

# INCOME TAX ASSESSMENT ACT (No. 2) 1974

## No. 126 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:—

Short title  
and citation.

1. (1) This Act may be cited as the *Income Tax Assessment Act* (No. 2) 1974.<sup>1</sup>

(2) The *Income Tax Assessment Act* 1936-1973,<sup>2</sup> as amended by the *Income Tax Assessment Act* 1974,<sup>3</sup> or, if that Act as so amended was further amended by any Act or Acts coming into operation before the day on which this Act comes into operation, that first-mentioned Act as so amended and further amended, is in this Act referred to as the Principal Act.

(3) Section 1 of the *Income Tax Assessment Act* 1974 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* 1936-1974.

Commence-  
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

Interpret-  
ation.

3. (1) Section 6 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of the definition of “apportionable deductions” in sub-section (1) the words “Subdivision B of Division 3” and substituting the words “Subdivision B or C of Division 3”;
- (b) by omitting from the definition of “concessional deductions” in sub-section (1) the words “Subdivision B of Division 3” and substituting the words “Subdivision B or C of Division 3”; and
- (c) by omitting from the definition of “income from personal exertion” or “income derived from personal exertion” in sub-section (1) the words “and any profit arising from the sale by the taxpayer of any property acquired by him for the purpose of profit-making by sale or from the carrying on or carrying out of any profit-making undertaking or scheme,” and substituting the words “any profit arising from the sale by the taxpayer of any property acquired by him for the purpose of profit-making by sale or from the carrying on or carrying out of any profit-making

undertaking or scheme, and any profit that is included in the assessable income of the taxpayer by reason of section 26AAA.”.

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**4. Section 6AA of the Principal Act is amended—**

- (a) by omitting from paragraph (a) of sub-section (1) the word “petroleum” (wherever occurring) and substituting the word “minerals”; and
- (b) by inserting after sub-section (3) the following sub-section:—

Continental shelf to be treated as part of Australia for certain purposes.

“(3A) This section does not operate so as to include in the assessable income of a person any income derived before 18 September 1974 that would not have been so included if section 4 of the *Income Tax Assessment Act (No. 2)* 1974 had not been enacted.”.

**5. (1) Section 23A of the Principal Act is repealed.**

(2) The repeal effected by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Partial exemption of income from certain mining operations.

**6. (1) After section 23F of the Principal Act the following section is inserted:—**

“23G. (1) In this section, ‘credit union’ means a company that—

- (a) is registered as a credit union or credit society under the law in force in a State or Territory relating to credit unions or credit societies; or
- (b) is registered under the law in force in a State or Territory relating to co-operative, industrial or provident societies and has as its principal object or carries on as its principal business the raising of moneys from its members and the making of loans out of those moneys to its members,

Exemption of interest received by credit unions.

but does not include a body that (irrespective of the name of the body) is of a kind commonly known as a building society.

“(2) Income derived during a year of income by a credit union that is an approved credit union in relation to that year of income, being interest paid to the credit union by members of the credit union not being companies in respect of loans made to those members, is exempt from income tax.

“(3) For the purposes of this section, a credit union is an approved credit union in relation to a year of income if, and only if, the Commissioner is satisfied that—

- (a) during that year of income the credit union did not enter into any transactions of a kind not ordinarily entered into by a company of a kind referred to in paragraph (a) of the definition of 'credit union' in sub-section (1); and
- (b) by comparison with the profits of other credit unions for that year of income and the amounts transferred by those credit unions out of those profits to reserves, and after making due allowance for differences in the numbers of transactions entered into by other credit unions and the first-mentioned credit union and the amounts to which the respective transactions related, the profit of the first-mentioned credit union for that year of income was not excessive and the first-mentioned credit union did not transfer an unreasonable part of that profit to a reserve.

“(4) In determining for the purposes of paragraph (a) of sub-section (3) whether any transactions entered into by a credit union during a year of income were transactions of a kind referred to in that paragraph, the Commissioner may have regard to—

- (a) the circumstances in which, and the terms and conditions upon which, during that year of income—
  - (i) moneys were lent to, invested with, or otherwise obtained by, the credit union;
  - (ii) moneys were lent or otherwise made available by the credit union to its members or to other persons; and
  - (iii) moneys were invested by the credit union;
- (b) the nature of the connexion (if any) between—
  - (i) the credit union or any of its members and any of the persons by whom moneys were lent to, invested with, or otherwise made available to, the credit union during that year of income;
  - (ii) the credit union or any of its members and any of the persons who owed moneys to the credit union at any time during that year of income; or
  - (iii) any of the persons by whom moneys were lent to, invested with, or otherwise made available to, the credit union during that year of income and any of the persons who owed moneys to the credit union at any time during that year of income; and
- (c) any other relevant matters.”.

(2) Section 23G of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

7. (1) After section 26AAA of the Principal Act the following section is inserted:—

“26AAB. (1) Where, during any period being the whole or a part of the year of income, there is, in respect of, or for or in relation directly or indirectly to, any employment of, or any services rendered by, a taxpayer, made available by another person to the taxpayer for his private use a car that is owned or held on lease by the other person (whether or not the other person employs, or is the person for whom the services are rendered by, the taxpayer), the assessable income of the taxpayer of the year of income includes, in addition to any amount that is included in that assessable income by virtue of paragraph (e) or (ea) of section 26 by reason of the car being used or available for use by the taxpayer, the amount that is the net stand-by value of the car in relation to that period.

Assessable income to include net stand-by value of car made available to employee for private use.

“(2) For the purposes of the application of the following provisions of this section in ascertaining the net stand-by value of a car in relation to a particular period, a reference in any of those provisions to the employer is a reference to the person by whom the car was made available for use by the taxpayer during that period.

“(3) For the purposes of this section, the net stand-by value of a car, in relation to a period, is the stand-by value of the car in relation to that period less the sum of—

- (a) any amounts included in the assessable income of the taxpayer of the year of income under paragraph (e) or (ea) of section 26 by reason of the car being used or available for use by him during that period; and
- (b) any amounts paid by the taxpayer to the employer as consideration for the car being used or available for use by the taxpayer during that period.

“(4) For the purposes of this section, the stand-by value of a car, in relation to a period being the whole of the year of income, is—

- (a) in the case of a car other than a leased car—
  - (i) if the purchase price of the car did not exceed \$6,000—an amount equal to 12 per centum of the purchase price; or
  - (ii) if the purchase price of the car exceeded \$6,000—the sum of \$720 and an amount equal to 24 per centum of the amount by which the purchase price exceeded \$6,000;
- (b) in the case of a leased car having a base price not exceeding \$6,000—an amount equal to one-third of the lease charge; or
- (c) in the case of a leased car having a base price exceeding \$6,000, the sum of the following amounts:—
  - (i) one-third of so much of the lease charge as bears to that lease charge the same proportion as 6,000 bears to the number of whole dollars in the base price; and
  - (ii) two-thirds of so much of the lease charge as bears to that lease charge the same proportion as the number of whole

dollars by which the base price exceeds \$6,000 bears to the number of whole dollars in the base price.

“(5) For the purposes of this section, the stand-by value of a car, in relation to a period being part of the year of income, is the amount ascertained by dividing the amount that would have been the stand-by value of the car in relation to that period if that period had been the whole of the year of income by 365 and multiplying the result by the number of complete days in that period.

“(6) For the purposes of this section—

- (a) a reference to a car being held on lease by a person is a reference to a car being on hire to the person but does not include a reference to—
  - (i) a car being on hire under an agreement of a kind ordinarily entered into by persons taking cars on hire intermittently as occasion requires on an hourly, daily, weekly or other short-term basis; or
  - (ii) a car being on hire under an agreement that confers on the person taking the car on hire a right (either absolutely or subject to conditions) to purchase the car;
- (b) a car that—
  - (i) is on hire to a person under an agreement of a kind mentioned in sub-paragraph (i) of paragraph (a) and has been on hire to the person under successive agreements of that kind that result in a substantial continuity of the hiring of the car by him; or
  - (ii) is on hire to a person under an agreement of a kind mentioned in sub-paragraph (ii) of paragraph (a),  
shall be deemed to have been purchased by him at the time when he first took the car on hire and shall be deemed to have been owned by him at all material times;
- (c) a car that would be a leased car but for the person who holds it on lease having owned the car at a time before he commenced to hold it on lease shall be deemed to have been owned by that person at all material times;
- (d) a car shall be deemed to be made available to a taxpayer for his private use on any day on which—
  - (i) it is applied by him or his spouse to a private use (whether or not it is also applied on that day by him to a use that is not a private use or by another person for the use of that other person); or
  - (ii) it is available to be applied by him or his spouse to a private use (whether or not it is applied on that day by him to a use that is not a private use or by another person for the use of that other person) by reason that the employer has approved the car being applied by the taxpayer or his

spouse to a private use or has not consistently enforced a prohibition against the car being applied by the taxpayer or his spouse to a private use;

- (e) a car shall be deemed to be applied, or available to be applied, by a person if it is applied, or is available to be applied, as the case may be, in accordance with the directions, instructions or wishes of the person;
- (f) subject to paragraph (g), the use by a taxpayer of a car to travel between—
  - (i) his place of residence; and
  - (ii) his place of employment or any other place from which services are rendered by him,shall be taken to be a private use of the car by the taxpayer;
- (g) if the Commissioner is satisfied that duties of or directly associated with the employment of, or services to be rendered by, a taxpayer are required to be performed at such times or in such circumstances that the efficient performance of those duties or services, or of a significant part of them, requires a car to be kept for the use of the taxpayer at or near the place of residence of the taxpayer or to be used for transporting the taxpayer to or from his place of residence—the use of a car by the taxpayer as mentioned in paragraph (f) shall be taken, to such extent as the Commissioner determines, not to be a private use of the car by the taxpayer; and
- (h) a reference to a person maintaining a pool of cars for any purpose includes a reference to a person having in his custody or possession a group of cars for sale or for letting on hire or other use in his business operations.

“(7) Where a car that is on hire to a person is deemed by paragraph (b) of sub-section (6) to have been purchased by the person, the purchase price of the car shall, for the purposes of this section, be deemed to be the amount that the Commissioner determines would have been required to be paid by a person (in this sub-section referred to as the ‘notional purchaser’) to purchase a car of the same kind and in a similar condition from a vendor selling such cars on the open market at or about the time when, and at or near the place where, the first-mentioned person first took the first-mentioned car on hire if the notional purchaser was not entitled to any privileges or exemptions in relation to sales tax or customs duty, and did not receive any privileges or benefits in relation to charges, discounts, allowances, rebates or credits, in respect of the purchase and was dealing at arm’s length with the vendor.

“(8) Where, by reason of all or any of the following matters, namely:—

- (a) a person having been entitled to privileges or exemptions in relation to sales tax or customs duty in respect of a transaction by which he purchased a car;
- (b) a person having received privileges or benefits in relation to charges, discounts, allowances, rebates or credits in respect of a transaction by which he purchased a car;
- (c) a person not having dealt with a second person at arm's length in respect of a transaction by which the first-mentioned person acquired a car from the second person,

the amount that, but for this sub-section, would be the purchase price of the car differs from the amount (in this sub-section referred to as the 'market price') that the Commissioner determines would have been required to be paid by another person to purchase a car of the same kind and in a similar condition from a vendor selling such cars on the open market at or about the time when, and at or near the place where, the person mentioned in paragraph (a) or (b) or first mentioned in paragraph (c), as the case may be, purchased or otherwise acquired the car mentioned in that paragraph if the other person was not entitled to any such privileges, exemptions or benefits and was dealing at arm's length with the vendor, or no amount was paid for the acquisition of the car, then the purchase price of the car shall, for the purposes of this section, be deemed to be the market price.

“(9) Where the stand-by value of a leased car in relation to a period differs from the amount (in this sub-section referred to as the 'notional amount') that would have been the stand-by value of the car in relation to that period if the car—

- (a) had never been held by the employer on lease but had been owned by him at all material times; and
- (b) had been purchased by him for an amount equal to the base price of the car,

and the amount of the difference is such that, in the opinion of the Commissioner, the ascertainment of the stand-by value of the car in relation to that period on the basis that the car is a leased car would give the taxpayer such an advantage, or would result in such a disadvantage to the taxpayer, in relation to the application of this section that it is not appropriate for that stand-by value to be ascertained on that basis, that stand-by value shall be deemed to be the notional amount.

“(10) Where the employer maintains for any purpose a pool of cars owned or held on lease by him and 2 or more cars in the pool as it existed from time to time were made available to the taxpayer at different times during the year of income for his private use, the taxpayer with the consent of the employer, or the employer with the consent of the taxpayer, may, on or before the due date for lodgment of the return of income of the taxpayer of the year of income or within such further time as the Commissioner allows, request the Commissioner to determine that the stand-by value, in relation to the whole or a part of the year of income, of

all or any of the cars that were so made available to the taxpayer be ascertained by reference to an average purchase price.

“(11) A request under sub-section (10) shall be accompanied by a statement by the employer specifying—

- (a) the number of cars in the pool at the prescribed time;
- (b) the number (if any) of those cars of which the purchase price or the base price did not exceed \$6,000;
- (c) the number (if any) of those cars of which the purchase price or the base price exceeded \$6,000;
- (d) the sum of the amounts of the purchase prices or base prices of the cars (if any) referred to in paragraph (b);
- (e) the sum of the amounts of the purchase prices or base prices of the cars (if any) referred to in paragraph (c); and
- (f) whether the cars in the pool that were applied during the year of income by the taxpayer or his spouse to a private use—
  - (i) consisted exclusively or principally of cars of which the purchase price or base price did not exceed \$6,000;
  - (ii) consisted exclusively or principally of cars of which the purchase price or base price exceeded \$6,000; or
  - (iii) consisted to an equal extent of cars of which the purchase price or base price did not exceed \$6,000 and cars of which the purchase price or base price exceeded \$6,000.

