

INCOME TAX ASSESSMENT ACT 1974

No. 26 of 1974

An Act to amend the Law relating to Income Tax.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Income Tax Assessment Act* 1974.¹ Short title and citation.

(2) The *Income Tax Assessment Act* 1936-1973² 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 Assessment Act* 1936-1974.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement.

3. (1) Section 6C of the Principal Act is amended by adding at the end thereof the following sub-sections:— Source of royalty income derived by non-resident.

“(5) In sub-section (6), a reference to a relevant person is a reference to Australia, a State, an authority of Australia or of a State or a person who is, or persons at least 1 of whom is, a resident.

“(6) For the purposes of paragraph (a) of sub-section (1) and paragraph (b) of sub-section (3), where—

(a) royalty is paid, after the commencement of this sub-section, to a non-resident by a relevant person carrying on business in a country outside Australia; and

(b) the royalty or a part of the royalty—

(i) is incurred by the relevant person in gaining or producing income that is derived by the relevant person otherwise than in carrying on business in a country outside Australia at or through a permanent establishment of the relevant person in that country or is incurred by the relevant person for the purpose of gaining or producing income to be so derived; or

(ii) is incurred by the relevant person in carrying on business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the relevant person otherwise than in so

carrying on business at or through a permanent establishment of the relevant person in a country outside Australia,

the royalty or the part of the royalty, as the case may be, is not an outgoing incurred by the relevant person in carrying on business in a country outside Australia at or through a permanent establishment of the relevant person in that country.

“(7) For the purposes of paragraph (b) of sub-section (1) and paragraph (b) of sub-section (4), where—

(a) royalty is paid, after the commencement of this sub-section, to a non-resident by another person or other persons (in this sub-section referred to as ‘the payer’), being—

- (i) another person who is carrying on business in Australia and is a non-resident; or
- (ii) other persons who are carrying on business in Australia and each of whom is a non-resident; and

(b) the royalty or a part of the royalty—

- (i) is incurred by the payer in gaining or producing income that is derived by the payer in carrying on business in Australia at or through a permanent establishment of the payer in Australia or is incurred by the payer for the purpose of gaining or producing income to be so derived; or
- (ii) is incurred by the payer in carrying on a business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the payer in so carrying on business at or through a permanent establishment of the payer in Australia,

the royalty or the part of the royalty, as the case may be, is an outgoing incurred by the payer in carrying on business in Australia at or through a permanent establishment of the payer in Australia.”.

(2) The amendment made by sub-section (1) shall be deemed to have come into operation on 4 April 1974.

Exemptions.

4. Section 23 of the Principal Act is amended—

- (a) by omitting sub-paragraph (i) of paragraph (t); and
- (b) by adding at the end of paragraph (t) the following sub-paragraphs:—

- “(iii) payments of any allowance or bounty of a prescribed kind payable to or in respect of the member; and
- (iv) the value to the member of rations and quarters supplied without charge to him.”.

5. (1) Section 24L of the Principal Act is amended—

(a) by inserting after sub-section (4) the following sub-sections:—

Source of
interest or
royalty.

“(4A) In sub-section (4B), a reference to a relevant person is a reference to Australia, a State, an authority of Australia or of a State or a person who is, or persons at least 1 of whom is, a resident.

“(4B) For the purposes of paragraph (a) of sub-section (1) and paragraph (b) of sub-section (3), where—

(a) interest or royalty is paid, after the commencement of this sub-section, to a prescribed person by a relevant person carrying on business in a country outside Australia; and

(b) the interest, a part of the interest, the royalty or a part of the royalty—

(i) is incurred by the relevant person in gaining or producing income that is derived by the relevant person otherwise than in carrying on business in a country outside Australia at or through a permanent establishment of the relevant person in that country or is incurred by the relevant person for the purpose of gaining or producing income to be so derived; or

(ii) is incurred by the relevant person in carrying on business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the relevant person otherwise than in so carrying on business at or through a permanent establishment of the relevant person in a country outside Australia,

the interest, the part of the interest, the royalty or the part of the royalty, as the case may be, is not an outgoing incurred by the relevant person in carrying on business in a country outside Australia at or through a permanent establishment of the relevant person in that country.

