**INCOME TAX ASSESSMENT AMENDMENT**

**ACT (No. 2) 1976**

**No. 56 of 1976**

An Act to amend the Law relating to Income Tax.

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

**Short title and citation.**

**1**. (1) This Act may be cited as the *Income Tax Assessment Amendment Act* (*No*. 2) 1976.

(2) The *Income Tax Assessment Act* 1936 as amended and in force immediately before the commencement of this Act is in this Act referred to as the Principal Act.

(3) Section 1 of the *Health Insurance Levy Assessment Act* 1976 is amended by omitting sub-section (4).

(4) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1936-1976.

**Commencement.**

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

**Income of certain persons serving with an armed force under the control of the United Nations.**

**3**. Section 23ab of the Principal Act is amended by inserting in sub-paragraph (ii) of paragraph (a) of sub-section (7), after the word and figures “and 159l”, the words “or would be entitled in respect of the year of income under section 159j but for sub-section (1a) of that section”.

**Exemption of certain pensions.**

**4**. (1) Section 23ad of the Principal Act is amended by omitting from sub-section (1) the definitions of “excepted payment” and “excepted pension” and substituting the following definitions:—

“‘excepted payment’ means—

(a) a payment of an excepted pension made to or in respect of a prescribed person on or after the day that is the commencing day in relation to the person, other than—

(i) a payment of an excepted pension (not being a wife’s pension) that was made to or in respect of a woman who had not attained the age of 60 years; or

(ii) so much of the payment as constituted an instalment of pension that fell due on a pension payday on which the person was not a prescribed person;

(b) a payment of a pension, allowance or benefit payable to or in respect of a person in accordance with—

(i) paragraph (f) of section 4, Part IV, Part IVaaa, Part IVaa (to the extent to which that Part applies in relation to a pension under Part IV or benefit under Part IVaaa), sub-section (1) of section 135d (to the extent to which that section applies in relation to a pension under Part IV or benefit under Part IVaaa) or sub-section (6) or (7) of section 135t of the *Social Services Act* 1947-1976;

(ii) Division 5 of Part III of the *Repatriation Act* 1920-1976 (including that Division as applying by virtue of Division 5a, 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation* (*Special Overseas Service*) *Act* 1962-1974) to the extent to which that Division applies to or in respect of the person or the spouse of the person otherwise than by virtue of sub-section (2) of section 85 of that Act; or

(iii) Table A in Schedule 3 to the *Repatriation Act* 1920-1976 (including that Table as applying by virtue of the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956-1974, the *Repatriation* (*Special Overseas Service*) *Act* 1962-1974 or the *Interim Forces Benefits Act* 1947-1974) to the extent that the pension concerned—

(A) is payable by reason that the pensioner is a mother of a deceased member of the Forces (being a woman who is a widow or is divorced or has been deserted by her husband) within the meaning of the Act concerned or of the relevant Part of that Act and is payable in circumstances constituting a prescribed case for the purposes of that Table; and

(B) exceeds the amount that would be assessed if the requirement in that Table to have regard to the maximum rate of age pension under sub-section (1a) of section 28 of the *Social Services Act* 1947-1976 were disregarded; or

(c) a payment of a benefit or allowance payable to or in respect of a person in accordance with Part VII or in accordance with sub-section (1) of section 135d (to the extent to which that section applies in relation to a benefit under Part VII) of the *Social Services Act* 1947-1976,

but does not include so much of a payment referred to in paragraph (a) or paragraph (b) made to or in respect of a person as—

(d) was included in the payment by reason that the person or the spouse of the person paid rent, lodging or board and lodging; or

(e) in the case where the person or the spouse of the person had the custody, care and control of a child or children or the person had another person dependent on him for support—is determined by the Commissioner to have been attributable to the child or children or other dependent person;

‘excepted pension’ means a pension, allowance or benefit payable in accordance with—

(a) paragraph (c) of section 4, Part III, Part IVaa (to the extent to which that Part applies in relation to a pension under Part III), sub-section (1) of section 135d (to the extent to which that section applies in relation to a pension under Part III) or section 135u of the *Social Services Act* 1947-1976;

(b) section 9 of the *Tuberculosis Act* 1948-1973;

(c) Division 5 of Part III of the *Repatriation Act* 1920-1976 (including that Division as applying by virtue of Division 5a, 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation (Special Overseas Service) Act* 1962-1974) to the extent to which that Division applies to or in respect of a person or the spouse of a person by virtue of sub-section (2) of section 85 of that Act; or