“(12) The Commissioner may, if he thinks it appropriate to do so, determine that the stand-by value, in relation to a period, of a car that was made available to a taxpayer for his private use from a pool of cars owned or held on lease by the employer shall be ascertained by reference to an average purchase price (whether or not a request has been made in relation to the car in accordance with sub-section (10)), and, where such a determination is made—

- (a) the stand-by value of the car in relation to that period shall be ascertained on the basis that the car was owned by the employer at all material times and had a purchase price equal to the average purchase price;
- (b) for the purpose of calculating the average purchase price—
  - (i) it shall be assumed that every leased car in the pool at the prescribed time had been owned by the employer at all material times and had a purchase price equal to the base price of the car; and
  - (ii) sub-sections (7) and (8) may be applied for the purpose of ascertaining the purchase price of any car in the pool at that time; and
- (c) the average purchase price shall be taken to be—



- (i) if the Commissioner is satisfied that the cars in the pool that were applied during the year of income by the taxpayer or his spouse to a private use were exclusively or principally cars of which the purchase price did not exceed \$6,000—the sum of the amounts of the purchase prices of the cars in the pool at the prescribed time of which the purchase price did not exceed \$6,000 divided by the number of those cars or, if there were no such cars in the pool at that time, such amount (not exceeding \$6,000) as the Commissioner considers appropriate;
- (ii) if the Commissioner is satisfied that the cars in the pool that were applied during the year of income by the taxpayer or his spouse to a private use were exclusively or principally cars of which the purchase price exceeded \$6,000—the sum of the amounts of the purchase prices of the cars in the pool at the prescribed time of which the purchase price exceeded \$6,000 divided by the number of those cars or, if there were no such cars in the pool at that time, such amount (being an amount exceeding \$6,000) as the Commissioner considers appropriate; or
- (iii) in any other case—the sum of the amounts of the purchase prices of all the cars in the pool at the prescribed time divided by the number of those cars or, if there were no cars in the pool at that time, such amount as the Commissioner considers appropriate.

“(13) Where there is, in respect of, or for or in relation directly or indirectly to, any employment of, or any services rendered by, a taxpayer, made available by another person to the taxpayer for his private use a car that is neither owned by, nor on hire to, the other person, this section has effect as if—

- (a) the person who made the car available to the taxpayer owned the car; and
- (b) a reference to the employer in the definition of ‘purchase price’ in sub-section (14) were a reference to the person who in fact owned the car.

“(14) In this section, unless the contrary intention appears—

‘base price’, in relation to a leased car, means the amount that the Commissioner determines would have been required to be paid by a person (in this definition referred to as the ‘notional purchaser’) to purchase a car of the same kind and in a similar condition from a vendor selling such cars on the open market at or about the time when, and at or near the place where, the employer first took the leased car on hire if the notional purchaser was not entitled to any privileges or exemptions in relation to sales tax or customs duty, and did not receive any privileges or benefits in relation to charges, discounts, allowances, rebates or

credits, in respect of the purchase and was dealing at arm's length with the vendor;

'business operations', in relation to an employer being Australia, a State, the Administration of a Territory or a public statutory corporation, includes any operations or activities carried out by that employer;

'car' includes—

- (a) a station wagon, panel van or utility truck; and
- (b) any other motor vehicle (other than a vehicle designed to carry loads in excess of 1 tonne) that is designed to carry at least 1 passenger;

'employment', in relation to a taxpayer, includes the holding of any office or appointment, the performance of any functions or duties, the engaging in any work, or the doing of any acts or things, that results or result in the taxpayer receiving, or being entitled to receive, salary or wages within the meaning of Division 2 of Part VI or otherwise being treated as an employee within the meaning of that Division;

'lease charge', in relation to a leased car, means—

- (a) if the agreement under which the car was first taken on hire by the employer provided for the employer to hold the car on hire for a term that included at least 1 complete year—the amount that the employer is, or was, required to pay under that agreement in respect of the first complete year as consideration for rights to use the car and for any other rights in relation to the car secured to the employer under the agreement; or
- (b) if the agreement under which the car was first taken on hire by the employer did not provide for the employer to hold the car on hire for a term that included at least 1 complete year—the amount that the employer would have been required to pay under the agreement as consideration for rights to use the car and for any other rights in relation to the car secured to the employer under the agreement if the term of the agreement had been 1 complete year and the consideration had been payable at the rate at which it was payable in respect of the actual term of the agreement;

'leased car' means—

- (a) a car that is held by the employer on lease; or
- (b) a car that is owned by the employer but was held by him on lease at any time before it came into his ownership,

but does not include a car that was owned by the employer at any time before he commenced to hold it on lease;

‘person’ includes a company, a partnership, Australia, a State, the Administration of a Territory and any public statutory corporation;

‘prescribed time’ means the end of the year of income or such other time as the Commissioner determines;

‘purchase price’, in relation to a car, means—

- (a) in a case to which paragraph (b) does not apply—the amount paid by the employer to acquire the car; or
- (b) if any additional amount was paid by the employer for or in relation to accessories fitted to the car (other than accessories required to meet the special needs of any business operations of the employer in relation to which the car is used)—the sum of the amount paid by the employer to acquire the car and the additional amount paid by him for the accessories.”

(2) Section 26AAB of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

8. Before section 26AA of the Principal Act the following section is inserted:—

Shares and rights acquired under scheme for the acquisition of shares by employees.

“26AAC. (1) For the purposes of this section, a taxpayer shall be taken to have acquired a share in a company, or a right to acquire a share in a company, under a scheme for the acquisition of shares by employees if—

- (a) in the case of a share, the share was acquired by the taxpayer—
  - (i) in respect of, or for or in relation directly or indirectly to, any employment of, or services rendered by, the taxpayer or a relative of the taxpayer; or
  - (ii) as a result of the exercise or operation of a right to acquire the share, being a right that was acquired by the taxpayer in respect of, or for or in relation directly or indirectly to, any employment of, or services rendered by, the taxpayer or a relative of the taxpayer;
- (b) in the case of a right, the right was acquired by the taxpayer in respect of, or for or in relation directly or indirectly to, any employment of, or services rendered by, the taxpayer or a relative of the taxpayer.

“(2) Where a taxpayer who has acquired a right to acquire a share in a company in respect of, or for or in relation directly or indirectly to, any employment of, or services rendered by, the taxpayer or a relative of the taxpayer disposes of, and re-acquires, the right on one or more occasions, each such re-acquisition of the right shall be taken, for the purposes of this section, to be an acquisition of the right in respect of, or

for or in relation directly or indirectly to, that employment of, or those services rendered by, the taxpayer or that relative of the taxpayer, as the case may be.

“(3) A reference in this section to a share in a company, or a right to acquire a share in a company, having been acquired by a taxpayer in respect of, or for or in relation directly or indirectly to, any employment of, or services rendered by, the taxpayer or a relative of the taxpayer includes, but is not limited to, a reference to such a share or right having been acquired by a taxpayer—

- (a) in pursuance of an agreement, arrangement or understanding under which a company was to issue shares in the company to employees of the company or of another company or to relatives of those employees; or
- (b) in pursuance of the terms of a trust deed under which a trustee is required or authorized to sell, or otherwise to transfer, shares in a company to employees of the company or of another company or to relatives of those employees.

“(4) This section applies to and in relation to an acquisition by a taxpayer of a share in a company, or of a right to acquire a share in a company, if, and only if—

- (a) in the case of a share, the share was acquired by the taxpayer after 17 September 1974 otherwise than as a result of the exercise or operation of a right that—
  - (i) being a right that had not previously been acquired and disposed of by the taxpayer—was acquired by the taxpayer on or before that date; or
  - (ii) being a right that had previously been acquired and disposed of by the taxpayer, was first acquired by the taxpayer on or before that date; or
- (b) in the case of a right to acquire a share—
  - (i) where the right had not previously been acquired and disposed of by the taxpayer—the right was acquired by the taxpayer after 17 September 1974; or
  - (ii) where the right had previously been acquired and disposed of by the taxpayer—the right was first acquired by the taxpayer after that date,

and a reference in this section to the acquisition by a taxpayer of a share or a right to acquire a share shall be construed accordingly.

“(5) Where a taxpayer has acquired during the year of income a share in a company under a scheme for the acquisition of shares by employees, the assessable income of the taxpayer of the year of income includes the value of that share at the time when it was acquired by the taxpayer less the sum of—

- (a) the amount, if any, paid or payable by the taxpayer as consideration for the share; and

- (b) if the taxpayer acquired the share as a result of the exercise or operation of a right (whether that right was unconditional or subject to conditions) to acquire the share—the amount, if any, paid or payable by the taxpayer as consideration for the right.

“(6) Where—

- (a) a taxpayer has acquired a right (whether that right was unconditional or was subject to conditions) to acquire a share in a company under a scheme for the acquisition of shares by employees;
- (b) as a result of a disposition or successive dispositions of the right, the right was subsequently acquired by an associate of the taxpayer without having been, at any time since it was first acquired by the taxpayer, in the ownership of a person other than the taxpayer or an associate of the taxpayer; and
- (c) as a result of the exercise or operation of the right, that associate of the taxpayer acquired a share in the company,

the taxpayer shall be deemed for the purposes of this section—

- (d) to have acquired the share under a scheme for the acquisition of shares by employees and to have so acquired the share at the time when it was acquired by the associate; and
- (e) to have paid as consideration for the share the amount, if any, paid or payable by the associate as consideration for the share.

“(7) Where—

- (a) a taxpayer has acquired a right (whether that right was unconditional or was subject to conditions) to acquire a share in a company under a scheme for the acquisition of shares by employees;
- (b) as a result of a disposition or of successive dispositions of the right, the right was subsequently acquired by an associate of the taxpayer without having been, at any time since it was first acquired by the taxpayer, in the ownership of a person other than the taxpayer or an associate of the taxpayer; and
- (c) the associate has disposed of the right to a person, not being the taxpayer or another associate of the taxpayer,

the assessable income of the taxpayer of the year of income during which the associate disposed of the right as mentioned in paragraph (c) includes the amount, if any, received by the associate as consideration for the right less the amount, if any, paid or payable by the taxpayer as consideration for the right.

“(8) Where a taxpayer—

- (a) has acquired a right (whether that right was unconditional or was subject to conditions) to acquire a share in a company under a scheme for the acquisition of shares by employees (including a right that has been previously acquired and disposed of by the

taxpayer but not including a right that has, at any time since it was first acquired by the taxpayer, been in the ownership of a person other than the taxpayer or an associate of the taxpayer); and

- (b) has disposed of that right to a person not being an associate of the taxpayer,

the assessable income of the taxpayer of the year of income during which the taxpayer disposed of the right as mentioned in paragraph (b) includes the amount, if any, received by the taxpayer as consideration for the right less the amount, if any, paid or payable by the taxpayer as consideration for the right.

“(9) Where—

- (a) the trustee of the estate of a deceased person has acquired a share in a company as a consequence of the exercise or operation of a right to acquire the share, being a right owned by the deceased person at the time of his death; and
- (b) an amount would have been included in the assessable income of the deceased person under this section if he had not died and had acquired the share on the day on which it was acquired by the trustee for a consideration equal to the consideration, if any, paid by the trustee for the share,

the amount that would have been so included in the assessable income of the deceased person shall be included in the assessable income of the trust estate of the year of income during which the trustee acquired the share and shall be deemed to be income to which no beneficiary is presently entitled.

“(10) For the purposes of paragraph (e) of section 26, the acquisition by a taxpayer of a share in a company, or of a right to acquire a share in a company, under a scheme for the acquisition of shares by employees shall be deemed not to be an allowance, gratuity, compensation, benefit, bonus or premium allowed, given or granted to him.

“(11) Where, as a result of a disposition of a right to acquire a share in a company—

- (a) an amount would, but for this sub-section, be included by virtue of this section in the assessable income of a taxpayer of a year of income; and
- (b) an amount has been, or will be, included by virtue of another section of this Act in the assessable income of any year of income of the taxpayer or of an associate of the taxpayer (including, in the case of an associate being a trustee, the assessable income of the trust estate),

the amount referred to in paragraph (a) that would, but for this sub-section, be included in the assessable income of the taxpayer shall be reduced by so much of that amount as does not exceed the amount referred to in paragraph (b).

“(12) Where—

- (a) as a result of the acquisition by a taxpayer or by an associate of a taxpayer of a share in a company, an amount has been, or will be, included by virtue of this section in the assessable income of the taxpayer of a year of income; and
- (b) as a result of the first disposition of the share after the acquisition referred to in paragraph (a), an amount would, but for this sub-section, be included by virtue of another section of this Act in the assessable income of any year of income of the taxpayer or of an associate of the taxpayer (including, in the case of an associate being a trustee, the assessable income of the trust estate),

the amount referred to in paragraph (b) that would, but for this sub-section, be included in the assessable income of a person or of a trust estate shall be reduced by so much of that amount as does not exceed the amount referred to in paragraph (a).

“(13) Where—

- (a) an amount is included in the assessable income of a trust estate by virtue of sub-section (9) as a result of the acquisition by the trustee of a share in a company; and
- (b) as a result of the first disposition of the share after the acquisition referred to in paragraph (a), an amount would, but for this sub-section, be included by virtue of another section of this Act in the assessable income of the trust estate of any year of income,

the amount referred to in paragraph (b) that would, but for this section, be included in the assessable income of the trust estate shall be reduced by so much of that amount as does not exceed the amount referred to in paragraph (a).

“(14) A reference in this section to an associate of a taxpayer is a reference to any of the following persons:—

- (a) a relative of the taxpayer;
- (b) a trustee of a trust estate, where the taxpayer or any relative of the taxpayer benefits or is capable of benefiting under the trust;
- (c) a partner of the taxpayer;
- (d) a company, where—
  - (i) the company is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the taxpayer or of a relative of the taxpayer; or
  - (ii) the taxpayer is, the persons who are associates of the taxpayer by virtue of paragraphs (a), (b) and (c) are, or the taxpayer and the persons who are associates of the taxpayer by virtue of those paragraphs are, in a position to cast, or control the casting of, more than 50 per centum of

the maximum number of votes that might be cast at a general meeting of the company.

“(15) Where—

- (a) a taxpayer acquires a share in a company under a scheme for the acquisition of shares by employees; and
- (b) by reason of any conditions or restrictions (being conditions or restrictions applicable only to shares in the company acquired under such a scheme) attached to, or to the issue of, the share (including conditions or restrictions in relation to the payment of moneys in respect of the share) the right of the taxpayer to dispose of the share is restricted or the taxpayer is liable to be divested of his ownership of the share,

the acquisition of the share by the taxpayer shall be deemed for the purposes of this section to have taken place at the time when the right of the taxpayer to dispose of the share ceases to be so restricted, the time when the taxpayer ceases to be so liable to be divested of his ownership of the share or the time immediately before the taxpayer disposes of the share, whichever first happens.