“(4C) For the purposes of paragraph (b) of sub-section (1) and paragraph (b) of sub-section (4), where—

(a) interest or royalty is paid, after the commencement of this sub-section, to a prescribed person by another person or persons (in this sub-section referred to as ‘the payer’), being—

(i) another person who is carrying on business in Australia and is a non-resident; or

(ii) other persons who are carrying on business in Australia and each of whom is a non-resident; and

(b) the interest, a part of the interest, the royalty or a part of the royalty—

- (i) is incurred by the payer in gaining or producing income that is derived by the payer in carrying on business in Australia at or through a permanent establishment of the payer in Australia or is incurred by the payer for the purpose of gaining or producing income to be so derived; or
- (ii) is incurred by the payer in carrying on a business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the payer in so carrying on business at or through a permanent establishment of the payer in Australia,

the interest, the part of the interest, the royalty or the part of the royalty, as the case may be, is an outgoing incurred by the payer in carrying on business in Australia at or through a permanent establishment of the payer in Australia.”; and

(b) by omitting from sub-section (5) the words “sub-sections (1), (3) and (4)” and substituting the words “sub-sections (1), (3), (4), (4A), (4B) and (4C)”.

(2) The amendments made by sub-section (1) shall be deemed to have come into operation on 4 April 1974.

Certain items of assessable income.

6. Section 26 of the Principal Act is amended by omitting the proviso to paragraph (ea).

Life insurance premiums, &c.

7. Section 82H of the Principal Act is amended—

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

“(ii) Australia in pursuance of an Act by which a scheme for the provision of benefits upon retirement or death is constituted;”; and

(b) by inserting in the definition of “benefits” in sub-section (1H), before the word “does”, the words, “, in relation to a policy of life insurance,”.

Heading to Division 11A of Part III.

8. The heading to Division 11A of Part III is amended by adding at the end thereof the words “and to certain other Persons”.

Liability to withholding tax.

9. (1) Section 128B of the Principal Act is amended—

(a) by inserting before sub-section (1) the following sub-section:—

“(1A) In this section, a reference to a person to whom this section applies is a reference to Australia, a State, an authority of

Australia or of a State or a person who is, or persons at least 1 of whom is, a resident.”;

- (b) by omitting from sub-section (2) the words “the next succeeding sub-section” and substituting the words “sub-section (3)”;
- (c) by omitting sub-paragraph (i) of paragraph (b) of sub-section (2) and substituting the following sub-paragraph:—

“(i) is paid to the non-resident by a person to whom this section applies and is not an outgoing wholly incurred by that person in carrying on business in a country outside Australia at or through a permanent establishment of that person in that country; or”;

- (d) by inserting after sub-section (2) the following sub-section:—

“(2A) Subject to sub-section (3), where income—

(a) is, or has, after 2 July 1973, been, derived, or derived in part, by a person to whom this section applies in carrying on business in a country outside Australia at or through a permanent establishment of the person in that country; and

(b) consists of interest that—

(i) is or has been paid to the person by another person to whom this section applies and is not an outgoing wholly incurred by that other person in carrying on business in a country outside Australia at or through a permanent establishment of that other person in that country; or

(ii) is or has been paid to the first-mentioned person by a person who is, or by persons each of whom is, not a resident and is, or is in part, an outgoing incurred by that last-mentioned person or those last-mentioned persons in carrying on business in Australia at or through a permanent establishment of that last-mentioned person or those last-mentioned persons in Australia,

this section also applies to that income or to the part of that income so derived, as the case may be.”;

- (e) by omitting from paragraph (a) of sub-section (6) the words “the Commonwealth, by a State, by an authority of the Commonwealth or of a State or by a person who, or by persons at least one of whom, is a resident” and substituting the words “a person to whom this section applies”;
- (f) by omitting from paragraph (b) of sub-section (6) the words “the Commonwealth, the State, the authority or that person or those persons” (wherever occurring) and substituting the words “that person to whom this section applies”; and

