

INCOME TAX ACT 1974

No. 127 of 1974

An Act to impose a Tax upon Incomes.

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

- Short title. 1. This Act may be cited as the *Income Tax Act* 1974.¹
- Commence-
ment. 2. This Act shall come into operation on the day on which it receives the Royal Assent.¹
- Interpret-
ation. 3. (1) In this Act, unless the contrary intention appears—
“Assessment Act” means the *Income Tax Assessment Act* 1936-1974;
“co-operative company” has the same meaning as in Division 9 of Part III of the Assessment Act;
“friendly society dispensary” means a friendly society dispensary to which Division 9A of Part III of the Assessment Act applies;
“investment income” has the same meaning as in Division 9B of Part III of the Assessment Act;
“life assurance company” has the same meaning as in Division 8 of Part III of the Assessment Act;
“non-profit company” means—
 (a) a company that is not carried on for the purposes of profit or gain to its individual members and is, by the terms of the company’s constituent document, prohibited from making any distribution, whether in money, property or otherwise, to its members; or
 (b) a friendly society dispensary;
“superannuation fund” means a provident, benefit, superannuation or retirement fund;
“tax” means income tax referred to in sub-section 5 (1).
- (2) In this Act a reference to investment income, net income or taxable income shall be read as a reference to investment income, net income or taxable income, as the case may be, of the year of income.
- Incor-
poration. 4. The Assessment Act is incorporated, and shall be read as one, with this Act.

5. (1) Income tax is imposed in accordance with this Act and at the rates declared in this Act.

Imposition
of income
tax.

(2) This Act does not impose tax payable in accordance with section 128B of the Assessment Act.

(3) This Act does not impose tax (other than further tax payable in pursuance of sub-section 94 (9), (11) or (12) of the Assessment Act or tax payable by a trustee of a superannuation fund in pursuance of section 121CA, 121CB or 121DA of the Assessment Act)—

(a) upon—

- (i) a taxable income derived by a person other than a company; or
- (ii) the net income of a trust estate in respect of which the trustee is liable to be assessed and to pay tax under section 98 of the Assessment Act,

where that income does not exceed \$1,040; or

(b) upon—

- (i) a taxable income derived by a non-profit company; or
- (ii) the net income of a trust estate in respect of which the trustee is liable to be assessed and to pay tax under section 99 of the Assessment Act,

where that income does not exceed \$416.

6. (1) Except as otherwise provided by this Act, the rates of tax are as set out in Schedule 1.

Rates of tax
payable by
individuals
and trustees.

(2) The rates of tax in respect of a taxable income to which Division 16 of Part III of the Assessment Act applies are as set out in Schedule 2.

(3) The rate of tax in respect of a taxable income in any case where section 59AB, 86 or 158D of the Assessment Act applies is as set out in Schedule 3.

(4) The rate of tax payable by a trustee in pursuance of section 98 or 99 of the Assessment Act is as set out in Schedule 4.

(5) The rate of tax payable by a trustee of a superannuation fund in respect of investment income of the fund in respect of which the trustee is liable, in pursuance of section 121D of the Assessment Act, to be assessed and to pay tax is as set out in Schedule 5.

(6) The rate of further tax payable by a person in pursuance of sub-section 94 (9) of the Assessment Act is such amount, if any, per dollar as is ascertained by dividing an amount equal to one-half of the taxable income of the person, less the amount of tax, if any, imposed by this Act that, but for this sub-section and but for any rebate or credit to which the person is entitled, would be payable by the person, by a number equal to the number of whole dollars in that taxable income.

(7) The rate of further tax payable by a trustee in pursuance of sub-section 94 (11) or (12) of the Assessment Act is such amount, if any, per dollar as is ascertained by dividing an amount equal to one-half of the net income of the trust estate in respect of which the trustee is liable to be assessed and to pay tax under section 98 or 99 of that Act, less the amount of tax, if any, imposed by this Act that, but for this sub-section and but for any rebate or credit to which the trustee is entitled, would be payable by the trustee in respect of that net income, by a number equal to the number of whole dollars in that net income.

(8) The rate of tax payable by a trustee in respect of the net income of the trust estate in respect of which the trustee is liable, in pursuance of section 99A of the Assessment Act, to be assessed and to pay tax is 50 per centum.

(9) The rate of tax payable by a trustee of a superannuation fund in respect of the taxable income of the fund in respect of which the trustee is liable, in pursuance of section 121CA, 121CB or 121DA of the Assessment Act, to be assessed and to pay tax is 50 per centum.

