



Taxation Laws Amendment Act 1984

No. 123 of 1984

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Taxation Laws Amendment Act 1984

No. 123 of 1984

An Act to amend various laws relating to taxation, and for other purposes

[Assented to 19 October 1984]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Taxation Laws Amendment Act 1984*.

Commencement

2. (1) Sections 1 and 2 shall come into operation on the day on which this Act receives the Royal Assent.

- (2) Sub-section 319 (1) shall be deemed to have come into operation immediately after the commencement of the *Taxation (Interest on Overpayments) Act 1983*.

- (3) The remaining provisions of this Act shall come into operation on the fifty-sixth day after the day on which this Act receives the Royal Assent.

**PART II—AMENDMENTS OF THE AUSTRALIAN CAPITAL
TERRITORY TAXATION (ADMINISTRATION) ACT 1969**

Principal Act

3. The *Australian Capital Territory Taxation (Administration) Act 1969*¹ is in this Part referred to as the Principal Act.

Interpretation

4. Section 4 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “assessment” and substituting the following definition:

“ ‘assessment’ means—

- (a) an assessment under this Act by the Commissioner of the amount of duty or tax payable under this Act (including an assessment of tax in respect of a return);
or
(b) an assessment of the Commissioner under this Act of an additional amount payable under section 70,

and includes an amended assessment;” and

- (b) by omitting sub-section (5).

Repeal of section 6

5. Section 6 of the Principal Act is repealed.

Annual report

6. Section 6A of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Duty stamps

7. Section 8 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or of additional amounts payable by way of penalty under section 70 of this Act”; and
(b) by omitting from sub-section (1) “, for denoting the payment of those additional amounts”.

When duty or tax payable

8. Section 9 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “and” (last occurring);

- (b) by adding at the end of sub-section (1) the following word and paragraph:

“; and (d) a penalty is due and payable upon the date specified in the notice of assessment of the penalty as the date upon which the penalty is due and payable”;

- (c) by omitting from sub-sections (2), (3) and (4) “or tax” (first occurring) and substituting “, tax or penalty”;
- (d) by omitting from sub-sections (2), (3) and (4) “or tax” (last occurring) and substituting “, tax or penalty, as the case may be,”; and
- (e) by adding at the end thereof the following sub-section:

“(5) In this section, ‘penalty’ means an additional amount payable under section 70.”.

Default assessments

- 9. Section 68 of the Principal Act is amended—

- (a) by omitting paragraphs (1) (a) and (b);
- (b) by re-lettering paragraph (1) (c) as paragraph (1) (a);
- (c) by omitting paragraphs (1) (d) and (e) and substituting the following word and paragraph:

“or (b) the Commissioner is of the opinion that a person is liable to pay duty or tax (whether or not any return or information has been furnished or any instrument has been lodged for assessment),”;

- (d) by omitting from sub-section (1) “paragraph (c)” and substituting “paragraph (a)”;
- (e) by omitting from sub-sections (2) and (3) “paragraph (1) (c)” and substituting “paragraph (1) (a)”.

10. Section 70 of the Principal Act is repealed and the following section is substituted:

Penalty for failure to furnish return, &c.

“70. (1) Where a person refuses or fails, when and as required under or pursuant to this Act or the regulations to do so—

- (a) to furnish a return, or any information, relating to a matter or thing;
- (b) to lodge an instrument for assessment; or
- (c) to cause an instrument to be duly stamped,

the person is liable to pay, by way of penalty, an additional amount equal to double the amount of duty or tax payable by the person in respect of the matter, thing or instrument, as the case may be.

“(2) Where—

- (a) a person—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the

operation of this Act or the regulations, that is false or misleading in a material particular; or

- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

- (b) the duty or tax properly payable by the person exceeds the duty or tax that would have been payable by the person if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the person is liable to pay, by way of penalty, an additional amount equal to double the amount of the excess.

“(3) Where, but for this sub-section, an additional amount, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional amount shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional amount payable by a person under this section, and shall, as soon as practicable after the assessment is made, cause notice in writing of the assessment to be given to the person.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (4) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of an additional amount payable by a person under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional amount.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in an instrument lodged for assessment under or pursuant to this Act or the regulations;
- (c) made in answer to a question asked of a person under or pursuant to this Act or the regulations;

- (d) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (e) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 61 (2) (c).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Amendment of assessments

11. Section 71 of the Principal Act is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:

“(3) Where, by reason of an amendment of an assessment, a person’s liability to duty or tax is reduced, the amount by which the duty or tax is so reduced shall be taken, for the purposes of section 81, never to have been payable.”; and

- (b) by adding at the end thereof the following sub-sections:

“(5) In this section, ‘duty or tax’ includes an additional amount payable under section 70.

“(6) In sub-section (4), unless the contrary intention appears, ‘duty or tax’ also includes an additional amount payable under section 81.”.

Assessments in relation to deceased persons

12. Section 72 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty or tax’ includes an additional amount payable under section 70.”.

Pending appeal or reference not to affect payment of tax or duty

13. Section 77 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty or tax’ includes an additional amount payable under section 70 or 81.”.

Adjustments of duty or tax after appeal

14. Section 78 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) If an assessment is varied on a reference or appeal, an amount of duty or tax not paid or underpaid is recoverable from the person liable under the assessment as varied to pay the duty or tax.

“(3) If a prescribed decision is set aside on a reference or appeal, the Commissioner shall cause notice in writing of that fact to be given to the person who requested review of the prescribed decision.

“(4) If, by reason of—

(a) the variation of an assessment on a reference or appeal; or

(b) the setting aside of a prescribed decision on a reference or appeal,

a person’s liability to duty or tax is reduced, the amount by which the duty or tax is so reduced shall be taken, for the purposes of section 81, never to have been payable.

“(5) Unless the contrary intention appears, a reference in this section to duty or tax includes a reference to an additional amount payable under section 70 or 81.”.

15. Section 81 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid duty or tax

“81. (1) If any duty or tax remains unpaid after the time when it became due and payable or would, but for sub-section 9 (2) or (3), have become due and payable, an additional amount is due and payable by way of penalty by the person liable to pay the duty or tax at the rate of 20% per annum on the amount unpaid, computed from that time or, where the Commissioner has, under sub-section 9 (2), extended the time for payment of the duty or tax for a period or has, under sub-section 9 (3), permitted the payment of the duty or tax to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the duty or tax was originally due and payable.

“(2) Where an additional amount is payable by a person under this section in relation to an amount of duty or tax and—

(a) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the duty or tax were not due to, or caused directly or indirectly by, an act or omission of the person; and
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

(b) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the duty or tax were due to, or caused directly or indirectly by, an act or omission of the person;
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
- (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional amount or part of the additional amount; or

(c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional amount or part of the additional amount,

the Commissioner may remit the additional amount or part of the additional amount.

“(3) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of duty or tax; or
- (b) an amount that includes an amount of duty or tax,

then—

- (c) the duty or tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional amount that would, but for this paragraph, be payable under this section in relation to the duty or tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the duty or tax bears to the amount of the judgment debt.

“(4) A reference in this section to duty or tax includes a reference to an additional amount payable under section 70.”.

Recovery of additional penalty

16. Section 82 of the Principal Act is amended by omitting sub-section (2).

Recovery of duty or tax from trustees of deceased persons

17. Section 83 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “this Act” and substituting “section 70 or 81”; and
- (b) by adding at the end thereof the following sub-section:

“(3) In sub-section (1), ‘duty or tax’ includes an additional amount payable under section 70 or 81.”.

Collection of duty or tax from person indebted to person liable to duty or tax

18. Section 84 of the Principal Act is amended—

- (a) by inserting after sub-section (7) the following sub-sections:

“(7A) Where—

- (a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a Stock Exchange); and
- (b) the money has not been repaid,

the money shall, for the purposes of this section, be taken—

- (c) in a case where the money is repayable on demand—to be due by the building society to the person; or
- (d) in any other case—to be money that may become due by the building society to the person.

“(7B) Where, but for this sub-section, money is not due, or repayable on demand, to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due or repayable on demand, as the case may be, to the person notwithstanding that the condition has not been fulfilled.”;

- (b) by inserting before the definition of “debt” in sub-section (8) the following definition:

“ ‘building society’ means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State;”;

- (c) by omitting from sub-section (8) the definition of “duty or tax” and substituting the following definition:

“ ‘duty or tax’ includes—

- (a) an additional amount payable under section 70 or 81;
- (b) a judgment debt or costs in respect of—
 - (i) duty or tax; or
 - (ii) an additional amount payable under section 70 or 81;
- (c) any fine or costs imposed by a court in respect of—
 - (i) an offence against this Act or the regulations; or
 - (ii) any other taxation offence within the meaning of Part III of the *Taxation Administration Act*

1953 that relates to this Act or the regulations;
and

- (d) any amount ordered by a court, upon the conviction of a person for an offence of a kind referred to in paragraph (c), to be paid by the person to the Commissioner;"; and
- (d) by omitting " , the Commonwealth, a State," (first occurring) from the definition of "person indebted" in sub-section (8) and substituting " , a company, a partnership, the Commonwealth or a State".

Person in receipt, &c., of money for non-resident

19. Section 85 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(4) In this section, 'duty or tax' includes an additional amount payable under section 70 or 81."

Evidence

20. Section 86 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(3) A reference in this section to duty or tax includes a reference to an additional amount payable under section 70 or 81."

21. After section 91 of the Principal Act the following section is inserted:

Refunds of duty or tax

"91A. (1) Subject to section 92, where the Commissioner finds in any case that duty or tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any duty or tax overpaid; or
- (b) apply the amount of any duty or tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

"(2) In sub-section (1), 'duty or tax' includes an additional amount payable under section 70 or 81."

Further amendments relating to offences and formal amendments

22. (1) The Principal Act is amended as set out in Schedule 1.

(2) The Principal Act is amended as set out in Schedule 2.

Application of amendments

23. (1) In this section, "amended Act" means the Principal Act as amended by this Act.

(2) Notwithstanding the repeal of sections 10, 62, 63, 65, 70 and 81 and Part VII of the Principal Act effected by this Act—

- (a) sub-sections 10 (3), (4) and (5) of the Principal Act continue to apply, after the commencement of this section, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 10 (1) or (2) of the Principal Act;
- (b) sub-sections 62 (3), (4) and (5) of the Principal Act continue to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 62 (1) of the Principal Act;
- (c) sub-sections 62 (6) and 63 (3), section 65 and Part VII of the Principal Act continue to apply, after that commencement, in relation to an offence against the Principal Act committed before that commencement; and
- (d) sub-sections 70 (6) and 81 (2) of the Principal Act continue to apply, after that commencement, in relation to a liability for an additional amount that accrued before that commencement,

as if that repeal had not been effected.

(3) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to duty or tax included a reference to an additional amount, the amendments made by this Act shall be disregarded.

(4) Sub-section 81 (3) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

PART III—AMENDMENTS OF THE BANK ACCOUNT DEBITS TAX ADMINISTRATION ACT 1982

Principal Act

24. The *Bank Account Debits Tax Administration Act 1982*² is in this Part referred to as the Principal Act.

Interpretation

25. Section 3 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “assessment” and substituting the following definition:

“ ‘assessment’ means—

- (a) the ascertainment of tax payable under this Act in respect of a taxable debit or taxable debits, or an eligible debit or eligible debits, as the case may be; or
- (b) the ascertainment of additional tax payable under section 17;” and

- (b) by adding at the end thereof the following sub-section:

“(8) A reference in this Act to a liability of a person to the Commonwealth is a reference to a liability of a person to the Commonwealth arising under, or by virtue of, an Act of which the Commissioner has the general administration.”.

Repeal of section 5

26. Section 5 of the Principal Act is repealed.

Annual report

27. Section 6 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “during the year that ended on that 30 June”;
- (b) by omitting sub-section (3); and
- (c) by adding at the end thereof the following sub-section:

“(5) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

When tax payable

28. Section 9 of the Principal Act is amended—

- (a) by omitting from paragraph (b) “by the person liable to pay the tax”;
- (b) by omitting from paragraph (b) all the words after “days” and substituting the following word and sub-paragraphs:

“after—

- (i) in a case in which notice of that assessment was required to be served on one person—the day on which the notice was served on the person;
- (ii) in a case in which notice of that assessment was required to be served on 2 or more persons and notice of that assessment was served on those persons on the same day—the day on which the notice was served on the persons; or
- (iii) in a case in which notice of that assessment was required to be served on 2 or more persons and notice of that assessment was served on those persons on different days—the earliest of those days”; and

- (c) by adding at the end thereof the following sub-section:

“(2) Additional tax under section 17 is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable.”.

29. After section 11 of the Principal Act the following section is inserted in Part III:

Offences relating to certificates of exemption

“11A. (1) A person shall not—

- (a) forge a certificate or utter a certificate knowing it to be forged;
- (b) without lawful authority, alter or sign a certificate;
- (c) deliver a document (not being a certificate) that purports to be a certificate; or
- (d) knowingly represent that a certificate is in respect of an account other than the account in respect of which the certificate was issued.

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) In sub-section (1), ‘certificate’ means a certificate of exemption.”.

Refund of amounts incorrectly paid

30. Section 13 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “by a person” after “made”;
- (b) by omitting from sub-section (1) all the words after “the Commissioner” (last occurring) and substituting the following word and paragraphs:

“shall—

- (a) refund the amount to the person; or
- (b) apply the amount against any liability of the person to the Commonwealth and refund any part of the amount not so applied”;
- (c) by inserting in sub-section (5) “by a person” after “made”; and
- (d) by omitting paragraphs (5) (a) and (b) and substituting the following paragraphs:

“(a) if the Commissioner is satisfied that the amount was not payable, the Commissioner shall—

- (i) refund the amount to the person; or
- (ii) apply the amount against any liability of the person to the Commonwealth and refund any part of the amount not so applied;
- (b) if the Commissioner is satisfied that part only of the amount was not payable, the Commissioner shall—
 - (i) refund that part of the amount to the person;
 - (ii) apply that part of the amount against any liability of the person to the Commonwealth and refund any part of that part of the amount not so applied; or”.

Refunds for tax paid on excluded debits

31. Section 14 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “by a person” after “made”; and

- (b) by omitting from sub-section (1) all the words after “the Commissioner” (last occurring) and substituting the following word and paragraphs:

“shall—

- (a) pay an amount equal to the amount of that tax to the person; or
- (b) apply an amount equal to the amount of that tax against any liability of the person to the Commonwealth and refund any part of that amount not so applied”.

Default assessments

32. Section 16 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) Where the Commissioner is of the opinion that 2 or more persons are jointly and severally liable to pay tax on a taxable debit or taxable debits made to a taxable account (whether or not any return has been furnished), the Commissioner may make an assessment of the amount of the tax.

“(2) Where the Commissioner is of the opinion that a person is liable, or 2 or more persons are jointly and severally liable, to pay tax on an eligible debit or eligible debits made to an account other than a taxable account (whether or not any return has been furnished), the Commissioner may make an assessment of the amount of the tax.”; and

- (b) by omitting paragraphs (3) (a) and (b) and substituting the following paragraphs:

“(a) in a case to which sub-section (1) applies—the bank with which the account is kept; or

- (b) in a case to which sub-section (2) applies—the person liable, or the persons jointly and severally liable, to pay the tax”.

33. Section 17 of the Principal Act is repealed and the following section is substituted:

Penalty for failure to furnish return, &c.

“17. (1) Where a person refuses or fails, when and as required under or pursuant to this Act or the regulations to do so—

- (a) to furnish a return, or any information, relating to a taxable debit or taxable debits made to a taxable account or an eligible debit or eligible debits made to an account other than a taxable account; or
- (b) to notify the Commissioner of an eligible debit made to an exempt account,

the person is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the person in respect of the taxable debit or taxable debits or the eligible debit or eligible debits, as the case may be.

“(2) Where—

(a) a person—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or**
- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and**

(b) the tax properly payable by the person exceeds the tax that would have been payable by the person if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the person is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional tax payable by a person under this section and shall, as soon as practicable after the assessment is made, cause notice in writing of the assessment to be served, by post or otherwise, on the person.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (4) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by a person under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional tax.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;**

- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to sub-paragraph 59 (1) (b) (ii).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”

Amendment of assessments

34. Section 18 of the Principal Act is amended—

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

“(2A) Where, by reason of an amendment of an assessment, a person’s liability to tax is reduced—

- (a) the amount by which the tax is so reduced shall be taken, for the purposes of section 36, never to have been payable; and
- (b) subject to sub-section (3), the Commissioner shall—
 - (i) refund the amount of any tax overpaid; or
 - (ii) apply the amount of any tax overpaid against any liability of the person to the Commonwealth and refund any part of the amount that is not so applied.”;

- (b) by omitting from sub-section (3) “and” (first occurring) and substituting “, the amount of the tax overpaid shall not be refunded to the bank or applied against a liability of the bank to the Commonwealth unless”;
- (c) by omitting from sub-section (3) “, the amount of tax overpaid shall be refunded to the bank”;
- (d) by omitting sub-section (4); and

- (e) by omitting sub-section (7) and substituting the following sub-section:
“(7) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 17 or 36.”.

Prescribed decisions

35. Section 20 of the Principal Act is amended by omitting from paragraph (b) of the definition of “Supreme Court” all the words after “Northern Territory”.

Repeal of section 21

36. Section 21 of the Principal Act is repealed.

Variation of prescribed decision

37. Section 31 of the Principal Act is amended—

- (a) by inserting after paragraph (a) the following paragraph:
“(aa) in a case where the variation of the prescribed decision results in a reduction of tax—the amount by which the tax is so reduced shall be taken, for the purposes of section 36, never to have been payable;”;
- (b) by omitting paragraph (c) and substituting the following paragraph:
“(c) the Commissioner shall—
 - (i) refund the amount of any tax overpaid as a result of the variation of the prescribed decision; or
 - (ii) apply the amount of any tax overpaid as a result of the variation of the prescribed decision against any liability of the person to the Commonwealth and refund any part of the amount that is not so applied”; and
- (c) by adding at the end thereof the following sub-section:
“(2) In sub-section (1), unless the contrary intention appears, ‘tax’ includes additional tax under section 17 or 36.”.

Adjustment of assessment after appeal

38. Section 32 of the Principal Act is amended—

- (a) by inserting after paragraph (a) the following paragraph:
“(aa) in a case where the variation of the assessment results in a reduction of tax—the amount by which the tax is so reduced shall be taken, for the purposes of section 36, never to have been payable;”;
- (b) by omitting paragraph (c) and substituting the following paragraph:
“(c) the Commissioner shall—
 - (i) refund the amount of any tax overpaid as a result of the variation of the assessment; or
 - (ii) apply the amount of any tax overpaid as a result of the variation of the assessment against any liability of the person to the Commonwealth and refund any part of the amount that is not so applied”; and
- (c) by adding at the end thereof the following sub-section:
“(2) In sub-section (1), unless the contrary intention appears, tax includes additional tax under section 17 or 36.”.

Penalty for unpaid tax

39. Section 36 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “assessed under this Act”;
- (b) by inserting in sub-section (1) “by the person liable, or the persons jointly and severally liable, to pay the tax” after “by way of penalty”;
- (c) by inserting after sub-section (2) the following sub-sections:

“(2A) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of tax; or
- (b) an amount that includes an amount of tax,

then—

- (c) the tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in relation to the tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the tax bears to the amount of the judgment debt.”; and
- (d) by inserting in sub-section (4) “unless the contrary intention appears,” after “section,”.

Repeal of section 60

40. Section 60 of the Principal Act is repealed.

Further amendments relating to offences

41. The Principal Act is amended as set out in Schedule 3.

Application of amendments

42. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) An assessment made under section 16 of the Principal Act before the commencement of this section has effect, after that commencement, as if it were an assessment made under section 16 of the amended Act.

(3) Notwithstanding the repeal of section 17 and Parts VII and VIII of the Principal Act effected by this Act—

- (a) sub-section 17 (5) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement;
- (b) sub-section 38 (3), sections 42 and 43 and Part VIII of the Principal Act continue to apply, after that commencement, in relation to offences against the Principal Act committed before that commencement; and

- (c) section 39 of the Principal Act continues to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against section 12, 38 or 56 of the Principal Act,
as if that repeal had not been effected.

(4) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to tax included a reference to additional tax, the amendments made by this Act shall be disregarded.

(5) Sub-section 36 (2A) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

PART IV—AMENDMENTS OF THE CRIMES (TAXATION OFFENCES) ACT 1980

Principal Act

43. The *Crimes (Taxation Offences) Act 1980*³ is in this Part referred to as the Principal Act.

Interpretation

44. Section 3 of the Principal Act is amended—

- (a) by inserting before the definition of “Commissioner” in sub-section (1) the following definition:
“ ‘Australian installation’ means an installation within the meaning of the *Sales Tax Act (No. 1) 1930* that is deemed by virtue of section 2A of that Act to be part of Australia;”;
- (b) by omitting “, 221YDB or 226” from paragraph (b) of the definition of “income tax” in sub-section (1) and substituting “or 221YDB or Part VII”;
- (c) by omitting “sub-section 221F (5) or (10)” from paragraph (d) of the definition of “income tax” in sub-section (1) and substituting “sub-section 221EAA (1) or 221F (5), sub-paragraph 221F (12) (b) (ii) or paragraph 221G (4A) (d)”;
- (d) by omitting paragraph (g) of the definition of “income tax” in sub-section (1) and substituting the following paragraph:
“(g) any amount payable to the Commissioner under sub-section 221YHD (1) or (1D) or 221YHH (1), sub-paragraph 221YHJ (1) (b) (ii), sub-section 221YN (1) or (4), 221YQ (1), 221ZC (1) or (4), 221ZD (1), 221ZN (1) or 221ZO (1) or section 221ZP of the *Income Tax Assessment Act*;”.

45. After section 3 of the Principal Act the following section is inserted:

Extension to external Territories and Australian installations

“3A. This Act extends to every external Territory and to Australian installations.”.

Penalties

46. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(5) Notwithstanding that a consent in accordance with sub-section (4) has not been given in relation to an offence against this Act—

(a) a person may be charged with the offence;

(b) a person may be arrested for the offence, and a warrant for such an arrest may be issued and executed; and

(c) a person so charged may be remanded in custody or on bail,

but no further step in proceedings for the offence shall be taken until such a consent has been given.

“(6) Nothing in sub-section (5) prevents the discharging of the accused if proceedings are not continued within a reasonable time.”.

PART V—AMENDMENTS OF THE ESTATE DUTY ASSESSMENT ACT 1914

Principal Act

47. The *Estate Duty Assessment Act 1914*^a is in this Part referred to as the Principal Act.

Repeal of section 4B

48. Section 4B of the Principal Act is repealed.

Annual report

49. Section 7 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Quick succession rebates

50. Section 8A of the Principal Act is amended by omitting from paragraphs (5) (c) and (d) “section 47A” and substituting “46”.

Rebate of duty

51. Section 9E of the Principal Act is amended by omitting from paragraph (3) (d) “section 47A” and substituting “46”.

Commissioner may require further or other returns

52. Section 11 of the Principal Act is amended—

(a) by inserting “an administrator to furnish” after “require”; and

(b) by omitting “lodged” and substituting “furnished”.

Amendment of assessments

53. Section 20 of the Principal Act is amended by omitting sub-section (11) and substituting the following sub-sections:

“(11) Where, by reason of an amendment of an assessment, a person’s liability to duty is reduced—

- (a) the amount by which the duty is so reduced shall be taken, for the purposes of section 31, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any duty overpaid; or
 - (ii) apply the amount of any duty overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(12) In this section, unless the contrary intention appears, ‘duty’ includes additional duty under section 31 or 46.”.

Notice of assessment

54. Section 23 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In sub-section (1), ‘duty’ includes additional duty under section 46.”.

Pending appeal or reference not to affect assessment

55. Section 28B of the Principal Act is amended—

- (a) by omitting “estate”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ includes additional duty under section 31 or 46.”.

56. Section 28C of the Principal Act is repealed and the following section is substituted:

Adjustment of duty after appeal

“28C. (1) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to duty is reduced—

- (a) the amount by which the duty is so reduced shall be taken, for the purposes of section 31, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any duty overpaid; or
 - (ii) apply the amount of any duty overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has

the general administration, and refund any part of the amount not so applied.

“(2) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to duty is increased, the amount of the increased duty is recoverable from the person.

“(3) In this section, unless the contrary intention appears, ‘duty’ includes additional duty under section 31 or 46.”.

57. Before section 29 of the Principal Act the following section is inserted in Part VI:

Interpretation

“28E. In this Part, unless the contrary intention appears, ‘duty’ includes additional duty under section 46.”.

Date of payment of duty

58. Section 29 of the Principal Act is amended—

- (a) by omitting “within” and substituting “at the end of the period of”; and
- (b) by adding at the end thereof the following sub-section:

“(2) Additional duty under section 46 is due and payable at the end of the period of 30 days after the service by post of a notice of assessment of the additional duty.”.

59. Section 31 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid duty

“31. (1) If any duty remains unpaid after the time when it became due and payable or would, but for section 30, have become due and payable, additional duty is due and payable by way of penalty by the person liable to pay the duty at the rate of 20% per annum on the amount unpaid, computed from that time or, where, under section 30, the Commissioner has determined that the period for payment of the duty be extended or that payment of the duty may be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the duty was originally due and payable.

“(2) Where additional duty is payable by a person under this section in relation to an amount of duty and—

- (a) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the duty were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the duty were due to, or caused directly or indirectly by, an act or omission of the person;
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional duty or part of the additional duty; or
 - (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional duty or part of the additional duty,
- the Commissioner may remit the additional duty or part of the additional duty.

“(3) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of duty; or
 - (b) an amount that includes an amount of duty,
- then—
- (c) the duty shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
 - (d) if the judgment debt carries interest, the additional duty that would, but for this paragraph, be payable under this section in relation to the duty shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the duty bears to the amount of the judgment debt.”.

Duty debt due to Commonwealth

60. Section 32 of the Principal Act is amended—

- (a) by omitting “The duty assessed under this Act” and substituting “Duty”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Duty may be sued for

61. Section 33 of the Principal Act is amended—

- (a) by omitting “, including any additional duty,”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Duty first charge on estate

62. Section 34 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “The duty assessed under this Act” and substituting “Duty”;
- (b) by omitting from paragraph (3) (b) “the duty assessed” and substituting “duty”;
- (c) by omitting from paragraph (3) (f) “assessed” (first occurring) and substituting “payable”;
- (d) by omitting from paragraph (3) (f) “was assessed” and substituting “is payable”; and
- (e) by adding at the end thereof the following sub-section:

“(5) In this section, ‘duty’ also includes additional duty under section 31.”.

Apportionment of duty among beneficiaries

63. Section 35 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Apportionment of duty

64. Section 35A of the Principal Act is amended—

- (a) by omitting from sub-paragraph (b) (i) “assessed” and substituting “payable”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Registration of duty as charge

65. Section 37 of the Principal Act is amended—

- (a) by omitting “assessed under this Act”;
- (b) by omitting “assessed with the duty” and substituting “in relation to which the duty is payable”;
- (c) by omitting “shall” and substituting “may”; and
- (d) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Duty—how payable

66. Section 38 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “assessed under this Act”; and

- (b) by adding at the end thereof the following sub-section:

“(3) In this section, ‘duty’ also includes additional duty under section 31.”.

Commissioner may apply for order to sell

67. Section 39 of the Principal Act is amended—

- (a) by omitting “is not paid by the final date fixed for the payment thereof under the authority of this Act” and substituting “due and payable under this Act has not been paid”; and

- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

Application of proceeds

68. Section 41 of the Principal Act is amended—

- (a) by omitting “and additional duty”; and

- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘duty’ also includes additional duty under section 31.”.

69. Sections 46, 47, 47A and 48 of the Principal Act are repealed and the following section is substituted:

Penalty for failure to furnish return, &c.

“46. (1) Where an administrator refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to an estate, the administrator is liable to pay, by way of penalty, additional duty equal to double the amount of duty payable by the administrator in respect of the estate.

“(2) Where—

- (a) an administrator—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or

- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

- (b) the duty properly payable by the administrator exceeds the duty that would have been payable by the administrator if it were assessed on the basis that the statement were not false or misleading, as the case may be,

the administrator is liable to pay, by way of penalty, additional duty equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional duty, being an amount less than \$20, is payable by an administrator under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional duty shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional duty payable by an administrator under this section in respect of an estate.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of an estate under sub-section (4) from being incorporated in notice of any other assessment made in respect of the estate under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional duty payable by an administrator under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional duty.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 45 (1) (b).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Release from liability for duty in cases of hardship

70. Section 48A of the Principal Act is amended by adding at the end thereof the following sub-section:

“(13) In this section, ‘duty’ includes additional duty under section 31 or 46.”.

Repeal of section 49

71. Section 49 of the Principal Act is repealed.

Further amendment relating to offences

72. The Principal Act is amended as set out in Schedule 4.

Application of amendments

73. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to duty or estate duty included a reference to additional duty, the amendments made by this Act shall be disregarded.