- (g) by omitting sub-section (8) and substituting the following sub-sections:—

“(8) For the purposes of sub-paragraph (i) of paragraph (b) of sub-section (2), sub-paragraph (i) of paragraph (b) of sub-section (2A) and paragraph (b) of sub-section (6), where—

- (a) interest is paid, or has, after 2 July 1973, been paid, to a person by another person, being a person to whom this section applies, carrying on business in a country outside Australia; and

- (b) the interest or a part of the interest—

- (i) is interest incurred by the other person in gaining or producing income that is derived by the other person otherwise than in carrying on business in a country outside Australia at or through a permanent establishment of the other person in that country or is interest incurred by the other person for the purpose of gaining or producing income to be so derived; or

- (ii) is interest incurred by the other person in carrying on business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the other person otherwise than in so carrying on business at or through a permanent establishment of the other person in a country outside Australia,

the interest or the part of the interest, as the case may be, is not an outgoing incurred by the other person in carrying on business in a country outside Australia at or through a permanent establishment of the other person in that country.

“(9) For the purposes of sub-paragraph (ii) of paragraph (b) of sub-section (2), sub-paragraph (ii) of paragraph (b) of sub-section (2A) and paragraph (b) of sub-section (7), where—

- (a) interest is paid, or has, after 2 July 1973, been paid, to a person by another person or other persons (in this sub-section referred to as ‘the borrower’), being—

- (i) another person who is or was carrying on business in Australia and is not or was not a resident; or

- (ii) other persons who are or were carrying on business in Australia and each of whom is not or was not a resident; and

- (b) the interest or a part of the interest—

- (i) is interest incurred by the borrower in gaining or producing income that is derived by the borrower in carrying on business in Australia at or through a permanent establishment of the borrower in

Australia or is interest incurred by the borrower for the purpose of gaining or producing income to be so derived; or

- (ii) is interest incurred by the borrower in carrying on a business for the purpose of gaining or producing income and is reasonably attributable to income that is derived, or may be derived, by the borrower in so carrying on business at or through a permanent establishment of the borrower in Australia,

the interest or the part of the interest, as the case may be, is an outgoing incurred by the borrower in carrying on business in Australia at or through a permanent establishment of the borrower in Australia.

“(10) Income tax payable by a person in accordance with this section is in addition to any other income tax payable by him upon income to which this section does not apply.

“(11) Income tax payable by a person in accordance with this section upon income to which this section applies by virtue of sub-section (2A) is in addition to, and shall not be taken into account in arriving at the amount of, any other income tax payable by him in respect of that income.”.

(2) In relation to income tax that is, by virtue of the amendments of section 128B of the Principal Act effected by sub-section (1) of this section, payable under sub-section 128B (5) of the Principal Act as amended by this Act upon income consisting of interest derived after 2 July 1973 and before the commencement of this Act, sub-section 128C (1) of the Principal Act as amended by this Act has effect as if the reference in that sub-section to the expiration of 21 days after the end of the month in which income was derived were a reference to the expiration of 21 days after the end of the month in which this Act comes into operation.

10. Section 128D of the Principal Act is amended by inserting after the word “Income” the words “other than income to which section 128B applies by virtue of sub-section (2A) of that section”.

Certain income not included in assessable income.

11. Section 221AA of the Principal Act is amended by omitting from sub-section (3) the words “with sub-section (3)” and substituting the words “with sub-sections (6) and (7)”.

Interpretation.

12. Section 221AB of the Principal Act is repealed.

Companies to which Division applies.

Liability to
pay
instalments
of tax.

13. Section 221AC of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

“(1) Subject to sub-section (2), for the purpose of securing generally the more expeditious collection of income tax payable by companies, a company is liable to pay during the relevant year of tax in accordance with this Division—

- (a) 2 instalments of tax in respect of income of the year of income that commenced on 1 July 1973; and
- (b) 3 instalments of tax in respect of income of each subsequent year of income.”.