(10) In this section “tax” or “further tax” does not include additional tax payable in accordance with section 8.

Limitation of
tax payable
on certain
incomes.

7. (1) Where the taxable income of a person does not exceed \$1,061, the amount of tax payable by him under sub-section 6 (1), (2) or (3) shall not exceed 66 per centum of the amount by which the taxable income exceeds \$1,040 less any rebate or credit to which he is entitled.

(2) Where the net income of a trust estate in respect of which a trustee is liable to be assessed and to pay tax under section 98 of the Assessment Act does not exceed \$1,061, the amount of tax payable by the trustee under sub-section 6 (4) in respect of that net income shall not exceed 66 per centum of the amount by which that net income exceeds \$1,040 less any rebate or credit to which the trustee is entitled.

(3) Where the net income of a trust estate in respect of which a trustee is liable to be assessed and to pay tax under section 99 of the Assessment Act does not exceed \$425, the amount of tax payable by the trustee under sub-section 6 (4) in respect of that net income shall not exceed 45 per centum of the amount by which that net income exceeds \$416 less any rebate or credit to which the trustee is entitled.

Surcharge of
tax in respect
of income
from
property.

8. (1) Where, in the case of a person other than—

- (a) a company not being a company in the capacity of a trustee; or
 - (b) a person in the capacity of a trustee of a superannuation fund,
- the whole or any part of the taxable income of the person, or, in the case of a person in the capacity of a trustee, the whole or any part of the net income of the trust estate in respect of which the person is liable to be assessed, is derived from income from property (which taxable income or part of the taxable income, or net income or part of the net income, as

the case may be, is in this section referred to as the “property income component”) and the taxable income or net income, as the case may be, exceeds \$5,000, there is payable additional tax of an amount equal to such percentage of the basic tax on the property income component as is applicable in accordance with Schedule 6.

(2) For the purposes of sub-section (1), the basic tax on the property income component is the amount ascertained by applying to the property income component the rate ascertained by dividing the tax calculated by reference to section 6 in respect of the taxable income of the person, or, in the case of a person in the capacity of a trustee, in respect of the net income of the trust estate in respect of which the person is liable to be assessed, less all rebates, other than a rebate under section 160ABA of the Assessment Act or under section 16 of the *Income Tax (International Agreements) Act 1953-1974*, to which the person is entitled by a number equal to the number of whole dollars in that taxable income or net income, as the case may be.

9. (1) In this section—

“resident of Australia” includes a person who is resident in an external Territory;

“taxpayer to whom this section applies” means a taxpayer, other than a taxpayer in the capacity of a trustee, who—

- (a) being a man, is a resident of Australia and has attained the age of 65 years; or
- (b) being a woman, is a resident of Australia and—
 - (i) has attained the age of 60 years; or
 - (ii) is the wife of a man referred to in paragraph (a);

“wife”, in relation to a man who is a taxpayer to whom this section applies, includes—

- (a) a woman to or in respect of whom a pension or benefit is payable under the *Social Services Act 1947-1974* by reason that she is the wife, as defined by Part III of that Act, of that man;
- (b) a woman to or in respect of whom a pension is payable under section 85 of the *Repatriation Act 1920-1974* (including that section as applying by virtue of Division 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation (Special Overseas Service) Act 1962-1973*) by reason that she is the wife, as defined by section 83 of the *Repatriation Act 1920-1974*, of that man; or
- (c) a woman to or in respect of whom an allowance is payable under section 9 of the *Tuberculosis Act 1948-1973* by reason that she is the wife, as defined by Part III of the *Social Services Act 1947-1974*, of that man.

Rebate of tax payable by aged persons and certain pensioners.

(2) A woman referred to in the definition of “wife” in sub-section (1) does not continue to be a taxpayer to whom this section applies by reason only that a pension, benefit or allowance referred to in that definition continues to be payable after the death of the man concerned.

(3) A taxpayer who, during the whole of the year of income, is a taxpayer to whom this section applies is entitled in his or her assessment to a rebate—

- (a) if his or her taxable income does not exceed \$3,224—of an amount of \$130; or
- (b) if his or her taxable income exceeds \$3,224—of an amount of \$130 less an amount of 25 cents for each \$1 of the amount of the excess.

(4) A taxpayer who, during a part only of the year of income, is a taxpayer to whom this section applies is entitled in his or her assessment to a rebate of an amount that bears to the amount of the rebate to which he or she would have been entitled under sub-section (3) if he or she had been a taxpayer to whom this section applies during the whole of that year the same proportion as the number of days in that part of that year bears to the number of days in that year.