“(16) Where a taxpayer who has a right to acquire a share in a company is to be taken to have acquired the right under a scheme for the acquisition of shares by employees by virtue of the operation of sub-section (2), a reference in this section to the amount, if any, paid or payable by the taxpayer as consideration for the right shall be read as a reference to the amount, if any, paid or payable by the taxpayer as consideration in respect of the first acquisition of the right by him.

“(17) A reference in this section to the amount paid or payable by a person as consideration for a share or for a right to acquire a share includes a reference to any expenditure incurred by the person in the year of income or in any preceding year of income in connexion with the acquisition of the share or right other than expenditure allowed or allowable as a deduction from the assessable income of the person of any of those years of income.”.

9. (1) After section 51AA of the Principal Act, the following section is inserted:—

“51AB. (1) In this section—

‘boat’ includes any vessel;

‘building’ includes a part of a building;

‘club’ means a company that was established, or is carried on, solely or principally for the purpose of providing facilities for the use or benefit of its members in relation to any one or more of the following, namely, drinking, dining, recreation, entertainment, amusement or sport;

‘excepted facility’, in relation to a year of income, means—

Club fees and expenditure relating to leisure facilities.



- (a) a boat that, at all times during the year of income, is held for sale by the taxpayer as trading stock in the ordinary course of a business carried on by the taxpayer;
- (b) a boat that, at all times during the year of income, is used, or held for use, by the taxpayer principally for any one or more of the following purposes:—
  - (i) for the purpose of being let on hire in the ordinary course of a business of letting boats on hire carried on by the taxpayer;
  - (ii) for the purpose of transporting for reward members of the public, goods (including live stock) or substances in the ordinary course of a business carried on by the taxpayer;
  - (iii) for any other purpose in the ordinary course of a business carried on by the taxpayer if the taxpayer satisfies the Commissioner that the use of such a boat for that purpose is essential to the efficient conduct of that business;
- (c) land that, at all times during the year of income, is held for sale by the taxpayer in the ordinary course of a business of selling land carried on by the taxpayer;
- (d) a building or other structure that, at all times during the year of income, is held for sale by the taxpayer in the ordinary course of a business of selling such buildings or other structures carried on by the taxpayer; or
- (e) land or a building or other structure that, at all times during the year of income, is used or held for use by the taxpayer principally for any one or more of the following purposes:—
  - (i) the derivation by the taxpayer of income in the nature of rents, lease premiums, licence fees or similar charges;
  - (ii) the provision for reward of facilities for holidays, or for sport, recreation or similar leisure-time pursuits, in the ordinary course of a business of providing such facilities;
  - (iii) the provision, for use principally by employees of the taxpayer or for the care of children of those employees or, where the taxpayer is a company, for use principally by employees of the company who are not members or directors of the company or for the care of children of those employees, of facilities for holidays or for sport, recreation or similar leisure-time pursuits;

‘land’ includes land to which improvements have been made or upon which improvements have been erected;

‘leisure facility’ means—

- (a) a boat, other than a boat that is an excepted facility in relation to the year of income;
- (b) land, other than land that is an excepted facility in relation to the year of income, used, or held for use, for or in connexion with holidays or sport, recreation or similar leisure-time pursuits; or
- (c) a building or other structure, other than a building or other structure that is an excepted facility in relation to the year of income, used, or held for use, for or in connexion with holidays or sport, recreation or similar leisure-time pursuits.

“(2) Where, but for this sub-section, a boat, land or a building or other structure would be an excepted facility in relation to the year of income as a result of any agreement, scheme, arrangement, understanding, transaction, course of conduct or course of business that, in the opinion of the Commissioner, would not have been entered into or carried out, or would not have been entered into in the same form or carried out in the same way, if this section had not been enacted, then that boat, land or building or other structure shall be deemed not to be an excepted facility in relation to the year of income.

“(3) This section applies to a loss or outgoing to the extent to which it is incurred by a taxpayer—

- (a) to secure or maintain, for the taxpayer or any other person, membership of a club or rights to enjoy, otherwise than as a member, facilities provided by a club for the use or benefit of its members; or
- (b) for or in connexion with—
  - (i) the acquisition of ownership of, or of rights to use, a leisure facility;
  - (ii) the retention of ownership of, or of rights to use, a leisure facility;
  - (iii) any obligation associated with ownership of, or with rights to use, a leisure facility; or
  - (iv) the use, operation, maintenance or repair of a leisure facility.

“(4) Subject to sub-section (5), notwithstanding anything in any other provision of this Act, a loss or outgoing to which this section applies is not an allowable deduction.

“(5) Where—

- (a) a boat, land or a building or other structure is held for sale, or used or held for use, as mentioned in the definition of ‘excepted facility’ in sub-section (1) at all times during part only of the year of income; and

- (b) this section would, but for this sub-section, prevent a loss or outgoing, or a part of a loss or outgoing, incurred by the taxpayer in relation to the boat, land or building or other structure from being an allowable deduction from the assessable income of the taxpayer of the year of income but would not prevent that loss or outgoing or that part of that loss or outgoing from so being an allowable deduction if the boat, land or building or other structure were held for sale, or used or held for use, as referred to in paragraph (a) at all times during the whole of the year of income,

the Commissioner may determine that this section shall not prevent so much of that loss or outgoing or of that part of that loss or outgoing, as the case may be, as he considers reasonable having regard to the circumstances of the case from so being an allowable deduction.

“(6) Where the taxpayer owned, or had rights to use, a boat, land or a building or other structure during part of the year of income and neither owned, nor had rights to use, the boat, land or building or other structure during the remainder of the year of income, this section applies in relation to the boat, land or building or other structure as if that part of the year of income were the whole of the year of income.”.

(2) Section 51AB of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Export  
market  
development  
allowance.

10. (1) Section 51AC of the Principal Act is amended by omitting paragraph (b) of the definition of “the tax saving” in sub-section (1) and substituting the following paragraph:—

“(b) in relation to a subsequent year of income—the amount, if any, by which the tax that would have been payable by the taxpayer for the year of tax but for any provision for the imposition of additional tax in respect of income from property that is contained in an Act imposing income tax for the year of tax is less than the tax that would have been payable but for—

- (i) the taking into account of the deductions referred to in paragraph (a) in ascertaining, for the purposes of section 80 or 80AA, the amount of a loss incurred in a previous year; and
- (ii) any provision for the imposition of additional tax in respect of income from property that is contained in an Act imposing income tax for the year of tax.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**11. (1) Section 54 of the Principal Act is amended—**

Depreciation.

- (a) by adding at the end of paragraph (c) of sub-section (2) the words “or for the care of children of those persons”; and
- (b) by adding at the end thereof the following sub-sections:—

“(3) Depreciation of any property that is a leisure facility for the purposes of section 51AB is not an allowable deduction.

“(4) Sub-section (3) does not prevent depreciation of any property from being an allowable deduction to the extent, if any, to which the depreciation took place during a part of the year of income referred to in paragraph (a) of sub-section (5) of section 51AB.”.

(2) The amendment made by paragraph (1) (b) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**12. Section 55 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—**

Basis of depreciation.

“(2) Notwithstanding anything contained in sub-section (1), the annual depreciation per centum of any unit of property used by a taxpayer principally for the purpose of providing clothing cupboards, first aid, rest-room or recreational facilities, or meals or facilities for meals—

- (a) for persons employed by him in a business carried on by him for the purpose of producing assessable income; or
- (b) for the care of children of those persons,

shall be thirty-three and one-third per centum.”.

**13. Section 77D of the Principal Act is amended—**

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

- (a) by inserting in paragraph (b) of the definition of “mining or prospecting outgoings” in sub-section (1), after the words “of section 124DD”, the words “of the *Income Tax Assessment Act* 1936-1973 as amended by the *Income Tax Assessment Act* 1974”; and
- (b) by omitting from sub-section (20) the words “section 122Q or section 124DF” and substituting the words “sections 122Q, 124AE and 124AR of this Act or section 124DF of the *Income Tax Assessment Act* 1936-1973 as amended by the *Income Tax Assessment Act* 1974”.

**14. (1) Section 82B of the Principal Act is amended—**

Deductions for dependants.

- (a) by omitting from sub-section (1) the words “and that person is a resident,”; and
- (b) by omitting paragraph (a) of sub-section (4).

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Education  
expenses.

15. (1) Section 82J of the Principal Act is amended by omitting from sub-sections (4) and (5) the words “Four hundred dollars” (wherever occurring) and substituting the figures “\$150”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Expenses of  
self-  
education.

16. (1) Section 82JAA of the Principal Act is amended by omitting from sub-section (3) the words “Four hundred dollars” and substituting the figures “\$150”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

17. (1) After section 82K of the Principal Act the following Sub-division is added at the end of Division 3 of Part III:—

*“Subdivision C—Interest in respect of Housing Loans*

Interpret-  
ation.

“82KA. (1) In this Subdivision, unless the contrary intention appears—

‘building society’ means any body that, irrespective of the name of the body, is of a kind commonly known as a building society;

‘dwelling’ means a unit of accommodation constituted by, or contained in, a building in Australia, being a unit that consists, in whole or in substantial part, of residential accommodation;

‘gross income’, in relation to a person, does not include moneys received by the person by way of—

(a) child endowment under the *Social Services Act* 1947-1974; or

(b) domiciliary nursing care benefit under Division 5B of Part V of the *National Health Act* 1953-1974;

‘net income’, in relation to a person in relation to a year of income, means the amount ascertained by deducting from the gross income derived by that person during that year of income all expenses (other than expenses of a capital, private or domestic nature) incurred in deriving that gross income and any deductions allowed or allowable in respect of that year of income under sections 51A, 52 and 54;

‘stratum unit’, in relation to a dwelling, means a unit on a unit plan registered under a law of a State or Territory that provides for the registration of titles of a kind known as unit titles or strata titles, being a unit that comprises—

(a) a part of a building containing the dwelling, being a part consisting of a flat or home unit; or

- (b) a part of a parcel of land, being a part on which the building containing the dwelling is constructed;

‘taxpayer’ means a taxpayer (other than a company) who is a resident of Australia.

“(2) For the purposes of this Subdivision—

(a) where—

- (i) a person acquires or holds an estate in fee simple in land or in a stratum unit or two or more persons acquire or hold such an estate in land or in a stratum unit as joint tenants or tenants in common;
- (ii) a person acquires or holds an interest in land or in a stratum unit as lessee or licensee, or two or more persons acquire or hold jointly an interest in land or in a stratum unit as lessees or licensees, under a lease or licence, and the Commissioner is satisfied that the lease or licence gives reasonable security of tenure to the lessee or licensee, or to the lessees or licensees, for a period of, or for periods aggregating, not less than 10 years;
- (iii) a person acquires or holds an interest in land or in a stratum unit as purchaser of an estate in fee simple in the land or in the stratum unit, or two or more persons acquire or hold an interest in land or in a stratum unit as purchasers of such an estate in the land or in the stratum unit as joint tenants or tenants in common, under an agreement that provides for payment of the purchase price, or a part of the purchase price, to be made at a future time or by instalments; or
- (iv) a person acquires or holds an interest in land or in a stratum unit as purchaser, or two or more persons acquire or hold jointly an interest in land or in a stratum unit as purchasers, of the right to be granted a lease of the land or of the stratum unit under an agreement that provides for payment of the purchase price, or a part of the purchase price, for the lease to be made at a future time or by instalments and the Commissioner is satisfied that the lease will give reasonable security of tenure to the lessee or lessees for a period of, or for periods aggregating, not less than 10 years,

that person or those persons shall be taken to acquire or hold a prescribed interest in that land or in that stratum unit, as the case requires; and

- (b) where a person acquires or holds, or two or more persons acquire or hold jointly, a right of occupancy of a dwelling, being a flat or home unit, arising by virtue of the acquiring or holding of shares, or by virtue of a contract to purchase shares, in a company that owns the building that contains the flat or home unit,

that person, or those persons, as the case requires, shall be taken to acquire or hold a proprietary right in respect of the dwelling.

Deductions  
in respect of  
interest paid  
on housing  
loans.

“82KB. (1) Where a taxpayer has, during a year of income, paid an amount or amounts by way of interest in respect of a loan connected with a dwelling that was used by the taxpayer for the whole or a part of that year of income as his sole or principal residence, the amount, or the sum of the amounts, is, except as provided in sub-section (2), an allowable deduction in respect of that year of income in accordance with this Sub-division.

“(2) Where a taxpayer has, during a year of income, paid an amount or amounts by way of interest in respect of a loan connected with a dwelling that was used by the taxpayer for the whole or a part of that year of income as his sole or principal residence but—

- (a) the loan was not applied by the taxpayer, or by the taxpayer and another person, wholly for purposes referred to in sub-section (1) of section 82KE in connexion with the dwelling;
- (b) the loan was applied by the taxpayer, or by the taxpayer and another person, for purposes referred to in sub-section (1) of section 82KE in connexion with the dwelling and another dwelling or other dwellings;
- (c) the taxpayer paid, during that year of income, an amount or amounts by way of interest in respect of another loan connected with another dwelling that was also used by the taxpayer for a part of that year of income as his sole or principal residence; or
- (d) the dwelling, a part of the dwelling, the building containing the dwelling, a part of that building, the parcel of land on which that building was constructed, or a part of that parcel, was, during the whole or a part of that year of income—
  - (i) used by the taxpayer for the purpose of gaining or producing income or for carrying on a business for the purpose of gaining or producing income; or
  - (ii) used by the taxpayer for any other purpose not being use of the dwelling as his sole or principal residence or a use related to his use of the dwelling as his sole or principal residence,

whether or not the dwelling was, at the same time, used by the taxpayer as his sole or principal residence,

so much only of the amount, or of the sum of the amounts, paid by the taxpayer by way of interest in respect of the first-mentioned loan as, in the opinion of the Commissioner, is reasonable in all the circumstances is an allowable deduction in respect of that year of income in accordance with this Subdivision.

“(3) For the purposes of sub-section (2), any garage or store-room used in association with a dwelling being a flat or home unit shall be deemed to be part of the dwelling.