Amount of
notional tax.

14. Section 221AD of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “sub-sections (2) and (3)” and substituting the words “this section”;
- (b) by omitting from sub-section (2) the words “to sub-section (3)” and substituting the words “to the following provisions of this section”; and
- (c) by inserting after sub-section (2) the following sub-sections:—

“(2A) Where—

- (a) no assessment has been made of the amount of income tax payable by a company in respect of its taxable income of the year of income;
- (b) no assessment has been made of the amount of income tax payable by the company in respect of its taxable income of the year next preceding the year of income; and
- (c) the Commissioner has reason to believe that income tax will be payable by the company in respect of its taxable income of the year of income,

then, subject to sub-section (2B), the notional tax of the company in respect of the year of income is such amount as the Commissioner estimates to be the amount of income tax that will be so payable by the company.

“(2B) Subject to sub-section (3), where, in relation to an instalment of tax in respect of the income of a company of the year of income, the company has estimated in pursuance of sub-section (1) of section 221AG the amount of income tax that will be payable in respect of its taxable income of the year of income and has furnished to the Commissioner a statement in accordance with that sub-section, then—

- (a) if the amount payable by the company as that instalment of tax is required to be ascertained under sub-section (4) of section 221AG—on and after the date specified in the notice in respect of that instalment of tax served on the company in accordance with section 221AF as the date

on which the amount specified in that notice was due and payable the notional tax of the company in respect of the year of income is an amount equal to the amount so estimated by the company; or

- (b) if the amount payable by the company as that instalment of tax is required to be ascertained under sub-paragraph (i) of paragraph (b) of sub-section (5) of section 221AG—on and after the date specified in the notice in respect of that instalment of tax served on the company in accordance with section 221AF as the date on which the amount specified in that notice was due and payable the notional tax of the company in respect of the year of income is an amount equal to the amount estimated by the Commissioner under paragraph (a) of sub-section (5) of section 221AG as the amount that, in his opinion, should have been the amount estimated by the company in pursuance of sub-section (1) of that section in respect of the year of income.

“(2C) Where—

- (a) a notice is served on a company in accordance with section 221AF;
- (b) the amount specified in the notice as the amount payable by the company as an instalment of tax in respect of its income of the year of income is calculated by reference to a notional tax of the company in respect of the year of income ascertained in accordance with sub-section (2A); and
- (c) on or after the date shown on the notice as being the date of issue of the notice an assessment is made of the amount of income tax payable by the company in respect of its taxable income of the year next preceding the year of income,

this section has effect as if that assessment had not been made.”.

15. Section 221AE of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:—

Amount of
instalment of
tax.

“(1) Subject to sub-sections (2) and (4), the amount payable by a company as an instalment of tax in respect of its income of a year of income is an amount equal to one-quarter of the amount that, on the date shown on the notice in respect of that instalment of tax served on the company in accordance with section 221AF as being the date of issue of that notice, is the notional tax of the company in respect of that year of income.”;

- (b) by omitting from sub-section (2) the words “shall be reduced or that an instalment of tax is not payable by the company in

respect of its income of a year of income” and substituting the words “shall be reduced by such amount as he thinks appropriate or that an instalment of tax that would otherwise be payable by the company in respect of its income of a year of income is not payable”; and

- (c) by omitting sub-section (4) and substituting the following sub-sections:—

“(4) If the Commissioner has reason to believe that the amount of income tax that will be payable by a company in respect of its taxable income of a year of income will be greater than the notional tax by reference to which an amount payable by the company as an instalment of tax in respect of its income of the year of income is to be calculated, he may, for the purposes of the notice to be served on the company in respect of that instalment in accordance with section 221AF, determine that the amount that, but for this sub-section, would be payable by the company under sub-section (1) as that instalment of tax shall be increased by such amount as he thinks appropriate.