(3) Notwithstanding the repeal of sections 31, 47 and 47A of the Principal Act effected by this Act—

- (a) sub-section 31 (3) of the Principal Act, the proviso to sub-section 47A (1) of the Principal Act and sub-section 47A (2) of the Principal Act continue to apply, after the commencement of this section, in relation to a liability for additional duty that accrued before that commencement;
- (b) sub-section 47 (2) of the Principal Act continues to apply, after that commencement, in relation to an offence against paragraph 47 (1) (a) or (c) of the Principal Act committed before that commencement; and
- (c) sub-section 47 (3) of the Principal Act continues to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against paragraph 47 (1) (a) or (b) of the Principal Act,

as if that repeal had not been effected.

(4) Sub-section 31 (3) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

PART VI—AMENDMENTS OF THE GIFT DUTY ASSESSMENT ACT 1941

Principal Act

74. The *Gift Duty Assessment Act 1941*⁵ is in this Part referred to as the Principal Act.

Repeal of sections 6 and 8

75. Sections 6 and 8 of the Principal Act are repealed.

Annual report

76. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Amendment of assessments

77. Section 22 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) Where, by reason of an amendment of an assessment, a person’s liability to gift duty is reduced—

- (a) the amount by which the gift duty is so reduced shall be taken, for the purposes of section 27, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any gift duty overpaid; or
 - (ii) apply the amount of any gift duty overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(3) In this section, unless the contrary intention appears, ‘gift duty’ includes additional gift duty under section 27 or 42.”.

Notice of assessment

78. Section 24 of the Principal Act is amended by inserting “under section 21 or 23” after “made”.

79. Before section 25 of the Principal Act the following section is inserted in Part V:

Interpretation

“24A. In this Part, unless the contrary intention appears, ‘gift duty’ includes additional gift duty under section 42.”.

Liability for gift duty

80. Section 25 of the Principal Act is amended—

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

“(1A) Additional gift duty under section 42 is due and payable on the date specified in the notice of assessment of the additional gift duty as the date on which the additional gift duty is due and payable.”; and

(b) by adding at the end thereof the following sub-section:

“(8) In sub-sections (2), (3), (4), (6) and (7), ‘gift duty’ also includes additional gift duty under section 27.”.

81. Section 27 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid duty

“27. (1) If any gift duty payable in respect of a gift remains unpaid after the expiration of the period of 30 days after service upon the donor of notice of the assessment made in respect of the gift, additional gift duty is due and payable by way of penalty by the person liable to pay the gift duty at the rate of 20% per annum on the amount unpaid, computed from the expiration of that period, or, where, under section 26, the Commissioner has granted an extension of time for payment of the gift duty or has permitted payment of the gift duty to be made by instalments, from such date as the Commissioner determines, not being a date prior to the thirtieth day after service of the notice of assessment upon the donor.

“(2) If any penalty duty remains unpaid after the time when it became due and payable or would, but for section 26, have become due and payable, additional gift duty is due and payable by way of penalty by the person liable to pay the penalty duty at the rate of 20% per annum on the amount unpaid, computed from that time, or, where, under section 26, the Commissioner has granted an extension of time for payment of the penalty duty or has permitted payment of the penalty duty to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the penalty duty was originally due and payable.

“(3) Where additional gift duty is payable by a person under this section in relation to an amount of gift duty and—

(a) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the gift duty were not due to, or caused directly or indirectly by, an act or omission of the person; and
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the gift duty were due to, or caused directly or indirectly by, an act or omission of the person;
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional gift duty or part of the additional gift duty; or
 - (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional gift duty or part of the additional gift duty,
- the Commissioner may remit the additional gift duty or part of the additional gift duty.

“(4) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of gift duty; or
 - (b) an amount that includes an amount of gift duty,
- then—
- (c) the gift duty shall not be taken, for the purposes of sub-sections (1) and (2), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
 - (d) if the judgment debt carries interest, the additional gift duty that would, but for this paragraph, be payable under this section in relation to the gift duty shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the gift duty bears to the amount of the judgment debt.

“(5) In sub-sections (3) and (4), unless the contrary intention appears, ‘gift duty’ includes penalty duty.

“(6) In this section, ‘penalty duty’ means additional gift duty under section 42.”.

Duty may be sued for

82. Section 28 of the Principal Act is amended—

- (a) by omitting “, including any additional duty,”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘gift duty’ also includes additional gift duty under section 27.”.

Registration of duty as charge

83. Section 29 of the Principal Act is amended—

- (a) by omitting “assessed under this Act as is attributable” and substituting “as relates”;
- (b) by omitting “shall” and substituting “may”; and
- (c) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘gift duty’ also includes additional gift duty under section 27.”.

No limitation of action

84. Section 30 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘gift duty’ also includes additional gift duty under section 27.”.

Objections and appeals

85. Section 31 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) In sub-section (1), ‘gift duty’ includes additional gift duty under section 42.”.

Pending appeal or reference not to affect assessment

86. Section 37 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘gift duty’ includes additional gift duty under section 27 or 42.”.

87. Section 38 of the Principal Act is repealed and the following section is substituted:

Adjustment of duty after appeal

“38. (1) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to gift duty is reduced—

- (a) the amount by which the gift duty is so reduced shall be taken, for the purposes of section 27, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any gift duty overpaid; or
 - (ii) apply the amount of any gift duty overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(2) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to gift duty is increased, the amount of the increased gift duty is recoverable from the person.

“(3) In this section, unless the contrary intention appears, ‘gift duty’ includes additional gift duty under section 27 or 42.”.

88. Sections 42 to 46 (inclusive) of the Principal Act are repealed and the following section is substituted:

Penalty for failure to furnish return, &c.

“42. (1) Where a person refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to a gift, the person is liable to pay, by way of penalty, additional gift duty equal to double the amount of gift duty payable by the person in respect of the gift.

“(2) Where—

(a) a person—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or
- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

- (b) the gift duty properly payable by the person exceeds the gift duty that would have been payable by the person if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the person is liable to pay, by way of penalty, additional gift duty equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional gift duty, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional gift duty shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional gift duty payable by a person under this section and shall, as soon as practicable after the assessment is made, serve notice of the assessment in writing, by post or otherwise, upon the person.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (4) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional gift duty payable by a person under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional gift duty.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 39 (1) (b).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Further amendments relating to offences

89. The Principal Act is amended as set out in Schedule 5.

Application of amendments

90. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to gift duty included a reference to additional gift duty, the amendments made by this Act shall be disregarded.

(3) Notwithstanding the repeal of sections 27, 42, 43, 45 and 46 of the Principal Act effected by this Act—

- (a)** the proviso to section 27 of the Principal Act and sub-sections 42 (3) and (4) of the Principal Act continue to apply, after the commencement of this section, in relation to a liability for additional gift duty that accrued before that commencement;
- (b)** sub-sections 43 (2) and 46 (2) of the Principal Act continue to apply, after that commencement, in relation to offences against sections 43 and 46 of the Principal Act committed before that commencement; and
- (c)** section 45 of the Principal Act continues to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against section 43 or 44 of the Principal Act,

as if that repeal had not been effected.

(4) Sub-section 27 (4) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

**PART VII—AMENDMENTS OF THE INCOME TAX
ASSESSMENT ACT 1936**

Principal Act

91. The *Income Tax Assessment Act 1936*⁶ is in this Part referred to as the Principal Act.

Interpretation

92. Section 6 of the Principal Act is amended—

- (a)** by omitting from sub-section (1) the definition of “assessment” and substituting the following definition:
 - “ ‘assessment’ means—
 - (a)** the ascertainment of the amount of taxable income and of the tax payable thereon; or
 - (b)** the ascertainment of the amount of additional tax payable under a provision of Part VII;”;
- (b)** by inserting after sub-section (1) the following sub-section:

“(1A) Unless the contrary intention appears, a reference in this Act to a failure to do an act or thing includes a reference to a refusal to do the act or thing.”.

Repeal of sections 10 and 13

93. Sections 10 and 13 of the Principal Act are repealed.

Annual report

94. Section 14 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Losses and outgoings

95. Section 51 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) A deduction is not allowable under sub-section (1) in respect of—

- (a) an amount, however described, payable, or expressed to be payable, by way of penalty under a law of the Commonwealth, a State, a Territory or a foreign country; or
- (b) an amount ordered by a court, upon the conviction of a person for an offence against a law of the Commonwealth, a State, a Territory or a foreign country, to be paid by the person.”.

Qualifying expenditure

96. Section 124ZB of the Principal Act is amended by omitting from paragraph (1) (f) “clauses” and substituting “sub-sub-paragraphs”.

Payment of withholding tax

97. Section 128C of the Principal Act is amended—

- (a) by inserting in sub-section (3) “, by way of penalty,” after “additional tax”; and
- (b) by inserting after sub-section (4) the following sub-section:

“(4A) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of withholding tax; or
- (b) an amount that includes an amount of withholding tax,
then—
- (c) the withholding tax shall not be taken, for the purposes of sub-section (3), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in

relation to the withholding tax shall, by force of this paragraph, be reduced by—

- (i) in a case to which paragraph (a) applies—the amount of the interest; or
- (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the withholding tax bears to the amount of the judgment debt.”.

Application of credits

98. Section 160AN of the Principal Act is amended by omitting sub-section (6).

State credits

99. Section 160AP of the Principal Act is amended by omitting sub-section (4).

Amendment of assessments

100. Section 170 of the Principal Act is amended—

- (a) by inserting in sub-section (14) “, unless the contrary intention appears” after “section” (first occurring); and
- (b) by inserting after the definition of “relevant provision” in sub-section (14) the following definition:
“ ‘tax’ includes additional tax under Part VII;”.

101. Section 172 of the Principal Act is repealed and the following section is substituted:

Refund of amounts overpaid

“172. (1) Where, by reason of an amendment of an assessment, a person’s liability to tax is reduced—

- (a) the amount by which the tax is so reduced shall be taken, for the purposes of section 207, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any tax overpaid; or
 - (ii) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(2) In sub-section (1), unless the contrary intention appears, ‘tax’ includes additional tax under section 207 or Part VII.”.

Notice of assessment

102. Section 174 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In sub-section (1), ‘tax’ includes additional tax under Part VII.”

103. Section 182 of the Principal Act is repealed and the following section is substituted:

Remuneration and allowances of members

“182. (1) The Chairman and the other members of a Board shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) The Chairman and the other members of a Board shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”

Interpretation

104. Section 184A of the Principal Act is amended by omitting all the words after “Northern Territory”.

Repeal of section 184B

105. Section 184B of the Principal Act is repealed.

Powers of Board

106. Section 193 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) The Board does not have power to review decisions of the Commissioner relating to the remission of additional tax payable by a taxpayer except decisions relating to the remission of additional tax under Part VII where the additional tax payable, after the making by the Commissioner of the decision, exceeds—

- (a) in the case of additional tax payable under section 222 by reason of the refusal or failure to furnish a return, or any information, relating to a year of income—the amount calculated, in respect of the period commencing on the last day allowed for furnishing the return or information and ending on the day on which the return or information is furnished or the day on which the assessment of the additional tax is made, whichever first happens, at the rate of 20% per annum of the tax properly payable by the taxpayer in respect of the year of income;
- (b) in the case of additional tax payable under section 223 by reason of the making of a statement—
 - (i) if the statement relates to only one year of income—the amount calculated, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of the additional tax is made, at the rate of 20% per annum of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income; or

- (ii) if the statement relates to 2 or more years of income—the sum of the amounts calculated in relation to each of those years of income, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of the additional tax is made, at the rate of 20% per annum of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income;
- (c) in the case of additional tax payable under section 224, 225 or 226 in relation to a year of income—the amount calculated, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of additional tax is made, at the rate of 20% per annum of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income; or
- (d) if the amount calculated in accordance with paragraph (a), (b) or (c) is less than \$20—\$20.

“(3) The Board does not have power to review decisions of the Commissioner relating to the remission of additional tax payable by a person who is not a taxpayer except decisions relating to the remission of additional tax payable by a trustee of a trust estate under sub-section 223 (4) where the additional tax, after the making by the Commissioner of the decision, exceeds \$20.

“(4) In sub-section (2)—

‘prescribed day’, in relation to a taxpayer in relation to a year of income, means the last day of the time allowed to the taxpayer for furnishing to the Commissioner a return in relation to the income of the taxpayer of the year of income;

‘relevant affected tax’, in relation to a taxpayer in relation to a year of income, means—

- (a) in a case where paragraph (2) (b) applies—whichever of the following is applicable in relation to the taxpayer in relation to the year of income, namely, the excess referred to in sub-section 223 (1), paragraph 223 (2) (c) or (d) or sub-section 223 (4) or, if paragraph 223 (2) (e) is so applicable, one half of the sum referred to in that paragraph;
- (b) in a case where paragraph (2) (c) applies in relation to additional tax payable under section 224—the amount of the difference referred to in whichever of paragraphs 224 (1) (e) and (f) is applicable in relation to the taxpayer in relation to the year of income; or
- (c) in a case where paragraph (2) (c) applies in relation to additional tax payable under section 225 or 226 and—
 - (i) sub-paragraph 225 (1) (c) (i) or 226 (c) (i) applies in relation to the additional tax—the amount of the tax referred to in paragraph 225 (1) (a) or 226 (a), as the

case requires, in relation to the taxpayer in relation to the year of income; or

- (ii) sub-paragraph 225 (1) (c) (ii) or 226 (c) (ii) applies in relation to the additional tax—the amount by which the amount of the tax referred to in paragraph 225 (1) (a) or 226 (a), as the case requires, in relation to the taxpayer in relation to the year of income exceeds the amount that is the amount referred to in sub-section 225 (1) or section 226, as the case requires, as the amount of claimed tax in relation to the taxpayer in relation to the year of income.”.

Pending appeal not to delay payment of tax

107. Section 201 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘income tax’ includes additional tax under section 207 or Part VII.”.

108. Section 202 of the Principal Act is repealed and the following section is substituted:

Adjustment of tax after appeal

“202. (1) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to tax is reduced—

- (a) the amount by which the tax is so reduced shall be taken, for the purposes of section 207, never to have been payable; and
- (b) the Commissioner shall—
 - (i) refund the amount of any tax overpaid; or
 - (ii) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(2) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to tax is increased, the amount of the increased tax is recoverable from the person.

“(3) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 207 or Part VII.”.

When tax payable

109. Section 204 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘income tax’ includes additional tax under Part VII.”.

Taxpayer leaving Australia

110. Section 205 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under Part VII.”.

Extension of time and payment by instalments

111. Section 206 of the Principal Act is amended—

- (a) by inserting “of tax” after “payment” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under Part VII.”.

Penalty for unpaid tax

112. Section 207 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “by way of penalty by the person liable to pay the tax” after “is due and payable”;
- (b) by omitting from sub-section (1A) “sub-section (1)” and substituting “this section”;
- (c) by inserting after sub-section (1A) the following sub-section:

“(1B) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of tax; or
- (b) an amount that includes an amount of tax,

then—

- (c) the tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in relation to the tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the tax bears to the amount of the judgment debt.”; and
- (d) by adding at the end thereof the following sub-section:

“(3) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under Part VII.”.

Tax a debt due to the Commonwealth

113. Section 208 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘income tax’ includes additional tax under section 207 or Part VII.”.

Recovery of tax

114. Section 209 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 207 or Part VII.”.

Substituted service

115. Section 214 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘income tax’ includes additional tax under section 207 or Part VII.”.

Liquidators, &c.

116. Section 215 of the Principal Act is amended—

(a) by omitting sub-section (3D) and substituting the following sub-section:

“(3D) In sub-section (3), ‘prescribed tax’ means—

- (a) tax within the meaning of sub-section 30 (2) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (b) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*;
- (c) charge within the meaning of sub-section 27 (2) of the *Tobacco Charges Assessment Act 1955*; or
- (d) tax within the meaning of sub-section 47 (2) of the *Wool Tax (Administration) Act 1964*.”; and

(b) by adding at the end thereof the following sub-section:

“(6) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 207 or Part VII.”.

When tax not paid during lifetime

117. Section 216 of the Principal Act is amended—

- (a) by omitting “, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full complete and accurate returns” and substituting “, at the time of a taxpayer’s death, tax has not been assessed or paid on the whole of the income derived by the taxpayer up to the time of the death of the taxpayer or additional tax under Part VII to which the taxpayer is liable has not been assessed or paid”;
- (b) by omitting from paragraph (a) “against the trustees of the estate of the taxpayer in respect of the taxable income of the taxpayer” and substituting “for the assessment and recovery of tax from the trustees of the estate of the taxpayer in respect of the liability to which the taxpayer was subject”;
- (c) by inserting after paragraph (a) the following paragraph:
 - “(aa) ~~The~~ trustees shall furnish a return of any income derived by the deceased person in respect of which no return was lodged by the deceased person.”; and
- (d) by omitting from paragraph (b) “make” and substituting “furnish”;
and
- (e) by adding at the end thereof the following sub-sections:
 - “(2) Where the trustees are unable or refuse or fail to furnish a return, the Commissioner may make an assessment of the amount on which, in the Commissioner’s judgment, tax ought to be levied and the trustees shall be liable to pay tax as if that amount were the taxable income of the deceased person.
 - “(3) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 207 or Part VII.”.

Repeal of section 217

118. Section 217 of the Principal Act is repealed.

Commissioner may collect tax from person owing money to taxpayer

119. Section 218 of the Principal Act is amended—

- (a) by omitting paragraphs (1) (i) and (ii) and substituting the following paragraphs:
 - “(e) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of tax or, if the amount of the money is equal to or less than the amount due by the taxpayer in respect of tax, the amount of the money; or
 - (f) such amount as is specified in the notice out of each payment that the person so notified becomes liable from time to time to make to the taxpayer until the amount due by the taxpayer in respect of tax is satisfied,”; and

- (b) by omitting sub-section (6) and substituting the following sub-sections:

“(6) Where—

(a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a Stock Exchange); and

(b) the money has not been repaid,

the money shall, for the purposes of this section, be taken—

(c) in a case where the money is repayable on demand— to be due by the building society to the person; or

(d) in any other case—to be money that may become due by the building society to the person.

“(6A) Where, but for this sub-section, money is not due, or repayable on demand, to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due, or repayable on demand, as the case may be, to the person notwithstanding that the condition has not been fulfilled.

“(6B) In this section—

‘building society’ means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State or Territory;

‘person’ includes a company, a partnership, the Commonwealth, a State, a Territory and any public authority (whether incorporated or unincorporated) of the Commonwealth or a State or Territory;

‘tax’ includes—

(a) additional tax under section 207 or Part VII;

(b) an amount that a person is liable to pay to the Commissioner under Division 1A, 2, 3 or 3A;

(c) a judgment debt or costs in respect of—

(i) tax;

(ii) additional tax under section 207 or Part VII; or

(iii) an amount that a person is liable to pay to the Commissioner under Division 1A, 2, 3 or 3A;

(d) any fine or costs imposed by a court in respect of—

(i) an offence against this Act or the regulations; or

(ii) any other taxation offence within the meaning of Part III of the *Taxation Administration Act 1953* that relates to this Act or the regulations; or

(e) any amount ordered by a court, upon the conviction of a person for an offence of a kind referred to in paragraph (d), to be paid by the person to the Commissioner;

‘taxpayer’ includes a person who is liable to pay an amount to the Commissioner under Division 1A, 2, 3 or 3A.”.

Assessment where no administration

120. Section 220 of the Principal Act is amended—

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

“(1) Where, in respect of the estate of a deceased taxpayer, neither probate has been granted nor letters of administration have been taken out within 6 months of the death of the taxpayer, and—

(a) tax has not been assessed or paid on the whole of the income derived by the taxpayer up to the time of the death of the taxpayer; or

(b) additional tax under Part VII to which the taxpayer is liable has not been assessed or paid,

the Commissioner may make an assessment of the tax payable by the estate of the taxpayer.”;

(b) by omitting from sub-section (5) “(including tax assessed under a provision of a State income tax law corresponding with this section)” and substituting “and any additional tax under section 207 payable in relation to that tax”; and

(c) by adding at the end thereof the following sub-section:

“(8) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under Part VII.”.

Interpretation

121. Section 221AA of the Principal Act is amended—

(a) by omitting from sub-sections (2) and (3) “, 218”; and

(b) by omitting from sub-section (2) “in accordance with” and substituting “under”; and

(c) by omitting from sub-section (3) “in accordance with sub-sections 221AG (6) and (7)” and substituting “under sub-section 221AG (6), (7), (7A) or (7B)”.

Amount of instalment of tax

122. Section 221AE of the Principal Act is amended by inserting after sub-section (1) the following sub-sections:

“(1A) Where the amount that would, but for this sub-section, be payable by a company as an instalment of tax in respect of its income of a year of income is less than—

(a) \$250; or

(b) if the Commissioner has determined another amount under sub-section (1B) in relation to the year of income, that other amount,

then, unless the Commissioner otherwise determines in relation to the company or a specified class of companies in which the company is included, the instalment is not payable.

“(1B) For the purposes of this section, the Commissioner may, by notice published in the *Gazette*, determine an amount other than \$250 as the minimum amount in relation to instalments of tax payable by companies in respect of income of a specified year of income and each subsequent year of income.”.

Estimated income tax

123. Section 221AG of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or within such further period as the Commissioner allows” after “payable,” (first occurring);
- (b) by inserting after sub-section (5) the following sub-section:

“(5A) Where—

- (a) 2 or 3 instalments of tax in respect of the income of a company of a year of income are due and payable on the same day;
- (b) the same date is shown on each of the notices served on the company under sub-section 221AF (1) in respect of those instalments as being the date of issue of the notice; and
- (c) the amount payable by the company as one of those instalments of tax is required to be ascertained under sub-section (4) or sub-paragraph (5) (b) (i),

the amount of the other instalment, or each of those other instalments, of tax payable by the company in respect of its income of the year of income is an amount equal to the amount so ascertained.”;

- (c) by inserting in sub-section (6) “by way of penalty,” after “additional tax,” (first occurring);
- (d) by inserting in sub-section (6) “(in sub-section (7A) referred to as the ‘prescribed amount’)” after “on the amount”;
- (e) by omitting from sub-section (6) all the words after “whichever is the” (last occurring) and substituting “greater”;
- (f) by inserting in sub-section (7) “by way of penalty,” after “additional tax,” (first occurring);
- (g) by omitting from sub-section (7) all the words after “whichever is the” (last occurring) and substituting “greater”; and
- (h) by inserting after sub-section (7) the following sub-sections:

“(7A) Where—

- (a) but for the operation of sub-section 221AD (2B) or sub-sections 221AD (2B) and 221AE (1A), a company would have been liable to pay an instalment of tax, or 2 instalments of tax, in respect of its income of a year of income;
- (b) the estimated income tax is—
 - (i) nil; or
 - (ii) an amount less than—
 - (A) \$1,000; or

- (B) if the Commissioner has made a determination under sub-section 221AE (1B) in relation to the year of income, 4 times the amount determined by the Commissioner under that sub-section in relation to the year of income; and
 - (c) additional tax under sub-section (6) is due and payable by the company in respect of the year of income,
- then, additional tax, by way of penalty, in respect of the instalment of tax or each instalment of tax, as the case may be, in respect of the period—
- (d) commencing on—
 - (i) 16 November in the relevant year of tax; or
 - (ii) 16 February in the relevant year of tax,whichever is the earliest day on which, but for the operation of sub-section 221AD (2B) or sub-sections 221AD (2B) and 221AE (1A), as the case may be, the instalment of tax would have been due and payable by the company if a notice under sub-section 221AF (1) had been duly served on the company in relation to the instalment of tax not later than 30 days before that day; and
 - (e) ending on the day on which the amount of income tax payable by the company in respect of its taxable income of the year of income became due and payable,
- is due and payable by the company at the rate of 20% per annum on an amount equal to the prescribed amount.

“(7B) Where—

- (a) sub-section (5A) applies in relation to instalments of tax in respect of the income of a company of a year of income; and
 - (b) additional tax under sub-section (6) is due and payable by the company in respect of the year of income,
- additional tax, by way of penalty, equal to—
- (c) in a case where sub-section (5A) applies in relation to 3 instalments of tax—double the amount of additional tax referred to in paragraph (b) of this sub-section; or
 - (d) in a case where sub-section (5A) applies in relation to 2 instalments of tax—the amount of additional tax referred to in paragraph (b) of this sub-section,
- is due and payable by the company.

“(7C) Where the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to do so, the Commissioner may remit the whole or any part of any additional tax payable by the company under sub-section (6), (7), (7A) or (7B).”.

Notice of alteration of amount of instalment

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

- (a) by omitting sub-paragraph (1) (b) (ii) and substituting the following sub-paragraph:
 - (ii) the operation of sub-section 221AE (1A), (5) or (6) or 221AG (4), (5) or (5A),”; and
 - (b) by adding at the end thereof the following sub-section:
 - “(3) Where—
 - (a) sub-section 221AG (5A) applies in relation to instalments of tax in respect of the income of a company of a year of income; and
 - (b) a notice is served on the company under sub-section (2) of this section specifying—
 - (i) the amount of the increase in an instalment of tax in respect of the income of the company of the year of income that became payable by reason of sub-section 221AG (5); and
 - (ii) a date as the due date for payment of that amount,
- so much of each of the other instalments of tax referred to in paragraph (a) as is equal to the amount referred to in sub-paragraph (b) (i) is, notwithstanding the provisions of section 221AF, due and payable on the date so specified.”.

Interpretation

125. Section 221A of the Principal Act is amended by inserting after the definition of “employer” in sub-section (1) the following definition:

“ ‘government body’ means the Commonwealth, a State, a Territory or an authority of the Commonwealth or a State or Territory;”.

126. After section 221E of the Principal Act the following section is inserted:

Failure to make deductions from salary or wages

“221EAA. (1) Where an employer other than a government body refuses or fails, at the time of paying salary or wages to an employee, to deduct from the salary or wages the amount required to be deducted under this Division, the employer is liable to pay to the Commissioner, by way of penalty—

- (a) an amount (in this sub-section referred to as the ‘undeducted amount’) equal to the amount that the employer refused or failed to deduct; and
- (b) an amount equal to 20% per annum of so much of the undeducted amount as remains unpaid, computed from—
 - (i) in a case where the employer is a group employer—the expiration of the period within which the employer, had the employer deducted the amount required to be deducted under

this Division, would have been required to pay the amount of the deduction to the Commissioner; or

- (ii) in any other case—the day next following the last day that would have been allowed to the employer, had the employer deducted the amount required to be deducted under this Division, for affixing tax stamps of a face value equal to the amount of the deduction as required by this Division.

“(2) Where an employer, being a government body other than the Commonwealth, refuses or fails, at the time of paying salary or wages to an employee, to deduct from the salary or wages the amount required to be deducted under this Division, the employer is liable to pay to the Commissioner, by way of penalty, an amount equal to 20% per annum of the amount that the employer refused or failed to deduct in respect of the period commencing on the day on which the employer was required to make the deduction and ending on 30 June in the financial year in which that day occurred.”

Group employers

127. Section 221F of the Principal Act is amended by omitting sub-sections (10), (10A), (11) and (12) and substituting the following sub-sections:

“(10) Where the Commissioner makes a credit or payment as mentioned in sub-section (9), the Commissioner shall, as soon as practicable after the credit or payment is made, serve on the group employer, by post or otherwise, a notice in writing specifying the amount payable by the group employer to the Commissioner under that sub-section.

“(11) An amount payable by a group employer under sub-section (9) shall be paid to the Commissioner not later than the day specified in the notice under sub-section (10) in relation to the amount as the day on which the amount is due and payable.

“(12) Where an amount (in this sub-section referred to as the ‘principal amount’) payable to the Commissioner by a group employer other than the Commonwealth by virtue of paragraph (5) (a) (including that paragraph as varied under sub-section (7)) or under sub-section (9), remains unpaid after the time by which it is required to be paid—

- (a) the principal amount continues to be payable by the group employer to the Commissioner; and
- (b) the group employer is liable to pay to the Commissioner, by way of penalty—
 - (i) in a case where the group employer is a government body—an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid, computed from that time; and

(ii) in any other case—

- (A) an amount (in this sub-paragraph referred to as the ‘relevant penalty amount’) equal to 20% of the principal amount; and
- (B) an amount at the rate of 20% per annum on the sum of so much of the principal amount as remains unpaid and so much of the relevant penalty amount as remains unpaid, computed from that time.”.

Employers other than group employers

128. Section 221G of the Principal Act is amended by inserting after sub-section (4) the following sub-section:

“(4A) Where—

- (a) an employer, other than a group employer or the Commonwealth, makes a deduction for the purposes of this Division from the salary or wages of an employee and refuses or fails to affix tax stamps of a face value equal to the amount of the deduction as required by this Division; and
- (b) an amount (in this sub-section referred to as the ‘principal amount’) that the employer is liable to pay to the Commissioner under sub-section 221P (1) by virtue of the refusal or failure remains unpaid after the time at which it becomes payable,

the employer is liable to pay to the Commissioner, by way of penalty—

- (c) in a case where the employer is a government body—an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid, computed from that time; or
- (d) in any other case—
 - (i) an amount (in this paragraph referred to as the ‘relevant penalty amount’) equal to 20% of the principal amount; and
 - (ii) an amount at the rate of 20% per annum on the sum of so much of the principal amount as remains unpaid and so much of the relevant penalty amount as remains unpaid, computed from that time.”.