(d) Table A in Schedule 3 to the *Repatriation Act* 1920-1976 (including that Table as applying by virtue of the *Repatriation* (*Far East Strategic Reserve*) *Act* 1956-1974, the *Repatriation* (*Special Overseas Service*) *Act* 1962-1974 or the *Interim Forces Benefits Act* 1947-1974) to the extent that the pension concerned—

(i) is payable by reason that the pensioner is a parent of a deceased member of the Forces (other than a woman who is a widow or is divorced or has been deserted by her husband) within the meaning of the Act concerned or of the relevant Part of that Act and is payable in circumstances constituting a prescribed case for the purposes of that Table; and

(ii) exceeds the amount that would be assessed if the requirement in that Table to have regard to the maximum rate of age pension under sub-section (1a) of section 28 of the *Social Services Act* 1947-1976 were disregarded;

(2) Section 23ad of the Principal Act is amended by omitting paragraph (b) of the definition of “wife’s pension” in sub-section (1) and substituting the following paragraph:—

“(b) a pension payable to or in respect of a woman under section 85 of the *Repatriation Act* 1920-1976 (including that section as applying by virtue of Division 5a, 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation* (*Special Overseas Service*) *Act* 1962-1974) by reason that she is the wife, as defined by section 83 of the *Repatriation Act* 1920-1976, of a member of the Forces within the meaning of the Act concerned or of the relevant Part of that Act, being a member who has attained the age of 65 years; or”.

**Rebates for residents of isolated areas.**

**5**. Section 79a of the Principal Act is amended by inserting in sub-paragraph (ii) of paragraph (a) of sub-section (2) and in sub-paragraph of paragraph (b) of that sub-section, after the word and figures “and 159l”, the words “or would be entitled in respect of the year of income under section 159j but for sub-section (1a) of that section”.

**Rebates for members of Defence Force serving overseas.**

**6**. Section 79b of the Principal Act is amended by inserting in sub-paragraph (ii) of paragraph (a) of sub-section (2) and in paragraph (b) of sub-section (4), after the word and figures “and 159l”, the words “or would be entitled in respect of the year of income under section 159j but for sub-section (1a) of that section”.

**Rebates for dependants.**

**7**. Section 159j of the principal Act is amended—

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

“(1a) A taxpayer is not entitled in his assessment in respect of income of a year of income after the year of income that ends on 30 June 1976 to a rebate under this section in respect of a person by reason that the person is included in class 3 or class 4 in the table set out in sub-section (2).”;

(b) by omitting from column 3 of the table in sub-section (2) the figures “400.00” (first and second occurring) and substituting the figures “500”;

(c) by omitting from that column the figures “200.00” (wherever occurring) and substituting the figures “226 ”;

(d) by omitting from that column the figures “150.00” and substituting the figures “170”;

(e) by omitting from that column the figures “400.00” (last occurring) and substituting the figures “452”; and

(f) by omitting from sub-section (4) the figures “150” and substituting the figures “170”.

**Sole parent rebate.**

**8**. Section 159k of the Principal Act is amended—

(a) by omitting from sub-sections (1) and (2) the words “he is entitled under that section to a rebate of tax in his assessment in respect of income of the year of income” and substituting the words “he would be entitled to a rebate of tax under that section in his assessment in respect of income of the year of income but for sub-section (1a) of that section”; and

(b) by omitting the figures “200” (wherever occurring) and substituting the figures “350”.

**Housekeeper.**

**9**. Section 159l of the Principal Act is amended—

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

“(b) a dependant included in class 3, or a dependant less than 16 years of age included in class 4, in the table in sub-section (2) of section 159j in respect of whom the taxpayer would be entitled to a rebate under that section in his assessment in respect of income of the year of income but for sub-section (1a) of that section;

(ba) a dependant included in class 5 in the table in subsection (2) of section 159j in respect of whom the taxpayer is entitled to a rebate under that section in his assessment in respect of income of the year of income; or”; and

(b) by omitting the figures “400” (wherever occurring) and substituting the figures “500”.

**General concessional rebates.**

**10**. Section 159n of the Principal Act is amended by omitting the figures “540” (wherever occurring) and substituting the figures “610”.