“(5) If, on the date on which income tax becomes due and payable in respect of the taxable income of a company of a year of income, the whole or a part of an amount payable as an instalment of tax in respect of the income of the company of that year of income has not been paid and there is no other instalment of tax in respect of the income of the company of that year of income the whole or a part of which has not been paid—

- (a) where no part of the income tax in respect of the taxable income of the company of that year of income has been paid—so much, if any, of the amount unpaid in respect of that instalment as exceeds the amount of that income tax ceases, on that date, to be payable;
- (b) where part only of the income tax in respect of the taxable income of the company of that year of income has been paid—so much, if any, of the amount unpaid in respect of that instalment as exceeds the amount of that income tax that has not been paid ceases, on that date, to be payable; or
- (c) where the whole of the income tax in respect of the taxable income of the company of that year of income has been paid—the amount unpaid in respect of that instalment ceases, on that date, to be payable.

“(6) If, on the date on which income tax becomes due and payable in respect of the taxable income of a company of a year of income, there are 2 or more instalments of tax in respect of the income of the company of that year of income the whole or a part of each of which has not been paid—

- (a) where no part of the income tax in respect of the taxable income of the company of that year of income has been paid or part only of that income tax has been paid—the Commissioner may determine that the whole or any part of all or any of the amounts unpaid in respect of those instalments shall cease, on that date, to be payable; or
- (b) where the whole of the income tax in respect of the taxable income of the company of that year of income has been paid—each of the amounts unpaid in respect of those instalments ceases, on that date, to be payable.

“(7) In making a determination for the purposes of paragraph (a) of sub-section (6), the Commissioner shall have regard to the extent, if any, to which the sum of the amounts unpaid in respect of the instalments of tax referred to in that paragraph exceeds the amount of the income tax referred to in that paragraph that has not been paid and to any other relevant matters.”.

16. Section 221AF of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1) the words “the instalment” and substituting the words “an instalment”; and
- (b) by omitting sub-section (2) and substituting the following sub-section:—

When
instalment of
tax payable.

“(2) The date to be specified in a notice under sub-section (1) as the date on which an amount is due and payable by a company as an instalment of tax in respect of income of the company of a year of income shall be a date that is not earlier than 30 days after the date of service of the notice and is—

- (a) in the case of an instalment of tax in respect of income of the year of income that commenced on 1 July 1973—
 - (i) if the notice is the first notice served on the company under sub-section (1) in respect of income of that year of income—not earlier than 15 November 1974; or
 - (ii) if the notice is the second notice served on the company under that sub-section in respect of income of that year of income—not earlier than 15 February 1975; and
- (b) in the case of an instalment of tax in respect of income of the company of a subsequent year of income—
 - (i) if the notice is the first notice served on the company under sub-section (1) in respect of income of that year of income—not earlier than 15 August in the relevant year of tax;

- (ii) if the notice is the second notice served on the company under that sub-section in respect of income of that year of income—not earlier than 15 November in the relevant year of tax; or
- (iii) if the notice is the third notice served on the company under that sub-section in respect of income of that year of income—not earlier than 15 February in the relevant year of tax.”.

17. Section 221AG of the Principal Act is repealed and the following section substituted:—

Estimated
income tax.

“221AG. (1) Subject to sub-sections (2) and (3), a company that has been served with a notice under sub-section (1) of section 221AF may, not later than the date specified in that notice as the date on which the amount of the instalment of tax specified in that notice is due and payable, make an estimate of the amount of income tax, if any, that will be payable by the company in respect of its taxable income of the year of income to which the instalment of tax relates and furnish to the Commissioner a statement in writing showing the amount so estimated (in this section referred to as the ‘estimated income tax’) and the basis on which the estimate has been made.

“(2) A company is not entitled, in relation to an instalment of tax in respect of its income of a year of income, to make an estimate and furnish to the Commissioner a statement in pursuance of sub-section (1) if the amount specified in the notice referred to in that sub-section as the amount payable by the company as that instalment of tax was calculated by reference to an amount of notional tax ascertained under sub-section (3) of section 221AD.