129. Section 221N of the Principal Act is repealed and the following sections are substituted:

Remission of certain amounts

“221N. (1) Where an amount (in this section referred to as the ‘late payment penalty’) is payable by an employer by virtue of paragraph 221EAA (1) (b), sub-paragraph 221F (12) (b) (i), sub-sub-paragraph 221F (12) (b) (ii) (B), paragraph 221G (4A) (c) or sub-paragraph

221G (4A) (d) (ii) in relation to another amount (in this sub-section referred to as the 'principal amount') that has not been paid and—

- (a) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the principal amount were not due to, or caused directly or indirectly by, an act or omission of the employer; and
 - (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;
- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the principal amount were due to, or caused directly or indirectly by, an act or omission of the employer;
 - (ii) the employer has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty; or
- (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the late payment penalty or part of the late payment penalty,

the Commissioner may remit the late payment penalty or part of the late payment penalty.

“(2) The Commissioner may remit the whole or part of any amount payable by an employer by virtue of paragraph 221EAA (1) (a), sub-section 221EAA (2), sub-sub-paragraph 221F (12) (b) (ii) (A) or sub-paragraph 221G (4A) (d) (i).

Reduction of late payment penalty where judgment debt carries interest

“221NA. (1) Where judgment is given by, or entered in, a court for the payment of—

- (a) the whole or a part of a principal amount; or
 - (b) an amount that includes the whole or a part of a principal amount,
- then—
- (c) the principal amount or the part of the principal amount, as the case may be, shall not be taken, for the purposes of paragraph 221EAA (1) (b), sub-paragraph 221F (12) (b) (i), sub-sub-paragraph 221F (12) (b) (ii) (B), paragraph 221G (4A) (c) or sub-paragraph 221G (4A) (d) (ii), as the case may be, to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
 - (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable by virtue of paragraph 221EAA (1) (b), sub-paragraph 221F (12) (b) (i), sub-sub-paragraph 221F (12) (b) (ii) (B), paragraph 221G (4A) (c) or sub-paragraph 221G (4A) (d) (ii), as the case may be, in relation to the principal

amount or the part of the principal amount, as the case may be, shall, by force of this paragraph, be reduced by—

- (i) in a case to which paragraph (a) applies—the amount of the interest; or
- (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount or the part of the principal amount, as the case may be, bears to the amount of the judgment debt.

“(2) In sub-section (1), ‘principal amount’ means—

- (a) an amount of the kind referred to in sub-section 221EAA (1) as the undeducted amount;
- (b) an amount of the kind referred to in sub-section 221F (12) as the principal amount;
- (c) an amount of the kind referred to in sub-paragraph 221F (12) (b) (ii) as the relevant penalty amount;
- (d) an amount of the kind referred to in sub-section 221G (4A) as the principal amount; or
- (e) an amount of the kind referred to in paragraph 221G (4A) (d) as the relevant penalty amount.

Penalties to be alternative to prosecution for certain offences

“221NB. (1) Where—

- (a) but for this sub-section, an amount is payable, by way of penalty, by a person to the Commissioner under this Division by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(2) Where—

- (a) a person is liable to pay, by way of penalty, an amount (in this sub-section referred to as the ‘penalty amount’) to the Commissioner under this Division by reason of an act or omission of the person;
- (b) an amount (in this sub-section referred to as the ‘relevant amount’) is paid, or applied by the Commissioner, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty amount.

“(3) In sub-section (2), ‘tax liability’ means tax liability as defined in section 2 of the *Taxation Administration Act 1953*.”.

Employer not accounting for deductions

130. Section 221P of the Principal Act is amended by inserting in sub-section (1) “refuses or” before “fails”.

Employer failing to issue group certificate or deliver tax stamps sheet

131. Section 221Q of the Principal Act is amended by inserting in sub-section (1) “refused or” before “failed”.

Repeal of section 221U

132. Section 221U of the Principal Act is repealed.

Interpretation

133. Section 221YA of the Principal Act is amended—

- (a) by omitting from sub-section (2) “, 218”; and
- (b) by inserting in sub-section (2) “and additional tax under section 221YDB” after “provisional tax”.

Additional tax where income underestimated

134. Section 221YDB of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, by way of additional tax, an amount equal to 10%” and substituting “additional tax, by way of penalty, equal to 20%”; and
- (b) by inserting after sub-section (1A) the following sub-sections:

“(1B) Where a taxpayer becomes liable to pay to the Commissioner an amount of additional tax under sub-section (1), the Commissioner shall serve on the taxpayer notice in writing specifying—

- (a) the amount of additional tax; and
- (b) a date as the due date for payment of the additional tax, being a date not less than 14 days after the day of service of the notice.

“(1C) Nothing in this Act shall be taken to preclude notice under sub-section (1B) given in respect of a taxpayer from being incorporated in notice of an assessment made in respect of the taxpayer under this Act.”.

Interpretation

135. Section 221YHA of the Principal Act is amended—

- (a) by omitting “or the Northern Territory,” from the definition of “government body” in sub-section (1) and substituting “, a Territory”; and
- (b) by omitting “, of a State or of the Northern Territory” from the definition of “government body” in sub-section (1) and substituting “or a State or Territory”.

Failure to make deductions from prescribed payments

136. Section 221YHH of the Principal Act is amended—

- (a) by inserting in sub-section (1) “refuses or” after “body”;
- (b) by omitting from paragraph (1) (a) “section” and substituting “sub-section”;
- (c) by omitting from paragraph (1) (b) all the words after “within which” and substituting “the eligible paying authority, had the eligible paying authority deducted the amount required to be deducted under this Division, would have been required to pay the amount of the deduction to the Commissioner”;
- (d) by inserting in sub-section (2) “refuses or” after “Commonwealth,”;
- (e) by omitting from sub-section (2) “the undeducted amount in respect of the period commencing on the expiration of the period within which the amount that the eligible paying authority failed to deduct would have been required to be paid to the Commissioner” and substituting “the amount that the eligible paying authority refused or failed to deduct in respect of the period commencing on the expiration of the period within which the eligible paying authority, had it deducted the amount required to be deducted under this Division, would have been required to pay the amount of the deduction to the Commissioner”; and
- (f) by omitting sub-section (3).

Failure to pay amounts deducted to Commissioner

137. Section 221YHJ of the Principal Act is amended by omitting sub-sections (1) and (2) and substituting the following sub-section:

“(1) Where an amount (in this sub-section referred to as the ‘principal amount’) payable to the Commissioner by an eligible paying authority other than the Commonwealth by virtue of sub-sub-paragraph 221YHD (1) (b) (v) (A) or sub-paragraph 221YHD (1D) (c) (i) remains unpaid after the expiration of the period within which it is required to be paid—

- (a) the principal amount continues to be payable by the eligible paying authority to the Commissioner; and
- (b) the eligible paying authority is liable to pay to the Commissioner, by way of penalty—
 - (i) in a case where the eligible paying authority is a government body—an amount at the rate of 20% per annum on so much of the principal amount as remains unpaid, computed from the expiration of that period; and
 - (ii) in any other case—
 - (A) an amount (in this sub-paragraph referred to as the ‘relevant penalty amount’) equal to 20% of the principal amount; and
 - (B) an amount at the rate of 20% per annum of the sum of so much of the principal amount as remains unpaid and so

much of the relevant penalty amount as remains unpaid, computed from the expiration of that period.”.

Failure to furnish deduction form, &c.

138. Section 221YHK of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “refuses or” before “fails”;
- (b) by inserting in sub-paragraph (1) (c) (iii) “refused or” before “failed”; and
- (c) by omitting sub-section (2).

Remission of certain amounts

139. Section 221YHL of the Principal Act is amended by inserting in sub-section (2) “sub-section 221YHH (2),” after “paragraph 221YHH (1) (a),”.

140. After section 221YHL of the Principal Act the following sections are inserted:

Reduction of late payment penalty where judgment debt carries interest

“221YHLA. (1) Where judgment is given by, or entered in, a court for the payment of—

- (a) the whole or a part of a principal amount; or
- (b) an amount that includes the whole or a part of a principal amount, then—
 - (c) the principal amount or the part of the principal amount, as the case may be, shall not be taken, for the purposes of paragraph 221YHH (1) (b), sub-paragraph 221YHJ (1) (b) (i) or sub-sub-paragraph 221YHJ (1) (b) (ii) (B), as the case requires, to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
 - (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable by virtue of paragraph 221YHH (1) (b), sub-paragraph 221YHJ (1) (b) (i) or sub-sub-paragraph 221YHJ (1) (b) (ii) (B), as the case may be, in relation to the principal amount or the part of the principal amount, as the case may be, shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount or the part of the principal amount, as the case may be, bears to the amount of the judgment debt.

“(2) In sub-section (1), ‘principal amount’ means—

- (a) an amount of the kind referred to in sub-section 221YHH (1) as the undeducted amount;

- (b) an amount of the kind referred to in sub-section 221YHJ (1) as the principal amount; or
- (c) an amount of the kind referred to in sub-paragraph 221YHJ (1) (b) (ii) as the relevant penalty amount.

Penalties to be alternative to prosecution for certain offences

“221YHLB. (1) Where—

- (a) but for this sub-section, an amount is payable, by way of penalty, by a person to the Commissioner under this Division by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(2) Where—

- (a) a person is liable to pay, by way of penalty, an amount (in this sub-section referred to as the ‘penalty amount’) to the Commissioner under this Division by reason of an act or omission of the person;
- (b) an amount (in this sub-section referred to as the ‘relevant amount’) is paid, or applied by the Commissioner, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty amount.

“(3) In sub-section (2), ‘tax liability’ means tax liability as defined in section 2 of the *Taxation Administration Act 1953*.”.

Repeal of section 221YHO

141. Section 221YHO of the Principal Act is repealed.

Deductions to be forwarded to Commissioner, &c.

142. Section 221YN of the Principal Act is amended—

- (a) by omitting from sub-section (4) “under this section” and substituting “under sub-section (1) (in this sub-section referred to as the ‘principal amount’)”;
- (b) by omitting from paragraph (4) (a) “that amount” and substituting “the principal amount”;
- (c) by inserting in paragraph (4) (b) “, by way of penalty,” after “Commissioner”;
- (d) by omitting from paragraph (4) (b) “the amount unpaid” and substituting “so much of the principal amount as remains unpaid”;

- (e) by omitting from sub-section (5) “payable to the Commissioner” (first occurring) and substituting “(in this sub-section referred to as the ‘principal amount’) payable to the Commissioner under sub-section (1)”;
- (f) by omitting from sub-paragraphs (5) (a) (i) and (b) (i) “the amount payable to the Commissioner” and substituting “the principal amount”; and
- (g) by adding at the end thereof the following sub-sections:

“(6) Where judgment is given by, or entered in, a court for the payment of—

- (a) the whole or a part of a principal amount; or
- (b) an amount that includes the whole or a part of a principal amount,

then—

- (c) the principal amount shall not be taken, for the purposes of paragraph (4) (b), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable by virtue of paragraph (4) (b) in relation to the principal amount or the part of the principal amount, as the case may be, shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount or the part of the principal amount, as the case may be, bears to the amount of the judgment debt.

“(7) In sub-section (6), ‘principal amount’ means an amount payable to the Commissioner under sub-section (1).

“(8) Where—

- (a) but for this sub-section, an amount is payable, by way of penalty, by a person to the Commissioner under sub-section (4) by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against sub-section (2) constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(9) Where—

- (a) a person is liable to pay, by way of penalty, an amount (in this sub-section referred to as the ‘penalty amount’) to the

Commissioner under sub-section (4) by reason of an act or omission of the person;

(b) an amount (in this sub-section referred to as the 'relevant amount') is paid, or applied by the Commissioner, in total or partial discharge of the liability; and

(c) a prosecution is instituted against the person for an offence against sub-section (2) constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty amount.

“(10) In this section, ‘tax liability’ means a tax liability as defined in section 2 of the *Taxation Administration Act 1953*.”.

Repeal of section 221YW

143. Section 221YW of the Principal Act is repealed.

Deductions to be forwarded to Commissioner, &c.

144. Section 221ZC of the Principal Act is amended—

- (a) by omitting from sub-section (4) “under this section” and substituting “under sub-section (1) (in this sub-section referred to as the ‘principal amount’)”;
- (b) by omitting from paragraph (4) (a) “that amount” and substituting “the principal amount”;
- (c) by inserting in paragraph (4) (b) “, by way of penalty,” after “Commissioner”;
- (d) by omitting from paragraph (4) (b) “the amount unpaid” and substituting “so much of the principal amount as remains unpaid”;
- (e) by omitting from sub-section (5) “payable to the Commissioner” (first occurring) and substituting “(in this sub-section referred to as the ‘principal amount’) payable to the Commissioner under sub-section (1)”;
- (f) by omitting from sub-paragraphs (5) (a) (i) and (b) (i) “the amount payable to the Commissioner” and substituting “the principal amount”.

Liability of person who fails to make deduction, &c.

145. Section 221ZD of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, by way of penalty” after “Commissioner” (first occurring);
- (b) by inserting in paragraph (1) (a) “(in this sub-section referred to as the ‘principal amount’)” after “amount” (first occurring);
- (c) by omitting from paragraph (1) (b) “10%” and substituting “20%”;
- (d) by omitting from paragraph (1) (b) “the amount of that unpaid mining withholding tax, calculated in respect of the period

commencing on” and substituting “so much of the principal amount as remains unpaid, computed from”; and

- (e) by omitting from paragraph (1) (b) all the words after “made”.

146. After section 221ZD of the Principal Act the following sections are inserted:

Reduction of late payment penalty where judgment debt carries interest

“221ZDA. (1) Where judgment is given by, or entered in, a court for the payment of—

- (a) the whole or a part of a principal amount; or
- (b) an amount that includes the whole or a part of a principal amount,

then—

- (c) the principal amount or the part of the principal amount, as the case may be, shall not be taken, for the purposes of paragraph 221ZC (4) (b) or 221ZD (1) (b), as the case requires, to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable by virtue of paragraph 221ZC (4) (b) or 221ZD (1) (b), as the case may be, in relation to the principal amount or the part of the principal amount, as the case may be, shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount or the part of the principal amount, as the case may be, bears to the amount of the judgment debt.

“(2) In sub-section (1), ‘principal amount’ means—

- (a) an amount of the kind referred to in sub-section 221ZC (4) as the principal amount; or
- (b) an amount of the kind referred to in sub-section 221ZD (1) as the principal amount.

Penalties to be alternative to prosecution for certain offences

“221ZDB. (1) Where—

- (a) but for this sub-section, an amount is payable, by way of a penalty, by a person to the Commissioner under this Division by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(2) Where—

- (a) a person is liable to pay, by way of penalty, an amount (in this sub-section referred to as the ‘penalty amount’) to the Commissioner under this Division by reason of an act or omission of the person;
- (b) an amount (in this sub-section referred to as the ‘relevant amount’) is paid, or applied by the Commissioner, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty amount.

“(3) In sub-section (2), ‘tax liability’ means tax liability as defined in section 2 of the *Taxation Administration Act 1953*.”.

Repeal of section 221ZJ

147. Section 221ZJ of the Principal Act is repealed.

Liability of person who fails to make deduction

148. Section 221ZO of the Principal Act is amended—

- (a) by inserting in sub-section (1) “refuses or” before “fails”;
- (b) by inserting in sub-section (1) “, by way of penalty” after “Commissioner”;
- (c) by inserting in paragraph (1) (a) “refused or” before “failed”;
- (d) by omitting from paragraph (1) “10%” and substituting “20%”; and
- (e) by inserting in sub-section (2) “refused or” before “failed”.

Liability of person who fails to remit deduction

149. Section 221ZP of the Principal Act is amended—

- (a) by inserting “(in this section referred to as the ‘principal amount’)” after “paragraph 221ZN (1) (c)”;
- (b) by omitting from paragraph (a) “that amount” and substituting “the principal amount”;
- (c) by inserting in paragraph (b) “, by way of penalty,” after “Commissioner”; and
- (d) by omitting from paragraph (b) “the amount unpaid” and substituting “so much of the principal amount as remains unpaid”.

150. After section 221ZQ of the Principal Act the following sections are inserted:

Reduction of late payment penalty where judgment debt carries interest

“221ZQA. (1) Where judgment is given by, or entered in, a court for the payment of—

- (a) the whole or a part of a principal amount; or
 - (b) an amount that includes the whole or a part of a principal amount,
- then—

- (c) the principal amount shall not be taken, for the purposes of paragraph 221ZO (1) (b) or 221ZP (b), as the case requires, to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the amount that would, but for this paragraph, be payable by virtue of paragraph 221ZO (1) (b) or 221ZP (b), as the case may be, in relation to the principal amount or the part of the principal amount, as the case may be, shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the principal amount or the part of the principal amount, as the case may be, bears to the amount of the judgment debt.

“(2) In sub-section (1), ‘principal amount’ means—

- (a) an amount of the kind referred to in sub-section 221ZO (1) as the undeducted amount; or
- (b) an amount of the kind referred to in section 221ZP as the principal amount.

Penalties to be alternative to prosecution for certain offences

“221ZQB. (1) Where—

- (a) but for this sub-section, an amount is payable, by way of a penalty, by a person to the Commissioner under this Division by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(2) Where—

- (a) a person is liable to pay, by way of penalty, an amount (in this sub-section referred to as the ‘penalty amount’) to the Commissioner under this Division by reason of an act or omission of the person;

- (b) an amount (in this sub-section referred to as the 'relevant amount') is paid, or applied by the Commissioner, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against this Division constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty amount.

“(3) In sub-section (2), ‘tax liability’ means tax liability as defined in section 2 of the *Taxation Administration Act 1953*.”.

Repeal of section 221ZV

151. Section 221ZV of the Principal Act is repealed.

152. Part VII of the Principal Act is repealed and the following Part is substituted:

“PART VII—PENALTY TAX

Penalty for failure to furnish return

“222. (1) Where a taxpayer refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to a year of income, being a return relating to or information relating to, or to the affairs of, the taxpayer, the taxpayer is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the taxpayer in respect of the year of income.

“(2) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by a taxpayer under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

Penalty for false or misleading statements

“223. (1) Where—

(a) a taxpayer—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or
- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

(b) the tax properly payable by the taxpayer exceeds the tax that would have been payable by the taxpayer if it were assessed on the basis that the statement were not false or misleading, as the case may be,
the taxpayer is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(2) Where—

(a) a partner in a partnership (in this sub-section referred to as the ‘defaulting partner’)—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or
- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular,

being a statement relating to, or to the affairs of, the partnership; and

(b) either or both of the following sub-paragraphs apply:

- (i) the tax properly payable by the defaulting partner exceeds the tax that would have been payable by the defaulting partner if it were assessed on the basis that the statement were not false or misleading, as the case may be;
- (ii) the tax properly payable by any other partner in the partnership (in this sub-section referred to as the ‘other partner’) exceeds the amount that would have been payable by the other partner if it were assessed on the basis that the statement were not false or misleading, as the case may be,

then—

- (c) in a case to which sub-paragraph (b) (ii) does not apply—the defaulting partner is liable to pay, by way of penalty, additional tax equal to double the amount of the excess referred to in sub-paragraph (b) (i);
- (d) in a case to which sub-paragraph (b) (i) does not apply—the defaulting partner is liable to pay, by way of penalty, additional tax equal to double the amount of the excess referred to in sub-paragraph (b) (ii); and
- (e) in a case to which sub-paragraphs (b) (i) and (ii) both apply—the defaulting partner is liable to pay, by way of penalty, additional tax equal to the sum of—
 - (i) double the amount of the excess referred to in sub-paragraph (b) (i); and
 - (ii) double the amount of the excess referred to in sub-paragraph (b) (ii).

“(3) Where, but for this sub-section, a person is liable to pay both—

- (a) an amount of additional tax under sub-section (1) in respect of a statement relating to a matter; and**
- (b) an amount of additional tax under sub-section (2) in respect of a statement (whether or not the same statement) relating to the same matter,**

the person is liable to pay only whichever of those amounts the Commissioner determines.

“(4) Where—

- (a) a trustee of a trust estate—**

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or**
- (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular,**

being a statement relating to, or to the affairs of, the trust estate; and

- (b) the tax properly payable by a person who is or has been a beneficiary of the trust estate exceeds the tax that would have been payable by the last-mentioned person if it were assessed on the basis that the statement were not false or misleading, as the case may be,**

the trustee is personally liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(5) Sub-section (4) shall not be taken as implying that a reference in any other provision of this Part to a taxpayer does not include a reference to a taxpayer in the capacity of a trustee.

“(6) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

“(7) Where a person omits from a return furnished under or pursuant to this Act or the regulations, being a return of income derived by the person, a partnership or a trust estate during a period, any assessable income derived by the person, the partnership or the trust estate, as the case may be, during the period, the person shall, for the purposes of this section, be taken to have made a statement in the return to the effect that the person, the partnership or the trust estate, as the case requires, did not derive the assessable income during the period.

“(8) A reference in this section to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data

processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 264 (1) (b).

“(9) A reference in this section to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(10) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.

Penalty tax where certain anti-avoidance provisions apply

“224. (1) Where—

- (a) for the purpose of making an assessment or arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to a taxpayer in relation to a year of income;
- (b) a step (in this sub-section referred to as the ‘relevant step’) in the calculation of the tax consisted of—
 - (i) an amount being included in the assessable income of the taxpayer; or
 - (ii) a deduction or rebate not being allowable, in whole or in part, to the taxpayer;
- (c) the relevant step was dependent on, or involved, any one or more of the following, namely:

- (i) the formation by the Commissioner of, or the refusal or failure of the Commissioner to form, an opinion that relates to a tax avoidance scheme;
 - (ii) the attainment by the Commissioner of, or the refusal or failure by the Commissioner to attain, a state of mind that relates to a tax avoidance scheme;
 - (iii) the making by the Commissioner of, or the refusal or failure by the Commissioner to make, a determination that relates to a tax avoidance scheme;
 - (iv) the exercise by the Commissioner of, or the refusal or failure by the Commissioner to exercise, a power to treat a matter or thing that relates to a tax avoidance scheme in a particular way,
- being an opinion, state of mind, determination or power under, or referred to in, a provision of this Act (other than a provision of Division 13 of Part III or Part IVA); and
- (d) either of the following sub-paragraphs apply:
- (i) in a case to which sub-paragraph (b) (i) applies—the taxpayer did not include in the taxpayer's return for the year of income or the objection, as the case may be, the amount referred to in that sub-paragraph as part of the taxpayer's assessable income; or
 - (ii) in a case to which sub-paragraph (b) (ii) applies—the taxpayer claimed or included in the taxpayer's return for the year of income or the objection, as the case may be, the deduction or rebate or the part of the deduction or rebate, as the case may be, referred to in that sub-paragraph as, or as part of, an allowable deduction or rebate, as the case may be,
- the taxpayer is liable to pay, by way of penalty, additional tax equal to—
- (e) in a case to which sub-paragraph (b) (i) applies—double the difference between the tax properly payable by the taxpayer and the tax that would have been payable by the taxpayer if it were assessed on the basis that the taxpayer's assessable income were reduced by the amount referred to in sub-paragraph (b) (i) or the part of that amount that the taxpayer did not include in the taxpayer's return for the year of income or the taxpayer's objection, as the case may be, as part of the taxpayer's assessable income, as the case may be; or
 - (f) in a case to which sub-paragraph (b) (ii) applies—double the difference between the tax properly payable by the taxpayer and the tax that would have been payable by the taxpayer if it were assessed on the basis that the taxpayer's allowable deductions or rebates, as the case may be, were increased by the amount of the deduction or rebate or the part of the deduction or rebate, as the case may be, referred to in sub-paragraph (b) (ii) that the taxpayer claimed or included in the taxpayer's return for the year of income or the taxpayer's objection, as the case may be, as, or as part of, an allowable deduction or rebate, as the case may be.

“(2) In sub-section (1), ‘tax avoidance scheme’ means a scheme within the meaning of Part IVA that was entered into or carried out for the sole or dominant purpose of enabling a person to pay no tax or less tax.

Penalty tax where Division 13 of Part III applies

“225. (1) Where—

- (a) for the purpose of making an assessment or arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to a taxpayer in relation to a year of income;
- (b) in calculating the tax assessable to the taxpayer, a prescribed provision was, or prescribed provisions were, applied; and
- (c) either of the following sub-paragraphs apply:

- (i) no tax would have been assessable to the taxpayer in relation to the year of income if—

- (A) the prescribed provision or prescribed provisions, as the case may be, had not been applied; and

- (B) the tax had been assessed on the basis that the particulars contained in the return of the taxpayer for the year of income or in the objection, as the case may be, were correct in so far as they were relevant to the operation of the prescribed provision or prescribed provisions, as the case may be;

- (ii) the amount of tax (in this sub-section referred to as the ‘amount of claimed tax’) that would have been assessable to the taxpayer in relation to the year of income if—

- (A) the prescribed provision or prescribed provisions, as the case may be, had not been applied; and

- (B) the tax had been assessed on the basis that the particulars contained in the return of the taxpayer for the year of income or the objection, as the case may be, were correct in so far as they were relevant to the operation of the prescribed provision or prescribed provisions, as the case may be,

is less than the amount of tax referred to in paragraph (a),

the taxpayer is liable to pay, by way of penalty—

- (d) in a case where—

- (i) the prescribed provision or prescribed provisions, as the case may be, were applied in relation to a scheme within the meaning of Part IVA; and

- (ii) the scheme was entered into or carried out for the sole or dominant purpose of enabling a person to pay no tax or less tax—

additional tax equal to—

- (iii) in a case to which sub-paragraph (c) (i) applies—double the amount of the tax referred to in paragraph (a); or

- (iv) in a case to which sub-paragraph (c) (ii) applies—double the amount by which the amount of the tax referred to in paragraph (a) exceeds the amount of claimed tax; or
- (e) in any other case—additional tax, in respect of the period commencing on the last day allowed to the taxpayer for furnishing the taxpayer's return of income for the year of income and ending on the day on which the assessment is made or a decision is made on the objection, as the case may be, at the rate of 25% per annum of—
 - (i) in a case to which sub-paragraph (c) (i) applies—the amount of the tax referred to in paragraph (a); or
 - (ii) in a case to which sub-paragraph (c) (ii) applies—the amount by which the amount of the tax referred to in paragraph (a) exceeds the amount of claimed tax.

“(2) Where—

- (a) for the purpose of making an assessment or arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to a taxpayer in relation to a year of income; and
- (b) in calculating the tax assessable to the taxpayer, a prescribed provision was not applied in a particular case by reason of the *Income Tax (International Agreements) Act 1953*,

the Commissioner shall determine the following amounts:

- (c) the amount (if any) of additional tax that, but for sub-section (3) and the *Income Tax (International Agreements) Act 1953*, the taxpayer would have been liable to pay in relation to the year of income under sub-section (1);
- (d) the amount (if any) of additional tax that the taxpayer would have been liable to pay in relation to the year of income under sub-section (1) if that sub-section were applied on the basis that a reference in that sub-section to the application of a prescribed provision included a reference to the application of a provision of the *Income Tax (International Agreements) Act 1953* by reason of the application of which a prescribed provision was not applied in a particular case.

“(3) Where the Commissioner has determined an amount or amounts under sub-section (2) in relation to a taxpayer in relation to a year of income, the taxpayer is liable to pay, by way of penalty, additional tax in relation to the year of income equal to that amount or the lesser of those amounts, as the case may be, and, where the taxpayer is liable to pay additional tax under this sub-section in relation to the year of income, the taxpayer is not liable to pay additional tax under sub-section (1) in relation to the year of income.

“(4) In sub-sections (1) and (2), ‘prescribed provision’ means section 136AD or 136AE.

“(5) In the application of sub-sections (1) and (2), the possibility that section 31C, Subdivision C of Division 2 of Part III or Part IVA would have applied in a particular case in which it did not apply shall be disregarded.

Penalty tax where Part IVA applies

“226. Where—

- (a) for the purpose of making an assessment or arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to a taxpayer in relation to a year of income;
- (b) in calculating the tax assessable to the taxpayer, a determination or determinations made by the Commissioner under sub-section 177F (1) was or were taken into account; and
- (c) either of the following sub-paragraphs apply:
 - (i) no tax would have been assessable to the taxpayer in relation to the year of income if no determination had been made under sub-section 177F (1) in relation to the taxpayer in relation to the year of income;
 - (ii) the amount of tax (in this section referred to as the ‘amount of claimed tax’) that would, but for this section, have been assessable to the taxpayer in relation to the year of income if no determination had been made under sub-section 177F (1) in relation to the taxpayer in relation to the year of income is less than the amount of tax referred to in paragraph (a),

the taxpayer is liable to pay, by way of penalty, additional tax equal to—

- (d) in a case to which sub-paragraph (c) (i) applies—double the amount of the tax referred to in paragraph (a); or
- (e) in a case to which sub-paragraph (c) (ii) applies—double the amount by which the amount of the tax referred to in paragraph (a) exceeds the amount of claimed tax.

Assessment of additional tax

“227. (1) The Commissioner shall make an assessment of the additional tax payable by a person under a provision of this Part.

“(2) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (1) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(3) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by a person under a provision of this Part, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (1) of the additional tax.