**Medical expenses.**

**11**. Section 159p of the Principal Act is amended—

(a) by omitting from paragraph (b) of the definition of “dependant” in sub-section (4) the word “or”; and

(b) by adding at the end of that definition the following word and paragraph:—

“or (d) a person included in class 3 or class 4 in the table in sub-section (2) of section 159j in respect of whom the taxpayer would be entitled to a rebate under that section but for sub-section (1a) of that section;”.

**Education expenses.**

**12**. Section 159t of the Principal Act is amended—

(a) by omitting from paragraph (a) of the definition of “student” in sub-section (6) the word “or”; and

(b) by adding at the end of that definition the following word and paragraph: —

“; or (c) is a person included in class 3 or class 4 in the table in sub-section (2) of section 159j in respect of whom the taxpayer would be entitled to a rebate under that section in his assessment in respect of income of the year of income but for sub-section (1a) of that section.”.

**13**. After section 159y of the Principal Act the following section is inserted in Subdivision A of Division 17 of Part III:—

**Indexation.**

“159z. (1) In this section—

‘relevant amount’ means any of the following amounts: —

(a) an amount of $500, $452, $226 or $170 specified in section 159j;

(b) an amount of $350 specified in section 159k;

(c) an amount of $500 specified in section 159l; and

(d) an amount of $610 specified in section 159n;

‘relevant year of income ’ means the year of income commencing on 1 July 1977 or a subsequent year of income.

“(2) If the factor ascertained in accordance with sub-section (3) of section 9 of the *Income Tax* (*Rates*) *Act* 1976 in relation to a relevant year of income is greater than 1, this Act has effect in relation to that relevant year of income as if for each relevant amount there were substituted an amount calculated by multiplying—

(a) in a case to which paragraph (b) does not apply—the relevant amount; or

(b) if, by virtue of another application or other applications of this section, this Act had effect in relation to a year of income or years of income preceding that relevant year of income as if another amount or other amounts were substituted for the relevant amount—the substituted amount or the last substituted amount, as the case may be,

by that factor or, where a lesser factor is prescribed by regulations made for the purposes of section 9 of the *Income Tax* (*Rates*) *Act* 1976 in relation to that relevant year of income, by that lesser factor.

“(3) Where, but for this sub-section, this Act would, by virtue of the preceding provisions of this section, have effect in relation to a relevant year of income as if for a relevant amount there were substituted another amount that consists of a number of whole dollars and a number of cents (in this sub-section referred to as the ‘relevant number of cents’)—

(a) in the case where the relevant number of cents is less than 50—the other amount shall be reduced by the relevant number of cents; or

(b) in any other case—the other amount shall be increased by the amount by which the relevant number of cents is less than $1.”.

**Interpretation.**

**14**. Section 221a of the Principal Act is amended by inserting in the definition of “salary or wages” in sub-section (1), after the word “includes”, the words “any payments that are excepted payments for the purposes of section 23ad and”.

**Liability to provisional tax.**

**15**. Section 221yb of the Principal Act is amended by omitting from sub-section (3) the words “declaring the rates of income tax payable for the financial year for which income tax is imposed” and substituting the words “imposing income tax”.

**Amount of provisional tax.**

**16**. Section 221yc of the Principal Act is amended by inserting in sub-section (2), after the word “shall”, the words “, if the regulations so provide,”.

**Calculation of provisional tax for year of income commencing on 1 July 1976.**

**17.** For the purposes of the application to a taxpayer 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 income of the year of income commencing on 1 July 1976—

(a) if paragraph 221yc(1)(a) of the Principal Act 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 amendments of the Principal Act made by sections 3, 5, 6, 7, 8, 9, 11 and 12 of this Act had been in force and had applied to assessments in respect of income of that year of income and, in the case of the amendment made by section 7, the reference in paragraph (a) of that section to 30 June 1976 were a reference to 30 June 1975; and

(b) if paragraph 221yc(1)(b) 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

(ii) the amendments of the Principal Act made by sections 3, 5, 6, 7, 8, 9, 11 and 12 of this Act had been in force and had applied to assessments in respect of income of that year of income and, in the case of the amendment made by section 7, the reference in paragraph (a) of that section to 30 June 1976 were a reference to 30 June 1975.

**Application of amendments.**

**18**. (1) The amendments made by sections 3 to 12 apply to assessments in respect of income of the year of income commencing on 1 July 1976, and in respect of income of all subsequent years of income.

(2) The amendment made by section 14 applies to payments made on or after 1 July 1976.