“(4) Where—

- (a) moneys lent to a taxpayer or to a taxpayer and another person by a building society were applied by him or them for housing purposes connected with a dwelling;
- (b) having regard to the method in accordance with which payments to be made by borrowers from the building society in connexion with their loans have been determined, the building society has credited or allowed an amount or amounts to the taxpayer or to the taxpayer and the other person, or has, or is to be regarded as having, treated an amount or amounts as having been credited or allowed to the taxpayer or to the taxpayer and the other person, in a year of income as an amount or amounts of, or in the nature of, interest on his subscriptions connected with the loan; and
- (c) the assessable income of the taxpayer in respect of that year of income does not include the whole or a part of that amount or of those amounts,

the amount that, by reason of the taxpayer having paid an amount or amounts by way of interest in respect of the loan, would, but for this sub-section, be an allowable deduction under sub-section (1) or (2) from the assessable income of the taxpayer in respect of that year of income shall be reduced—

- (d) in a case to which paragraph (e) does not apply—by the amount, or the sum of the amounts, referred to in paragraph (b); or
- (e) if the loan was made to the taxpayer and another person—by an amount (not exceeding the amount, or the sum of the amounts, referred to in paragraph (b)) determined by the Commissioner.

“(5) Where a taxpayer has, during a year of income, paid an amount on account of interest that will fall due, in respect of a loan connected with a dwelling, during a subsequent year of income, then, for the purposes of this Subdivision, the amount shall be deemed not to have been paid by the taxpayer during the first-mentioned year of income but shall be deemed to have been paid by the taxpayer during the subsequent year of income.

“82KC. (1) Where the net income of a taxpayer in respect of a year of income exceeds \$4,000, the amount of the deduction otherwise allowable to the taxpayer under section 82KB in respect of that year of income shall be reduced by one per centum of that last-mentioned amount for each \$100 by which that net income of the taxpayer exceeds \$4,000.

Reduction of deduction for interest on housing loan.

“(2) Where interest is paid by a taxpayer during a year of income in respect of a loan connected with a dwelling used at some time during that year of income by the taxpayer and his spouse as their sole or principal residence, sub-section (1) applies to the taxpayer as if any reference in that sub-section to the net income of the taxpayer were a reference to



the sum of the net income of the taxpayer and the net income (if any) of his spouse.

“(3) Subject to sub-section (6), where—

- (a) a taxpayer and his spouse used a dwelling at some time during a year of income as their sole or principal residence;
- (b) the marriage of the taxpayer to his spouse took place during that year of income; and
- (c) interest was paid by the taxpayer during that year of income in respect of a loan connected with the dwelling,

sub-section (2) applies to the taxpayer as if the reference in that sub-section to the net income (if any) of the spouse were a reference to the net income (if any) of the spouse calculated without regard to any income derived by the spouse on or before the date of the marriage.

“(4) Where—

- (a) a taxpayer and his spouse have separated during a year of income and thereafter lived separately and apart;
- (b) the taxpayer and his spouse used a dwelling, at some time during that year of income before they separated, as their sole or principal residence; and
- (c) interest was paid by the taxpayer during that year of income in respect of a loan connected with the dwelling,

sub-section (2) applies to the taxpayer as if the reference in that sub-section to the net income (if any) of the spouse were a reference to the net income (if any) of the spouse calculated without regard to any income derived by the spouse on or after the date on which they so separated.

“(5) Where a man and a woman have been living together as husband and wife on a *bona fide* domestic basis although they were not legally married to each other, sub-sections (2), (3) and (4) apply to and in relation to them as if they were legally married to each other and their marriage had taken place on the date on which they commenced so to live together.

“(6) Where, immediately before the marriage of a taxpayer to a person took place, the taxpayer and the person were living together as husband and wife on a *bona fide* domestic basis, sub-section (3) does not apply to the taxpayer otherwise than in accordance with sub-section (5).

“82KD. (1) In this section, ‘taxpayer’, except in reference to an amount paid by a taxpayer, includes a taxpayer and another person.

“(2) For the purposes of this Subdivision, an amount shall be taken to have been paid by way of interest in respect of a loan connected with a dwelling only as provided in this section.

When  
interest  
deemed to  
be paid in  
respect of  
housing  
loan.

“(3) Where an amount is paid by a taxpayer by way of interest on moneys lent to the taxpayer and applied by him for housing purposes connected with a dwelling and—

- (a) the terms on which the moneys were lent provided for the whole, or substantially the whole, of the moneys to be repaid over a specified period by payments payable at regular intervals of 3 months or less; or
- (b) in a case to which paragraph (a) does not apply, the amount was paid by way of interest that accrued in respect of a period that ended not later than 3 years after whichever is the later of the following dates, that is to say, 1 January 1975 and—
  - (i) if the moneys were applied by the taxpayer wholly or principally for a purpose specified in paragraph (a), (b), (c), (d), (e), (f) or (g) of sub-section (1) of section 82KE in connexion with the dwelling—the date on which the moneys were lent to the taxpayer; or
  - (ii) if the moneys were applied by the taxpayer wholly or principally to enable the taxpayer to repay moneys applied by the taxpayer for housing purposes connected with the dwelling—the date on which the last-mentioned moneys were lent to the taxpayer,

the amount is, for the purposes of this Subdivision, except as provided in sub-sections (5), (6) and (7), an amount paid by the taxpayer by way of interest in respect of a loan connected with that dwelling.

“(4) If the loan to the taxpayer in repayment of which moneys were applied by him as mentioned in sub-paragraph (ii) of paragraph (b) of sub-section (3) was preceded by a loan (in this sub-section referred to as the ‘preceding loan’) or by a series of loans (in this sub-section referred to as the ‘preceding loans’) to the taxpayer of moneys that were applied by him wholly or principally to enable him to repay moneys applied by him for housing purposes connected with the dwelling referred to in that sub-paragraph, the reference in that sub-paragraph to the date on which the moneys last mentioned in that sub-paragraph were lent to the taxpayer shall be read as a reference to the date of the loan to the taxpayer in repayment of which the taxpayer applied the moneys lent to him by the preceding loan or by the earlier or earliest of the preceding loans, as the case may be.

“(5) Sub-section (3) does not apply in relation to an amount paid by a taxpayer by way of interest on moneys lent to the taxpayer by a bank by way of overdraft unless the bank maintains an account in relation to the loan that is separate and apart—

- (a) from any account kept by it in relation to any moneys deposited with it or applied by it on behalf of the taxpayer otherwise than for the purpose of repaying the loan, in whole or in part, or of paying, in whole or in part, interest that has accrued or will accrue in respect of the loan; and

- (b) from any account kept by it in relation to any other loan made by it to the taxpayer.

“(6) Sub-section (3) does not apply in relation to an amount paid by a taxpayer by way of interest on moneys lent to the taxpayer where—

- (a) the taxpayer and the lender were not dealing with each other at arm’s length in relation to the making of the loan; and
- (b) the rate at which interest is payable in respect of the loan is greater than the rate at which interest might reasonably be expected to have been payable in respect of the loan if they had been dealing with each other at arm’s length in relation to the making of the loan.

“(7) Sub-section (3) does not apply in relation to an amount paid by a taxpayer in a year of income by way of interest on moneys lent to the taxpayer and applied by him for housing purposes in connexion with a dwelling unless the taxpayer held, at some time during that year of income—

- (a) a prescribed interest in the land on which the building constituting or containing the dwelling is constructed;
- (b) a prescribed interest in a stratum unit in relation to the dwelling; or
- (c) a proprietary right in respect of the dwelling where the dwelling is a flat or home unit.

When moneys deemed to be applied for housing purposes.

“82KE. (1) For the purposes of this Subdivision, where moneys lent to a taxpayer were applied by the taxpayer wholly or principally—

- (a) to enable the taxpayer to acquire a prescribed interest in land on which a building constituting or containing a dwelling has subsequently been constructed or to acquire a prescribed interest in land and construct, or complete the construction of, such a building on the land;
- (b) to enable the taxpayer to construct, or complete the construction of, a building constituting or containing a dwelling on land in which the taxpayer held a prescribed interest;
- (c) to enable the taxpayer to acquire a prescribed interest in land on which there was a building constituting or containing a dwelling;
- (d) to enable the taxpayer to acquire a prescribed interest in a stratum unit in relation to a dwelling;
- (e) to enable the taxpayer to alter a building constituting or containing a dwelling, being a building constructed on land in which the taxpayer held a prescribed interest, by adding an additional room to the building or the part of the building containing the dwelling, as the case may be;

- (f) in a case where the taxpayer held a prescribed interest in a stratum unit in relation to a dwelling—to enable the taxpayer to alter the dwelling by adding an additional room to the dwelling;
- (g) to enable the taxpayer to acquire a proprietary right in respect of a dwelling, being a flat or a home unit; or
- (h) to enable the taxpayer to repay moneys that are to be taken, for the purposes of this Subdivision, to have been applied by the taxpayer for housing purposes connected with a dwelling,

the moneys shall be taken to have been applied by the taxpayer for housing purposes connected with that dwelling.

“(2) Moneys shall not be taken for the purposes of this Subdivision to have been applied for housing purposes connected with a dwelling except as provided by sub-section (1).

“(3) In this section, ‘taxpayer’ includes a taxpayer and another person.

“82KF. (1) Where—

- (a) a person uses a dwelling as his sole or principal residence at any time during a year of income;
- (b) the person holds, or persons who include that person hold, a prescribed interest in the land on which the building constituting or containing the dwelling is constructed or in a stratum unit in relation to the dwelling or a proprietary right in respect of the dwelling where the dwelling is a flat or home unit; and
- (c) that person or those persons acquired that interest or right under an agreement that provides for payment of the purchase price, or a part of the purchase price, to be made at a future time or by instalments,

Moneys deemed to be lent to a person in certain circumstances.

an amount equal to the purchase price, or the part of the purchase price, shall be deemed, for the purposes of this Subdivision, to have been lent to that person, or to those persons, at the date of the agreement and applied by that person, or by those persons, for housing purposes connected with that dwelling and to be repayable on the terms subject to which the purchase price, or the part of the purchase price, is payable.

“(2) Where a person becomes liable, or persons become liable jointly—

- (a) upon acquiring a prescribed interest in land or in a stratum unit in relation to a dwelling, to repay the principal sum, or a part of the principal sum, secured by a mortgage over the land or over the stratum unit; or
- (b) upon acquiring a proprietary right in a dwelling, being a flat or home unit, to repay the principal sum, or a part of the principal sum, secured by a mortgage over the shares by virtue of the holding of which he holds, or they hold, the right of occupancy of that flat or home unit,

the principal sum, or the part of the principal sum, shall be deemed, for the purposes of this Subdivision, to have been lent to that person, or to those persons, and to have been applied by that person, or by those persons, for housing purposes connected with any dwelling constituted by, or contained in, a building constructed on the land, for housing purposes connected with the dwelling to which the stratum unit relates or for housing purposes connected with the dwelling comprising the flat or home unit, as the case requires.

Reimbursement of interest paid on a housing loan.

“82KG. Where a taxpayer receives, or a taxpayer and another person receive, in a year of income an amount by way of reimbursement of the whole or part of an amount that was paid by the taxpayer by way of interest in respect of a loan and a deduction has been allowed or is allowable under this Subdivision in an assessment of the taxpayer by reason of the payment by the taxpayer of the last-mentioned amount, the assessable income of the taxpayer of the year of income in which the reimbursement is received shall include an amount equal to so much of the amount reimbursed as the Commissioner considers to be reasonable in the circumstances, being an amount not exceeding the amount of the deduction.”.

(2) The amendment made by sub-section (1) applies in relation to amounts paid, on or after 1 July 1974, by way of interest in respect of a loan connected with a dwelling, being interest that became or becomes payable on or after that date.

18. (1) After section 95 of the Principal Act the following section is inserted:—

Certain income to be treated as income from personal exertion.

“95A. Where a share of, or an individual interest in, the net income of a trust estate is included in the assessable income of a person, that share or interest shall be deemed to be income from personal exertion to the extent, if any, to which it consists of a share of, or an individual interest in, a part of the net income of the trust estate that is derived from income from personal exertion.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Deductions in relation to calculated liabilities.

19. (1) Section 115 of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1) the

formula  $\frac{2ab(1 + d + e - f)}{100c}$  and substituting the formula

$\frac{ab(1 + d + e - f)}{100c}$  ;

(b) by omitting from paragraph (a) of sub-section (1) the formula  $\frac{2ab}{100c}$  and substituting the formula  $\frac{ab}{100c}$  ;

(c) by omitting from paragraph (b) of sub-section (1) the formula  $\frac{2ab(1+d)}{100c}$  and substituting the formula  $\frac{ab(1+d)}{100c}$  ;

(d) by omitting from paragraph (c) of sub-section (1) the formula  $\frac{2ab(1-g-h)}{100c}$  and substituting the formula  $\frac{ab(1-g-h)}{100c}$  ;

(e) by omitting from paragraph (c) of sub-section (1) the formula  $\frac{3ab}{200c}$  and substituting the formula  $\frac{3ab}{400c}$  .

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**20.** (1) Section 117 of the Principal Act is amended by adding at the end thereof the following sub-section:— Co-operative companies.

“(2) A company is not a co-operative company within the meaning of this Division in relation to a year of income if the company is, for the purposes of section 23G, an approved credit union in relation to that year of income.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

**21.** Section 122 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-sections:— Interpretation

“(3) Where a taxpayer carries on prescribed mining operations on two or more mining properties, this Division (other than section 122J) shall, except to the extent to which a contrary intention appears, be construed as applying in relation to the operations of that taxpayer on and in connexion with each of those mining properties as if it were the only mining property on which the taxpayer carried on prescribed mining operations, and, for the purposes of the application of this Division (other than section 122J) in relation to a taxpayer in relation to a mining property—

(a) any matters or things relating exclusively to any other mining property on which the taxpayer carried on prescribed mining operations shall be disregarded; and

- (b) amounts of expenditure (including expenditure on treatment plant or other plant for use in connexion with operations on two or more of the properties on which the taxpayer carried on prescribed mining operations), or other amounts, to which paragraph (a) does not apply shall be apportioned in such manner as the Commissioner considers reasonable.