Return to be incorporated in objection for certain purposes

“228. Where—

- (a) arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to a taxpayer in relation to a year of income; and

(b) the taxpayer furnished a return for the year of income, then, for the purposes of the application of paragraphs 224 (1) (d), (e) and (f) and 225 (1) (c) to a calculation of the kind referred to in paragraph (a) of this section—

- (c) subject to paragraph (d), the return shall be taken to be incorporated in, and read as one with, the objection; and
- (d) if the return is inconsistent with the objection, the objection shall, to the extent of the inconsistency, prevail over the return.”.

Cancellation or suspension of registration of tax agent

153. Section 251K of the Principal Act is amended—

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

“(1A) Where a Board is satisfied that—

- (a) a tax agent who is an individual;
- (b) a tax agent that is a company; or
- (c) in the case of a tax agent that is a partnership or a company—a nominee of the tax agent,

has been convicted of—

- (d) an offence against section 8P, 8T or 8U of the *Taxation Administration Act 1953*; or

- (e) an offence against—

- (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
- (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,

being an offence that relates to an offence of the kind referred to in paragraph (d) of this sub-section,

the Board shall—

- (f) in a case to which paragraph (g) does not apply—

- (i) suspend the registration of the tax agent for such period, not being less than 3 months, as it thinks fit; or
- (ii) cancel the registration of the tax agent; or

- (g) if the registration of the tax agent is already suspended—

- (i) suspend the registration of the tax agent for such further period, not being less than 3 months, as it thinks fit, being a period commencing at the end of the period for which the registration of the tax agent is already suspended; or
- (ii) cancel the registration of the tax agent.

“(1B) Nothing in sub-section (1A) shall be taken to restrict or limit, by implication, the generality of sub-section (2).”;

- (b) by inserting in paragraph (2A) (b) “refused or” before “failed”;
- (c) by inserting in sub-section (5) “suspension or” after “review of the”;
- (d) by omitting from sub-section (5) all the words after “tax agent”; and

- (e) by adding at the end thereof the following sub-sections:

“(9) An individual, partnership, or company whose registration as a tax agent is suspended shall, except for the purposes of sub-section 251J (10), (11) or (12), section 251JA, sub-section (1A), (2), (2A), (3), (4), (7) or (8) of this section or section 251Q, be deemed not to be registered as a tax agent while that registration remains suspended.

“(10) A reference in sub-section (1A) to a conviction of a tax agent or a nominee of a tax agent of an offence includes a reference to the making of an order under section 19B of the *Crimes Act 1914* in relation to the tax agent or nominee, as the case may be, in respect of the offence.”.

Unregistered tax agents not to charge fees

- 154.** Section 251L of the Principal Act is amended by omitting sub-section (6).

Repeal of section 251V

- 155.** Section 251V of the Principal Act is repealed.

Public officer of company

- 156.** Section 252 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “being a person residing in Australia and”;
- (b) by omitting from sub-section (1) “attorney. With” and substituting “attorney, and with”;
- (c) by omitting paragraph (1) (d) and substituting the following paragraph:

“(d) The company shall duly appoint a public officer when and as often as such an appointment becomes necessary.”;
- (d) by inserting in paragraph (1) (g) “refusal or” before “failure”; and
- (e) by adding at the end thereof the following sub-sections:

“(3) A person is not capable of being a public officer of a company at a particular time unless the person—

- (a) is a natural person who has attained the age of 18 years;
- (b) is ordinarily resident—

(i) in the case of a company that—

- (A) at that time carries on business solely or principally in a prescribed Territory (in this paragraph referred to as the ‘relevant prescribed Territory’); or
- (B) at that time does not carry on business solely or principally in a prescribed Territory, but derived not less than 50% of its income from sources in Australia and the prescribed Territories from

sources in a particular prescribed Territory (in this paragraph referred to as the 'relevant prescribed Territory') during the year immediately preceding that time,

in Australia or the relevant prescribed Territory; or

(ii) in any other case—in Australia; and

(c) is capable of understanding the nature of the person's appointment as the public officer of the company.

“(4) A company that contravenes paragraph (1) (d) is, in respect of each day on which it contravenes that paragraph (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.

“(5) A reference in sub-section (1) (other than in paragraph (a)) to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.

“(6) In sub-section (3)—

‘Australia’ does not include a prescribed Territory;

‘prescribed Territory’ means an external Territory referred to in sub-section 7A (2).”.

Public officer of trust estate

157. Section 252A of the Principal Act is amended—

- (a) by omitting from paragraph (1) (d) “, being a public officer who is a resident”;
- (b) by inserting after sub-section (2) the following sub-section:

“(2A) A person is not capable of being a public officer of a trust estate at a particular time unless the person—

- (a) is a natural person who has attained the age of 18 years;
- (b) is ordinarily resident—

(i) in the case of a trust estate that—

- (A) at that time carries on its business solely or principally in a prescribed Territory (in this paragraph referred to as the 'relevant prescribed Territory'); or
- (B) at that time does not carry on its business solely or principally in a prescribed Territory, but derived not less than 50% of its income from sources in Australia and the prescribed Territories from sources in a particular prescribed Territory (in this paragraph referred

- to as the 'relevant prescribed Territory') during the year immediately preceding that time,
in Australia or the relevant prescribed Territory; or
(ii) in any other case—in Australia; and
(c) is capable of understanding the nature of the person's appointment as the public officer of the trust estate.”; and
(c) by adding at the end thereof the following sub-sections:
“(14) A reference in this section to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.
“(15) In sub-section (2A)—
‘Australia’ does not include a prescribed Territory;
‘prescribed Territory’ means an external Territory referred to in sub-section 7A (2).”.

Agents and trustees

158. Section 254 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 207 or Part VII.”.

Persons in receipt or control of money from non-resident

159. Section 255 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) In this section, ‘tax’ includes additional tax under section 207 or Part VII.”.

Recovery of tax paid on behalf of another person

160. Section 258 of the Principal Act is amended—

- (a) by omitting “(including income tax, and tax of a similar nature to provisional tax, under a State income tax law)”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 207 or Part VII.”.

Contribution from joint taxpayers

161. Section 259 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 207 or Part VII.”.

Release of taxpayers from liability in cases of hardship

162. Section 265 of the Principal Act is amended by omitting sub-section (12) and substituting the following sub-section:

“(12) In this section, ‘tax’ includes additional tax under section 207 or Part VII.”.

Further amendments relating to offences

163. The Principal Act is amended as set out in Schedule 6.

Formal amendments

164. The Principal Act is amended as set out in Schedule 7.

Application of amendments

165. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) Sub-section 51 (4) of the amended Act applies in relation to the year of income that commenced on 1 July 1984 and all subsequent years of income.

(3) It is hereby declared that the amendment of section 51 of the Principal Act made by this Act is enacted for the avoidance of doubt and, in particular, shall not be taken as implying that a deduction, being a deduction in respect of an amount of a kind referred to in sub-section 51 (4) of the amended Act, is or was allowable under section 51 of the Principal Act in relation to a year of income earlier than the year of income that commenced on 1 July 1984.

(4) Sub-sections 128C (4A) and 207 (1B), sections 221NA and 221YHLA, sub-sections 221YN (6) and (7) and sections 221ZDA and 221ZQA of the amended Act apply in relation to judgments given or entered after the commencement of this section.

(5) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to tax or income tax included a reference to additional tax, the amendments made by this Act shall be disregarded.

(6) Notwithstanding the amendment of section 193 of the Principal Act made by this Act, sub-sections 193 (2) and (3) of the Principal Act continue to apply, after the commencement of this section, in relation to a decision made by the Commissioner under sub-section 226 (3) of the Principal Act (including that sub-section as continued to be applied by this section), as if that amendment had not been made.

(7) Section 216 of the amended Act applies in relation to persons who died before, and persons who die after, the commencement of this section.

(8) An assessment made under sub-section 217 (3) of the Principal Act before the commencement of this section has effect, after that commencement, as if it were an assessment made under sub-section 216 (2) of the amended Act.

(9) Sub-sections 221AE (1A) and (1B) of the amended Act apply in relation to the year of income that commenced on 1 July 1983 and all subsequent years of income.

(10) Sub-sections 221AG (5A), (7A) and (7B) of the amended Act apply in relation to an estimate made by a company under sub-section 221AG (1) of the amended Act after the commencement of this section.

(11) Notwithstanding the amendments of section 221F of the Principal Act made by this Act, sub-sections 221F (10) and (10A) of the Principal Act continue to apply, after the commencement of this section, in relation to an amount that was required by section 221F of the Principal Act to be paid to the Commissioner before that commencement, as if that amendment had not been made.

(12) Sub-section 221YDB (1) of the amended Act applies in relation to the year of income that commences on 1 July 1984 and all subsequent years of income.

(13) Notwithstanding the amendments of sections 221YHN, 221YR, 221ZE and 221ZR of the Principal Act made by this Act, and the repeal of sections 243 and 249 of the Principal Act effected by this Act—

- (a) the provisions of section 243 continue to apply, after the commencement of this section, in relation to proceedings of a kind referred to in sub-section 221YHN (2), 221YR (2), 221ZE (2) or 221ZR (2) of the Principal Act instituted before that commencement; and
- (b) the provisions of section 249 of the Principal Act continue to apply, after that commencement, in relation to an order of a kind referred to in sub-section 221YHN (3), 221YR (3), 221ZE (3) or 221ZR (3) of the Principal Act made before that commencement,

as if those amendments had not been made and that repeal had not been effected.

(14) Notwithstanding the repeal of sections 221N, 221YAA, 221YHV, 221YX, 221ZK and 221ZW, Part VII and section 251V of the Principal Act effected by this Act—

- (a) section 221N of the Principal Act continues to apply, after the commencement of this section, in relation to a liability under sub-section 221N (1) of the Principal Act that accrued before that commencement;
- (b) sections 221YAA, 221YHV, 221YX, 221ZK, 221ZW and 222, sub-sections 223 (2), 227 (3), 228 (2), 230 (2) and 231 (2) and sections 233 to 246 (inclusive), 249, 250 and 251 of the Principal Act continue to apply, after that commencement, in relation to offences against the Principal Act committed before that commencement;
- (c) section 225 of the Principal Act continues to apply, after the commencement of this section, in relation to a person convicted,

whether before or after that commencement, of an offence against section 223 or 224 of the Principal Act;

- (d) sub-sections 226 (3) and (4) of the Principal Act continue to apply, after that commencement, in relation to a liability for additional tax that accrued before that commencement; and
- (e) sub-sections 251V (2), (3), (4) and (5) of the Principal Act continue to apply, after that commencement, in relation to a liability for additional medicare levy that accrued before that commencement,

as if that repeal had not been effected.

(15) Notwithstanding the amendment of section 251L of the Principal Act made by this Act, sub-section 251L (6) of the Principal Act continues to apply, after the commencement of this section, in relation to an offence against sub-section 251L (1) of the Principal Act committed before that commencement, as if that amendment had not been made.

(16) The amendments of sub-section 252 (1) of the Principal Act (other than the amendments of paragraphs (d) and (g)) made by this Act, and sub-sections 252 (3) and (6) of the amended Act, do not have effect in relation to a company during the period of 30 days immediately after the commencement of this section.

(17) The amendment of paragraph 252A (1) (d) of the Principal Act made by this Act, and sub-sections 252A (2A) and (15) of the amended Act, do not have effect in relation to a trust estate during the period of 30 days immediately after the commencement of this section.

(18) In determining whether, at a time before the commencement of this section, a person other than a natural person was capable of being a public officer of a company or a trust estate for the purposes of section 252 or 252A, as the case may be, of the Principal Act, the amendments made by this Act shall be disregarded.

(19) A reference in this section to a provision of the Principal Act, or of the amended Act, that is applied by sub-section 4 (1) of the *Taxation (Unpaid Company Tax) Assessment Act 1982* includes a reference to that provision as so applied.

Default imprisonment—transitional provisions

166. (1) Notwithstanding the repeal of sections 247 and 248 of the Principal Act effected by this Act, those sections of the Principal Act continue to apply, after the commencement of this section, but subject to sub-section (3) of this section, in relation to a person in relation to whom an order was made by virtue of paragraph 247 (1) (a) of the Principal Act before the commencement of this section, as if those sections had not been repealed.

(2) Where a court had, before the commencement of this section, made an order (in sub-section (3) referred to as the “relevant order”) by virtue of paragraph 247 (1) (a) of the Principal Act committing a person (in this

sub-section and sub-section (3) referred to as the “relevant person”) to gaol until a pecuniary penalty was paid and—

- (a) the person is imprisoned in pursuance of the order and has not been discharged under sub-section 248 (1) of the Principal Act by the gaoler of the gaol; or
- (b) the person has not been imprisoned in pursuance of the order and the order has not been discharged by virtue of paragraph 247 (2) (b) of the Principal Act,

then—

- (c) in a case to which paragraph (a) applies—the Commissioner, the relevant person or the gaoler of the gaol; or
- (d) in a case to which paragraph (b) applies—the Commissioner or the relevant person,

may apply to the court under sub-section (3).

(3) Where the court, on application made in accordance with sub-section (2) of this section, is satisfied that it is reasonably likely that, if sections 247 and 248 of the Principal Act had not been applicable in relation to the pecuniary penalty and section 18A of the *Crimes Act 1914* had been applicable in relation to the pecuniary penalty—

- (a) the period of imprisonment (in this paragraph referred to as the “revised period of imprisonment”) that the relevant person would have been required to serve in default of payment of the pecuniary penalty is shorter than the period of imprisonment (in this paragraph referred to as the “original period of imprisonment”) that, but for this sub-section, the relevant person would have been required to serve in default of payment of the pecuniary penalty—the court shall vary the relevant order so that, in lieu of serving the original period of imprisonment in default of payment of the pecuniary penalty, the relevant person serves—

- (i) in a case where the relevant person—

- (A) is serving the original period of imprisonment; and

- (B) the period (in this paragraph referred to as the “completed period of imprisonment”) of the original period of imprisonment that the relevant person has completed serving is not less than the revised period of imprisonment,

- the completed period of imprisonment; or

- (ii) in any other case—the revised period of imprisonment, in default of payment of the pecuniary penalty;

- (b) the relevant person would have been subject to a sentence or order other than a sentence or order of imprisonment (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order) in default of payment of the pecuniary penalty—the court shall—

- (i) revoke the relevant order; and

- (ii) pass such sentence, or make such order, in relation to the relevant person in relation to the pecuniary penalty as appears to it to be just and equitable; or
 - (c) the relevant person would not have been subject to any sentence or order in default of payment of the pecuniary penalty—the court shall revoke the relevant order.
- (4) Notwithstanding anything contained in section 8 of the *Acts Interpretation Act 1901*—
- (a) sections 247 and 248 of the Principal Act do not have effect, after the commencement of this section, except in relation to a person in relation to whom a court took action under sub-section 247 (1) of the Principal Act before the commencement of this section; and
 - (b) section 18A of the *Crimes Act 1914* applies in relation to a person (not being a person referred to in paragraph (a) of this sub-section) who committed an offence against the Principal Act before the commencement of this section.
- (5) A reference in this section to a provision of the Principal Act that is applied by sub-section 4 (1) of the *Taxation (Unpaid Company Tax) Assessment Act 1982* includes a reference to that provision as so applied.

PART VIII—AMENDMENT OF THE INCOME TAX (INTERNATIONAL AGREEMENTS) ACT 1953

Principal Act

167. The *Income Tax (International Agreements) Act 1953*⁷ is in this Part referred to as the Principal Act.

Collection of tax due to the United States of America

168. Section 20 of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:

“(5) The Commissioner shall pay to the Government of the United States of America an amount equal to any amount paid or recovered by virtue of this section.”.

PART IX—AMENDMENT OF THE LOCAL GOVERNMENT (PERSONAL INCOME TAX SHARING) ACT 1976

Principal Act

169. The *Local Government (Personal Income Tax Sharing) Act 1976*⁸ is in this Part referred to as the Principal Act.

Interpretation

170. Section 3 of the Principal Act is amended by omitting “or 226” from the definition of “personal income tax” in sub-section (1) and substituting “or Part VII”.

PART X—AMENDMENTS OF THE MIGRATION ACT 1958

Principal Act

171. The *Migration Act 1958*⁹ is in this Part referred to as the Principal Act.

Interpretation

172. Section 5 of the Principal Act is amended by inserting after the definition of “crime” in sub-section (1) the following definition:

“‘departure prohibition order’ means an order under sub-section 14S (1) of the *Taxation Administration Act 1953*;”.

Offences in relation to entering into or remaining in Australia

173. Section 27 of the Principal Act is amended—

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

“(2AA) A non-citizen shall be taken not to contravene sub-section (1) by virtue of paragraph (ab) or (b) of that sub-section if, at the time the non-citizen becomes a prohibited non-citizen as mentioned in paragraph (1) (ab) or (b), as the case may be, a departure prohibition order is in force in respect of the non-citizen.

“(2AB) Where—

(a) at the time a non-citizen becomes a prohibited non-citizen as mentioned in paragraph (1) (ab) or (b), a departure prohibition order is in force in respect of the non-citizen;

(b) the departure prohibition order is revoked; and

(c) at the time of the revocation, the non-citizen is a prohibited non-citizen,

the non-citizen is guilty of an offence punishable upon conviction by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months.”; and

(b) by adding at the end thereof the following sub-sections:

“(5) The Secretary to the Department or an officer of the Department authorized by the Secretary to give certificates under sub-section 31B (5) may issue a certificate certifying that, at a specified time or during a specified period, a departure prohibition order was not in force in respect of a specified person.

“(6) A document purporting to be a certificate issued under sub-section (5) shall be received in evidence in a court in proceedings for an offence against sub-section (1) by virtue of paragraph (ab) or

(b) of that sub-section without further proof and is *prima facie* evidence of the matters stated in the document.”.

Persons concerned in bringing non-citizens secretly into Australia or harbouring prohibited non-citizens

174. Section 30 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(4) A reference in sub-section (2) to a prohibited non-citizen does not include a reference to a prohibited non-citizen in respect of whom a departure prohibition order is in force.

“(5) The Secretary to the Department or an officer of the Department authorized by the Secretary to give certificates under sub-section 31B (5) may issue a certificate certifying that, at a specified time or during a specified period, a departure prohibition order was not in force in respect of a specified person.

“(6) A document purporting to be a certificate issued under sub-section (5) shall be received in evidence in a court in proceedings for an offence against sub-section (2) without further proof and is *prima facie* evidence of the matters stated in the document.”.

Minister or authorized officer may require prohibited non-citizen to leave Australia

175. Section 31A of the Principal Act is amended—

- (a) by omitting “requirement” and substituting “requirement unless, at the expiration of the time so specified, a departure prohibition order is in force in respect of the person”; and
- (b) by adding at the end thereof the following sub-sections:

“(2) The Secretary to the Department or an officer of the Department authorized by the Secretary to give certificates under sub-section 31B (5) may issue a certificate certifying that, at a specified time or during a specified period, a departure prohibition order was not in force in respect of a specified person.

“(3) A document purporting to be a certificate issued under sub-section (2) shall be received in evidence in a court in proceedings for an offence against sub-section (1) without further proof and is *prima facie* evidence of the matters stated in the document.”.

**PART XI—AMENDMENT OF THE NATIONAL CRIME
AUTHORITY ACT 1984**

Principal Act

176. The *National Crime Authority Act 1984*¹⁰ is in this Part referred to as the Principal Act.

Schedule

177. The Schedule to the Principal Act is amended by omitting "*Taxation Administration Act 1953*, section 14F" and substituting "*Taxation Administration Act 1953*, section 3C".

PART XII—AMENDMENTS OF THE PAY-ROLL TAX (TERRITORIES) ASSESSMENT ACT 1971

Principal Act

178. The *Pay-roll Tax (Territories) Assessment Act 1971*¹¹ is in this Part referred to as the Principal Act.

Repeal of sections 6 and 7

179. Sections 6 and 7 of the Principal Act are repealed.

Annual report

180. Section 7A of the Principal Act is amended by adding at the end thereof the following sub-section:

"(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June."

Time for payment of tax

181. Section 22 of the Principal Act is amended by adding at the end thereof the following sub-sections:

"(3) Subject to sections 25 and 26—

- (a) tax referred to in section 10 is due and payable at the expiration of the time referred to in sub-section (1) of this section; and
- (b) tax referred to in section 15A is due and payable at the expiration of the time referred to in sub-section (2) of this section.

"(4) Subject to sections 25 and 26, additional tax under section 42 is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable."

Assessments

182. Section 23 of the Principal Act is amended by omitting sub-section (3).

183. Sections 24 and 25 of the Principal Act are repealed and the following sections are substituted:

Reduction of tax upon amendment of assessment

“24. (1) Where, by reason of an amendment of an assessment, an employer’s liability to tax is reduced, the amount by which the tax is so reduced shall be taken, for the purposes of section 27, never to have been payable.

“(2) In sub-section (1), ‘tax’ includes—

- (a) a further tax; and
- (b) additional tax under section 42.

Refunds

“25. (1) Where the Commissioner finds in any case that tax has been overpaid by an employer, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the employer to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount not so applied.

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.

Employer leaving Australia

“25A. (1) Where the Commissioner has reason to believe that an employer may leave Australia before tax becomes due and payable by the employer, the tax is due and payable on such date as the Commissioner fixes and notifies to the employer.

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 42.”.

Time to pay—extensions and instalments

184. Section 26 of the Principal Act is amended—

- (a) by omitting “or further tax” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 42.”.

185. Section 27 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid tax

“27. (1) If any tax remains unpaid after the time when it became due and payable or would, but for section 26, have become due and payable, additional

tax is due and payable by way of penalty by the person liable to pay the tax at the rate of 20% per annum on the amount unpaid, computed from that time or, where, under section 26, the Commissioner has extended the time for payment of the tax or has permitted the payment of the tax to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the tax was originally due and payable.

“(2) Where additional tax is payable by a person under this section in relation to an amount of tax and—

- (a) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the tax were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;
- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the tax were due to, or caused directly or indirectly by, an act or omission of the person;
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional tax or part of the additional tax; or
- (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional tax or part of the additional tax,

the Commissioner may remit the additional tax or part of the additional tax.

“(3) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of tax; or
 - (b) an amount that includes an amount of tax,
- then—
- (c) the tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
 - (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in relation to the tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the tax bears to the amount of the judgment debt.

- “(4) In this section, unless the contrary intention appears, ‘tax’ includes—
- (a) further tax; and
 - (b) additional tax under section 42.”.

Recovery of tax

186. Section 28 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or further tax”;
- (b) by omitting from sub-section (1) “, or any additional tax,”;
- (c) by omitting from sub-section (2) “, further tax or additional tax”; and
- (d) by adding at the end thereof the following sub-section:
 - “(3) In this section, ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 27 or 42.”.

Substituted service

187. Section 29 of the Principal Act is amended—

- (a) by omitting “, further tax or additional tax”; and
- (b) by adding at the end thereof the following sub-section:
 - “(2) In sub-section (1), ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 27 or 42.”.

Liquidator to give notice

188. Section 30 of the Principal Act is amended—

- (a) by omitting sub-section (3C) and substituting the following sub-section:
 - “(3C) In sub-section (3), ‘prescribed tax’ means—
 - (a) tax within the meaning of sub-section 215 (2) of the *Income Tax Assessment Act 1936*;
 - (b) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*;
 - (c) charge within the meaning of sub-section 27 (2) of the *Tobacco Charges Assessment Act 1955*; or
 - (d) tax within the meaning of the sub-section 47 (2) the *Wool Tax (Administration) Act 1964*.”; and
- (b) by omitting sub-section (8) and substituting the following sub-section:

“(8) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

Agent for absentee principal in winding-up of business

189. Section 31 of the Principal Act is amended—

- (a) by inserting in sub-section (2) “refuses or” before “fails” (wherever occurring);
- (b) by omitting from sub-section (2) “, further tax or additional tax”; and
- (c) by adding at the end thereof the following sub-section:

“(3) In this section, ‘tax’ includes—

 - (a) further tax; and
 - (b) additional tax under section 27 or 42.”.

Where tax not paid during lifetime

190. Section 32 of the Principal Act is amended—

- (a) by omitting from sub-section (1) all the words after “apply” and substituting “where, at the time of an employer’s death, tax due by the employer has not been assessed or paid”;
- (b) by omitting from sub-section (2) “against” and substituting “for the assessment and recovery of tax from”;
- (c) by inserting in sub-section (3) “of the returns referred to in Part IV as have not been furnished by the deceased and such other” after “such”;
- (d) by inserting after sub-section (3) the following sub-section:

“(3A) Where the trustees are unable or refuse or fail to furnish a return, the Commissioner may estimate and make an assessment of the amount of wages in respect of which, in the Commissioner’s judgment, tax ought to be paid.”;
- (e) by omitting from sub-section (5) “, further tax or additional tax”; and
- (f) by adding at the end thereof the following sub-section:

“(6) In this section, unless the contrary intention appears, ‘tax’ includes—

 - (a) further tax; and
 - (b) additional tax under section 27 or 42.”.

Repeal of section 33

191. Section 33 of the Principal Act is repealed.

Where no administration of estate of deceased taxpayer

192. Section 34 of the Principal Act is amended by adding at the end thereof the following sub-section:

- “(8) In this section, ‘tax’ includes—
- (a) further tax; and

(b) additional tax under section 42,
and in sub-section (5) 'tax' also includes additional tax under section 27.”.

Joint taxpayers

193. Section 35 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), 'tax' includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

Commissioner may collect tax from person owing money to employer

194. Section 36 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-sections:

“(4) Where—

- (a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a Stock Exchange); and
- (b) the money has not been repaid,

the money shall, for the purposes of this section, be taken—

- (c) in a case where the money is repayable on demand—to be due by the building society to the person; or
- (d) in any other case—to be money that may become due by the building society to the person.

“(5) Where, but for this sub-section, money is not due, or repayable on demand, to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due, or repayable on demand, as the case may be, to the person notwithstanding that the condition has not been fulfilled.

“(6) In this section—

‘building society’ means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State or Territory;

‘person’ includes a company, a partnership, the Commonwealth, a State, a Territory and any public authority (whether incorporated or unincorporated) of the Commonwealth or a State or Territory;

‘tax’ includes—

- (a) further tax;
- (b) additional tax under section 27 or 42;
- (c) a judgment debt or costs in respect of—
 - (i) tax;
 - (ii) further tax; or
 - (iii) additional tax under section 27 or 42;

- (d) any fine or costs imposed by a court in respect of—
 - (i) an offence against this Act or the regulations; or
 - (ii) any other taxation offence within the meaning of Part III of the *Taxation Administration Act 1953* that relates to this Act or the regulations; and
- (e) any amount ordered by a court, upon the conviction of a person for an offence of a kind referred to in paragraph (d), to be paid by the person to the Commissioner.”.

Pending appeal not to delay payment of tax

195. Section 41 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) Where, by reason of an alteration of a liability or assessment on an appeal or reference, an employer’s liability to tax is reduced, the amount by which the tax is so reduced, shall be taken, for the purposes of section 27, never to have been payable.

“(3) Where, by reason of an alteration of a liability or assessment on an appeal or reference, an employer’s liability to tax is increased, the amount of the increased tax is recoverable from the employer.

“(4) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

196. Parts VII and VIII of the Principal Act are repealed and the following Part is substituted:

“PART VII—PENALTY TAX

Penalty for failure to furnish return, &c.

“42. (1) Where an employer refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to wages, the employer is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the employer in respect of the wages.

“(2) Where—

- (a) an employer—
 - (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or
 - (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or

thing without which the statement is misleading in a material particular; and

- (b) the tax properly payable by the employer exceeds the tax that would have been payable by the employer if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the employer is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by an employer under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional tax payable by an employer under this section and shall, as soon as practicable after the assessment is made, cause notice in writing of the assessment to be given to the employer.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of an employer under sub-section (4) from being incorporated in notice of any other assessment made in respect of the employer under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by an employer under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional tax.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 20 (1) (c).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Public officer of company

197. Section 64 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) A person is not capable of being a public officer of a company unless the person—

- (a) is a natural person who has attained the age of 18 years;
- (b) is ordinarily resident in Australia; and
- (c) is capable of understanding the nature of the person’s appointment as the public officer of the company.”.

Agents and trustees

198. Section 65 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

Person in receipt or control of money for absentee

199. Section 66 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

Release of employers in cases of hardship

200. Section 69 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(11) In this section, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 27 or 42.”.

Regulations

201. Section 70 of the Principal Act is amended by omitting from sub-section (1A) “Minister for the Capital Territory” and substituting “Minister for Territories and Local Government”.

Further amendments relating to offences

202. The Principal Act is amended as set out in Schedule 8.

Application of amendments

203. (1) In this section, “amendment Act” means the Principal Act as amended by this Act.

(2) Notwithstanding the amendment of section 23 of the Principal Act made by this Act, the power of remission conferred by sub-section 23 (3) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

(3) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to tax included a reference to additional tax or further tax, the amendments made by this Act shall be disregarded.

(4) Sub-section 27 (3) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

(5) Section 32 of the amended Act applies in relation to employers who died before, and employers who die after, the commencement of this section.

(6) An assessment made under sub-section 33 (3) of the Principal Act before the commencement of this section has effect, after that commencement, as if it were an assessment made under sub-section 32 (3A) of the amended Act.