Rates of tax payable by companies.

10. (1) The rates of tax payable by a company, other than a company in the capacity of a trustee, are as set out in Schedule 7.

(2) Where the taxable income of a non-profit company other than a friendly society dispensary does not exceed \$1,830, the amount of tax payable by the company shall not exceed 55 per centum of the amount by which the taxable income exceeds \$416 less any rebate or credit to which the company is entitled.

(3) Where the taxable income of a non-profit company that is a friendly society dispensary does not exceed \$1,664, the amount of tax payable by the company shall not exceed 50 per centum of the amount by which the taxable income exceeds \$416 less any rebate or credit to which the company is entitled.

Adjustment where amount to be paid by, or refunded to, taxpayer would not exceed 20 cents.

11. (1) This section applies for the purposes of the making of an assessment of tax under this Act (other than further tax payable in pursuance of sub-section 94 (9), (11) or (12) of the Assessment Act) in respect of the income of a taxpayer of a year of income where, upon the making of the assessment and the serving of notice of the assessment upon the taxpayer, there would, but for this section, be a net amount of not more than 20 cents payable by the Commissioner to the taxpayer, or by the taxpayer to the Commissioner, under the law relating to income tax, after taking into account all liabilities of the taxpayer, and all rebates and credits allowable to the taxpayer, under that law.

(2) Where this section applies in relation to the making of an assessment—

- (a) if the amount of not more than 20 cents would be an amount payable to the taxpayer—additional tax equal to that amount is imposed by this Act in respect of the income of the taxpayer of the year of income; and
- (b) if the amount of not more than 20 cents would be an amount payable to the Commissioner—the amount that, but for this section, would be the amount of income tax imposed by this Act in respect of the income of the taxpayer of the year of income, before the allowance of any rebates to which the taxpayer is entitled, is reduced by so much of that amount of not more than 20 cents as does not exceed the amount calculated by deducting the amount of any such rebates from the sum of the amount that is to be so reduced and any amount of further tax payable by the taxpayer in respect of that year of income in pursuance of sub-section 94 (9), (11) or (12) of the Assessment Act.

(3) A reference in this section to a liability of the taxpayer shall be read as including a reference to a liability in respect of income tax or provisional tax notified to the taxpayer by the Commissioner, notwithstanding that the amount of the liability has not become due and payable.

(4) For the purposes of any calculation under the law relating to income tax that depends upon the amount of tax paid or payable by, or assessed in respect of the income of, a taxpayer, the tax assessed and payable under an assessment in relation to which this section applies shall be deemed to be the tax that would have been so assessed and payable if this section had not applied.

12. The tax imposed by the preceding provisions of this Act is levied, and shall be paid, for the financial year that commenced on 1 July 1974 and, until the Parliament otherwise provides, for the next succeeding financial year. Levy of tax.

13. Instalments of tax are payable by a company, in accordance with the provisions of Division 1A of Part VI of the Assessment Act, in respect of income of the year of income that commenced on 1 July 1974. Instalments of tax.

14. Provisional tax is imposed and is payable, in accordance with the provisions of the Assessment Act, in respect of the income of the year of income that commenced on 1 July 1974. Provisional tax.

15. (1) For the purposes of sub-sections 104 (1), 160 (3) and 221YB (3) of the Assessment Act, this Act shall be deemed to be the Act declaring the rates of income tax payable for the financial year that commenced on 1 July 1974. Act to be deemed to be the Act declaring rates of income tax.

(2) For the purposes of sub-section 160AA (2) of the Assessment Act, this Act shall be deemed to be the Act declaring the rates of income tax for the financial year that commenced on 1 July 1974 and, until the Parliament otherwise provides, for the next succeeding financial year.