“(3) Where, in relation to an instalment of tax in respect of the income of a company of a year of income, the company has made an estimate and furnished to the Commissioner a statement in pursuance of sub-section (1), the company is not entitled to make a further estimate and furnish to the Commissioner a further statement in relation to any other instalment of tax in respect of the income of the company of that year of income.

“(4) Where a company duly furnishes to the Commissioner, in relation to an instalment of tax, a statement under sub-section (1), the amount payable by the company as that instalment is, subject to sub-section (5), an amount (in this section and section 221AH referred to as the ‘adjusted instalment of tax’) equal to one-quarter of the estimated income tax.

“(5) Where, having regard to information in returns of income lodged by the company and any other information in his possession, the Commissioner has reason to believe that the amount of income tax that

will be payable by the company in respect of its taxable income of the year of income is different from the estimated income tax—

- (a) the Commissioner may estimate the amount that, in his opinion, should have been the amount estimated by the company in pursuance of sub-section (1) in respect of that year of income; and
- (b) the amount payable by the company as the instalment of tax in relation to which the statement was furnished under sub-section (1) is—
 - (i) an amount equal to one-quarter of the amount of income tax so estimated by the Commissioner; or
 - (ii) the amount of the instalment of tax as specified in the notice referred to in sub-section (1),

whichever is the less.

“(6) If the amount of income tax payable by the company in respect of its taxable income of the year of income exceeds the estimated income tax and that amount of income tax has become due and payable, then additional tax, in respect of the period that commenced on the day immediately following the date specified in the notice referred to in sub-section (1) as the date on which the amount of the instalment of tax specified in that notice was due and payable and ended on the day on which that amount of income tax became due and payable, is due and payable by the company at the rate of 10 per centum per annum on the amount by which—

- (a) the amount payable as the instalment of tax as specified in the notice referred to in sub-section (1); or
- (b) an amount equal to one-quarter of the amount of income tax so payable by the company,

whichever is the less, exceeds—

- (c) the adjusted instalment of tax; or
- (d) in a case to which sub-section (5) applies—the amount ascertained in accordance with paragraph (b) of that sub-section,

whichever is the greater, but the Commissioner may, in a particular case, for reasons that he thinks sufficient, remit that additional tax or any part of that additional tax.

“(7) Where—

- (a) an amount payable by the company as an instalment of tax in respect of its income of the year of income was calculated under sub-section (1) of section 221AE by reference to an amount of notional tax ascertained under sub-section (2B) of section 221AD;
- (b) the amount of income tax payable by the company in respect of its taxable income of the year of income exceeds the estimated income tax; and

- (c) the amount of income tax referred to in paragraph (b) has become due and payable,

then additional tax, in respect of the period that commenced on the day immediately following the date specified in the notice in respect of that instalment of tax served on the company in accordance with section 221AF as the date on which the amount payable as that instalment of tax was due and payable and ended on the day on which the amount of income tax referred to in paragraph (b) became due and payable, is due and payable by the company at the rate of 10 per centum per annum on the amount by which—

- (d) the amount that, but for the operation of sub-section (2B) of section 221AD, would have been payable as that instalment of tax under sub-section (1) of section 221AE; or
- (e) an amount equal to one-quarter of the amount of income tax referred to in paragraph (b),

whichever is the less, exceeds—

- (f) the adjusted instalment of tax; or
- (g) the amount that was payable by the company as that instalment of tax,

whichever is the greater, but the Commissioner may, in a particular case, for reasons that he thinks sufficient, remit that additional tax or any part of that additional tax.

“(8) A reference in this section to the amount of income tax that is or will be payable by a company in respect of its taxable income of a year of income shall be read as a reference to the amount of the income tax that is or will be so payable after deducting any credits to which the company is or will be entitled under section 45, under Division 18 of Part III or under the *Income Tax (International Agreements) Act 1953-1973*.