(7) Notwithstanding the repeal of section 27 and Parts VII and VIII of the Principal Act effected by this Act—

- (a) sub-sections 27 (2) and 43 (2) and (3) of the Principal Act continue to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement;
- (b) sub-section 42 (3) of the Principal Act continues to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 42 (1) of the Principal Act; and
- (c) sections 46 and 47, 49 to 60 (inclusive) and 63 of the Principal Act continue to apply, after that commencement, in relation to offences against the Principal Act committed before that commencement, as if that repeal had not been effected.

(8) Sub-section 64 (1A) of the amended Act does not have effect in relation to a company during the period of 30 days immediately after the commencement of this section.

(9) In determining whether, at a time before the commencement of this section, a person other than a natural person was capable of being a public officer of a company for the purposes of section 64 of the Principal Act, the amendments made by this Act shall be disregarded.

Default imprisonment—transitional provisions

204. (1) Notwithstanding the repeal of sections 61 and 62 of the Principal Act effected by this Act, those sections of the Principal Act continue to apply, after the commencement of this section, but subject to sub-section (3) of this section, in relation to a person in relation to whom an order was made by virtue of paragraph 61 (1) (a) of the Principal Act before the commencement of this section, as if those sections had not been repealed.

(2) Where a court had, before the commencement of this section, made an order (in sub-section (3) referred to as the “relevant order”) by virtue of paragraph 61 (1) (a) of the Principal Act committing a person (in this sub-section and sub-section (3) referred to as the “relevant person”) to gaol until a pecuniary penalty was paid and—

- (a) the person is imprisoned in pursuance of the order and has not been discharged under sub-section 62 (1) of the Principal Act by the gaoler of the gaol; or
- (b) the person has not been imprisoned in pursuance of the order and the order has not been discharged by virtue of paragraph 61 (2) (b) of the Principal Act,

then—

- (c) in a case to which paragraph (a) applies—the Commissioner, the relevant person or the gaoler of the gaol; or
- (d) in a case to which paragraph (b) applies—the Commissioner or the relevant person,

may apply to the court under sub-section (3).

(3) Where the court, on application made in accordance with sub-section (2) of this section, is satisfied that it is reasonably likely that, if sections 61 and 62 of the Principal Act had not been applicable in relation to the pecuniary penalty and section 18A of the *Crimes Act 1914* had been applicable in relation to the pecuniary penalty—

- (a) the period of imprisonment (in this paragraph referred to as the “revised period of imprisonment”) that the relevant person would have been required to serve in default of payment of the pecuniary penalty is shorter than the period of imprisonment (in this paragraph referred to as the “original period of imprisonment”) that, but for this sub-section, the relevant person would have been required to serve in default of payment of the pecuniary penalty—the court shall vary the relevant order so that, in lieu of serving the original period of

imprisonment in default of payment of the pecuniary penalty, the relevant person serves—

(i) in a case where the relevant person—

(A) is serving the original period of imprisonment; and

(B) the period (in this paragraph referred to as the “completed period of imprisonment”) of the original period of imprisonment that the relevant person has completed serving is not less than the revised period of imprisonment,

the completed period of imprisonment; or

(ii) in any other case—the revised period of imprisonment, in default of payment of the pecuniary penalty;

(b) the relevant person would have been subject to a sentence or order other than a sentence or order of imprisonment (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order) in default of payment of the pecuniary penalty—the court shall—

(i) revoke the relevant order; and

(ii) pass such sentence, or make such order, in relation to the relevant person in relation to the pecuniary penalty as appears to it to be just and equitable; or

(c) the relevant person would not have been subject to any sentence or order in default of payment of the pecuniary penalty—the court shall revoke the relevant order.

(4) Notwithstanding anything contained in section 8 of the *Acts Interpretation Act 1901*—

(a) sections 61 and 62 of the Principal Act do not have effect, after the commencement of this section, except in relation to a person in relation to whom a court took action under sub-section 61 (1) of the Principal Act before the commencement of this section; and

(b) section 18A of the *Crimes Act 1914* applies in relation to a person (not being a person referred to in paragraph (a) of this sub-section) who committed an offence against the Principal Act before the commencement of this section.

PART XIII—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 1) 1930

Principal Act

205. The *Sales Tax Assessment Act (No. 1) 1930*¹² is in this Part referred to as the Principal Act.

Repeal of sections 5 and 8

206. Sections 5 and 8 of the Principal Act are repealed.

Annual report

207. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Time for payment of tax

208. Section 24 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to sections 27 and 28, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1) of this section.”.

Further tax

209. Section 25 of the Principal Act is amended by omitting sub-section (2B).

210. After section 25 of the Principal Act the following section is inserted:

Reduction of tax upon amendment of assessment

“25A. (1) Where, by reason of an amendment of an assessment, a person’s liability to tax is reduced, the amount by which the tax is so reduced shall be taken, for the purposes of section 29, never to have been payable.

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under Part VIII.”.

Refunds of tax

211. Section 26 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person, or, if passed on to another person, has been refunded to the other person.”;

- (b) by inserting in paragraph (3) (a) “refused or” before “failed”; and

- (c) by adding at the end thereof the following sub-section:

“(7) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Taxpayer leaving Australia

- 212.** Section 27 of the Principal Act is amended—

- (a) by omitting “or further tax” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under Part VIII.”.

Time to pay—extensions and instalments

- 213.** Section 28 of the Principal Act is amended—

- (a) by inserting in paragraph (a) “of tax” after “payment”; and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under Part VIII.”.

214. Section 29 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid tax

“29. (1) If any tax remains unpaid after the time when it became due and payable or would, but for section 28, have become due and payable, additional tax is due and payable by way of penalty by the person liable to pay the tax at the rate of 20% per annum on the amount unpaid, computed from that time or, where, under section 28, the Commissioner has extended the time for payment of the tax or has permitted the payment of the tax to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the tax was originally due and payable.

“(2) Where additional tax is payable by a person under this section in relation to an amount of tax and—

- (a) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the tax were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the tax were due to, or caused directly or indirectly by, an act or omission of the person;
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional tax or part of the additional tax; or
- (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional tax or part of the additional tax,

the Commissioner may remit the additional tax or part of the additional tax.

“(3) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of tax; or
- (b) an amount that includes an amount of tax,

then—

- (c) the tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in relation to the tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the tax bears to the amount of the judgment debt.

“(4) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under Part VIII.”.

Recovery of tax

215. Section 30 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “, including any additional tax,”; and
- (b) by adding at the end thereof the following sub-section:

“(3) In this section, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Substituted service

216. Section 31 of the Principal Act is amended—

- (a) by omitting “or additional tax,”; and
- (b) by adding at the end thereof the following sub-section:—
 - “(2) In sub-section (1), ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 29 or Part VIII.”.

Liquidator to give notice

217. Section 32 of the Principal Act is amended—

- (a) by omitting sub-section (2D) and substituting the following sub-section:
 - “(2D) In sub-section (2A), ‘prescribed tax’ means—
 - (a) tax within the meaning of sub-section 215 (2) of the *Income Tax Assessment Act 1936*;
 - (b) tax within the meaning of sub-section 30 (2) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
 - (c) tax within the meaning of sub-section (2) of this section as that sub-section is applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*;
 - (d) charge within the meaning of sub-section 27 (2) of the *Tobacco Charges Assessment Act 1955*; or
 - (e) tax within the meaning of sub-section 47 (2) of the *Wool Tax (Administration) Act 1964*.”; and
- (b) by adding at the end thereof the following sub-section:
 - “(6) In this section, unless the contrary intention appears, ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 29 or Part VIII.”.

Agent for absentee principal in winding-up of business

218. Section 33 of the Principal Act is amended—

- (a) by inserting in sub-section (2) “refuses or” before “fails” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:
 - “(3) In this section, ‘tax’ includes—
 - (a) further tax; and

- (b) additional tax under section 29 or Part VIII.”.

When tax not paid during lifetime

219. Section 34 of the Principal Act is amended—

- (a) by omitting “, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full, complete and accurate returns” and substituting “, at the time of a taxpayer’s death, tax due by the taxpayer has not been assessed or paid”;
- (b) by omitting from paragraph (b) “make such returns and furnish such” and substituting “furnish such returns and”;
- (c) by omitting from paragraph (c) “the amount of tax shall (where the taxpayer’s default was intentional) be double the amount of the difference between the sales tax so assessed and the amount actually paid by the taxpayer, and” and substituting “the amount of any tax that the executors and administrators are liable to pay”;
- (d) by omitting from paragraph (d) all the words after “this” (first occurring) and substituting “section”; and
- (e) by adding at the end thereof the following sub-section:
 - “(2) In sub-section (1), unless the contrary intention appears, ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 29 or Part VIII.”.

Provision for payment of tax by executors or administrators

220. Section 35 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “he had not paid the whole of the tax payable up to the date of his death” and substituting “tax due by the taxpayer has not been assessed or paid”;
- (b) by inserting in sub-section (3) “refuse or” before “fail”; and
- (c) by adding at the end thereof the following sub-section:
 - “(11) In this section, unless the contrary intention appears, ‘tax’ includes—
 - (a) further tax; and
 - (b) additional tax under section 29 or Part VIII.”.

Recovery of tax paid on behalf of another person

221. Section 36 of the Principal Act is amended by adding at the end thereof the following sub-section:

- “(2) In sub-section (1), ‘tax’ includes—
- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Contributions from joint taxpayers

222. Section 37 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Commissioner may collect tax from person owing money to taxpayer

223. Section 38 of the Principal Act is amended—

- (a) by omitting from sub-section (1) all the words after “to pay” and substituting the following words and paragraphs:

“to the Commissioner, either forthwith upon the money becoming due or being held, or at or within a time specified in the notice (not being a time before the money becomes due or is held)—

- (e) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of tax or, if the amount of the money is equal to or less than the amount due by the taxpayer in respect of tax, the amount of the money; or
 - (f) such amount as is specified in the notice out of each payment that the person so notified becomes liable from time to time to make to the taxpayer until the amount due by the taxpayer in respect of tax is satisfied”;
- (b) by omitting sub-section (3);
- (c) by omitting from sub-section (5) “If the tax due by the taxpayer, or the fine and costs (if any) imposed by a court on him, are” and substituting “If the amount due by the taxpayer in respect of tax, is”; and
- (d) by omitting sub-section (6) and substituting the following sub-sections:

“(6) Where—

- (a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a Stock Exchange); and
- (b) the money has not been repaid,

the money shall be taken, for the purposes of this section—

- (c) in a case where the money is repayable on demand—to be due by the building society to the person; or
- (d) in any other case—to be money that may become due by the building society to the person.

“(7) Where, but for this sub-section, money is not due, or repayable on demand, to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due, or repayable on demand, as the case may be, to the person notwithstanding that the condition has not been fulfilled.

“(8) In this section—

‘building society’ means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State or Territory;

‘person’ includes a company, a partnership, the Commonwealth, a State, a Territory and any public authority (whether incorporated or unincorporated) of the Commonwealth or a State or Territory;

‘tax’ includes—

- (a) further tax;
- (b) additional tax under section 29 or Part VIII;
- (c) a judgment debt or costs in respect of—
 - (i) tax;
 - (ii) further tax; or
 - (iii) additional tax under section 29 or Part VIII;
- (d) any fine or costs imposed by a court in respect of—
 - (i) an offence against this Act or the regulations; or
 - (ii) any other taxation offence within the meaning of Part III of the *Taxation Administration Act 1953* that relates to this Act or the regulations;and
- (e) any amount ordered by a court, upon the conviction of a person for an offence of a kind referred to in paragraph (d), to be paid by the person to the Commissioner.”.

Interpretation

224. Section 39A of the Principal Act is amended by omitting all the words after “Northern Territory”.

Repeal of section 39B

225. Section 39B of the Principal Act is repealed.

Pending appeal not to delay payment of tax

226. Section 43 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) Where, by reason of an alteration of an amount, sale value or assessment on an appeal or reference, a person’s liability to sales tax is reduced, the amount by which the sales tax is so reduced shall be taken, for the purposes of section 29, never to have been payable.

“(3) Where, by reason of an alteration of an amount, sale value or assessment on an appeal or reference, a person’s liability to sales tax is increased, the amount of the increased sales tax is recoverable from the person.

“(4) In this section, unless the contrary intention appears, ‘sales tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

227. Parts VIII and IX of the Principal Act are repealed and the following Part is substituted:

“PART VIII—PENALTY TAX

Penalty for failure to furnish return, &c.

“45. (1) Where a taxpayer refuses or fails to furnish, when and as required under or pursuant to a relevant sales tax law to do so, a return, or any information, relating to goods, the taxpayer is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the taxpayer in respect of the goods.

“(2) Where—

(a) a taxpayer—

- (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of a relevant sales tax law, that is false or misleading in a material particular; or
 - (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of a relevant sales tax law, any matter or thing without which the statement is misleading in a material particular; and
- (b) the tax properly payable by the taxpayer exceeds the tax that would have been payable by the taxpayer if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the taxpayer is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by a taxpayer under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

“(4) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form, and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, notification, declaration, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to a relevant sales tax law;

- (b) made in answer to a question asked of a person under or pursuant to a relevant sales tax law;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to a relevant sales tax law; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to a relevant sales tax law,

but does not include a statement made in a document produced pursuant to sub-section 23 (1).

“(5) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of a relevant sales tax law is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(6) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘relevant sales tax law’ means—

- (a) this Act or the regulations; or
- (b) any of the following laws, namely:
 - (i) the *Sales Tax (Exemptions and Classifications) Act 1935*;
 - (ii) the *Sales Tax Procedure Act 1934*;
 - (iii) regulations under an Act referred to in sub-paragraph (i) or (ii),

to the extent to which the law relates to goods in respect of which tax is payable under this Act;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to a relevant sales tax law.

Penalty tax where certain anti-avoidance provisions apply

“46. Where, for the purposes of sub-section 25 (2), the Commissioner has calculated the further tax that is payable by a person in consequence of an alteration of the sale value of goods (other than an alteration made under sub-section 18 (3A)), the person is liable to pay additional tax, by way of penalty, equal to double the amount of the further tax.

Assessment of additional tax

“47. (1) The Commissioner shall make an assessment of the additional tax payable by a person under a provision of this Part.

“(2) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (1) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(3) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by a person under a provision of this Part, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (1) of the additional tax.

When additional tax due and payable

“48. Additional tax under this Part is due and payable on the day specified in the notice of assessment of the additional tax as the day on which the additional tax is due and payable.”.

Public officer of company

228. Section 68 of the Principal Act is amended—

- (a) by omitting “residing in Australia”;
- (b) by omitting paragraph (c) and substituting the following paragraph:

“(c) The company shall duly appoint a public officer when and as often as such an appointment becomes necessary.”;
- (c) by inserting in paragraph (f) “refusal or” before “failure”; and
- (d) by adding at the end thereof the following sub-sections:

“(2) A person is not capable of being a public officer of a company unless the person—

- (a) is a natural person who has attained the age of 18 years;
- (b) is ordinarily resident in Australia; and
- (c) is capable of understanding the nature of the person’s appointment as the public officer of the company.

“(3) A company that contravenes paragraph (1) (c) is, in respect of each day on which it contravenes that paragraph (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.

“(4) Unless the contrary intention appears, a reference in sub-section (1) to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.”.

Agents and trustees

229. Section 69 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Person in receipt or control of money for non-resident

230. Section 70 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘sales tax’ or ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII.”.

Further amendments relating to offences

231. The Principal Act is amended as set out in Schedule 9.

Default imprisonment—transitional provisions

232. (1) Notwithstanding the repeal of sections 65 and 66 of the Principal Act effected by this Act, those sections of the Principal Act continue to apply, after the commencement of this section, but subject to sub-section (3) of this section, in relation to a person in relation to whom an order was made by virtue of paragraph 65 (a) of the Principal Act before the commencement of this section, as if those sections had not been repealed.

(2) Where a court had, before the commencement of this section, made an order (in sub-section (3) referred to as the “relevant order”) by virtue of paragraph 65 (a) of the Principal Act committing a person (in this sub-section and sub-section (3) referred to as the “relevant person”) to gaol until a pecuniary penalty was paid and—

- (a) the person is imprisoned in pursuance of the order and has not been discharged under section 66 of the Principal Act by the gaoler of the gaol; or
- (b) the person has not been imprisoned in pursuance of the order,

then—

- (c) in a case to which paragraph (a) applies—the Commissioner, the relevant person or the gaoler of the gaol; or
- (d) in a case to which paragraph (b) applies—the Commissioner or the relevant person,

may apply to the court under sub-section (3).

(3) Where the court, on application made in accordance with sub-section (2) of this section, is satisfied that it is reasonably likely that, if sections 65 and 66 of the Principal Act had not been applicable in relation to the pecuniary penalty and section 18A of the *Crimes Act 1914* had been applicable in relation to the pecuniary penalty—

- (a) the period of imprisonment (in this paragraph referred to as the “revised period of imprisonment”) that the relevant person would have been required to serve in default of payment of the pecuniary

penalty is shorter than the period of imprisonment (in this sub-section referred to as the “original period of imprisonment”) that, but for this sub-section, the relevant person would have been required to serve in default of payment of the pecuniary penalty—the court shall vary the relevant order so that, in lieu of serving the original period of imprisonment in default of payment of the pecuniary penalty, the relevant person serves—

- (i) in a case where the relevant person—
 - (A) is serving the original period of imprisonment; and
 - (B) the period (in this paragraph referred to as the “completed period of imprisonment”) of the original period of imprisonment that the relevant person has completed serving is not less than the revised period of imprisonment,the completed period of imprisonment; or
- (ii) in any other case—the revised period of imprisonment, in default of payment of the pecuniary penalty;
- (b) the relevant person would have been subject to a sentence or order other than a sentence or order of imprisonment (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order) in default of payment of the pecuniary penalty—the court shall—
 - (i) revoke the relevant order; and
 - (ii) pass such sentence, or make such order, in relation to the relevant person in relation to the pecuniary penalty as appears to it to be just and equitable; or
- (c) the relevant person would not have been subject to any sentence or order in default of payment of the pecuniary penalty—the court shall revoke the relevant order.
- (4) Notwithstanding anything contained in section 8 of the *Acts Interpretation Act 1901*—
 - (a) sections 65 and 66 of the Principal Act do not have effect, after the commencement of this section, except in relation to a person in relation to whom a court took action under section 65 of the Principal Act before the commencement of this section; and
 - (b) section 18A of the *Crimes Act 1914* applies in relation to a person (not being a person referred to in paragraph (a) of this sub-section) who committed an offence against a provision of the Principal Act before the commencement of this section.

Application of amendments

233. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) Notwithstanding the amendments of section 25 of the Principal Act made by this Act, the proviso to sub-section 25 (2B) of the Principal Act

continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if those amendments had not been made.

(3) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to sales tax or tax included a reference to additional tax or further tax, the amendments made by this Act shall be disregarded.

(4) Sub-section 29 (3) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

(5) Notwithstanding the repeal of section 29 and Parts VIII and IX of the Principal Act effected by this Act—

- (a) the provisos to section 29 and sub-section 46 (1) of the Principal Act and sub-section 46 (2) of the Principal Act continue to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement;
- (b) sub-section 45 (3) of the Principal Act continues to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 45 (1) of the Principal Act; and
- (c) sections 50 and 51, 53 to 64 (inclusive) and 67 of the Principal Act continue to apply, after that commencement, in relation to offences against the Principal Act committed before that commencement,

as if that repeal had not been effected.

(6) The amendments of section 68 of the Principal Act made by this Act (other than the amendments of paragraphs (c) and (f) of section 68 of the Principal Act and the insertion of sub-sections (3) and (4) into section 68 of the Principal Act) do not have effect in relation to a company during the period of 30 days immediately after the commencement of this section.

(7) In determining whether, at a time before the commencement of this section, a person other than a natural person was capable of being a public officer of a company for the purposes of section 68 of the Principal Act, the amendments made by this Act shall be disregarded.

(8) Notwithstanding the amendments (whether of the Principal Act or another Act) made by this Act and the repeal of section 12 of the *Sales Tax Procedure Act 1934* effected by this Act, a provision of Part IX of the Principal Act that continues to apply by virtue of this section or the last preceding section shall be taken, for the purposes of this section or the last preceding section, as the case may be, to continue to apply, after the commencement of this section, by virtue of each relevant application provision, as if those amendments had not been made and that repeal had not been effected.

(9) A reference in this section (other than in sub-section (8)) or in the last preceding section to a provision of the Principal Act, or of the amended Act,

that is applied by a relevant application provision includes a reference to that provision as so applied.

(10) In this section, “relevant application provision” means Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930*, Part V of the *Sales Tax Assessment Act (No. 9) 1930* or section 12 of the *Sales Tax Procedure Act 1934*.

PART XIV—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 2) 1930

Principal Act

234. The *Sales Tax Assessment Act (No. 2) 1930*¹³ is in this Part referred to as the Principal Act.

Time for payment of tax

235. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).”

Further tax

236. Section 10 of the Principal Act is amended by omitting sub-section (2B).

Refunds of tax

237. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

(a) refund the amount of any tax overpaid; or

(b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”;

- (b) by inserting in paragraph (2A) (a) “refused or” before “failed”; and
- (c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

238. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “, IX”; and
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- (b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;
- (d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (2); and
- (e) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 18 (3A) shall be read as a reference to sub-section 4 (1).”.

Application of amendment

239. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (2B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

**PART XV—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 3) 1930**

Principal Act

240. The *Sales Tax Assessment Act (No. 3) 1930*¹⁴ is in this Part referred to as the Principal Act.

Time for payment of tax

241. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).”.

Further tax

242. Section 10 of the Principal Act is amended by omitting sub-section (2B).

Refunds of tax

243. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

(a) refund the amount of any tax overpaid; or

(b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”;

(b) by inserting in paragraph (2A) (a) “refused or” before “failed”; and

(c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘tax’ includes—

(a) further tax; and

(b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

244. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “, IX”; and
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- (b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;
- (d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (2); and
- (e) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 18 (3A) shall be read as a reference to sub-section 4 (1).”.

Application of amendment

245. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (2B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

PART XVI—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 4) 1930

Principal Act

246. The *Sales Tax Assessment Act (No. 4) 1930*¹⁵ is in this Part referred to as the Principal Act.

Time for payment of tax

247. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).”.

Further tax

248. Section 10 of the Principal Act is amended by omitting sub-section (1B).

Refunds of tax

249. Section 11 of the Principal Act is amended—

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

“(1) Where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

(a) refund the amount of any tax overpaid; or

(b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.”; and

(b) by adding at the end thereof the following sub-section:

“(3) In this section, unless the contrary intention appears, ‘tax’ includes—

(a) further tax; and

(b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

250. Section 12 of the Principal Act is amended—

(a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;

(b) by omitting from sub-section (1) “, IX”; and

(c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

(a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;

(b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;

- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;
- (d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (1AA); and
- (e) the words in parenthesis in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied shall be taken to be omitted.”.

Application of amendment

251. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (1B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

PART XVII—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 5) 1930

Principal Act

252. The *Sales Tax Assessment Act (No. 5) 1930*¹⁶ is in this Part referred to as the Principal Act.

Time for payment of tax

253. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

- “(2) Subject to this Act, sales tax is due and payable—
- (a) in the case of goods to which paragraph (b) does not apply—at the time of the entry of those goods for home consumption as mentioned in sub-section (1); or
 - (b) in the case of goods the value for duty of which is, under sub-section 4 (2), ascertained in accordance with the opinion of the Commissioner—the date specified in the notice referred to in the proviso to sub-section (1).”.

Refunds of tax

254. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising

under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”; and

- (b) by inserting in paragraph (2A) (a) “refused or” before “failed”; and
- (c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Refunds of tax on rejected goods

255. Section 11B of the Principal Act is amended by inserting in paragraph (b) “or fails” after “refuses”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

256. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “Parts VII, VIII, IX and X” and substituting “Part VII, Part VIII (other than section 46) and Part X”; and
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- (b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted; and
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III.”.

Further amendment relating to offences

257. The Principal Act is amended as set out in Schedule 10.

**PART XVIII—AMENDMENTS OF THE SALES TAX
ASSESSMENT ACT (No. 6) 1930**

Principal Act

258. The *Sales Tax Assessment Act (No. 6) 1930*¹⁷ is in this Part referred to as the Principal Act.

Time for payment of tax

259. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).”.

Further tax

260. Section 10 of the Principal Act is amended by omitting sub-section (2B).

Refunds of tax

261. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”; and

- (b) by inserting in paragraph (2A) (a) “refused or” before “failed”; and
- (c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

262. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “, IX”;
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- (b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;
- (d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (2); and
- (e) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 18 (3A) shall be read as a reference to sub-section 4 (1).”.

Application of amendment

263. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (2B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

**PART XIX—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT
(No. 7) 1930**

Principal Act

264. The *Sales Tax Assessment Act (No. 7) 1930*¹⁸ is in this Part referred to as the Principal Act.

Time for payment of tax

265. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1).”.

Further tax

266. Section 10 of the Principal Act is amended by omitting sub-section (2B).

Refunds of tax

267. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”; and

- (b) by inserting in paragraph (2A) (a) “refused or” before “failed”; and
- (c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

268. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “, IX”; and
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;

- (b) the reference in paragraph (c) of the definition of 'prescribed tax' in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;
- (d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (2); and
- (e) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 18 (3A) shall be read as a reference to sub-section 4 (1)."

Application of amendment

269. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (2B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

PART XX—AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 8) 1930

Principal Act

270. The *Sales Tax Assessment Act (No. 8) 1930*¹⁹ is in this Part referred to as the Principal Act.

Time for payment of tax

271. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(2) Subject to this Act, sales tax is due and payable at the end of the period of 21 days referred to in sub-section (1)."

Further tax

272. Section 10 of the Principal Act is amended by omitting sub-section (1B).

Refunds of tax

273. Section 11 of the Principal Act is amended—

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

"(1) Where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising

under, or virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.”; and

(b) by adding at the end thereof the following sub-section:

“(3) In this section, unless the contrary intention appears, ‘tax’ includes—

(a) further tax; and

(b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

274. Section 12 of the Principal Act is amended—

(a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;

(b) by omitting from sub-section (1) “, IX”; and

(c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

(a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;

(b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted;

(c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III;

(d) the reference in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to sub-section 25 (2) shall be read as a reference to sub-section 10 (1AA); and

(e) the words in parenthesis in section 46 of the *Sales Tax Assessment Act (No. 1) 1930* as so applied shall be taken to be omitted.”.

Application of amendment

275. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (1B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

**PART XXI—AMENDMENTS OF THE SALES TAX ASSESSMENT
ACT (No. 9) 1930**

Principal Act

276. The *Sales Tax Assessment Act (No. 9) 1930*²⁰ is in this Part referred to as the Principal Act.

Time for payment of tax

277. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Subject to this Act, sales tax is due and payable—

- (a) in the case of goods to which paragraph (b) does not apply—on the date specified in the notice first referred to in sub-section (1); or
- (b) in the case of goods leased under a hire purchase agreement as specified in sub-section 4 (2)—at the expiration of the period of 21 days referred to in the proviso to sub-section (1).”.

Further tax

278. Section 10 of the Principal Act is amended by omitting sub-section (1B).

Refunds of tax

279. Section 11 of the Principal Act is amended—

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

“(1) Subject to sub-section (1A), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any tax overpaid; or
- (b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.

“(1A) Sub-section (1) does not apply in relation to any tax paid by a person unless the Commissioner is satisfied that the tax has not been passed on by the person to another person or, if passed on by the person to another person, has been refunded by the person to the other person.”; and

- (b) by adding at the end thereof the following sub-section:

“(3) In this section, unless the contrary intention appears, ‘tax’ includes—

- (a) further tax; and
- (b) additional tax under section 29 or Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* as applied by this Act.”.

Application of provisions of *Sales Tax Assessment Act (No. 1) 1930*

280. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “section 23” and substituting “sections 23 and 25A”;
- (b) by omitting from sub-section (1) “Parts VII, VIII, IX and X” and substituting “Part VII, Part VIII (other than section 46) and Part X”;
- and
- (c) by omitting from sub-section (1) all the words after “purposes of this” and substituting the following word and paragraphs:

“Act—

- (a) a reference in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to prescribed tax shall be read as including a reference to tax within the meaning of sub-section 32 (2) of that Act otherwise than in its application by virtue of this Act or any other Act;
- (b) the reference in paragraph (c) of the definition of ‘prescribed tax’ in sub-section 32 (2A) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to this Act shall be taken to be omitted; and
- (c) the reference in sub-section 35 (2) of the *Sales Tax Assessment Act (No. 1) 1930* as so applied to Part V shall be read as a reference to Part III.”.

Application of amendment

281. Notwithstanding the amendment of section 10 of the Principal Act made by this Act, the proviso to sub-section 10 (1B) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

**PART XXII—AMENDMENTS OF THE SALES TAX
(EXEMPTIONS AND CLASSIFICATIONS) ACT 1935**

Principal Act

282. The *Sales Tax (Exemptions and Classifications) Act 1935*²¹ is in this Part referred to as the Principal Act.

283. After section 3 of the Principal Act the following section is inserted:

General administration of Act

“4. The Commissioner has the general administration of this Act.”.

Further amendment relating to offences

284. The Principal Act is amended as set out in Schedule 11.

PART XXIII—AMENDMENTS OF THE SALES TAX PROCEDURE ACT 1934

Principal Act

285. The *Sales Tax Procedure Act 1934*²² is in this Part referred to as the Principal Act.

Interpretation

286. Section 3 of the Principal Act is amended by omitting from the definition of “the Commissioner” all the words after “Taxation”.