SCHEDULE 1

Sub-section 6 (1)

GENERAL RATES OF TAX

The rate of tax in respect of each part of the taxable income specified in column 1 of the following table is the rate per centum set out in column 2 of that table opposite to the reference to that part of the taxable income:—

Column 1	Column 2
Parts of Taxable Income	Rates per centum
The part of the taxable income that—	
does not exceed \$1,000	1
exceeds \$1,000 but does not exceed \$2,000	7
exceeds \$2,000 but does not exceed \$3,000	14
exceeds \$3,000 but does not exceed \$4,000	20
exceeds \$4,000 but does not exceed \$5,000	26
exceeds \$5,000 but does not exceed \$6,000	32
exceeds \$6,000 but does not exceed \$7,000	38
exceeds \$7,000 but does not exceed \$8,000	44
exceeds \$8,000 but does not exceed \$10,000	48
exceeds \$10,000 but does not exceed \$12,000	52
exceeds \$12,000 but does not exceed \$16,000	55
exceeds \$16,000 but does not exceed \$20,000	60
exceeds \$20,000 but does not exceed \$40,000	64
exceeds \$40,000	67

SCHEDULE 2

Sub-section 6 (2)

RATES OF TAX BY REFERENCE TO AN AVERAGE INCOME

In the case of a taxpayer to whose income Division 16 of Part III of the Assessment Act applies, the rates of tax are—

- (a) for every \$1 of so much of the taxable income as does not exceed \$16,000—
 - (i) the rate ascertained by determining the tax that would be payable if the rates set out in Schedule 1 were applied to a taxable income equal to his average income and dividing the resultant amount by a number equal to the number of whole dollars in that average income; or
 - (ii) 37.625 cents,
 whichever is the less; and
- (b) for every \$1 of the remainder of the taxable income, the rate ascertained by deducting the amount of \$6,020 from the tax that would be payable if the rates set out in Schedule 1 were applied to the total taxable income and dividing the resultant amount by a number equal to the number of whole dollars in that remainder.

SCHEDULE 3

Sub-section 6 (3)

RATE OF TAX BY REFERENCE TO A NOTIONAL INCOME

For every \$1 of the taxable income of a taxpayer deriving a notional income, as specified by section 59AB, 86 or 158D of the Assessment Act, the rate of tax is the rate ascertained by dividing the tax that would be payable under Schedule 1 upon a taxable income equal to his notional income by a number equal to the number of whole dollars in that notional income.

SCHEDULE 4

Sub-section 6 (4)

**RATE OF TAX PAYABLE BY A TRUSTEE IN PURSUANCE OF SECTION 98
OR 99 OF THE ASSESSMENT ACT**

The rate of tax in respect of the net income of a trust estate in respect of which a trustee is liable, in pursuance of section 98 or 99 of the Assessment Act, to be assessed and to pay tax is the rate that would be payable under Schedule 1, 2 or 3, as the case requires, if one individual were liable to be assessed and to pay tax on that income as his taxable income.

SCHEDULE 5

Sub-section 6 (5)

**RATE OF TAX PAYABLE BY A TRUSTEE OF A SUPERANNUATION FUND
IN RESPECT OF INVESTMENT INCOME OF THE FUND**

The rate of tax in respect of investment income of a superannuation fund in respect of which the trustee of the fund is liable, in pursuance of section 121D of the Assessment Act, to be assessed and to pay tax is 45 per centum.

SCHEDULE 6

Section 8

**PERCENTAGE FOR CALCULATING ADDITIONAL TAX IN RESPECT OF
INCOME FROM PROPERTY**

The percentage applicable for the purposes of section 8 is—

- (a) where the taxable income of the taxpayer or the net income of the trust estate is not less than \$5,500—10 per centum; or
 - (b) in any other case—the rate per centum ascertained by multiplying a number equal to the number of whole dollars by which the taxable income of the taxpayer, or the net income of the trust estate, as the case may be, exceeds \$5,000 by 0.02.
-

SCHEDULE 7

Section 10

**RATES OF TAX PAYABLE BY A COMPANY OTHER THAN A COMPANY IN
THE CAPACITY OF A TRUSTEE**

1. The rate of tax in respect of the taxable income of a company not being—
 - (a) a private company; or
 - (b) a co-operative company or non-profit company (other than a life assurance company),is 45 per centum.
2. In the case of a company that is a private company, the rates of tax are—
 - (a) in respect of the taxable income—45 per centum; and
 - (b) in respect of the undistributed amount in respect of which the company is liable under section 104 of the Assessment Act to pay additional tax—50 per centum.
3. In the case of a company (not being a private company or a life assurance company) that is a co-operative company or a non-profit company other than a friendly society dispensary, the rates of tax are—

SCHEDULE 7—continued

- (a) in respect of so much of the taxable income as does not exceed \$10,000—42.5 per centum; and
 - (b) in respect of the remainder of the taxable income—45 per centum.
4. The rate of tax in respect of the taxable income of a non-profit company that is a friendly society dispensary is 37.5 per centum.
-

NOTE

1. Act No. 127, 1974; assented to 6 December 1974.