“(4) A reference in a provision of this Division to an amount specified in a notice shall, if another amount is deemed to be specified in that notice in lieu of the amount in fact so specified by virtue of another provision of this Division, be read as a reference to that other amount.

“(5) For the purposes of this Division, any amount specified in a notice given to the Commissioner under section 122B in relation to the acquisition from a taxpayer of a mining or prospecting right or mining or prospecting information shall be deemed to be wholly attributable to expenditure incurred by the taxpayer, and the extent to which such an amount is attributable to particular expenditure, to expenditure of a particular class or to expenditure incurred at a particular time or during a particular period shall be as determined by the Commissioner.”.

Allowable  
capital  
expenditure.

**22. Section 122A of the Principal Act is amended—**

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

“(1A) Paragraph (e) of sub-section (1)—

- (a) does not apply in relation to expenditure incurred after 17 September 1974 unless the expenditure was incurred in pursuance of a contract made on or before 17 September 1974; and
- (b) does not apply in relation to expenditure incurred after 30 June 1976.”; and

- (b) by omitting from sub-section (2) the words “the last preceding sub-section” and substituting the words “sub-section (1)”.

Residual  
capital  
expenditure.

**23. Section 122C of the Principal Act is amended—**

- (a) by omitting from sub-section (1) all the words and paragraphs after paragraph (b) and substituting the following words and paragraphs:—

“the following amounts:—

- (c) any part of the expenditure included in that sum that—

- (i) has been allowed or is allowable as a deduction under section 122D from the assessable income of a year of income preceding the year of income;
- (ii) has been allowed or is allowable as a deduction under section 122E;

- (iii) is expenditure in respect of which an election has been made by the taxpayer under section 122F; or
- (iv) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 122B by the taxpayer and a person who acquired the property from the taxpayer)—
  - (A) that has, after the year of income that ended on 30 June 1967, been disposed of, lost or destroyed; or
  - (B) the use of which by the taxpayer for prescribed purposes has, after that last-mentioned year of income, been otherwise terminated,and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place; and
- (d) the sum of any amounts specified in notices duly given to the Commissioner under section 122B in relation to the acquisition from the taxpayer, during the year of income or a preceding year of income, of a mining or prospecting right or mining or prospecting information.”; and
- (b) by omitting paragraph (a) of sub-section (2) and substituting the following paragraph:—
  - “(a) property referred to in clause (B) of sub-paragraph (iv) of paragraph (c) of sub-section (1);”.

**24. Section 122D of the Principal Act is amended by adding at the end thereof the following sub-section:—**

**Deduction of expenditure.**

“(5) Where, having regard to the information in his possession, the Commissioner is not satisfied that the estimated life of a mine or proposed mine as made by the taxpayer is a reasonable estimate, the estimated life shall, for the purposes of sub-section (2), be taken to be such period as the Commissioner considers reasonable.”.



Election to deduct expenditure in year in which incurred.

**25.** Section 122E of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(3) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 17 September 1974 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer.

“(4) A deduction is not allowable under this section in respect of any expenditure incurred by a taxpayer after 30 June 1976.”.

Election to deduct expenditure on housing and welfare over 5 years.

**26.** Section 122F of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(4) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 17 September 1974 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer.

“(5) A deduction is not allowable under this section in respect of any expenditure incurred by a taxpayer after 30 June 1976.”.

Deductions of appropriations.

**27.** Section 122G of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:—

“(5) A deduction is not allowable under this section in respect of—

- (a) an appropriation of income derived after the end of the year of income that commenced on 1 July 1974; or
- (b) an appropriation made by a taxpayer after 17 September 1974 of income derived in the year of income that commenced on 1 July 1974 or in a preceding year of income unless—
  - (i) the appropriation is for the purposes of expenditure that has been incurred by the taxpayer, or that the Commissioner is satisfied will be incurred by the taxpayer before 1 July 1976; and
  - (ii) the expenditure has been or will be incurred in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer.”.

Exploration and prospecting expenditure.

**28.** Section 122J of the Principal Act is amended—

- (a) by inserting in sub-section (3), after the word “Where”, the words “, in the case of expenditure incurred during the year of income that ended on 30 June 1974 or a preceding year of income,”; and
- (b) by omitting sub-section (4) and substituting the following sub-sections:—

“(4) Where the amount of the expenditure incurred during a year of income after the year of income that ended on 30 June 1974 (including any expenditure that is deemed to have been incurred during that first-mentioned year of income by any previous application or applications of this sub-section) exceeds the amount of the deduction allowable under this section in respect of that first-mentioned year of income, the excess amount of expenditure shall, for the purposes of sub-section (1), be deemed to have been incurred by the taxpayer during the first subsequent year of income in which the taxpayer carries on prescribed mining operations.

“(5) Where an amount specified in a notice duly given to the Commissioner under section 122B in relation to the acquisition from the taxpayer of a mining or prospecting right or mining or prospecting information is attributable to the whole or a part of an excess amount of expenditure referred to in sub-section (3) or (4), the excess amount or the part of the excess amount, as the case may be—

- (a) shall not, under sub-section (3) or (4), be deemed to have been incurred by the vendor in the year of income in which the transaction to which the notice relates occurred or any subsequent year of income; and
- (b) shall not be taken into account in calculating the amount to be included in the allowable capital expenditure of a purchaser by virtue of a notice given to the Commissioner under section 122B in respect of a transaction entered into after the first-mentioned transaction.”.

**29.** After section 122S of the Principal Act the following section is inserted in Division 10 of Part III:—

“122T. (1) This Division does not apply, and shall be deemed never to have applied, in relation to a taxpayer, to expenditure of a capital nature in respect of which the taxpayer is recouped, or becomes entitled to be recouped, by Australia, by a State, by the Administration of a Territory, by an authority constituted by or under a law of Australia, of a State or of a Territory or by any other person where the amount of the recoupment is not, and will not be, included in the assessable income of the taxpayer of any year of income.

Recoupment  
of  
expenditure.

“(2) Where a taxpayer receives, or becomes entitled to receive, an amount that constitutes to an unspecified extent a recoupment of expenditure of a capital nature, the Commissioner may, for the purposes of sub-section (1), determine the extent to which that amount constitutes a recoupment of that expenditure.”.

**30.** Section 123A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:—

Application  
of Division.

“(2) This Division does not apply, and shall be deemed never to have applied, in relation to a taxpayer, to capital expenditure in respect of which the taxpayer is recouped, or becomes entitled to be recouped, by Australia, by a State, by the Administration of a Territory, by an authority constituted by or under a law of Australia, of a State or of a Territory or by any other person where the amount of the recoupment is not, and will not be, included in the assessable income of the taxpayer of any year of income.

“(3) Where a taxpayer receives, or becomes entitled to receive, an amount that constitutes to an unspecified extent a recoupment of capital expenditure, the Commissioner may, for the purposes of sub-section (2), determine the extent to which that amount constitutes a recoupment of that expenditure.”.

Deduction of  
expenditure.

**31.** Section 123B of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

“(1) Where a taxpayer has incurred or incurs capital expenditure to which this Division applies, then—

(a) in relation to so much of the expenditure as—

(i) was incurred on or before 17 September 1974; or

(ii) was or is incurred after that date and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer,

one-tenth of that expenditure is an allowable deduction from the assessable income of the first year of income after the year of income that ended on 30 June 1967 in which the facility in respect of which the expenditure was incurred was, after the incurring of the expenditure, used primarily and principally for a purpose referred to in section 123A, and from the assessable income of each of the next 9 succeeding years of income; and

(b) in relation to so much of the expenditure as was or is incurred after 17 September 1974 (not being expenditure to which subparagraph (ii) of paragraph (a) applies)—one-twentieth of that expenditure is an allowable deduction from the assessable income of the first year of income in which the facility in respect of which the expenditure was or is incurred was, after the incurring of the expenditure, used primarily and principally for a purpose referred to in section 123A, and from the assessable income of each of the next 19 succeeding years of income.”.

**32.** After section 123B of the Principal Act the following section is inserted:—

“123BA. (1) Where a taxpayer has incurred or incurs capital expenditure referred to in paragraph (a) of sub-section (1) of section 123B, the taxpayer may, subject to this section, elect that this section shall apply in respect of that expenditure. Election in relation to certain expenditure.

“(2) An election under this section shall be made in writing signed by or on behalf of the taxpayer and shall be delivered to the Commissioner—

- (a) where the election relates to expenditure that has been or is incurred before the end of the year of income of the taxpayer in which 17 September 1974 occurred—on or before the last day for the furnishing of the taxpayer’s return of income of that year of income; or
- (b) in any other case—on or before the last day for the furnishing of the taxpayer’s return of income of the year of income in which the expenditure is incurred,

or within such further time as the Commissioner allows.

“(3) Where an election is made under this section in relation to any expenditure—

- (a) if any of that expenditure has been allowed or is allowable as a deduction or deductions from the assessable income of the taxpayer of a year or years of income preceding the year of income of the taxpayer in which 17 September 1974 occurred—paragraph (a) of sub-section (1) of section 123B does not apply in relation to the remainder of that expenditure but the prescribed fraction of the remainder of that expenditure is an allowable deduction from the assessable income of the taxpayer of the year of income of the taxpayer in which 17 September 1974 occurred and from the assessable income of each of the prescribed number of years of income immediately succeeding that year of income; and
- (b) in any other case—paragraph (a) of sub-section (1) of section 123B does not apply in relation to that expenditure but paragraph (b) of that sub-section applies in relation to that expenditure.

“(4) For the purposes of paragraph (a) of sub-section (3)—

- (a) the prescribed fraction is  $\frac{1}{a + 1}$  where  $a$  is the prescribed number; and
- (b) the prescribed number is the number by which 19 exceeds the number of years of income before the year of income of the taxpayer in which 17 September 1974 occurred in each of which a deduction has been allowed or is allowable in respect of the expenditure concerned.

“(5) Sub-section (2) of section 123B applies in relation to deductions under this section in like manner as it applies in relation to deductions under section 123B.”.

33. Division 10AA of Part III of the Principal Act is repealed and the following Division substituted:—

“Division 10AA—Prospecting and Mining for Petroleum

Interpretation.

“124. (1) In this Division—

‘Australia’ includes Papua New Guinea;

‘net exempt income from petroleum’, in relation to a taxpayer in relation to a year of income, means the amount remaining after deducting from the exempt income from petroleum derived by the taxpayer during that year of income all expenses (other than expenses of a capital nature) incurred in gaining or producing that exempt income and any taxes paid during that year of income in respect of exempt income from petroleum derived by the taxpayer during that year of income or a preceding year of income.

‘prescribed petroleum operations’ means mining operations in Australia for the purpose of obtaining petroleum;

‘property’ includes a mining or prospecting right.

“(2) A reference in this Division to a deduction or deductions allowed or allowable under this Division (not including a reference to a deduction or deductions allowed or allowable under a specified provision of this Division) shall, unless the contrary intention appears, be read as including a reference to a deduction or deductions allowed or allowable under the Division for which this Division was substituted.

“(3) Where a taxpayer carries on prescribed petroleum operations on two or more petroleum fields, this Division (other than sections 124AE, 124AF and 124AH) shall, except to the extent to which a contrary intention appears, be construed as applying in relation to the operations of that taxpayer on and in connexion with each of those petroleum fields as if it were the only petroleum field on which the taxpayer carried on prescribed petroleum operations, and, for the purposes of the application of this Division (other than sections 124AE, 124AF and 124AH) in relation to a taxpayer in relation to a petroleum field—

- (a) any matters or things relating exclusively to any other petroleum field on which the taxpayer carried on prescribed petroleum operations shall be disregarded; and
- (b) amounts of expenditure (including expenditure on plant for use in operations on two or more of the petroleum fields on which the taxpayer carried on prescribed petroleum operations), or other amounts, to which paragraph (a) does not apply shall be apportioned in such manner as the Commissioner considers reasonable.

“(4) For the purposes of this Division, any amount specified in a notice given to the Commissioner under section 124AB in relation to the acquisition from a taxpayer of a petroleum prospecting or mining right or petroleum prospecting or mining information shall be deemed to be wholly attributable to expenditure incurred by the taxpayer, and the extent to which such an amount is attributable to particular expenditure, to expenditure of a particular class or to expenditure incurred at a particular time or during a particular period shall be as determined by the Commissioner.

“(5) A reference in a provision of this Division to an amount specified in a notice shall, if another amount is deemed to be specified in that notice in lieu of the amount in fact so specified by virtue of another provision of this Division or by virtue of a provision of the Division for which this Division was substituted, be read as a reference to that other amount.

“124AA. (1) This section applies to expenditure that—

- (a) was or is incurred after 17 September 1974 and before 1 July 1976 otherwise than in pursuance of a contract made on or before 17 September 1974; or
- (b) is incurred on or after 1 July 1976.

Allowable  
capital  
expenditure.

“(2) For the purposes of this Division, allowable capital expenditure of a taxpayer is expenditure of a capital nature to which this section applies incurred by the taxpayer in carrying on prescribed petroleum operations and on buildings, other improvements or plant necessary for carrying on such operations, and includes—

- (a) expenditure of a capital nature to which this section applies incurred by the taxpayer in providing, or by way of contribution to the cost of providing, water, light or power for use on, or access to or communications with, the site of prescribed petroleum operations carried on by the taxpayer;
- (b) so much of any expenditure to which this section applies that the taxpayer has incurred in acquiring from another person a petroleum prospecting or mining right or petroleum prospecting or mining information as is specified in a notice under subsection (1) of section 124AB duly given to the Commissioner by the taxpayer and that other person;
- (c) expenditure of a capital nature to which this section applies incurred by the taxpayer in providing residential accommodation for the use of employees of the taxpayer engaged in, or in connexion with, prescribed petroleum operations, or for the use of dependants of those employees, being accommodation situated on or adjacent to the site of the operations;
- (d) expenditure of a capital nature to which this section applies incurred by the taxpayer in providing health, educational, recreational or other similar facilities, or facilities for the supply

of meals, on or adjacent to the site of prescribed petroleum operations, being facilities that—

- (i) are provided principally for the welfare of employees referred to in paragraph (c) or of dependants of those employees; and
- (ii) are not conducted for the purpose of profit-making by the taxpayer or any other person; and
- (e) expenditure of a capital nature to which this section applies incurred by the taxpayer in relation to works carried out directly in connexion with accommodation and facilities referred to in paragraphs (c) and (d), including works for the provision of water, light, power, access or communications,

but does not include expenditure incurred in relation to—

- (f) pipe-lines constructed for the transport of petroleum obtained from prescribed petroleum operations (other than transport forming part of those operations), or plant (including pumping apparatus, storage tanks, port facilities and other terminal facilities) for use primarily and principally, and directly, in connexion with the operation of such a pipe-line;
- (g) ships, railway rolling-stock and road vehicles for use for the transport of petroleum obtained from prescribed petroleum operations other than road vehicles for use in those operations; and
- (h) plant for use in the refining of petroleum or of the products of petroleum.

