in this section to a share shall, except where the contrary intention appears, be read as including a reference to stock in the capital of a company.

“(8.) In this section, ‘ person ’ does not include a company.”.