287. Section 4 of the Principal Act is repealed and the following section is substituted:

General administration of Act

“4. The Commissioner has the general administration of this Act.”.

Repeal of section 8

288. Section 8 of the Principal Act is repealed.

Further amendments relating to offences

289. The Principal Act is amended as set out in Schedule 12.

Application

290. Notwithstanding the repeal of sections 7, 8 and 11 effected by this Act—

- (a) sub-section 7 (2) of the Principal Act continues to apply, after the commencement of this section, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 7 (1) of the Principal Act;
- (b) the proviso to sub-section 8 (1) of the Principal Act and sub-section 8 (2) of the Principal Act continue to apply, after that commencement, in relation to a liability for additional tax that accrued before that commencement; and
- (c) sub-sections 11 (2) and (3) of the Principal Act continue to apply, after that commencement, in relation to proceedings instituted, whether before or after that commencement, in respect of an offence against sub-section 11 (1) of the Principal Act,

as if that repeal had not been effected.

PART XXIV—AMENDMENTS OF THE TAXATION ADMINISTRATION ACT 1953

Principal Act

291. The *Taxation Administration Act 1953*²³ is in this Part referred to as the Principal Act.

292. Sections 2 and 3 of the Principal Act are repealed and the following sections are substituted:

Interpretation

“2. In this Act, unless the contrary intention appears—

‘Commissioner’ means the Commissioner of Taxation;

‘Deputy Commissioner’ means any Deputy Commissioner of Taxation;

‘officer’ means an officer or employee of the Australian Public Service;

‘Second Commissioner’ means a Second Commissioner of Taxation;

‘taxation law’ means—

(a) this Act;

(b) any other Act of which the Commissioner has the general administration (other than an Act prescribed for the purposes of this paragraph);

(c) regulations under an Act referred to in paragraph (a) or (b);

‘tax liability’ means a liability to the Commonwealth arising under, or by virtue of, a taxation law.

Extension of Act to external Territories

“3. (1) Subject to sub-section (2), this Act extends to every external Territory.

“(2) Part IV does not extend to an external Territory to which the *Banking Act 1959* does not extend.”.

293. After Part I of the Principal Act the following Part is inserted:

“PART IA—ADMINISTRATION

General administration of Act

“3A. The Commissioner has the general administration of this Act.

Annual report

“3B. (1) The Commissioner shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the working of this Act, including—

(a) any breaches or evasions of Part IV; and

(b) any breaches of undertakings given for the purposes of sub-section 14C (2),

of which the Commissioner has notice.

“(2) The Minister shall cause a copy of a report furnished under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable

after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.

Secrecy

“3C. (1) In this section, ‘officer’ means a person—

- (a) who is or has been appointed or employed by the Commonwealth; or
- (b) to whom powers or functions have been delegated by the Commissioner,

and who, by reason of the appointment or employment or in the course of the employment, or by reason of, or in the course of the exercise of powers or the performance of functions under, the delegation, as the case may be, may acquire or has acquired information with respect to the affairs of any other person disclosed or obtained under or for the purposes of this Act.

“(2) Subject to sub-section (4), a person who is or has been an officer shall not, except for the purposes of this Act or otherwise than in the performance of the person’s duties as an officer, directly or indirectly—

- (a) make a record of any information with respect to the affairs of a second person; or
- (b) divulge or communicate to a second person any information with respect to the affairs of a third person,

being information disclosed or obtained under or for the purposes of this Act and acquired by the person by reason of the person’s appointment or employment by the Commonwealth or in the course of such employment, or by reason of the delegation to the person of powers or functions by the Commissioner, or in the course of the exercise of such powers or the performance of such functions, as the case may be.

Penalty: \$5,000 or imprisonment for 12 months, or both.

“(3) Except when it is necessary to do so for the purpose of carrying into effect the provisions of a taxation law, a person who is or has been an officer shall not be required—

- (a) to produce in court any document made or given under or for the purposes of this Act; or
- (b) to divulge or communicate to a court a matter or thing with respect to information disclosed or obtained under or for the purposes of this Act,

being a document or information acquired by the person by reason of the person’s appointment or employment by the Commonwealth or in the course of such employment, or by reason of the delegation to the person of powers or functions by the Commissioner, or in the course of the exercise of such powers or the performance of such functions, as the case may be.

“(4) Nothing in sub-section (2) shall be taken to prohibit the Commissioner, a Second Commissioner, a Deputy Commissioner or a person authorized by the Commissioner, a Second Commissioner or a Deputy Commissioner from communicating any information to a person performing, as

an officer, duties in relation to a taxation law, for the purpose of enabling the person to perform those duties.

“(5) For the purposes of sub-section (2), an officer shall be deemed to have communicated information to another person in contravention of that sub-section if—

- (a) the officer communicates that information to any Minister; and
- (b) the information was acquired by the officer otherwise than for the purposes of Part II.

“(6) An officer shall, if and when required by the Commissioner, a Second Commissioner or a Deputy Commissioner to do so, make an oath or declaration, in a manner and form specified by the Commissioner by instrument in writing, to maintain secrecy in conformity with the provisions of this section.”.

Tenure of Commissioner and Second Commissioners

294. Section 5 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “the next succeeding sub-section, be appointed for terms of seven years” and substituting “sub-section (2), be appointed for terms of 7 years”;
- (b) by omitting from sub-section (2) “fifty-eight” and substituting “58”;
- (c) by omitting from sub-section (2) “sixty-five” and substituting “65”;
and
- (d) by omitting sub-sections (4) and (5).

295. Sections 6 and 6A of the Principal Act are repealed and the following sections are substituted:

Leave of absence

“6. The Minister may grant leave of absence to the Commissioner or a Second Commissioner on such terms as to remuneration or otherwise as the Minister determines in writing.

Resignation

“6A. The Commissioner or a Second Commissioner may resign his or her office by writing signed by the Commissioner or Second Commissioner, as the case may be, and delivered to the Governor-General.

Acting appointments

“6B. (1) The Governor-General may appoint a person to act in the office of Commissioner of Taxation—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office.

“(2) The Governor-General may appoint a person to act in an office of Second Commissioner of Taxation—

- (a) during a vacancy in that office; or**
- (b) during any period, or during all periods, when the person holding the office of Second Commissioner of Taxation is absent from duty or from Australia, is acting in the office of Commissioner of Taxation or is, for any other reason, unable to perform the functions of the office of Second Commissioner of Taxation.**

“(3) An appointment of a person under sub-section (1) or (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(4) A person appointed under sub-section (1) or (2) to act during a vacancy shall not continue so to act for more than 12 months.

“(5) Where a person is acting in the office of Commissioner of Taxation in accordance with paragraph (1) (b) or in an office of Second Commissioner of Taxation in accordance with paragraph (2) (b) and the office becomes vacant while the person is so acting, then, subject to sub-section (3), the person may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurs expires, whichever first happens.

“(6) While a person is acting in the office of Commissioner of Taxation, the person has and may exercise all the powers, and shall perform all the functions, of the Commissioner under this Act or any other law.

“(7) While a person is acting in an office of Second Commissioner of Taxation, the person has and may exercise all the powers, and shall perform all the functions, of the Second Commissioner under this Act or any other law.

“(8) The Governor-General may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in the office of Commissioner of Taxation or in an office of Second Commissioner of Taxation; and**
- (b) terminate such an appointment at any time.**

“(9) A person appointed under sub-section (1) or (2) may resign the appointment by writing signed by the person and delivered to the Governor-General.

“(10) The validity of anything done by or in relation to a person purporting to act in the office of Commissioner of Taxation or in an office of Second Commissioner of Taxation shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

Suspension and removal from office of Commissioner or Second Commissioner

“6C. (1) The Governor-General may remove the Commissioner or a Second Commissioner from office on an address praying for the removal of the Commissioner or the Second Commissioner, as the case may be, on the ground of proved misbehaviour or physical or mental incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament.

“(2) The Governor-General may suspend the Commissioner or a Second Commissioner from office on the ground of misbehaviour or physical or mental incapacity.

“(3) Where the Governor-General suspends the Commissioner or a Second Commissioner, the Minister shall cause a statement of the grounds of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

“(4) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement was laid before that House, an address under sub-section (1) has not been presented to the Governor-General by each House of the Parliament, the suspension terminates.

“(5) The suspension of the Commissioner or a Second Commissioner from office under this section does not affect any entitlement of the Commissioner or Second Commissioner, as the case may be, to be paid remuneration and allowances.

“(6) If—

- (a) the Commissioner or a Second Commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) the Commissioner or a Second Commissioner engages, except with the approval of the Minister, in paid employment outside the duties of the office of Commissioner or Second Commissioner, as the case may be; or
- (c) the Commissioner or a Second Commissioner is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months,

the Governor-General shall remove the Commissioner or Second Commissioner, as the case may be, from office.

“(7) The Governor-General may, with the consent of the Commissioner or a Second Commissioner, retire the Commissioner or Second Commissioner, as the case may be, from office on the ground of physical or mental incapacity.

“(8) The Commissioner or a Second Commissioner shall not be suspended, removed or retired from office except as provided by this section.

Powers of Second Commissioner

“6D. (1) Subject to sub-section (2) and to the regulations, a Second Commissioner has all the powers, and may perform all the functions, of the Commissioner under a taxation law.

“(2) Sub-section (1) does not apply in relation to—

- (a) section 8 of this Act; or
- (b) a provision of a taxation law that—
 - (i) provides that the Commissioner has the general administration of the taxation law; or
 - (ii) requires the Commissioner to furnish to the Minister a report on the working of the taxation law during any period.

“(3) When a power or function of the Commissioner under a taxation law is exercised or performed by a Second Commissioner, the power or function shall, for the purposes of the taxation law, be deemed to have been exercised or performed by the Commissioner.

“(4) The exercise of a power, or the performance of a function, of the Commissioner under a taxation law by a Second Commissioner does not prevent the exercise of the power, or the performance of the function, by the Commissioner.”.

Delegation

296. Section 8 of the Principal Act is amended—

- (a) by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:

“(1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Commissioner, delegate to a Deputy Commissioner or any other person all or any of the Commissioner’s powers or functions under a taxation law or any other law of the Commonwealth or a Territory, other than this power of delegation.

“(2) Subject to sub-section (5), a power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of the taxation law or the other law, as the case may be, be deemed to have been exercised or performed by the Commissioner.”;

- (b) by omitting from sub-section (4) “is revocable at will and”;
- (c) by omitting from sub-section (4) “of Taxation”;
- (d) by omitting from sub-section (5) “of Taxation” (first occurring);
- (e) by omitting from sub-section (5) all the words after “the delegation”;
- and
- (f) by adding at the end thereof the following sub-section:

“(6) A delegation under this section continues in force notwithstanding a change in the occupancy of, or a vacancy in, the office of Commissioner, but, for the purposes of the application of

sub-section 33 (3) of the *Acts Interpretation Act 1901* to a delegation under this section, nothing in any law shall be taken to preclude the revocation or variation of the delegation by the same or a subsequent holder of that office.”.

297. After section 8 of the Principal Act the following headings and sections are inserted:

“PART III—PROSECUTIONS AND OFFENCES

“Division 1—Preliminary

Interpretation

“8A. (1) In this Part, unless the contrary intention appears—

‘corporation’ means any body corporate;

‘director’, in relation to a corporation, includes—

- (a) any person occupying or acting in the position of director of the corporation, by whatever name called and whether or not validly appointed to occupy, or duly authorized to act in, the position; and
- (b) any person in accordance with whose directions or instructions the directors of the corporation are accustomed to act;

‘instrument’ includes any document;

‘prescribed offence’ means—

- (a) an offence against section 8C, sub-section 8D (1) or (2) or section 8N, 8P or 8Q; or
- (b) an offence against section 7 of the *Crimes Act 1914* that relates to an offence of a kind referred to in paragraph (a);

‘prescribed taxation offence’ means—

- (a) a taxation offence (other than a prescribed offence) that is committed by a natural person and punishable by a fine and not by imprisonment;
- (b) a prescribed offence (other than a prescribed offence that the Commissioner has elected under sub-section 8F (1) or 8S (1) to treat otherwise than as a prescribed taxation offence) that is committed by a natural person; or
- (c) a taxation offence that is committed by a corporation;

‘taxation offence’ means—

- (a) an offence against a taxation law; or
- (b) an offence against—
 - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,being an offence that relates to an offence against a taxation law.

“(2) For the purposes of the definition of ‘director’ in sub-section (1), a person shall not be regarded as a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act by reason only that the directors act on advice given by that person in the proper performance of the functions attaching to the person’s professional capacity or to the person’s business relationship with the directors.

“Division 2—Offences

“Subdivision A—Failure to comply with taxation requirements

Interpretation

“8B. (1) A reference in this Subdivision to a relevant offence is a reference to—

- (a) an offence against section 8C, sub-section 8D (1) or (2) or section 8H; or
- (b) an offence against—
 - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,

being an offence that relates to an offence of a kind referred to in paragraph (a) of this sub-section.

“(2) For the purposes of this Subdivision, a person who is convicted of an offence against section 8C or sub-section 8D (1) or (2) (in this sub-section referred to as the ‘subsequent offence’) shall be treated as having been previously convicted of a relevant offence (in this sub-section referred to as the ‘earlier offence’) if—

- (a) the person was convicted of the earlier offence on an occasion earlier than, but not more than 5 years earlier than, the person’s conviction of the subsequent offence; or
- (b) the person is convicted of the earlier offence and the subsequent offence before the same court at the same sitting and the earlier offence was committed—
 - (i) at a time or on a day earlier than, but not more than 5 years earlier than, the subsequent offence; or
 - (ii) at the same time, or on the same day, as the subsequent offence.

“(3) A reference in sub-section 8E (2) or (3) or 8F (1) or sub-section (2) of this section to an offence against section 8C or sub-section 8D (1) or (2) includes a reference to an offence against section 7 of the *Crimes Act 1914* that relates to an offence against section 8C or sub-section 8D (1) or (2), as the case may be.

“(4) Unless the contrary intention appears, a reference in paragraph (2) (a) or (b) to a conviction of a person of an offence includes a reference to the making of an order under section 19B of the *Crimes Act 1914* in relation to the person in respect of the offence.

“(5) A reference in this Subdivision to an instrument being duly stamped is a reference to the instrument being duly stamped within the meaning of the *Australian Capital Territory Taxation (Administration) Act 1969*.

Failure to comply with requirements under taxation law

“8C. A person who refuses or fails, when and as required under or pursuant to a taxation law to do so—

- (a) to furnish a return or any information to the Commissioner or another person;
- (b) to lodge an instrument with the Commissioner or another person for assessment;
- (c) to cause an instrument to be duly stamped;
- (d) to notify the Commissioner or another person of a matter or thing;
- (e) to produce a book, paper, record or other document to the Commissioner or another person; or
- (f) to attend before the Commissioner or another person,

to the extent that the person is capable of doing so is guilty of an offence.

Failure to answer questions when attending before the Commissioner, &c.

“8D. (1) A person who, when attending before the Commissioner or another person pursuant to a taxation law, refuses or fails, when and as required pursuant to a taxation law to do so—

- (a) to answer a question asked of the person; or
- (b) to produce a book, paper, record or other document,

to the extent that the person is capable of doing so is guilty of an offence.

“(2) A person who, when attending before the Commissioner or another person pursuant to a taxation law, refuses or fails, when and as required pursuant to a taxation law to do so, either to take an oath or make an affirmation is guilty of an offence.

Penalties for failure to comply with requirements under taxation law

“8E. (1) Subject to sub-sections (2) and (3), an offence against section 8C or sub-section 8D (1) or (2) is punishable on conviction by a fine not exceeding \$2,000.

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

- (a) a person is convicted of an offence against section 8C or sub-section 8D (1) or (2); and
- (b) the court before which the person is convicted is satisfied that the person has previously been convicted of a relevant offence,

the penalty that the court may impose in respect of the first-mentioned offence is a fine not exceeding \$4,000.

“(3) Where—

- (a) a person is convicted of an offence against section 8C or sub-section 8D (1) or (2);
- (b) in a case where the person is a natural person—the Commissioner has elected under sub-section 8F (1) to treat the offence otherwise than as a prescribed taxation offence; and
- (c) the court before which the person is convicted is satisfied that the person has previously been convicted of 2 or more relevant offences,

the penalty that the court may impose in respect of the first-mentioned offence is a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

Election to treat offence otherwise than as prescribed taxation offence

“8F. (1) The Commissioner may, before the institution of a prosecution of a natural person for an offence against section 8C or sub-section 8D (1) or (2), elect, in writing, to treat the offence otherwise than as a prescribed taxation offence.

“(2) Where a prosecution is instituted for an offence in relation to which an election under sub-section (1) has been made, the Commissioner shall cause a copy of the election to be filed in the court in which the prosecution is instituted.

Order to comply with requirement

“8G. (1) Where—

- (a) a person is convicted before a court of an offence against section 8C or sub-section 8D (1) or (2); or
- (b) a court makes an order under section 19B of the *Crimes Act 1914* in relation to a person in respect of an offence against section 8C or sub-section 8D (1) or (2),

in relation to the refusal or failure of the person to comply (whether in whole or in part) with a requirement made under or pursuant to a taxation law, the court may, in addition to imposing a penalty on the person or making such an order in relation to the person, as the case may be, and notwithstanding that the time for complying with the requirement or any other such requirement has passed, order the person to comply with—

- (c) the requirement; and
- (d) such other requirements made, or that could be made, in relation to the person under or pursuant to the taxation law as the court considers necessary to ensure the effectiveness of the first-mentioned requirement,

within a specified time or at a specified place and time.

“(2) Where an order under sub-section (1) is not given orally by the court to the person to whom the order is addressed, the proper officer of the court shall cause a copy of the order to be served on the person in the prescribed manner.

Penalty for failure to comply with order to comply

“8H. A person who refuses or fails to comply with an order under sub-section 8G (1) to the extent that the person is capable of doing so is guilty of an offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

“Subdivision B—Offences relating to statements, records and certain other matters

Interpretation

“8J. (1) In this Subdivision—

‘accounting records’ includes invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry and also includes—

- (a) such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up; and
- (b) such other documents (if any) as are prescribed;

‘accounts’ means ledgers, journals, profit and loss accounts and balance-sheets, and includes statements, reports and notes attached to, or intended to be read with, any of the foregoing;

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers or performing functions under, pursuant to or in relation to a taxation law.

“(2) A reference in this Subdivision to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to a taxation law;
- (b) made in an instrument lodged for assessment under or pursuant to a taxation law;
- (c) made in answer to a question asked of a person under or pursuant to a taxation law;
- (d) made in any information furnished, or purporting to be furnished, under or pursuant to a taxation law; or
- (e) made in a document furnished to a taxation officer otherwise than under or pursuant to a taxation law,

but does not include a statement made in a document produced pursuant to—

- (f) paragraph 61 (2) (c) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (g) sub-paragraph 59 (1) (b) (ii) of the *Bank Account Debits Tax Administration Act 1982*;

- (h) paragraph 45 (1) (b) of the *Estate Duty Assessment Act 1914*;
- (j) paragraph 39 (1) (b) of the *Gift Duty Assessment Act 1941*;
- (k) paragraph 264 (1) (b) of the *Income Tax Assessment Act 1936* (including that paragraph as applied by sub-section 4 (1) of the *Taxation (Unpaid Company Tax) Assessment Act 1982*);
- (m) paragraph 20 (1) (c) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (n) sub-section 23 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*);
- (p) paragraph 14I (1) (c) of this Act;
- (q) sub-section 15 (1) of the *Tobacco Charges Assessment Act 1955*; or
- (r) paragraph 34 (1) (c) of the *Wool Tax (Administration) Act 1964*.

“(3) A reference in this Subdivision to a relevant offence is a reference to—

(a) an offence against—

- (i) sub-section 8K (1) or 8L (1) or section 8N, 8P, 8Q, 8T or 8U; or
- (ii) the *Crimes (Taxation Offences) Act 1980*;

(b) an offence against—

- (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
- (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,

being an offence that relates to an offence of a kind referred to in paragraph (a) of this sub-section; or

(c) an offence against section 29D or 86A of the *Crimes Act 1914*, being an offence that relates to a tax liability.

“(4) For the purposes of this Subdivision, a person who is convicted of an offence against sub-section 8K (1) or 8L (1) or section 8N, 8P, 8Q, 8T or 8U (in this sub-section referred to as the ‘subsequent offence’) shall be treated as having been previously convicted of a relevant offence (in this sub-section referred to as the ‘earlier offence’) if—

- (a) the person was convicted of the earlier offence on an occasion earlier than, but not more than 10 years earlier than, the person’s conviction of the subsequent offence; or
- (b) the person is convicted of the earlier offence and the subsequent offence before the same court at the same sitting and the earlier offence was committed—
 - (i) at a time or on a day earlier than, but not more than 10 years earlier than, the subsequent offence; or

(ii) at the same time, or on the same day, as the subsequent offence.

“(5) Unless the contrary intention appears, a reference in paragraph (4) (a) or (b) to a conviction of a person for an offence includes a reference to the making of an order under section 19B of the *Crimes Act 1914* in relation to the person in respect of the offence.

“(6) A reference in sub-section 8M (2) or (4) of this section to an offence against sub-section 8K (1) or 8L (1) includes a reference to an offence against section 7 of the *Crimes Act 1914* that relates to an offence against sub-section 8K (1) or 8L (1), as the case may be.

“(7) A reference in sub-section 8R (2) or 8S (1) or sub-section (4) of this section to an offence against section 8N, 8P or 8Q includes a reference to an offence against section 7 of the *Crimes Act 1914* that relates to an offence against section 8N, 8P or 8Q, as the case may be.

“(8) A reference in sub-section 8V (2) or sub-section (4) of this section to an offence against section 8T or 8U includes a reference to an offence against section 7 of the *Crimes Act 1914* that relates to an offence against section 8T or 8U, as the case may be.

“(9) A reference in this Subdivision to a statement made to a taxation officer includes a reference to a statement made to a person other than a taxation officer for a purpose in connection with the operation of a taxation law.

“(10) A reference in sub-section (9) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of a taxation law is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document, made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(11) Where a person omits from a return furnished under or pursuant to the *Income Tax Assessment Act 1936* or the regulations under that Act, being a return of income derived by the person, a partnership or a trust estate during a period, any assessable income derived by the person, partnership or the trust estate, as the case may be, during the period, the person shall, for the purposes of this Subdivision, be taken to have made a statement in the return to the effect that the person, the partnership or the trust estate, as the case requires, did not derive the assessable income during the period.

False or misleading statements

“8K. (1) A person who—

- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or

(b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular, is guilty of an offence.

“(2) In a prosecution of a person for an offence against sub-section (1), it is a defence if the person proves that the person—

(a) did not know; and

(b) could not reasonably be expected to have known,

that the statement to which the prosecution relates was false or misleading.

Incorrectly keeping records, &c.

“8L. (1) Where—

(a) a person who is required under or pursuant to a taxation law to keep any accounts, accounting records or other records keeps them in such a way that they do not correctly record and explain the matters, transactions, acts or operations to which they relate; or

(b) a person who is required under or pursuant to a taxation law to make a record of any matter, transaction, act or operation makes it in such a way that it does not correctly record the matter, transaction, act or operation,

the person is guilty of an offence.

“(2) In a prosecution of a person for an offence against sub-section (1), it is a defence if the person proves that the person—

(a) did not know; and

(b) could not reasonably be expected to have known,

that—

(c) in the case of a prosecution for an offence against sub-section (1) by virtue of paragraph (a)—the accounts, accounting records or other records to which the prosecution relates did not correctly record and explain the matters, transactions, acts or operations to which they relate; or

(d) in the case of a prosecution for an offence against sub-section (1) by virtue of paragraph (b)—the record to which the prosecution relates did not correctly record the matter, transaction, act or operation to which the record relates.

Penalties for offences against sub-sections 8K (1) and 8L (1)

“8M. (1) Subject to sub-section (2), an offence against sub-section 8K (1) or 8L (1) is punishable on conviction by a fine not exceeding \$2,000.

“(2) Where—

(a) a person is convicted of an offence against sub-section 8K (1) or 8L (1); and

(b) the court before which the person is convicted is satisfied that the person has previously been convicted of a relevant offence, the penalty that the court may impose in respect of the first-mentioned offence is a fine not exceeding \$4,000.

Recklessly making false or misleading statements

“8N. A person who recklessly—

- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,

is guilty of an offence.

Knowingly making false or misleading statements

“8P. A person who knowingly—

- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,

is guilty of an offence.

Recklessly or knowingly incorrectly keeping records, &c.

“8Q. Where—

- (a) a person who is required under or pursuant to a taxation law to keep any accounts, accounting records or other records recklessly or knowingly keeps them in such a way that they do not correctly record and explain the matters, transactions, acts or operations to which they relate; or
- (b) a person who is required under or pursuant to a taxation law to make a record of any matter, transaction, act or operation recklessly or knowingly makes it in such a way that it does not correctly record the matter, transaction, act or operation,

the person is guilty of an offence.

Penalties for offences against sections 8N, 8P and 8Q

“8R. (1) Subject to sub-section (2), an offence against section 8N, 8P or 8Q is punishable on conviction by a fine not exceeding \$3,000.

“(2) Where—

- (a) a person is convicted of an offence against section 8N, 8P or 8Q;
- (b) in a case where the person is a natural person—the Commissioner has elected under sub-section 8S (1) to treat the offence otherwise than as a prescribed taxation offence; and

(c) the court before which the person is convicted is satisfied that the person has previously been convicted of a relevant offence, the penalty that the court may impose in respect of the first-mentioned offence is a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

Election to treat offence otherwise than as prescribed taxation offence

“8S. (1) The Commissioner may, before the institution of a prosecution of a natural person for an offence against section 8N, 8P or 8Q, elect, in writing, to treat the offence otherwise than as a prescribed taxation offence.

“(2) Where a prosecution is instituted for an offence in relation to which an election under sub-section (1) has been made, the Commissioner shall cause a copy of the election to be filed in the court in which the prosecution is instituted.

Incorrectly keeping records with intention of deceiving or misleading, &c.

“8T. A person who—

- (a) keeps any accounts, accounting records or other records in such a way that they—
 - (i) do not correctly record and explain the matters, transactions, acts or operations to which they relate; or
 - (ii) are (whether in whole or in part) illegible, indecipherable, incapable of identification or, if they are kept in the form of a data processing device, incapable of being used to reproduce information;
- (b) makes a record of any matter, transaction, act or operation in such a way that it does not correctly record the matter, transaction, act or operation;
- (c) alters, defaces, mutilates, falsifies, damages, removes, conceals or destroys any accounts, accounting records or other records (whether in whole or in part); or
- (d) does or omits to do any other act or thing to any accounts, accounting records or other records,

with any of the following intentions, namely:

- (e) deceiving or misleading the Commissioner or a particular taxation officer;
 - (f) hindering or obstructing the Commissioner or a particular taxation officer (otherwise than in the investigation of a taxation offence);
 - (g) hindering or obstructing the investigation of a taxation offence;
 - (h) hindering, obstructing or defeating the administration, execution or enforcement of a taxation law; or
 - (j) defeating the purposes of a taxation law,
- (whether or not the person had any other intention) is guilty of an offence.

Falsifying or concealing identity with intention of deceiving or misleading, &c.

“8U. A person who—

- (a) falsifies or conceals the identity of, or the address or location of a place of residence or business of, the person or another person; or
- (b) does or omits to do any act or thing the doing or omission of which facilitates the falsification or concealment of the identity of, or the address or location of a place of residence or business of, the person or another person,

with any of the following intentions, namely:

- (c) deceiving or misleading the Commissioner or a particular taxation officer;
- (d) hindering or obstructing the Commissioner or a particular taxation officer (otherwise than in the investigation of a taxation offence);
- (e) hindering or obstructing the investigation of a taxation offence;
- (f) hindering, obstructing or defeating the administration, execution or enforcement of a taxation law; or
- (g) defeating the purposes of a taxation law,

(whether or not the person had any other intention) is guilty of an offence.

Penalties for offences against sections 8T and 8U

“8V. (1) Subject to sub-section (2), an offence against section 8T or 8U is punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

“(2) Where—

- (a) a person is convicted of an offence against section 8T or 8U; and
- (b) the court before which the person is convicted is satisfied that the person has previously been convicted of a relevant offence,

the penalty that the court may impose in respect of the first-mentioned offence is a fine not exceeding \$10,000 or imprisonment for a period not exceeding 2 years, or both.

Court may order payment of amount in addition to penalty

“8W. (1) Where—

- (a) a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of—
 - (i) an offence against sub-section 8K(1) or section 8N or 8P in relation to a statement made to a taxation officer; or
 - (ii) an offence against sub-section 8L (1) or section 8Q in relation to the keeping of any accounts, accounting records or other records (in paragraph (b) referred to as the ‘relevant accounts’) or the making of a record; and

- (b) the court is satisfied that the proper amount of a tax liability of the convicted person or another person exceeds the amount that would have been the amount of the tax liability if it were assessed or determined, as the case requires, on the basis that the statement were not false or misleading, on the basis of the relevant accounts as they were kept or on the basis that the record were correct, as the case may be,

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding—

- (c) in a case where the offence is an offence to which sub-section 8R(2) applies—3 times the amount of the excess; or
- (d) in any other case—double the amount of the excess.