Purchase of  
prospecting  
or mining  
rights or  
information.

“124AB. (1) Where a person (in this section referred to as the ‘purchaser’)—

- (a) has incurred or incurs expenditure after 17 September 1974 and before 1 July 1976 otherwise than in pursuance of a contract made on or before 17 September 1974; or
- (b) incurs expenditure on or after 1 July 1976,

in acquiring from another person (in this section referred to as the ‘vendor’) a petroleum prospecting or mining right or petroleum prospecting or mining information, the purchaser and the vendor may give notice to the Commissioner that they have agreed to the inclusion in the allowable capital expenditure of the purchaser of an amount specified in the notice, being the whole or a part of the expenditure so incurred.

“(2) Where a person (in this section also referred to as the ‘purchaser’)—

- (a) has incurred expenditure on or before 17 September 1974; or
- (b) has incurred or incurs expenditure after 17 September 1974 and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974,

in acquiring from another person (in this section also referred to as the ‘vendor’) a petroleum prospecting or mining right or petroleum

prospecting or mining information, the purchaser and the vendor may give notice to the Commissioner that they have agreed to the inclusion in the unrecouped previous capital expenditure of the purchaser of an amount specified in the notice, being the whole or a part of the expenditure so incurred.

“(3) If the amount specified in a notice given under this section in respect of a transaction exceeds the sum of—

- (a) so much of the expenditure of a capital nature (other than expenditure on plant) incurred by the vendor before the date of the transaction in relation to the area that is the subject of the right or to which the information relates as would have been included in the residual capital expenditure of the vendor as at the end of the year of income of the vendor during which the transaction occurred but for the transaction and any later transaction in relation to that area;
- (b) so much of the expenditure of a capital nature incurred by the vendor before the date of the transaction in relation to the area that is the subject of the right or to which the information relates as would have been included in the unrecouped previous capital expenditure of the vendor as at the end of the year of income of the vendor during which the transaction occurred but for the transaction and any later transaction in relation to that area;
- (c) any expenditure of the vendor (other than expenditure on plant in use by the vendor at the date of the transaction) to which section 124AH applies incurred by the vendor before the date of the transaction that has not been allowed and is not allowable as a deduction to the vendor in the year of income in which the transaction takes place or in any preceding year of income; and
- (d) the amount included in the vendor's assessable income under section 124AM in relation to property acquired by the purchaser from the vendor in connexion with the transaction,

the amount specified in the notice shall, for all purposes of this Division, be deemed to be the amount in fact so specified less the amount of the excess.

“(4) For the purposes of paragraphs (a) and (b) of sub-section (3), the expenditure of a capital nature incurred by the vendor in relation to an area the subject of a petroleum prospecting or mining right shall be deemed not to include expenditure of a capital nature on buildings or other improvements unless rights in respect of them are acquired by the purchaser with the petroleum prospecting or mining right.

“(5) A notice under this section shall be in writing signed by or on behalf of the persons giving the notice and shall be lodged with the Commissioner not later than 2 months after the end of the year of income of the purchaser in which the transaction occurred, or within such further time as the Commissioner allows.



“(6) For the purposes of this section, where—

- (a) deductions have been allowed or are allowable under section 77D in respect of moneys paid on shares specified in a declaration made by the vendor of a mining or prospecting right or mining or prospecting information; and
- (b) as at the end of the year of income in which the right or information is disposed of there is an amount of net declared capital of the vendor for the purposes of section 124AR that is not required to be applied by the Commissioner in accordance with subsection (2) of that section in the assessment of the vendor in respect of his income of that year of income,

the sum of the amounts referred to in paragraphs (a) and (c) of subsection (3) shall be deemed to be reduced by so much of that amount of net declared capital as the Commissioner considers to be reasonably attributable to the right or information.

Residual  
capital  
expenditure.

“124AC. (1) For the purposes of this Division, but subject to the succeeding provisions of this section, the residual capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) shall be ascertained by deducting from the amount of allowable capital expenditure incurred by the taxpayer before the end of the relevant year of income the sum of—

- (a) any part of that expenditure that—
  - (i) has been allowed or is allowable as a deduction under section 124AD from the assessable income of a year of income preceding the relevant year of income; or
  - (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 124AB by the taxpayer and a person who acquired the last-mentioned property from the taxpayer) that has been disposed of, lost or destroyed or the use of which by the taxpayer for purposes of carrying on prescribed petroleum operations has been otherwise terminated, and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place;
- (b) so much of any amounts specified in notices duly given to the Commissioner under section 124AB in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a petroleum prospecting or mining right or petroleum prospecting or mining information as are attributable to expenditure that would, but for this paragraph, be included in the residual capital expenditure of the taxpayer as at the end of the relevant year of income; and

- (c) the amounts of subsidy received by the taxpayer in respect of expenditure incurred after 17 September 1974 (other than expenditure incurred before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer) being amounts received before or during the relevant year of income under agreements entered into under an Act relating to the search for petroleum, reduced by any amounts of such subsidy repaid by the taxpayer before or during the relevant year of income.

“(2) Where—

- (a) property the use of which by the taxpayer for purposes of carrying on prescribed petroleum operations has, before the relevant year of income, been terminated; or
- (b) property in respect of which the taxpayer has, otherwise than in carrying on prescribed petroleum operations, incurred expenditure of a capital nature that would have been allowable capital expenditure if it had been incurred in carrying on such operations,

has, after 17 September 1974, come into use by the taxpayer for purposes for which allowable capital expenditure may be incurred, the taxpayer shall be deemed to have incurred, in respect of that property, during the year of income in which it so came into use by the taxpayer, allowable capital expenditure of such amount as the Commissioner considers reasonable in the circumstances.

“(3) Nothing contained in section 122N prejudices the operation of sub-section (2).

“124AD. (1) Where, as at the end of the year of income, there is, in relation to a taxpayer, an amount of residual capital expenditure, an amount ascertained in accordance with this section is an allowable deduction. Deduction of expenditure.

“(2) Subject to sub-section (3), the deduction allowable is the amount ascertained by dividing the amount of residual capital expenditure referred to in sub-section (1) by a number equal to the number of whole years in the estimated life of the petroleum field as at the end of the year of income or by 25, whichever number is the less.

“(3) The amount, or the total of the amounts, of the deduction or deductions allowable under this section shall not exceed an amount equal to so much of the assessable income from petroleum derived by the taxpayer in the year of income as remains after deducting from that assessable income from petroleum all deductions allowable otherwise than under this section and section 124AH in respect of that assessable income from petroleum, and, where the total of the amounts of two or more deductions that would be allowable under this section but for this sub-section exceeds the maximum amount determined in accordance

with this sub-section, those deductions shall be reduced respectively by amounts proportionate to those deductions and equal in total to the excess.

“(4) The reference in sub-section (3) to all deductions allowable otherwise than under this section and section 124AH in respect of the assessable income from petroleum derived by a taxpayer in a year of income is a reference to—

- (a) any deductions allowable otherwise than under this section and section 124AH from the assessable income of the taxpayer of that year of income that relate exclusively to that assessable income from petroleum; and
- (b) so much of any other deduction allowable otherwise than under this section and section 124AH from the assessable income of the taxpayer of that year of income as, in the opinion of the Commissioner, may appropriately be related to that assessable income from petroleum,

and includes a reference to any deductions allowable under sections 124AF and 124AM.

“(5) Where, having regard to the information in his possession, the Commissioner is not satisfied that the estimated life of a petroleum field as made by the taxpayer is a reasonable estimate, the estimated life shall, for the purposes of sub-section (2), be taken to be such period as the Commissioner considers reasonable.

Unrecouped  
previous  
capital  
expenditure.

“124AE. For the purposes of this Division, the unrecouped previous capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) is the amount, if any, remaining after deducting from the sum of—

- (a) so much of the amount that, for the purposes of section 124DF of the *Income Tax Assessment Act* 1936-1973 as amended by the *Income Tax Assessment Act* 1974, was the unrecouped capital expenditure of the taxpayer as at the end of the year of income of the taxpayer next preceding the year of income of the taxpayer in which 17 September 1974 occurred as remains after deducting from that amount any part of that amount that has been allowed or is allowable as a deduction under section 124DG of that Act as so amended from the assessable income of that next preceding year of income; and
- (b) so much of any expenditure of a capital nature that would be allowable capital expenditure of the taxpayer for the purposes of section 124DD of the *Income Tax Assessment Act* 1936-1973 as amended by the *Income Tax Assessment Act* 1974 if that section were still in force as was incurred by the taxpayer after the year of income first referred to in paragraph (a) and before the end of the relevant year of income, being expenditure incurred on or before 17 September 1974, or incurred after 17 September 1974

and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property or petroleum prospecting or mining information was to be acquired by, or work was to be performed for, the taxpayer,

the aggregate of the following amounts:—

- (c) any part of the expenditure included in the sum of the amounts referred to in paragraphs (a) and (b) that—
  - (i) has been allowed or is allowable as a deduction under section 124AF from the assessable income of a year of income preceding the relevant year of income; or
  - (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 124AB by the taxpayer and a person who acquired the last-mentioned property from the taxpayer) that has been disposed of, lost or destroyed or the use of which by the taxpayer for purposes of carrying on prescribed petroleum operations has been otherwise terminated, and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place;
- (d) so much of any amounts specified in notices duly given to the Commissioner under section 124AB in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a petroleum prospecting or mining right or petroleum prospecting or mining information, as are attributable to expenditure that would, but for this paragraph, be included in the unrecovered previous capital expenditure of the taxpayer as at the end of the relevant year of income;
- (e) the total net exempt income from petroleum derived by the taxpayer in the relevant year of income or in an earlier year of income subsequent to the year of income next preceding the year of income of the taxpayer in which 17 September 1974 occurred, reduced by the sum of—
  - (i) where, but for the net exempt income from petroleum derived by the taxpayer in any of those preceding years of income, a loss would have been incurred by the taxpayer for the purposes of section 80 or 80AA in any of those preceding years of income or the amount of a loss incurred by the taxpayer for the purposes of either of those sections in any of those preceding years of income would have been greater—the amount that would have been the amount of that loss or the amount by which that loss would have been greater, as the case may be;

- (ii) where, but for the net exempt income from petroleum derived by the taxpayer in any of those preceding years of income, a deduction would have been allowable under section 80 or 80AA from the assessable income of the taxpayer of any of those preceding years of income, or the amount of a deduction allowed or allowable under either of those sections from the assessable income of the taxpayer of any of those preceding years of income would have been greater—the amount that would have been the amount of that deduction or the amount by which that deduction would have been greater, as the case may be; and
  - (iii) the amount of any loss incurred by the taxpayer in the relevant year of income or in any of those preceding years of income in relation to exempt income from petroleum;
- (f) any moneys paid on shares received by the taxpayer before or during the relevant year of income, being amounts specified in declarations duly lodged with the Commissioner by the taxpayer under section 77D, to the extent that those moneys are, under sub-section (20) of that section, deemed to have been specified in relation to petroleum, and expended—
  - (i) during the year of income of the taxpayer in which 17 September 1974 occurred or a later year of income; and
  - (ii) on or before 17 September 1974, or after 17 September 1974 and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer; and
- (g) any amounts of subsidy received by the taxpayer in respect of expenditure incurred on or before 17 September 1974, or incurred after 17 September 1974 and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer, being amounts of subsidy received after the year of income first referred to in paragraph (a) and before the end of the relevant year of income under agreements entered into under an Act relating to the search for petroleum, reduced by any amounts of such subsidy repaid by the taxpayer before or during the relevant year of income.

“124AF. (1) Where, in the year of income, a taxpayer derives assessable income from petroleum, so much of the amount of the unrecouped previous capital expenditure of the taxpayer as at the end of the year of income as does not exceed the amount remaining after deducting from that assessable income from petroleum all deductions allowable otherwise than under this section and sections 124AD and 124AH in respect of that assessable income from petroleum is an allowable deduction.

Deductions of unrecouped previous capital expenditure.

“(2) The reference in sub-section (1) to all deductions allowable otherwise than under this section and sections 124AD and 124AH in respect of the assessable income from petroleum derived by a taxpayer in the year of income is a reference to—

- (a) any deductions allowable otherwise than under this section and sections 124AD and 124AH from the assessable income of the taxpayer of the year of income that relate exclusively to that assessable income from petroleum; and
- (b) so much of any other deduction allowable otherwise than under this section and sections 124AD and 124AH from the assessable income of the taxpayer of the year of income as, in the opinion of the Commissioner, may appropriately be related to that assessable income from petroleum.

“124AG. (1) A person may elect that this section shall apply in respect of expenditure on a unit of plant referred to in the election incurred in the year of income specified in the election and any further expenditure on that unit of plant incurred in a subsequent year and, where such an election has been made, expenditure to which the election applies shall be deemed not to be allowable capital expenditure for the purposes of this Division or to be expenditure referred to in section 124AH.

Election that Division not to apply to plant.

“(2) The year of income specified in an election under this section shall be the first year of income in which the taxpayer incurs, in relation to the unit of plant referred to in the election, expenditure that, but for the election, would be allowable capital expenditure or expenditure referred to in section 124AH.

“(3) An election under this section shall be made in writing signed by or on behalf of the taxpayer and shall be delivered to the Commissioner on or before the last day for the furnishing of the taxpayer's return of income of the year of income specified in the election or within such further time as the Commissioner allows.

“124AH. (1) Subject to this section, expenditure incurred by the taxpayer during the year of income on exploration or prospecting in Australia for the purpose of discovering petroleum is an allowable deduction.