“(9) In determining for the purposes of this section whether an amount of income tax has become due and payable by a company and, if an amount of income tax has become due and payable by a company, the day on which that amount became due and payable, the operation of section 206 shall be disregarded.”.

Notice of
alteration of
amount of
instalment.

18. Section 221AH of the Principal Act is amended—

- (a) by omitting sub-paragraph (ii) of paragraph (b) of sub-section (1) and substituting the following sub-paragraph:—
- “(ii) the operation of sub-section (5) or (6) of section 221AE or sub-section (4) or (5) of section 221AG,”;
- (b) by omitting from sub-section (2) the words “of sub-section (4)” (wherever occurring) and substituting the words “of sub-section (5)”;
- (c) by omitting from sub-section (2) the words “the instalment” (first occurring) and substituting the words “an instalment”.

19. Section 221AI of the Principal Act is amended—

- (a) by omitting from paragraph (d) of sub-section (1) the word “and” (last occurring); and
- (b) by omitting paragraph (e) of that sub-section and substituting the following paragraphs:—
 - “(e) any amount payable by the company as any other instalment of tax in respect of its income of the year of income whether or not that amount is due for payment; and
 - (f) any other income tax or any withholding tax payable by the company whether or not that income tax or withholding tax is due for payment,”.

Application
of payments
of instal-
ments of tax.

20. Section 221YL of the Principal Act is amended by inserting after sub-section (2B) the following sub-sections:—

Deductions
from
dividends
and interest.

“(2C) In sub-section (2D), a reference to a relevant person is a reference to Australia, a State, an authority of Australia or of a State or a person who is, or persons at least 1 of whom is, a resident.

“(2D) Where—

- (a) interest is payable to a relevant person (in this sub-section and in sub-sections (2E) and (2F) referred to as ‘the lender’), by another person or other persons (in this sub-section and in sub-sections (2E) and (2F) referred to as ‘the borrower’);
- (b) the borrower is authorized to pay the interest to the lender, or to another person or other persons, at a place in Australia; and
- (c) the interest so payable is derived by the lender in carrying on business in a country outside Australia at or through a permanent establishment of the lender in that country,

sub-section (2E) applies in relation to that interest.

“(2E) Where this sub-section applies in relation to interest payable by a borrower to a lender—

- (a) the lender shall—
 - (i) either before, or within 1 month after, entering into the transaction in relation to which the interest is payable; or
 - (ii) if the transaction was entered into before the date of commencement of this sub-section—within 1 month after that date,

notify the borrower, in writing, that this sub-section applies in relation to the interest; and

- (b) the lender shall, forthwith after having so notified the borrower, furnish to the Commissioner particulars of the transaction, including the dates on which interest is payable to the lender by the borrower and the date on which the lender so notified the borrower.

“(2F) Where a borrower has received a notification in accordance with sub-section (2E) that that sub-section applies in relation to interest payable by him to a lender, the borrower shall, subject to this section and to section 221YM, before or at any time when interest is paid by the borrower after the expiration of 1 month after receipt of that notification, make a deduction from the interest of an amount determined in accordance with the regulations.”.

Application
of amend-
ments.

21. (1) Subject to sub-sections (2) and (3), the amendments made by sections 4, 6 and 7 apply to assessments in respect of the year of income that commenced on 1 July 1972, and in respect of income of all subsequent years of income.

(2) Subject to sub-section (3), the amendments made by sections 4 and 6 apply, and shall be deemed to have applied, to allowances paid, given or granted to or in respect of a member of the Defence Force in respect of any day subsequent to, and to the value of rations and quarters supplied to a member of the Defence Force on any day subsequent to—

(a) in the case of a member of the Naval or Military Forces—
8 February 1973; or

(b) in the case of a member of the Air Force—7 February 1973.

(3) The amendment made by paragraph 4 (a) applies, and shall be deemed to have applied, to exchange allowances paid after 30 June 1973.

NOTES

1. Act No. 26, 1974; assented to 1 August 1974.
2. 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; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; and No. 216, 1973 (as amended by No. 20, 1974).