“(2) Where—

- (a) a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against section 8T or 8U in relation to an act or omission; and
- (b) the court is satisfied that the purpose of, or one of the purposes of, the act or omission was to facilitate the avoidance of an amount of a tax liability of the convicted person or another person,

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding—

- (c) in a case where the offence is an offence to which sub-section 8V (2) applies—3 times that amount; or
- (d) in any other case—double that amount.

“Subdivision C—Miscellaneous

Obstructing taxation officers

“8X. A person shall not hinder or obstruct another person in the exercise of the other person’s powers, or the performance of the other person’s functions, under, pursuant to or in relation to a taxation law.

Penalty: \$2,000 or imprisonment for 6 months, or both.

Liability of officers, &c., of corporations

“8Y. (1) Where a corporation does or omits to do an act or thing the doing or omission of which constitutes a taxation offence, a person (by whatever name called and whether or not the person is an officer of the corporation) who is concerned in, or takes part in, the management of the corporation shall be deemed to have committed the taxation offence and is punishable accordingly.

“(2) In a prosecution of a person for a taxation offence by virtue of sub-section (1), it is a defence if the person proves that the person—

- (a) did not aid, abet, counsel or procure the act or omission of the corporation concerned; and

- (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission of the corporation.

“(3) For the purposes of sub-section (1), an officer of a corporation shall be presumed, unless the contrary is proved, to be concerned in, and to take part in, the management of the corporation.

“(4) In this section, ‘officer’, in relation to a corporation, means—

- (a) a director or secretary of the corporation;
- (b) a receiver and manager of property of the corporation;
- (c) an official manager or deputy official manager of the corporation;
- (d) a liquidator of the corporation appointed in a voluntary winding up of the corporation; or
- (e) a trustee or other person administering a compromise or arrangement made between the corporation and another person or other persons.

Evidentiary certificate relating to previous convictions

“8Z. (1) The Commissioner may, for the purposes of sub-section 8E (2) or (3), 8M (2), 8R (2) or 8V (2), issue a certificate setting out such facts as the Commissioner considers relevant with respect to—

- (a) the conviction of a person of an offence against a provision of Subdivision A or B;
- (b) the conviction of a person of an offence against the *Crimes (Taxation Offences) Act 1980*;
- (c) the conviction of a person of an offence against—
 - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section, being an offence that relates to an offence of a kind referred to in paragraph (a) or (b) of this sub-section;
- (d) the conviction of a person of an offence against section 29D or 86A of the *Crimes Act 1914*, being an offence that relates to a tax liability; or
- (e) the making of an order under section 19B of the *Crimes Act 1914* in relation to a person in respect of an offence of a kind referred to in paragraph (a), (b) or (c) of this sub-section.

“(2) A document purporting to be a certificate issued under sub-section (1) shall be received in evidence in a court without further proof and is, for those purposes, *prima facie* evidence of the facts stated in it.

“(3) The provisions of this section are in addition to, and not in derogation of, any other law of the Commonwealth or any law of a State or Territory.

“Division 3—Prosecution of Taxation Offences

Prosecution of taxation offences

“8ZA. (1) A taxation offence that is punishable by imprisonment for a period exceeding 12 months is, when committed by a natural person, an indictable offence.

“(2) A taxation offence that is punishable by imprisonment for a period not exceeding 12 months is, when committed by a natural person, punishable on summary conviction.

“(3) A prescribed taxation offence, when committed by a natural person, is punishable on summary conviction.

“(4) A taxation offence, when committed by a corporation, is punishable on summary conviction.

Prosecution may be commenced at any time

“8ZB. (1) A prosecution for a taxation offence may be commenced at any time.

“(2) Sub-section (1) has effect notwithstanding anything contained in section 21 of the *Crimes Act 1914*.

Place where offence committed

“8ZC. (1) Where a person commits a taxation offence by doing an act, the taxation offence may be taken to have been committed at—

- (a) the place where the act was done;
- (b) if the person is a natural person—the usual place of residence or business of the person or the place of residence or business of the person last known to the Commissioner; or
- (c) if the person is a corporation—the head office, a registered office or a principal office of the corporation,

and the person may be charged with, and convicted of, the taxation offence as if it had been committed at any of those places.

“(2) Where a person commits a taxation offence by omitting to do an act, the taxation offence may be taken to have been committed at—

- (a) the place where the act should have been done;
- (b) if the person is a natural person—the usual place of residence or business of the person or the place of residence or business of the person last known to the Commissioner; or
- (c) if the person is a corporation—the head office, a registered office or a principal office of the corporation,

and the person may be charged with, and convicted of, the taxation offence as if it had been committed at any of those places.

“(3) This section has effect subject to section 80 of the Constitution.

Conduct by servants or agents of corporations

“8ZD. (1) Where, in a prosecution for a taxation offence constituted by an act done, or omitted to be done, by a corporation, it is necessary to establish the intention of the corporation, it is sufficient to show that a servant or agent of the corporation by whom the act was done or omitted to be done, as the case may be, had the intention.

“(2) In a prosecution for a taxation offence, any act done, or omitted to be done, on behalf of a corporation by—

- (a) a director, servant or agent of the corporation; or
 - (b) any other person—
 - (i) at the direction; or
 - (ii) with the consent or agreement (whether express or implied),
- of a director, servant or agent of the corporation,

shall be deemed to have been done, or omitted to have been done, as the case may be, also by the corporation.

Penalty taxes to be alternative to prosecution for certain offences

“8ZE. (1) Where—

- (a) but for this sub-section, an amount is payable by a person under a penalty tax provision by reason of an act or omission of the person; and
- (b) a prosecution is instituted against the person for an offence against section 8C, sub-section 8K (1) or section 8N or 8P constituted by the act or omission,

the amount is not payable unless and until the prosecution is withdrawn.

“(2) Where—

- (a) a person is liable to pay an amount (in this sub-section referred to as the ‘penalty tax amount’) under a penalty tax provision by reason of an act or omission of the person;
- (b) an amount (in this sub-section referred to as the ‘relevant amount’) is paid, or applied by the Commissioner, in total or partial discharge of the liability; and
- (c) a prosecution is instituted against the person for an offence against section 8C, sub-section 8K (1) or section 8N or 8P constituted by the act or omission,

the relevant amount shall be refunded to the person or applied by the Commissioner in total or partial discharge of a tax liability of the person, but, if the prosecution is withdrawn, the person shall again become liable to pay the penalty tax amount.

“(3) In this section, ‘penalty tax provision’ means—

- (a) section 70 of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) section 17 of the *Bank Account Debits Tax Administration Act 1982*;
- (c) section 46 of the *Estate Duty Assessment Act 1914*;

- (d) section 42 of the *Gift Duty Assessment Act 1941*;
- (e) section 222 or 223 of the *Income Tax Assessment Act 1936* (including those sections as applied by sub-section 4 (1) of the *Taxation (Unpaid Company Tax) Assessment Act 1982*);
- (f) section 42 of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (g) section 45 of the *Sales Tax Assessment Act (No. 1) 1930* (including that section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*);
- (h) section 29 of the *Tobacco Charges Assessment Act 1955*; or
- (j) section 61 of the *Wool Tax (Administration) Act 1964*.

Penalties for corporations

“8ZF. Where a corporation is convicted of—

- (a) a taxation offence (other than a prescribed offence) that, if committed by a natural person, is punishable by imprisonment; or
 - (b) a prescribed offence to which sub-section 8E (3) or 8R (2) applies,
- the penalty that the court before which the corporation is convicted may impose is a fine not exceeding 5 times the maximum fine that, but for this section, the court could impose as a penalty for the taxation offence.

Enforcement of orders for payment

“8ZG. (1) Where—

- (a) upon the conviction of a person for a taxation offence, the court before which the person is convicted, in addition to imposing a penalty on the person, orders the person to pay an amount to the Commissioner; and
 - (b) the court has civil jurisdiction to the extent of the amount,
- the order is enforceable in all respects as a final judgment of the court in favour of the Commissioner.

“(2) Where—

- (a) upon conviction of a person for a taxation offence, the court before which the person is convicted, in addition to imposing a penalty on the person, orders the person to pay an amount to the Commissioner; and
- (b) the court—
 - (i) does not have civil jurisdiction; or
 - (ii) has civil jurisdiction, but does not have civil jurisdiction to the extent of the amount,

the proper officer of the court shall issue to the Commissioner a certificate in the prescribed form containing the prescribed particulars.

“(3) The certificate may, in the prescribed manner and subject to the prescribed conditions (if any), be registered in a court having civil jurisdiction to the extent of the amount ordered to be paid to the Commissioner.

“(4) Upon registration under sub-section (3), the certificate is enforceable in all respects as a final judgment of the court in favour of the Commissioner.

“(5) The costs of registration of the certificate and other proceedings under this section shall, subject to the prescribed conditions (if any), be deemed to be payable under the certificate.

Penalties not to relieve from tax

“8ZH. The adjudgment or payment of—

- (a) a penalty in respect of a taxation offence; or
- (b) an amount ordered by a court, upon the conviction of a person for a taxation offence, to be paid by the person to the Commissioner,

does not relieve any person from liability to assessment or payment of any amount (whether by way of tax, duty, charge or otherwise) for which the person would otherwise be liable.

“Division 4—Prescribed Taxation Offences

Prosecution of prescribed taxation offences

“8ZJ. (1) A prosecution for a prescribed taxation offence shall take the form of a proceeding by the Commonwealth for the recovery of a pecuniary penalty.

“(2) A prosecution for a prescribed taxation offence may be instituted by a person authorized under sub-section (8) on behalf of, and in the official name of, the Commissioner by information or complaint in a court of summary jurisdiction.

“(3) A prosecution of a person for a prescribed taxation offence that is punishable by a fine exceeding the prescribed amount in relation to the person may be instituted by a person authorized under sub-section (8) on behalf of, and in the official name of, the Commissioner by action in the Supreme Court of a State or Territory.

“(4) Where a court of summary jurisdiction convicts a person of a prescribed taxation offence, the penalty that the court may impose is a fine not exceeding the prescribed amount in relation to the person.

“(5) Where—

- (a) a prosecution of a person for a prescribed taxation offence that is punishable by a fine exceeding the prescribed amount in relation to the person is instituted in accordance with sub-section (2); and
- (b) before the expiration of the period of 14 days after service of process on the person in respect of the prescribed taxation offence, the person

elects, in the prescribed manner, to have the case tried in the Supreme Court of the State or Territory in which the prosecution was instituted, the prosecution shall, by force of this sub-section and without any order of the Supreme Court, be removed to the Supreme Court.

“(6) Where a prosecution for a prescribed taxation offence is instituted in the Supreme Court of a State or Territory in accordance with sub-section (3) or is removed to the Supreme Court of a State or Territory by force of sub-section (5), the prosecution may be conducted in accordance with—

- (a) the usual practice and procedure of the Supreme Court in civil cases; or
- (b) the directions of the Supreme Court or a Justice or Judge of the Supreme Court.

“(7) The jurisdiction of the Supreme Court of a State or Territory under this section shall be exercised by a single Justice or Judge of the Supreme Court.

“(8) The Commissioner may, by writing, authorize a person to institute a prosecution for—

- (a) a specified prescribed taxation offence;
- (b) a prescribed taxation offence included in a specified class of prescribed taxation offences; or
- (c) any prescribed taxation offence.

“(9) A reference in this section to the prescribed amount in relation to a person is a reference to—

- (a) if the person is a natural person—\$5,000; or
- (b) if the person is a corporation—\$25,000.

Protection of witnesses

“8ZK. A witness called on behalf of the Commissioner in any prosecution for a prescribed taxation offence shall not be compelled—

- (a) to disclose—
 - (i) the fact that the witness received any information;
 - (ii) the nature of any information received by the witness; or
 - (iii) the name of any person from whom the witness received any information; or
- (b) if the witness is an officer, to produce any reports—
 - (i) made or received by the witness confidentially in the witness' official capacity; or
 - (ii) containing confidential information.

Averment

“8ZL. (1) In a prosecution for a prescribed taxation offence, a statement or averment contained in the information, claim or complaint is *prima facie* evidence of the matter so stated or averred.

“(2) This section applies in relation to any matter so stated or averred although—

- (a) evidence in support or rebuttal of the matter stated or averred, or of any other matter, is given; or
- (b) the matter averred is a mixed question of law and fact, but, in that case, the statement or averment is *prima facie* evidence of the fact only.

“(3) Any evidence given in support or rebuttal of a matter so stated or averred shall be considered on its merits, and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

“(4) This section—

- (a) does not apply to an averment of the intent of a defendant; and
- (b) does not lessen or affect any onus of proof otherwise falling on a defendant.

Evidence of authority to institute proceedings

“8ZM. (1) Where a prosecution for a prescribed taxation offence is instituted by a person in the official name of the Commissioner, the prosecution shall be presumed, unless the contrary is proved, to have been instituted with the authority of the Commissioner.

“(2) In a prosecution for a prescribed taxation offence, the mere production of an instrument, telegram or copy of a telex message purporting to have been issued or sent by the Commissioner, a Second Commissioner or a Deputy Commissioner and purporting to notify a person that the person is authorized by the Commissioner to institute the prosecution, to institute prosecutions for a class of prescribed taxation offences in which the prescribed taxation offence is included or to institute prosecutions for any prescribed taxation offence is conclusive evidence of the authority of the person to institute the prosecution on behalf of, and in the official name of, the Commissioner.

Costs

“8ZN. In a prosecution for a prescribed taxation offence, the court may award costs against any party.”.

Heading to Part III

298. The heading to Part III of the Principal Act is omitted and the following heading is substituted:

“Division 5—Service of Summons for Prescribed Taxation Offences”.

Interpretation

299. Section 9 of the Principal Act is amended—

- (a) by omitting “Part” and substituting “Division”;

- (b) by inserting “taxation” after “prescribed” in the definition of “defendant”;
- (c) by omitting from the definition of “defendant” “in accordance with section 10” and substituting “in the manner permitted by sub-section 10 (1)”;
- (d) by inserting “prescribed taxation” after “in relation to the” in the definition of “defendant”; and
- (e) by omitting the definitions of “fine”, “prescribed offence” and “taxation Act”.

Service of summons by post

300. Section 10 of the Principal Act is amended—

- (a) by omitting “Without prejudice to any other method of service provided for under any other law of the Commonwealth or under a law of a State or Territory, a summons” and substituting “A summons”;
- (b) by inserting in sub-section (1) “taxation” after “prescribed”; and
- (c) by inserting after sub-section (1) the following sub-section:
“(1A) Sub-section (1) has effect without prejudice to any other method of service provided for under any other law of the Commonwealth or under a law of a State or Territory.”.

Notice of conviction *in absentia*

301. Section 11 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “taxation” after “prescribed”; and
- (b) by inserting in sub-section (1) “prescribed taxation” after “convicted of the”.

Limitation of action to enforce payment of fine

302. Section 13 of the Principal Act is amended—

- (a) by inserting “taxation” after “prescribed”; and
- (b) by inserting “prescribed taxation” after “convicted of the”.

Application of other laws

303. Section 13C of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Part” and substituting “Division”; and
- (b) by inserting in sub-section (2) “taxation” after “a prescribed”.

Interpretation

304. Section 14A of the Principal Act is amended—

- (a) by omitting the definitions of “Commissioner”, “Deputy Commissioner” and “Second Commissioner”; and
- (b) by omitting from paragraph (b) of the definition of “Supreme Court” all the words after “Northern Territory”.

Applications for issue of certificates

305. Section 14B of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Where—

- (a) an authority is issued pursuant to regulations made under section 39 of the *Banking Act 1959* authorizing a person, or persons included in a class of persons, specified in the authority or all persons to do an act or thing, or acts or things, specified in the authority, the doing of which, except with the authority of the Reserve Bank, would otherwise be prohibited by those regulations; and
- (b) a tax clearance certificate under section 14C of this Act is required, for the purposes of a condition of the grant of the authority, to be issued to a person in respect of an act or thing,

the last-mentioned person may apply in writing to the Commissioner for the issue to the person of a tax clearance certificate under section 14C of this Act in respect of the last-mentioned act or thing.”.

Issue of certificates

306. Section 14C of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “proposed to be done by the applicant”;
- (b) by inserting in sub-section (2) “in respect of an act or thing” after “sub-section (1)”;
- (c) by omitting from sub-section (2) “proposed”.

Grounds on which issue of certificates may be refused

307. Section 14D of the Principal Act is amended—

- (a) by omitting from sub-section (1) “proposed to be done by the applicant”;
- (b) by omitting from paragraph (1) (a) “proposed” (wherever occurring);
- (c) by omitting from paragraph (1) (b) “proposed” (first occurring) and substituting “first-mentioned”; and
- (d) by omitting from paragraph (1) (b) “proposed” (last occurring).

Repeal of sections 14E and 14F

308. Sections 14E and 14F of the Principal Act are repealed.

Repeal of section 14HA

309. Section 14HA of the Principal Act is repealed.

Repeal of section 14K

310. Section 14K of the Principal Act is repealed.

Repeal of section 14O

311. Section 14O of the Principal Act is repealed.

312. After Part IV of the Principal Act the following Part is inserted:

“PART IVA—DEPARTURE FROM AUSTRALIA OF CERTAIN TAX DEBTORS

“Division 1—Interpretation

Interpretation

“14Q. (1) In this Part, unless the contrary intention appears—

‘Australia’, when used in a geographical sense, includes the external Territories;

‘authorized officer’ means a person who is—

(a) an officer for the purposes of the *Customs Act 1901*; or

(b) a member of the Australian Federal Police;

‘departure authorization certificate’ means a certificate under sub-section 14U (1);

‘departure prohibition order’ means an order under sub-section 14S (1);

‘Immigration Department’ means the Department of Immigration and Ethnic Affairs.

“(2) A reference in this Part to the departure of a person from Australia for a foreign country is a reference to the departure of the person from Australia for a foreign country, whether or not the person intends to return to Australia.

“Division 2—Prohibition and Authorization of Departure of Certain Tax Debtors

Departure from Australia of certain tax debtors prohibited

“14R. A person in respect of whom a departure prohibition order is in force, and who knows that such an order is in force in respect of him or her, shall not depart from Australia for a foreign country unless the departure is authorized by a departure authorization certificate.

Penalty: \$5,000 or imprisonment for 12 months, or both.

Departure prohibition orders

“14S. (1) Where—

(a) a person is subject to a tax liability; and

(b) the Commissioner believes on reasonable grounds that it is desirable to do so for the purpose of ensuring that the person does not depart from Australia for a foreign country without—

(i) wholly discharging the tax liability; or

- (ii) making arrangements satisfactory to the Commissioner for the tax liability to be wholly discharged,

the Commissioner may, by order in accordance with the prescribed form, prohibit the departure of the person from Australia for a foreign country.

“(2) Subject to sub-section (3), a departure prohibition order remains in force unless and until revoked under section 14T or set aside by a court.

“(3) A departure prohibition order made in respect of a person shall be taken, by virtue of this sub-section, not to be in force in respect of the person during any period during which an order is in force under the *Migration Act 1958* for the deportation of the person.

“(4) Where a departure prohibition order is made in respect of a person, the Commissioner shall forthwith—

- (a) cause the person to be informed, as prescribed, of the making of the order; and
- (b) subject to sub-section (5), cause a copy of the order, and such information as the Commissioner considers is likely to facilitate the identification of the person, to be given to—
 - (i) the Secretary to the Immigration Department; and
 - (ii) such other persons as the Commissioner considers appropriate, being persons prescribed, or included in a class of persons prescribed, for the purposes of this paragraph.

“(5) Where a departure prohibition order is made in respect of a person whom the Commissioner is satisfied is an Australian citizen, the Commissioner shall not cause a copy of the order, or any information likely to facilitate the identification of the person, to be given to the Secretary to the Immigration Department unless the Commissioner is of the opinion that it is desirable to do so.

Revocation and variation of departure prohibition orders

“14T. (1) Where a departure prohibition order is in force in respect of a person and—

- (a) the tax liabilities to which the person is subject have been wholly discharged and the Commissioner is satisfied that it is likely that the tax liabilities to which the person may become subject in respect of, or arising out of, matters that have occurred will be—
 - (i) wholly discharged; or
 - (ii) completely irrecoverable; or
- (b) the Commissioner is satisfied that the tax liabilities to which the person is subject are completely irrecoverable,

the Commissioner shall, on application being made to the Commissioner by the person to do so or on the Commissioner's own motion, revoke the departure prohibition order.

“(2) Where a departure prohibition order is in force in respect of a person, the Commissioner may, in the Commissioner’s discretion and on application being made to the Commissioner to do so or on the Commissioner’s own motion, revoke or vary the departure prohibition order.

“(3) A reference in paragraph (1) (a) to tax liabilities having been wholly discharged includes a reference to arrangements satisfactory to the Commissioner having been made for those tax liabilities to be wholly discharged and a reference in that paragraph to the Commissioner being satisfied that it is likely that tax liabilities to which a person may become subject will be wholly discharged includes a reference to the Commissioner being satisfied that it is likely that arrangements satisfactory to the Commissioner will be made for those tax liabilities to be wholly discharged.

“(4) As soon as practicable after a departure prohibition order made in respect of a person is revoked or varied under this section, the Commissioner shall—

- (a) cause to be served, as prescribed, on the person; and
- (b) cause to be given to each person to whom a copy of the departure prohibition order was given,

notification of the revocation or variation of the departure prohibition order.

“(5) As soon as practicable after a decision is made under sub-section (1) or (2) refusing to revoke a departure prohibition order made in respect of a person, the Commissioner shall cause to be served, as prescribed, on the person notification of the decision.

Departure authorization certificates

“14U. (1) Where, on application made by a person in respect of whom a departure prohibition order is in force—

- (a) the Commissioner is satisfied—
 - (i) that, if a departure authorization certificate is issued in respect of the person, it is likely that—
 - (A) the person will depart from Australia and will return to Australia within such period as the Commissioner considers to be appropriate in relation to the person; and
 - (B) circumstances of the kind referred to in paragraph 14T (1) (a) will come into existence within such period as the Commissioner considers to be appropriate in relation to the person; and
 - (ii) that it is not necessary or desirable for the person to give security under sub-section (2) for the person’s return to Australia; or

- (b) in a case where the Commissioner is not satisfied with respect to the matters referred to in paragraph (a)—
 - (i) the person has given security under sub-section (2) to the satisfaction of the Commissioner for the person's return to Australia; or
 - (ii) if the person is unable to give such security, the Commissioner is satisfied that—
 - (A) a departure authorization certificate should be issued in respect of the person on humanitarian grounds; or
 - (B) a refusal to issue a departure authorization certificate in respect of the person would be detrimental to the interests of Australia,

the Commissioner shall issue a certificate authorizing the person to depart from Australia for a foreign country on or before the seventh day after a day (being a day later than, but not more than 7 days later than, the day on which the certificate is issued) specified in the certificate.

“(2) For the purposes of this section—

- (a) a person may give security, by bond, deposit or any other means, for the person's return to Australia by such day as is agreed between the person and the Commissioner;
- (b) the Commissioner may, in the Commissioner's discretion and on application by the person or on the Commissioner's own motion, substitute a later day for the day so agreed (including a day substituted by virtue of a previous application of this paragraph); and
- (c) the Commissioner may refuse to substitute such a later day unless the person—
 - (i) increases, to the satisfaction of the Commissioner, the value of the security given by the person under this sub-section; or
 - (ii) gives a further security, to the satisfaction of the Commissioner, by bond, deposit or any other means, for the person's return to Australia by that later day.

“(3) As soon as practicable after a departure authorization certificate is issued in respect of a person, the Commissioner shall—

- (a) cause a copy of the departure authorization certificate to be served, as prescribed, on the person; and
- (b) cause a copy of the departure authorization certificate to be given to each person to whom a copy of the departure prohibition order made in respect of the person was given.

“(4) As soon as practicable after a decision is made under sub-section (1) refusing to issue a departure authorization certificate in respect of a person or a decision is made under sub-section (2) refusing to substitute a later day in relation to the return of a person to Australia, the Commissioner shall cause to be served, as prescribed, on the person notification of the decision.

“Division 3—Appeals from, and Review of, Decisions of the Commissioner

Appeals to courts against making of departure prohibition orders

“14V. (1) A person aggrieved by the making of a departure prohibition order may appeal to the Federal Court of Australia or the Supreme Court of a State or Territory against the making of the departure prohibition order.

“(2) This section has effect—

- (a) subject to chapter III of the Constitution; and
- (b) notwithstanding anything contained in section 9 of the *Administrative Decisions (Judicial Review) Act 1977*.

Jurisdiction of courts

“14W. (1) The jurisdiction of a court under section 14V shall be exercised by a single Judge or Justice.

“(2) An appeal lies to the Federal Court of Australia from a judgment or order of the Supreme Court of a State or Territory exercising jurisdiction under section 14V.

“(3) An appeal lies to the High Court, with special leave of the High Court, from a judgment or order referred to in sub-section (2).

“(4) Except as provided in sub-section (2) or (3), no appeal lies from a judgment or order referred to in sub-section (2).

Orders of court on appeal

“14X. A court hearing an appeal under section 14V against the making of a departure prohibition order may, in its discretion—

- (a) make an order setting aside the departure prohibition order; or
- (b) dismiss the appeal.

Applications for review of certain decisions

“14Y. (1) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Commissioner under section 14T or 14U.

“(2) In sub-section (1), ‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

“Division 4—Enforcement

Powers of authorized officers

“14Z. (1) Where an authorized officer believes on reasonable grounds that—

- (a) a person is about to depart from Australia for a foreign country;
- (b) a departure prohibition order is in force in respect of the person; and

- (c) the departure is not authorized by a departure authorization certificate,
- the authorized officer may—
- (d) take such steps as are reasonably necessary to prevent the departure of the person, including, but without limiting the generality of the foregoing, steps to prevent the person going on board, or steps to remove the person from, a vessel or aircraft in which the authorized officer believes on reasonable grounds the departure will take place; and
 - (e) require the person to answer questions or produce documents to the authorized officer, or both, for the purposes of ascertaining whether—
 - (i) a departure prohibition order is in force in respect of the person; and
 - (ii) if a departure prohibition order is in force in respect of the person—the departure of the person from Australia for a foreign country is authorized by a departure authorization certificate.

“(2) A person who, without reasonable excuse, refuses or fails, when and as required to do so pursuant to sub-section (1), to answer a question or produce a document, is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

“(3) A person who, when required to answer a question pursuant to sub-section (1), knowingly makes a statement that is false or misleading in a material particular, is guilty of an offence punishable on conviction by a fine not exceeding \$1,000 or imprisonment for 6 months, or both.

“(4) Section 8C does not apply in relation to a requirement made pursuant to sub-section (1) of this section.

“(5) Sub-section 8K (1) and sections 8N and 8P do not apply in relation to an answer given to a question asked, or a document produced, pursuant to sub-section (1).

Certain tax debtors to produce authority to depart, &c.

“14ZA. (1) Where—

- (a) a person in respect of whom a departure prohibition order is in force is about to depart from Australia for a foreign country; and
 - (b) the departure is authorized by a departure authorization certificate,
- the person shall, if required to do so pursuant to this sub-section by an authorized officer, produce a copy of the departure authorization certificate for inspection by the authorized officer.

Penalty: \$500.

“(2) Section 8C does not apply in relation to a requirement made pursuant to sub-section (1) of this section.”.

313. Section 15 of the Principal Act is repealed and the following section is substituted:

Appearance by Commissioner, &c.

“15. (1) In any action, prosecution or other proceeding under, or arising out of, a taxation law instituted by or on behalf of the Commissioner, a Second Commissioner or a Deputy Commissioner, to which the Commissioner, a Second Commissioner or a Deputy Commissioner is a party or in which the Commissioner, a Second Commissioner or a Deputy Commissioner intervenes or seeks to intervene, the Commissioner, Second Commissioner or Deputy Commissioner, as the case may be, may appear personally or may be represented by—

- (a) a person enrolled as a barrister, solicitor, barrister and solicitor or legal practitioner of a federal court or of the Supreme Court of a State or Territory; or
- (b) a person authorized by the Commissioner, a Second Commissioner or a Deputy Commissioner, by instrument in writing, to appear.

“(2) The appearance of a person, and the statement of the person that the person appears by authority of the Commissioner, a Second Commissioner or a Deputy Commissioner, is *prima facie* evidence of that authority.”.

314. Before section 17 of the Principal Act the following section is inserted:

Payments out of Consolidated Revenue Fund

“16. (1) Where the Commissioner is required or permitted to pay an amount to a person by or under a provision of a taxation law other than—

- (a) a general administration provision; or
- (b) a provision prescribed for the purposes of this paragraph,

the amount is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

“(2) Where—

- (a) an amount is required or permitted to be paid to a person—
 - (i) by or under a provision of a taxation law other than—
 - (A) a general administration provision; or
 - (B) a provision prescribed for the purposes of this sub-sub-paragraph; or
 - (ii) by way of the repayment, whether in whole or in part, to the person of an amount paid into the Consolidated Revenue Fund;
- (b) except as mentioned in paragraph (c), there is no provision of a taxation law by or under which the Commissioner is required or permitted to pay the amount; and
- (c) the Commissioner is required or permitted to pay the amount by or under a general administration provision,

the amount shall be taken, for the purposes of sub-section (1), to be an amount that the Commissioner is required or permitted to pay to the person by or under a provision of a taxation law of the kind referred to in that sub-section.