Exploration and prospecting expenditure.

“(2) A deduction is not allowable under this section unless, in the year of income, the taxpayer derives assessable income from petroleum, and the amount of the deduction shall not exceed the amount remaining after deducting from that assessable income from petroleum all other allowable deductions (including deductions under this Division) in respect of that assessable income.

“(3) The reference in sub-section (2) to all other allowable deductions in respect of assessable income from petroleum derived by a taxpayer in the year of income is a reference to—

- (a) any other deductions allowable from the assessable income of the taxpayer of the year of income that relate exclusively to that assessable income from petroleum; and
- (b) so much of any other deductions allowable from the assessable income of the taxpayer of the year of income as, in the opinion of the Commissioner, may appropriately be related to that assessable income from petroleum,

and includes a reference to any deductions allowable under sections 124AD, 124AF and 124AM.

“(4) Where the amount of the expenditure incurred during a year of income (including any expenditure that is deemed to have been incurred during that year of income by any previous application or applications of this sub-section) exceeds the amount of the deduction allowable under this section in respect of that year of income, the excess amount shall, for the purposes of sub-section (1), be deemed to have been incurred by the taxpayer during the first subsequent year of income in which the taxpayer derives assessable income from petroleum.

“(5) Where an amount specified in a notice duly given to the Commissioner under section 124AB in relation to the acquisition from the taxpayer of a petroleum prospecting or mining right or petroleum prospecting or mining information is attributable to the whole or a part of an excess amount of expenditure referred to in sub-section (4), the excess amount or the part of the excess amount, as the case may be—

- (a) shall not, under sub-section (4), be deemed to have been incurred by the vendor in the year of income in which the transaction to which the notice relates occurred or any subsequent year of income; and
- (b) shall not be taken into account in calculating the amount to be included in the allowable capital expenditure or unrecovered previous capital expenditure of a purchaser by virtue of a notice given to the Commissioner under section 124AB in respect of a transaction entered into after the first-mentioned transaction.

“(6) This section applies only to expenditure incurred by the taxpayer in the year of income of the taxpayer in which 17 September 1974 occurred or in a subsequent year of income, other than expenditure incurred on or before 17 September 1974 or incurred after 17 September

1974 and before 1 July 1976 in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the taxpayer.

“(7) In this section, ‘exploration or prospecting’ includes geological, geophysical and geochemical surveys, exploration drilling and appraisal drilling but does not include development drilling or operations in the course of working a petroleum field.

“124AJ. (1) For the purposes of this Division, where the holder of a petroleum prospecting or mining right has, for a consideration provided or to be provided by him, not being a payment of a share of income derived by him from the sale of petroleum or of the products of petroleum or a consideration by way of an assignment or sub-lease of a petroleum prospecting or mining right, procured the performance of work which, if it had been performed by him, would have constituted prescribed petroleum operations or would have constituted exploration or prospecting—

Prospecting or mining by contractors, profit-sharing arrangements, &c.

- (a) the work shall constitute prescribed petroleum operations or exploration or prospecting, as the case may be, carried on by him and shall not constitute prescribed petroleum operations or exploration or prospecting carried on by the person by whom the work was performed; and
- (b) any such consideration shall be deemed to be expenditure incurred by him in the carrying on of prescribed petroleum operations or of exploration or prospecting, as the case may be.

“(2) Where a person who derives income from the sale of petroleum obtained from mining operations carried on by him in an area in Australia, or from the sale of products of petroleum so obtained, pays to another person a share of the income so derived in pursuance of an agreement under which—

- (a) that other person has carried on prescribed petroleum operations in that area or has engaged in that area in exploration or prospecting for the purpose of discovering petroleum; or
- (b) the first-mentioned person has acquired, or has agreed or has an option to acquire, from that other person a petroleum prospecting or mining right or petroleum prospecting or mining information in relation to that area,

the amount so paid to that other person shall, for the purposes of this Division—

- (c) be deemed to be income derived by that other person from the sale of petroleum obtained from the carrying on by him of mining operations in that area; and
- (d) be deemed not to be expenditure of a kind in respect of which deductions are or have been allowable under this Division incurred by the first-mentioned person.



“(3) Notwithstanding section 21, where a person has assigned or sub-let a petroleum prospecting or mining right in respect of an area in Australia to another person in pursuance of an agreement under which that other person has carried on, or is carrying on, in that area or in another area in respect of which the first-mentioned person holds or has held a petroleum prospecting or mining right, prescribed petroleum operations or has engaged, or is engaging, in that area in exploration or prospecting for the purpose of discovering petroleum, the first-mentioned person shall not be deemed, by virtue of the assignment or sub-lease, to have incurred for the purposes of this Division expenditure of a kind in respect of which deductions are or have been allowable under this Division.

Transactions between persons not at arm's length.

“124AK. Where—

- (a) a person has purchased from another person a unit of property (other than a petroleum prospecting or mining right)—
  - (i) in respect of which the vendor had incurred expenditure of a kind in respect of which deductions are or have been allowable under this Division; or
  - (ii) the expenditure of the purchaser in acquiring which is expenditure of such a kind;
- (b) the Commissioner is satisfied that, having regard to any connexion between the vendor and the purchaser or to any other relevant circumstances, those persons were not dealing with each other at arm's length; and
- (c) the purchase price is greater or less than the amount that, in the opinion of the Commissioner, was the value of the unit at the time of the purchase,

the purchase price shall, for all purposes of the application of this Act in relation to the vendor or the purchaser, be deemed to have been that amount.

Petroleum or petroleum products used in manufacturing other goods.

“124AL. Where a taxpayer uses petroleum obtained from mining operations carried on by him in Australia, or a product of petroleum so obtained, for the purpose of manufacturing other goods, an amount equal to the market value of the petroleum or petroleum product at the time it is used for that purpose shall, for the purposes of this Division, be deemed to be assessable income from petroleum derived by the taxpayer during the year of income in which it is used for that purpose.

Disposal, loss, destruction or termination of use of property.

“124AM. (1) This section applies where deductions have been allowed or are allowable under this Division in respect of expenditure of a capital nature by the taxpayer in respect of property of the taxpayer that, in the year of income has been disposed of, lost or destroyed, or the use of which by the taxpayer for purposes of carrying on prescribed petroleum operations or of exploring or prospecting for petroleum has, in the year of income, been otherwise terminated.

“(2) Where the aggregate of—

- (a) the sum of the deductions so allowed or allowable; and
- (b) the consideration receivable in respect of the disposal, loss or destruction or, the case of other termination of the use of property, the value of the property at the date of termination of use,

exceeds the total expenditure of a capital nature of the taxpayer in respect of that property, there shall be included in the assessable income of the taxpayer of the year of income so much of the amount of the excess as does not exceed the sum of those deductions, and the amount so included shall be deemed for the purposes of this Division to be assessable income from petroleum.

“(3) Where the total expenditure referred to in sub-section (2) exceeds the aggregate referred to in that sub-section, the excess is, subject to sub-section (4), an allowable deduction from the assessable income of the taxpayer of the year of income.

“(4) The amount of the deduction, or the sum of the amounts of the deductions, allowable under sub-section (3) in respect of the year of income shall not exceed the amount remaining after deducting from the assessable income from petroleum derived by the taxpayer in the year of income all deductions allowable otherwise than under this Division in respect of that assessable income.

“(5) If the amount of the deduction, or the sum of the amounts of the deductions, that would, but for sub-section (4), be allowable from the assessable income of the taxpayer of the year of income under sub-section (3) (including any amount or amounts that would be an allowable deduction or allowable deductions from that assessable income by any previous application or applications of this sub-section) is reduced by the operation of sub-section (4), the amount of the reduction shall be deemed to be an allowable deduction under sub-section (3) from the assessable income of the taxpayer of the first subsequent year of income in which the taxpayer derives assessable income from petroleum.

“(6) The reference in sub-section (4) to all deductions allowable otherwise than under this Division in respect of assessable income from petroleum derived by the taxpayer in the year of income is a reference to—

- (a) any deductions allowable otherwise than under this Division from the assessable income of the taxpayer of the year of income that relate exclusively to that assessable income from petroleum; and
- (b) so much of any other deduction allowable otherwise than under this Division from the assessable income of the taxpayer of the year of income as, in the opinion of the Commissioner, may appropriately be related to that assessable income from petroleum.

“(7) In this section, ‘consideration receivable in respect of the disposal, loss or destruction’ means—

- (a) where the property is sold (whether with or without other property) for a specified price—the sale price of the property, less the expenses of the sale of the property, or such part of the expenses of the sale of the property together with the other property as the Commissioner determines;
- (b) where the property is sold with other property and a specified price is not allocated to the property—such part of the total sale price, less the expenses of the sale, as the Commissioner determines;
- (c) where the property is disposed of otherwise than by sale—the value, if any, of the property at the date of disposal; or
- (d) where the property is lost or destroyed—the amount or value received or receivable under a policy of insurance or otherwise in respect of the loss or destruction,

but does not include an amount that is included, or will, when received, be included, in the assessable income of any year of income under section 26AB or Division 4.

Double  
deductions.

“124AN. (1) Where the whole or a part of expenditure of a capital nature incurred by a taxpayer has been allowed or is or may become allowable as a deduction under this Division, no part of that expenditure shall be an allowable deduction, or be taken into account in ascertaining the amount of an allowable deduction, from the assessable income of the taxpayer of any year of income under a provision of this Act other than this Division.

“(2) Sub-section (1) does not prevent a deduction being allowed to a taxpayer under a provision of this Act other than this Division in respect of a unit of property the use of which by the taxpayer in carrying on prescribed petroleum operations, or in exploring or prospecting in Australia for petroleum, has been terminated and, where such a unit of property is used by the taxpayer for the purpose of gaining or producing assessable income other than assessable income from petroleum, then, for the purposes of sections 56, 57AA, 57AB, 58 and 62 and Division 10 and notwithstanding sub-section (2) of section 122C—

- (a) the unit shall be deemed to have been acquired by the taxpayer at a cost equal to the amount that, in the opinion of the Commissioner, was the value of the unit at the date on which it commenced to be used for that purpose; and
- (b) no part of the cost of the unit shall be taken to have been allowed or to be allowable under this Division as a deduction from the assessable income of the taxpayer of any year of income.

“(3) For the purposes of sub-section (1), an amount that would have been allowed or allowable as a deduction under this Division but for the operation of sub-section (3) of section 124AD, sub-section (1) of section 124AF, sub-section (2) of section 124AH or sub-section (4) of

section 124AM shall be deemed to have been allowed or to be allowable as such a deduction.

“124AO. Where for any reason, including—

- (a) the formation or dissolution of a partnership; or
- (b) a variation in the constitution of a partnership or in the interests of partners,

Change in  
interests in  
property.

a change has occurred in the ownership of, or in the interests of persons in, property in respect of which deductions have been allowed or are allowable under this Division, and the person, or one or more of the persons, who owned the property before the change has or have an interest in the property after the change, the provisions of this Division apply as if the person or persons who owned the property before the change had, on the day on which the change occurred, sold the whole of the property to the person, or all the persons, by whom the property is owned after the change for a price equal to the amount specified in a written agreement in consequence of which the change occurred as the value of the property for the purposes of that agreement, or, if there is no such agreement or no amount is so specified, an amount determined by the Commissioner.

“124AP. For any purpose of this Act, the Commissioner may determine the extent to which a deduction allowed or allowable under this Division is to be treated as attributable to particular expenditure that has been taken into account in the calculations by which the entitlement of the taxpayer to the deduction has been ascertained.

Commis-  
sioner to  
determine  
deductions  
attributable  
to particular  
expenditure.

“124AQ. (1) This Division does not apply, and shall be deemed never to have applied, in relation to a taxpayer, to expenditure of a capital nature in respect of which the taxpayer is recouped, or becomes entitled to be recouped, by Australia, by a State, by the Administration of a Territory, by an authority constituted by or under a law of Australia, of a State or of a Territory or by any other person (other than a recoupment by way of subsidy received under an agreement entered into under an Act relating to the search for petroleum) where the amount of the recoupment is not, and will not be, included in the assessable income of the taxpayer of any year of income.

Recoupment  
of  
expenditure.

“(2) Where a taxpayer receives, or becomes entitled to receive, an amount that constitutes to an unspecified extent a recoupment of expenditure of a capital nature, the Commissioner may, for the purposes of sub-section (1), determine the extent to which the amount constitutes a recoupment of that expenditure.

“124AR. (1) In this section—

‘mining company’ has the same meaning as in section 77D;

‘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 any amounts—

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

- (a) specified in declarations duly lodged with the Commissioner by the company in pursuance of section 77D, to the extent that those amounts are, under sub-section (20) of that section, deemed to have been specified in relation to petroleum; and
- (b) expended after 17 September 1974 and before 1 July 1976 otherwise than in pursuance of a contract made on or before 17 September 1974, being a contract under which property was to be acquired by, or work was to be performed for, the company, or expended on or after 1 July 1976,

less the sum of any amounts that have been applied by the Commissioner in accordance with sub-section (2) in the assessment of the income of the company of an earlier year of income;

‘prescribed deduction’, in relation to a mining company, means—

- (a) a deduction allowed or allowable in an assessment of the income of the company under section 124AD, 124AH or 124AM; or
- (b) in the case of a company that has made an election in pursuance of section 124AG, a deduction allowed or allowable under section 54 or 59 in respect of plant referred to in the election.

“(2) In the assessment of the income of a mining company—

- (a) that has at any time lodged a declaration or declarations under section 77D;
- (b) in respect of which there is, at the end of the year of income, an amount of net declared capital; and
- (c) that is, apart from this section, entitled in respect of the year of income to any prescribed deductions,

the Commissioner shall apply the whole or part of the amount of the net declared capital as at the end of the year of income in reduction of those prescribed deductions in accordance with the following provisions—

- (d) where the total of the prescribed deductions exceeds the net declared capital—he shall apply the whole of the amount of the net declared capital in reduction of the prescribed deductions by that amount; and
- (e) where the total of the prescribed deductions does not exceed the net declared capital—he shall apply so much of the amount of the net declared capital as is equal to the total of the prescribed deductions in reduction of the prescribed deductions to nil.

“(3) Notwithstanding that, in the assessment of the income of a mining company, any prescribed deductions have been reduced in pursuance of sub-section (2), those prescribed deductions shall, for the purpose of the provisions of this Division other than this section and for the

purposes of sections 59, 60 and 62, be deemed to have been allowed in full.”.

**34.** (1) Section 160 of the Principal Act is amended by inserting in the definition of “tax” in sub-section (5), after the word and figures “section 94”, the words “or additional tax in respect of income from property payable in accordance with an Act imposing income tax for the year of tax”.

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

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**35.** (1) After section 160 of the Principal Act the following section is inserted:—

“160AA. (1) Where a deduction is or deductions are allowable under section 82B or 82D, or under each of those sections, in the assessment of a taxpayer in respect of income of the year of income, the taxpayer is entitled to a rebate in that assessment of the amount, if any, by which two-fifths of the amount of the deduction, or of the sum of the amounts of the deductions, as the case may be, exceeds the tax saving accruing to the taxpayer by reason of the deduction or deductions.

Rebate in respect of deductions for dependants.

“(2) For the purposes of sub-section (1), the tax saving accruing to a taxpayer by reason of a deduction or deductions is the amount by which the amount ascertained by applying the general rates of tax set out in the Act declaring the rates of income tax for the year of tax to the taxpayer’s taxable income of the year of income is less than the amount ascertained by applying those rates of tax to a taxable income equal to the sum of the taxpayer’s taxable income of the year of income and the amount of that deduction or the amounts of those deductions.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**36.** (1) Section 160AC of the Principal Act is amended by inserting in the definition of “tax payable” or “tax” in sub-section (1), after the words “under Division 7”, the words “or additional tax in respect of income from property payable in accordance with an Act imposing income tax for the year of tax”.

Rebate for export market development expenditure.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**37.** (1) Section 160AE of the Principal Act is amended—

(a) by omitting the definition of “the adjusted net Territory income” in sub-section (1) and substituting the following definitions:—

Interpretation.

“ ‘dividend’ includes a part of a dividend;

‘the adjusted net Territory income’, in relation to a taxpayer, means—

- (a) where sub-section (6) of section 160AF does not apply and the net Territory income of the taxpayer of the year of income exceeds the sum of the taxpayer’s taxable income of the year of income and the apportionable deductions—an amount equal to that taxable income;
  - (b) where sub-section (6) of section 160AF applies and the amount that, but for that sub-section, would be the net Territory income of the taxpayer of the year of income exceeds the sum of the taxpayer’s taxable income of the year of income and the apportionable deductions—the amount that bears to the net Territory income of the taxpayer of the year of income the same proportion as the taxpayer’s taxable income of the year of income bears to the amount that, but for that sub-section, would be that net Territory income; or
  - (c) in any other case—the amount that bears to the net Territory income of the taxpayer of the year of income the same proportion as the taxpayer’s taxable income of the year of income bears to the sum of that taxable income and the apportionable deductions;”;
- (b) by omitting paragraphs (a) and (b) of the definition of “the average rate of Australian tax” in sub-section (1) and substituting the following paragraphs:—
- “(a) the taxpayer was not entitled to any rebate of tax (other than a rebate under section 160AA or under an Act imposing income tax for the year of tax) or credit against his liability for tax; and
  - (b) the taxpayer was not liable to pay additional tax under Division 7, or additional tax in respect of income from property payable in accordance with an Act imposing income tax for the year of tax,”; and
- (c) by omitting sub-section (3) and substituting the following sub-section:—
- “(3) For the purposes of this Division—
- (a) a dividend, or an amount of income attributable to a dividend, being a dividend paid on or after 19 October 1967, shall, subject to paragraph (b), be deemed to be derived from sources in the Territory to the extent to which the dividend, or the dividend to which the amount is attributable, as the case may be, is paid out of profits

derived from sources in the Territory other than profits upon which dividend (withholding) tax under the Income Tax Ordinances of Papua New Guinea has been directly or indirectly paid; and

- (b) a dividend, or an amount of income attributable to a dividend, being a dividend paid on or after 29 August 1972 by a company that is a resident of the Territory for the purposes of the Income Tax Ordinances of Papua New Guinea, shall be deemed to be derived from sources in the Territory.”.

(2) The amendments made by paragraphs (1) (a) and (c) apply in relation to the determination of credits in respect of income of the year of income that commenced on 1 July 1972 and in respect of income of all subsequent years of income.

(3) The amendment made by paragraph (1) (b) applies in relation to the determination of credits in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**38. (1) Section 160AF of the Principal Act is amended—**

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

“(2A) Subject to the succeeding provisions of this section, where—

- (a) the whole or a part of a taxpayer’s taxable income of the year of income (in this sub-section referred to as the ‘property component’) is derived from income from property; and
- (b) additional tax is payable in respect of the property component by virtue of an Act imposing income tax for the year of tax,

the amount of Australian tax payable in respect of income derived from sources in the Territory by the taxpayer in the year of income is, for the purposes of sub-section (1), the sum of—

- (c) the amount ascertained in accordance with the preceding provisions of this section as being the amount of Australian tax so payable; and
- (d) whichever of the following amounts is applicable—
  - (i) where sub-section (6) does not apply—so much of the additional tax referred to in paragraph (b) as bears to that additional tax the same proportion as the Territory property component bears to the property component; or
  - (ii) where sub-section (6) applies—so much of the amount that, but for that sub-section, would be ascertained in accordance with sub-paragraph (i).

Credits in respect of tax paid in Papua New Guinea.



as bears to that amount the same proportion as the Territory property component bears to the amount that, but for sub-section (6), would be the Territory property component.

“(2B) For the purposes of sub-section (2A), the Territory property component is an amount equal to that part of the income from property included in the taxpayer’s assessable income of the year of income that was derived from sources in the Territory, reduced by the sum of—

- (a) any deductions allowed or allowable from income from property included in the taxpayer’s assessable income of the year of income that relate exclusively to that part of that income from property; and
  - (b) so much of any other deductions allowed or allowable from income from property included in the taxpayer’s assessable income of the year of income as, in the opinion of the Commissioner, may appropriately be related to that part of that income from property.”;
- (b) by omitting sub-section (3) and substituting the following sub-section:—

“(3) Subject to the succeeding provisions of this section, where the assessable income derived by a company in a year of income includes dividends derived from sources in the Territory in respect of which the company is entitled to a rebate under section 46 or 46A, the adjusted net Territory income of the company of the year of income shall, for the purposes of sub-section (2), be deemed to be the amount that would have been the adjusted net Territory income of the company if the company had not derived those dividends.”; and

- (c) by omitting sub-section (5) and substituting the following sub-sections:—

“(5) Where—

- (a) a person who has paid or is liable to pay further tax assessed under section 94 in respect of income derived in the year of income has derived income in the year of income from sources in the Territory;
- (b) a trustee of a trust estate has paid or is liable to pay tax assessed under section 102 in respect of income derived in the year of income, being income that consists of or includes income derived from sources in the Territory; or
- (c) a private company’s taxable income of the year of income includes dividends that are private company dividends for the purposes of sub-section (3) of section 46 or sub-section (6) of section 46A and in relation to

which the company is not allowed a further rebate under that sub-section,

the amount of Australian tax payable in respect of the income derived by the person, trustee or company in the year of income from sources in the Territory is, for the purposes of sub-section (1), such amount as the Commissioner determines, being so much of the tax paid or payable by the person, trustee or company in respect of income of the year of income as, in the opinion of the Commissioner, is reasonably attributable to the income derived from sources in the Territory.

“(6) Notwithstanding the preceding provisions of this section, where the income derived by a taxpayer in a year of income from sources in the Territory (in this sub-section referred to as the ‘Territory income’) consists of income that is, or is attributable to, dividends, and of other income, this section does not apply in relation to the taxpayer in relation to the Territory income as a whole but, instead, applies in relation to the taxpayer separately in relation to the income that is, or is attributable to, dividends and in relation to the other income, and, for the purposes of this section as so applying in relation to the income that is, or is attributable to, dividends or in relation to the other income, the income that is, or is attributable to, dividends, or the other income, as the case may be, shall be treated as the whole of the Territory income.”.

(2) The amendment made by paragraph (1) (a) applies in relation to the determination of credits in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

(3) The amendments made by paragraphs (1) (b) and (c) apply in relation to the determination of credits in respect of income of the year of income that commenced on 1 July 1972 and in respect of income of all subsequent years of income.

**39.** Section 170 of the Principal Act is amended by omitting from sub-section (10) the words “sub-section (2) of section 122B, sub-section (2) of section 124DE,” and substituting the words “sub-section (2) of section 122B, section 122T, sub-sections (2) and (3) of section 123A, sub-section (3) of section 124AB, section 124AQ,”.

Amendment  
of  
assessments.

**40.** (1) Section 221YC of the Principal Act is amended by adding at the end of paragraph (b) of sub-section (1) the words “and had been derived from income from property to such extent, if any, as the Commissioner determines”.

Amount of  
provisional  
tax.

(2) The amendment made by sub-section (1) applies to provisional tax in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Provisional  
tax on  
estimated  
income.

**41.** (1) Section 221YDA of the Principal Act is amended—

(a) by omitting paragraph (d) of sub-section (1) and substituting the following paragraphs:—

“(d) the respective amounts included in that estimated taxable income that represent salary or wages and income from property;

(da) the sum of the deductions to which he will be entitled in his assessment in respect of income of that year of income under sections 82B and 82D; and”;

(b) by omitting paragraph (a) of sub-section (2) and substituting the following paragraph:—

“(a) by calculating the amount of tax that would be payable in respect of the income of the year of income if—

(i) the taxable income of the year of income were an amount equal to the estimated taxable income and included the respective amounts representing salary or wages and income from property that were included in that estimated taxable income; and

(ii) the sum of the deductions under sections 82B and 82D that the taxpayer was allowed in his assessment in respect of income of the year of income were an amount equal to the estimated sum of those deductions; and”;

(c) by omitting sub-section (5) and substituting the following sub-section:—

“(5) The amount estimated by the Commissioner in accordance with sub-section (4) as the amount of the taxable income of the taxpayer shall not be greater than the taxable income of the taxpayer for the year last preceding the year of income and the amount so estimated by the Commissioner as the amount representing salary or wages or income from property shall not be greater than the amount of the salary or wages or income from property, as the case may be, derived by the taxpayer in the year last preceding the year of income.”.

(2) The amendment made by sub-section (1) applies to provisional tax in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

Penalty  
where  
income  
under-  
estimated.

**42.** (1) Section 221YDB of the Principal Act is amended by omitting paragraphs (a) and (b) of sub-section (1) and substituting the following paragraphs:—

“(a) the amount by which the amount of tax that would be payable in respect of a taxable income that—

(i) is equal to four-fifths of the taxpayer's taxable income; and

(ii) includes an amount derived from income from property equal to four-fifths of so much of the taxpayer's taxable income as was derived from income from property,

exceeds the amount of the provisional tax payable in respect of the estimated taxable income; or

(b) the amount by which the amount of tax that would be payable in respect of a taxable income that—

(i) is equal to four-fifths of the taxpayer's taxable income for the year last preceding that year of income; and

(ii) includes an amount derived from income from property equal to four-fifths of so much of the taxpayer's taxable income for that last preceding year of income as was derived from income from property,

exceeds the amount of provisional tax payable in respect of the estimated taxable income,".

(2) The amendment made by sub-section (1) applies in relation to provisional tax in respect of income of the year of income that commenced on 1 July 1974 and in respect of income of all subsequent years of income.

**43.** Section 265 of the Principal Act is amended—

(a) by omitting from sub-section (3) the words "One thousand dollars" (wherever occurring) and substituting the figures "\$2,000"; and

(b) by omitting from sub-section (11) the words "One hundred dollars" and substituting the figures "\$200".

Release of taxpayers in cases of hardship.

**44.** Where an amount that is included in the assessable income of a taxpayer of the year of income that commenced on 1 July 1974 or a part of such an amount would, if the amendments made by sections 5 and 27 had not been made, be deemed to be assessable income to which section 23A of the Principal Act would apply, then, notwithstanding those amendments, section 23A and sub-section 122G (5) of the Principal Act continue in force for the purpose of applying in relation to that amount or that part of that amount.

Transitional provision in relation to partial exemption of income from certain mining operations.

Transitional provision in relation to purchase of prospecting or mining rights or information.

**45.** Where a notice was duly given before the commencement of this Act under section 124DE of the *Income Tax Assessment Act* 1936-1963 or of that Act as amended specifying an amount of expenditure in relation to the acquisition of a petroleum prospecting or mining right or petroleum prospecting or mining information—

- (a) if the notice related to expenditure incurred after 17 September 1974 otherwise than in pursuance of a contract made on or before that date—the notice shall be deemed for the purposes of the Principal Act as amended by this Act to have been duly given under sub-section 124AB (1) of that Act as so amended; and
- (b) if the notice related to—
  - (i) expenditure incurred on or before 17 September 1974; or
  - (ii) expenditure incurred after 17 September 1974 in pursuance of a contract made on or before that date,

the notice shall be deemed for the purposes of the Principal Act as amended by this Act to have been duly given under sub-section 124AB (2) of that Act as so amended.

Calculation of provisional tax for year of income that commenced on 1 July 1974.

**46.** For the purpose of the application of sub-section 221YC (1) of the Principal Act as amended by this Act in ascertaining the amount of provisional tax payable by the taxpayer in respect of the income of the year of income that commenced on 1 July 1974—

- (a) if paragraph (a) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph shall be taken to be an amount equal to the income tax that would have been assessed in respect of his taxable income of the year next preceding that year of income if the amendment made by paragraph 3 (1) (c) and the *Income Tax Act* 1974 had been in force and had applied in relation to income of that next preceding year of income; and
- (b) if paragraph (b) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph shall be taken to be an amount equal to the income tax that would have been assessed in respect of his taxable income of the year next preceding that year of income if—
  - (i) his taxable income of that next preceding year had been equal to his provisional income and had been derived from income from property to such extent, if any, as the Commissioner determines; and
  - (ii) the amendment made by paragraph 3 (1) (c) and the *Income Tax Act* 1974 had been in force and had applied

in relation to income of that next preceding year of income.

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### NOTES

1. Act No. 126, 1974; assented to 6 December 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).
3. Act No. 26, 1974.