“(3) In this section, ‘general administration provision’ means a provision of a taxation law that provides that the Commissioner has the general administration of the taxation law.”.

Powers of taxation officers in relation to references to currency, &c.

315. Section 17 of the Principal Act is amended—

- (a) by omitting “of Taxation” from the definition of “taxation law” in sub-section (1); and
- (b) by omitting from sub-section (1) the definition of “officer” and substituting the following definition:

“ ‘officer’ includes the Commissioner and a Second Commissioner;”.

Further amendment relating to offences

316. The Principal Act is amended as set out in Schedule 13.

Application of amendments

317. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) A delegation in force under section 4 of the *Sales Tax Procedure Act 1934* or sub-section 8 (1) of the Principal Act immediately before the commencement of this section has effect, after that commencement, as if it were a delegation made under sub-section 8 (1) of the amended Act.

(3) Notwithstanding the repeal of section 14K effected by this Act, sub-sections 14K (2) and (3) of the Principal Act continue to apply, after the commencement of this section, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 14K (1) of the Principal Act, as if that repeal had not been effected.

PART XXV—AMENDMENTS OF THE TAXATION (INTEREST ON OVERPAYMENTS) ACT 1983

Principal Act

318. The *Taxation (Interest on Overpayments) Act 1983*²⁴ is in this Part referred to as the Principal Act.

Interpretation

319. (1) Section 3 of the Principal Act is amended by inserting “or (7)” after “220 (3)” in paragraph (b) of the definition of “objection” in sub-section (1).

(2) Section 3 of the Principal Act is amended—

- (a) by omitting “or” from paragraph (b) of the definition of “decision to which this Act applies” in sub-section (1);

- (b) by omitting paragraph (c) of the definition of “decision to which this Act applies” in sub-section (1) and substituting the following:

“(c) a decision of a court in relation to—

(i) an objection; or

(ii) a decision of a Board of Review;

- (d) in a case where the expression is used in relation to relevant tax of a kind referred to in paragraph (m) of the definition of ‘relevant tax’—a decision of the Commissioner or a court in relation to the application or operation of Part VIII of the *Sales Tax Assessment Act (No. 1) 1930* (including that Part as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*); or

- (e) in a case where the expression is used in relation to relevant tax of the kind referred to in paragraph (n) of the definition of ‘relevant tax’—a decision of the Commissioner or a court in relation to the application or operation of Part III, section 19 or 29 of the *Tobacco Charges Assessment Act 1955*,

and, in relation to relevant tax of a kind referred to in paragraph (m) of the definition of ‘relevant tax’, includes a decision of the Commissioner or a court in relation to the application or operation of the *Sales Tax (Exemptions and Classifications) Act 1935*;”;

- (c) by omitting “or” (last occurring) from paragraph (b) of the definition of “objection” in sub-section (1);

- (d) by adding at the end of the definition of “objection” in sub-section (1) the following paragraphs:

“(d) sub-section 74 (1) or (1A) of the *Australian Capital Territory Taxation (Administration) Act 1969*;

- (e) sub-section 24 (1) of the *Estate Duty Assessment Act 1914* (including that sub-section as applied by sub-section 34 (4) of that Act);

(f) sub-section 31 (1) of the *Gift Duty Assessment Act 1941*;

(g) sub-section 34 (3), 34 (7) or 39 (1) of the *Pay-roll Tax (Territories) Assessment Act 1971*;

(h) sub-section 35 (6), 35 (10) or 41 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including those sub-sections as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the

Sales Tax Assessment Act (No. 6) 1930, Part V of the Sales Tax Assessment Act (No. 7) 1930, Part V of the Sales Tax Assessment Act (No. 8) 1930 or Part V of the Sales Tax Assessment Act (No. 9) 1930); or

- (j) sub-section 51 (3), 51 (7) or 56 (1) of the *Wool Tax (Administration) Act 1964*;";
- (e) by omitting "section 207" from paragraph (a) of the definition of "relevant tax" in sub-section (1) and substituting "sub-section 207 (1)";
- (f) by omitting paragraphs (e), (f) and (g) of the definition of "relevant tax" in sub-section (1) and substituting the following paragraphs:
 - "(e) additional tax under Part VII of the *Income Tax Assessment Act 1936* as that Part is applied by sub-section 4 (1) of the *Taxation (Unpaid Company Tax) Assessment Act 1982*;
 - (f) duty or tax within the meaning of sub-section 81 (1) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
 - (g) tax within the meaning of sub-section 36 (1) of the *Bank Account Debits Tax Administration Act 1982*;
 - (h) duty within the meaning of sub-section 31 (1) of the *Estate Duty Assessment Act 1914*;
 - (j) gift duty within the meaning of sub-section 27 (3) of the *Gift Duty Assessment Act 1941*;
 - (k) tax within the meaning of sub-section 27 (1) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
 - (m) tax within the meaning of sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*);
 - (n) charge within the meaning of sub-section 18 (1) of the *Tobacco Charges Assessment Act 1955*; or
 - (p) tax within the meaning of sub-section 38 (1) of the *Wool Tax (Administration) Act 1964*";; and
- (g) by adding at the end thereof the following sub-section:
 - "(3) Where—
 - (a) a person pays an amount to the Commissioner in respect of the liability of the person to pay an amount of relevant tax of the kind referred to in paragraph (m) of the definition of 'relevant tax' in sub-section (1); and

- (b) the amount is placed to the credit of the Trust Fund kept in pursuance of section 60 of the *Audit Act 1901* pending the making of a decision to which this Act applies in relation to the liability,
- the amount shall, for the purposes of this Act, be deemed to be an amount of relevant tax paid by the person to the Commissioner.”.

Repeal of sections 5 and 6

320. Sections 5 and 6 of the Principal Act are repealed.

Annual report

321. Section 7 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Entitlement to interest

322. Section 9 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “and 12” and substituting “, 11A and 12”;
- (b) by omitting from sub-section (1) “section 10” and substituting “sections 10 and 10A”; and
- (c) by inserting in sub-section (1) “by the Commissioner” after “is payable”.

Amount of interest

323. Section 10 of the Principal Act is amended by omitting sub-paragraph (1) (a) (iii) and substituting the following sub-paragraph:

“(iii) where—

- (A) the relevant tax is relevant tax of a kind referred to in paragraph (a), (b), (c), (d), (e) or (g) of the definition of ‘relevant tax’ in sub-section 3 (1)—14 February 1983; or
- (B) sub-sub-paragraph (A) is not applicable in relation to the relevant tax—the day that occurs 2 months after the day on which the *Taxation Laws Amendment Act 1984* received the Royal Assent;”.

324. After section 10 of the Principal Act the following section is inserted:

Interest not to be paid for certain periods

“10A. Interest is not payable to a person by virtue of section 9 in respect of an amount of relevant tax or part of an amount of relevant tax, being relevant tax of a kind referred to in paragraph (f) or (m) of the definition of ‘relevant tax’ in sub-section 3 (1), in respect of any period in relation to which the

amount of the relevant tax or the part of the amount of relevant tax, as the case may be, has been passed on by the person to another person and has not been refunded to that other person by the first-mentioned person.”.

325. After section 11 of the Principal Act the following section is inserted:

Adjustment where amount to be paid by, or refunded to, person does not exceed 49 cents

“11A. Where—

- (a) an amount of interest payable to a person under this Act is applied in discharge of a liability of the person to the Commonwealth; and
- (b) the amount (if any) remaining to be paid (in this section referred to as the ‘net amount’) by the person in relation to that liability or to the person under this Act, as the case requires, would, but for this section, be less than 50 cents,

then, by force of this section, the net amount shall cease to be payable by the person or to the person, as the case may be.”.

Certain agreements, &c., to remit additional tax, &c.

326. Section 12 of the Principal Act is amended—

- (a) by omitting paragraph (a) and substituting the following paragraph:

“(a) the Commissioner has—

- (i) in respect of an amount of relevant tax, being relevant tax of the kind referred to in paragraph (a) of the definition of ‘relevant tax’ in sub-section 3 (1), that is payable, or will become payable, by a person (in this sub-section (other than in sub-paragraph (ii)) referred to as the ‘applicable amount’), entered into an agreement or arrangement with the person before the commencement of the *Income Tax Assessment Act (No. 6) 1982*, or otherwise indicated the Commissioner’s intention to the person before the commencement of that Act, to remit the whole or a part of any additional tax payable under sub-section 207 (1) of the *Income Tax Assessment Act 1936* in respect of a part of the applicable amount on condition that another part of the applicable amount is paid by the person to the Commissioner within a particular period of time; or
- (ii) in respect of an amount of relevant tax, being relevant tax of a kind referred to in paragraph (f), (h), (j), (k), (m), (n) or (p) of the definition of ‘relevant tax’ in sub-section 3 (1), that is payable, or will become payable, by a person (in this sub-section (other than in sub-paragraph (i)) also referred to as the ‘applicable amount’), entered into an agreement or arrangement with the person before the commencement of section 10A, or otherwise indicated to the person an intention

before the commencement of that section, to remit the whole or a part of any additional amount, additional duty or additional tax, as the case requires, payable under a relevant provision in respect of a part of the applicable amount on condition that another part of the applicable amount is paid by the person to the Commissioner within a particular period of time;” and

(b) by adding at the end thereof the following sub-section:

“(2) In sub-paragraph (1) (a) (ii), ‘relevant provision’ means—

- (a) sub-section 81 (1) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) sub-section 31 (1) or (2) of the *Estate Duty Assessment Act 1914*;
- (c) section 27 of the *Gift Duty Assessment Act 1941*;
- (d) sub-section 27 (1) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (e) sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*);
- (f) sub-section 18 (1) of the *Tobacco Charges Assessment Act 1955*; and
- (g) sub-section 38 (1) of the *Wool Tax (Administration) Act 1964*,

being that sub-section as in force at any time before the commencement of this sub-section.”.

Repeal of section 14

327. Section 14 of the Principal Act is repealed.

PART XXVI — AMENDMENTS OF THE TAXATION (UNPAID COMPANY TAX) ASSESSMENT ACT 1982

Principal Act

328. The *Taxation (Unpaid Company Tax) Assessment Act 1982*²⁵ is in this Part referred to as the Principal Act.

Application of Assessment Act

329. Section 4 of the Principal Act is amended by omitting sub-section (9) and substituting the following sub-section:

“(9) Unless the contrary intention appears, a reference in section 215 of the Assessment Act to tax shall be deemed to include a reference to—

- (a) recoupment tax;
- (b) late payment tax; and
- (c) additional tax under Part VII of the Assessment Act in its application for the purposes of this Act.”.

Penalty for late payment of tax

330. Section 13 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “by the person liable to pay the recoupment tax” after “by way of penalty”; and
- (b) by adding at the end thereof the following sub-section:

“(3) In this section, ‘recoupment tax’ includes additional tax under Part VII of the Assessment Act in its application for the purposes of this Act.”.

Request to eliminate undistributed amount

331. Section 16 of the Principal Act is amended by omitting sub-section (6).

Notification of company tax liability

332. Section 18 of the Principal Act is amended by omitting from sub-section (11) “section 226” (wherever occurring) and substituting “Part VII”.

Further amendment relating to offences

333. The Principal Act is amended as set out in Schedule 14.

**PART XXVII — AMENDMENTS OF THE TOBACCO CHARGES
ASSESSMENT ACT 1955**

Principal Act

334. The *Tobacco Charges Assessment Act 1955*²⁶ is in this Part referred to as the Principal Act.

Repeal of sections 8 and 9

335. Sections 8 and 9 of the Principal Act are repealed.

Annual report

336. Section 9A of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Due date of payment

337. Section 17 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “this section” and substituting “sub-section (2) of this section and section 23”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) Subject to sub-section (2) of this section and section 23, additional charge under section 29 is due and payable on the date specified in the notice of assessment of the additional charge as the date on which the additional charge is due and payable.”; and

- (c) by adding at the end thereof the following sub-section:

“(3) In sub-section (2), ‘charge’ includes additional charge under section 29.”.

Penalty for unpaid charge

338. Section 18 of the Principal Act is amended—

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

“(1) Subject to sub-section (2), if any charge remains unpaid after the time when it became due and payable or would, but for sub-section 17 (2), have become due and payable, additional charge is due and payable by way of penalty by the person liable to pay the charge at the rate of 20% per annum on the amount unpaid, computed from that time or, where, under sub-section 17 (2), the Commissioner has extended the time for payment of the charge or has permitted payment of the charge to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the charge was originally due and payable.”;

- (b) by omitting from sub-section (2) “payable by that person by way of additional charge” and substituting “of additional charge payable by that person”;
- (c) by omitting from sub-section (2) “on or before which the charge is to be paid” and substituting “on which the charge is due and payable”; and
- (d) by omitting sub-section (3) and substituting the following sub-sections:

“(3) Where additional charge is payable by a person under this section in relation to an amount of charge and—

- (a) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the charge were not due to, or caused

directly or indirectly by, an act or omission of the person; and

- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;
- (b) the Commissioner is satisfied that—
 - (i) the circumstances that contributed to the delay in payment of the charge were due to, or caused directly or indirectly by, an act or omission of the person;
 - (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional charge or part of the additional charge; or
- (c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional charge or part of the additional charge,

the Commissioner may remit the additional charge or part of the additional charge.

“(4) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of charge; or
- (b) an amount that includes an amount of charge,

then—

- (c) the charge shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional charge that would, but for this paragraph be payable under this section in relation to the charge shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies— an amount that bears the same proportion to the amount of the interest as the amount of the charge bears to the amount of the judgment debt.

“(5) In this section, unless the contrary intention appears, ‘charge’ includes additional charge under section 29.”.

Assessment of charge

339. Section 19 of the Principal Act is amended by omitting from sub-sections (1), (3) and (4) “or further charge”.

Commissioner may sue for charge

340. Section 21 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or additional charge”;
- (b) by omitting from sub-section (2) “, including additional charge,”; and
- (c) by adding at the end thereof the following sub-section:

“(3) In this section, ‘charge’ includes additional charge under section 18 or 29.”.

341. After section 21 of the Principal Act the following section is inserted:

Reduction of charge upon amendment of assessment

“21A. (1) Where, by reason of an amendment of an assessment, a person’s liability to charge is reduced, the amount by which the charge is so reduced shall be taken, for the purposes of section 18, never to have been payable.

“(2) In sub-section (1), ‘charge’ includes additional charge under section 29.”.

Refunds of charge

342. Section 22 of the Principal Act is amended—

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

“(1) Subject to sub-sections (2) and (3), where the Commissioner finds in any case that charge has been overpaid by a person, the Commissioner shall—

- (a) refund the amount of any charge overpaid; or
- (b) apply the amount of any charge overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.”;
- (b) by omitting from sub-section (2) “A refund of an amount of charge shall not be made” and substituting “Sub-section (1) does not apply in relation to an amount of charge paid by a person”;
- (c) by omitting from sub-section (2) “claiming the refund”;
- (d) by omitting from sub-section (3) “A refund of an amount of charge shall not be made to a person” and substituting “Sub-section (1) does not apply in relation to an amount of charge paid by a person”;
- (e) by omitting from sub-section (3) “and that should be refunded”; and
- (f) by adding at the end thereof the following sub-section:

“(4) In this section, unless the contrary intention appears, ‘charge’ includes additional charge under section 18 or 29.”.

Persons leaving Australia

343. Section 23 of the Principal Act is amended—

- (a) by omitting “or further charge” (wherever occurring); and

- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘charge’ includes additional charge under section 29.”.

Liquidators to give notice

344. Section 27 of the Principal Act is amended—

- (a) by omitting sub-section (3C) and substituting the following sub-section:

“(3C) In sub-section (3), ‘prescribed tax’ means—

- (a) tax within the meaning of sub-section 215(2) of the *Income Tax Assessment Act 1936*;
- (b) tax within the meaning of sub-section 30(2) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (c) tax within the meaning of sub-section 32(2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*;
- (d) tax within the meaning of sub-section 47(2) the *Wool Tax (Administration) Act 1964*.”; and

- (b) by adding at the end thereof the following sub-section:

“(6) In this section, ‘charge’ includes additional charge under section 18 or 29.”.

Payment of charge by legal personal representative

345. Section 28 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “has not been paid on the whole of the tobacco leaf sold, purchased or appropriated for manufacturing purposes by that person before his death” and substituting “due by the person has not been assessed or paid”;
- (b) by inserting in sub-section (3) “refuses or” before “fails”; and
- (c) by adding at the end thereof the following sub-section:

“(5) In this section, unless the contrary intention appears, ‘charge’ includes additional charge under section 18 or 29.”.

346. Part VI of the Principal Act is repealed and the following Part is substituted:

“PART VI—PENALTY CHARGE

Penalty for failure to furnish return, &c.

“29. (1) Where a person refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to tobacco leaf, the person is liable to pay, by way of penalty, additional charge equal to double the amount of charge payable by the person in respect of the tobacco leaf.

“(2) Where—

(a) a person—

(i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or

(ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

(b) the charge properly payable by the person exceeds the charge that would have been payable by the person if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the person is liable to pay, by way of penalty, additional charge equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional charge, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional charge shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional charge payable by a person under this section and shall, as soon as practicable after the assessment is made, cause notice in writing of the assessment to be given to the person.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (4) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional charge payable by a person under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional charge.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to sub-section 15 (1).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Public officer of company

347. Section 40 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, being a person residing in Australia and”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) A person is not capable of being a public officer of a company unless the person—

 - (a) is a natural person who has attained the age of 18 years;
 - (b) is ordinarily resident in Australia; and
 - (c) is capable of understanding the nature of the person’s appointment as the public officer of the company.”; and
- (c) by inserting in sub-section (7) “refusal or” before “failure”.

Further amendments relating to offences

348. The Principal Act is amended as set out in Schedule 15.

Application of amendments

349. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to charge included a reference to additional charge, the amendments made by this Act shall be disregarded.

(3) Notwithstanding the amendments of section 18 of the Principal Act made by this Act, sub-section 18 (3) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional charge that accrued before that commencement, as if those amendments had not been made.

(4) Sub-section 18 (4) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

(5) Notwithstanding the repeal of Part VI of the Principal Act effected by this Act—

- (a) section 29, sub-section 30 (2) and sections 32 to 39 (inclusive) of the Principal Act continue to apply, after the commencement of this section, in relation to offences against the Principal Act committed before that commencement;
- (b) sub-sections 30 (3) and (4) of the Principal Act continue to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 30 (1) of the Principal Act by virtue of paragraph (a) or (b) of that sub-section; and
- (c) sub-sections 31 (3) and (4) of the Principal Act continue to apply, after that commencement, in relation to a liability for additional charge that accrued before that commencement,

as if that repeal had not been effected.

(6) The amendments of sub-section 40 (1) of the Principal Act made by this Act, and sub-section 40 (1A) of the amended Act, do not have effect in relation to a company during the period of 30 days immediately after the commencement of this section.

(7) In determining whether, at a time before the commencement of this section, a person other than a natural person was capable of being a public officer of a company for the purposes of section 40 of the Principal Act, the amendments made by this Act shall be disregarded.

**PART XXVIII—AMENDMENTS OF THE WOOL TAX
(ADMINISTRATION) ACT 1964**

Principal Act

350. The *Wool Tax (Administration) Act 1964*²⁷ is in this Part referred to as the Principal Act.

Repeal of sections 6 and 7

351. Sections 6 and 7 of the Principal Act are repealed.

Annual report

352. Section 7A of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by sub-section (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.”.

Certificate by Commissioner as to payment of, or exemption from, tax or previous tax

353. Section 20 of the Principal Act is amended by omitting from sub-section (3) “deliver up” and substituting “produce”.

354. After section 27 of the Principal Act the following section is inserted in Part VI:

Offences relating to certificates

“27A. (1) A person shall not—

- (a) forge a certificate or utter a certificate knowing it to be forged;
- (b) without lawful authority, alter or sign a certificate;
- (c) deliver a document (not being a certificate) that purports to be a certificate;
- (d) knowingly represent that a certificate relates to wool other than wool in respect of which the certificate was given; or
- (e) with intent to evade payment of tax, alter a mark or brand on any wool or on any container of wool.

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) In sub-section (1), ‘certificate’ means a certificate under section 19, 20, 21 or 22 or a copy of such a certificate.”.

Due date

355. Section 36 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “this Act” and substituting “section 37”; and

(b) by adding at the end thereof the following sub-section:

“(2) Subject to section 37, additional tax under section 61 is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable.”.

Time to pay—extensions and instalments

356. Section 37 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) In this section, ‘tax’ includes additional tax under section 61.”.

357. Section 38 of the Principal Act is repealed and the following section is substituted:

Penalty for unpaid tax

“38. (1) If any tax remains unpaid after the time when it became due and payable or would, but for section 37, have become due and payable, additional tax is due and payable by way of penalty by the person liable to pay the tax at the rate of 20% per annum on the amount unpaid, computed from that time or, where, under section 37, the Commissioner has extended the time for payment of the tax or has permitted payment of the tax to be made by instalments, from such date as the Commissioner determines, not being a date prior to the date on which the tax was originally due and payable.

“(2) Where additional tax is payable by a person under this section in relation to an amount of tax and—

(a) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the tax were not due to, or caused directly or indirectly by, an act or omission of the person; and
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances;

(b) the Commissioner is satisfied that—

- (i) the circumstances that contributed to the delay in payment of the tax were due to, or caused directly or indirectly by, an act or omission of the person;
- (ii) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
- (iii) having regard to the nature of those circumstances, it would be fair and reasonable to remit the additional tax or part of the additional tax; or

(c) the Commissioner is satisfied that there are special circumstances by reason of which it would be fair and reasonable to remit the additional tax or part of the additional tax,

the Commissioner may remit the additional tax or part of the additional tax.

“(3) Where judgment is given by, or entered in, a court for the payment of—

- (a) an amount of tax; or
- (b) an amount that includes an amount of tax,

then—

- (c) the tax shall not be taken, for the purposes of sub-section (1), to have ceased to be due and payable by reason only of the giving or entering of the judgment; and
- (d) if the judgment debt carries interest, the additional tax that would, but for this paragraph, be payable under this section in relation to the tax shall, by force of this paragraph, be reduced by—
 - (i) in a case to which paragraph (a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (b) applies—an amount that bears the same proportion to the amount of the interest as the amount of the tax bears to the amount of the judgment debt.

“(4) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 61.”.

Assessments

358. Section 39 of the Principal Act is amended by omitting “or further tax” (wherever occurring).

Default assessments

359. Section 40 of the Principal Act is amended by omitting sub-sections (2) and (3).

Notice of assessments

360. Section 41 of the Principal Act is amended—

- (a) by omitting “or further tax” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 61.”.

Date on which tax payable

361. Section 42 of the Principal Act is amended—

- (a) by omitting “or further tax”; and
- (b) by omitting “due and payable on” and substituting “payable on or before”.

Commissioner may sue for tax

362. Section 44 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “or additional tax”;
- (b) by omitting from sub-section (2) “, including additional tax,”; and

(c) by adding at the end thereof the following sub-section:

“(3) In this section, ‘tax’ includes additional tax under section 38 or 61.”.

363. After section 44 of the Principal Act the following section is inserted:

Reduction of tax upon amendment of assessment

“44A. (1) Where, by reason of an amendment of an assessment, a person’s liability to tax is reduced, the amount by which the tax is so reduced shall be taken, for the purposes of section 38, never to have been payable.

“(2) In sub-section (1), ‘tax’ includes additional tax under section 61.”.

Refunds of tax

364. Section 45 of the Principal Act is amended—

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

“(1) Subject to sub-sections (2) and (3), where the Commissioner finds in any case that tax has been overpaid by a person, the Commissioner shall—

(a) refund the amount of any tax overpaid; or

(b) apply the amount of any tax overpaid against any liability of the person to the Commonwealth, being a liability arising under, or by virtue of, an Act of which the Commissioner has the general administration, and refund any part of the amount that is not so applied.”;

(b) by omitting from sub-section (2) “A refund shall not be made of an amount of tax” and substituting “Sub-section (1) does not apply in relation to an amount of tax paid by a person”;

(c) by omitting from sub-section (2) “claiming the refund”;

(d) by omitting from sub-section (3) “A refund under sub-section (2) shall not be made to a person” and substituting “Sub-section (1) does not apply in relation to an amount of tax paid by a person”;

(e) by omitting from sub-section (3) “and should be refunded”; and

(f) by adding at the end thereof the following sub-section:

“(4) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 38 or 61.”.

Substituted service

365. Section 46 of the Principal Act is amended—

(a) by omitting “or additional tax”; and

(b) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 38 or 61.”.

Liquidators to give notice

366. Section 47 of the Principal Act is amended—

- (a) by omitting sub-section (3C) and substituting the following sub-section:

“(3C) In sub-section (3), ‘prescribed tax’ means—

- (a) tax within the meaning of sub-section 215 (2) of the *Income Tax Assessment Act 1936*;
 - (b) tax within the meaning of sub-section 30 (2) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
 - (c) tax within the meaning of sub-section 32 (2) of the *Sales Tax Assessment Act (No. 1) 1930* or of that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*; or
 - (d) charge within the meaning of sub-section 27 (2) of the *Tobacco Charges Assessment Act 1955*.”; and
- (b) by adding at the end thereof the following sub-section:

“(8) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 38 or 61.”.

Agent for absentee principal in winding-up of business

367. Section 48 of the Principal Act is amended—

- (a) by inserting in sub-section (2) “refuses or” before “fails” (wherever occurring); and
- (b) by adding at the end thereof the following sub-section:

“(3) In this section, ‘tax’ includes additional tax under section 38 or 61.”.

When tax not paid during lifetime

368. Section 49 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “make” and substituting “furnish”; and
- (b) by adding at the end thereof the following sub-section:

“(6) In sub-section (5), ‘tax’ includes additional tax under section 38 or 61.”.

Provision for payment of tax by trustees of deceased person

369. Section 50 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “has not been paid on the whole of the shorn wool sold, purchased, subjected to a process of manufacture

or exported by that person before his death” and substituting “due by the person has not been assessed or paid”;

- (b) by inserting in sub-section (3) “refuse or” before “fail”; and
- (c) by adding at the end thereof the following sub-section:

“(4) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 38 or 61.”.

Where no administration of deceased person’s estate

370. Section 51 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(8) In this section, ‘tax’ includes additional tax under section 61.”.

Recovery of tax paid on behalf of another person

371. Section 52 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 38 or 61.”.

Contributions from persons jointly liable

372. Section 53 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘tax’ includes additional tax under section 38 or 61.”.

Commissioner may collect tax from person owing money to person liable to tax

373. Section 54 of the Principal Act is amended—

- (a) by inserting after sub-section (3) the following sub-sections:

“(3A) Where—

- (a) money has been paid by a person to a building society in respect of the issue of shares in the capital of the society (not being shares listed for quotation on a Stock Exchange); and
- (b) the money has not been repaid,

the money shall, for the purposes of this section, be taken—

- (c) in a case where the money is repayable on demand—to be due by the building society to the person; or
- (d) in any other case—to be money that may become due by the building society to the person.

“(3B) Where, but for this sub-section, money is not due, or repayable on demand, to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due, or repayable on demand, as the case may be, to the person notwithstanding that the condition has not been fulfilled.”;

- (b) by inserting before the definition of “person” in sub-section (4) the following definition:
 - “ ‘building society’ means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State or Territory;”;
- (c) by inserting “, a Territory” after “a State” (first occurring) in the definition of “person” in sub-section (4); and
- (d) by omitting from sub-section (4) the definition of “tax” and substituting the following definition:
 - “ ‘tax’ includes—
 - (a) additional tax under section 38 or 61;
 - (b) a judgment debt or costs in respect of—
 - (i) tax; or
 - (ii) additional tax under section 38 or 61;
 - (c) any fine or costs imposed by a court in respect of—
 - (i) an offence against this Act of the regulations; or
 - (ii) any other taxation offence within the meaning of Part III of the *Taxation Administration Act 1953* that relates to this Act or the regulations; and
 - (d) any amount ordered by a court, upon the conviction of a person for an offence of a kind referred to in paragraph (c), to be paid by the person to the Commissioner.”.

Interpretation

374. Section 55A of the Principal Act is amended by omitting from paragraph (b) all the words after “Northern Territory”.

Repeal of section 55B

375. Section 55B of the Principal Act is repealed.

Pending reference or appeal not to delay payment of tax, &c.

376. Section 60 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) Where, by reason of an alteration of an assessment on an appeal or a reference, a person’s liability to tax is reduced, the amount by which the tax is so reduced shall be taken, for the purposes of section 38, never to have been payable.

“(3) Where, by reason of an alteration of an assessment on an appeal or reference, a person’s liability to tax is increased, the amount of the increased tax is recoverable from the person.

“(4) In this section, unless the contrary intention appears, ‘tax’ includes additional tax under section 38 or 61.”.

377. Parts X and XI of the Principal Act are repealed and the following Part is substituted:

“PART X—PENALTY TAX

Penalty for failure to furnish return, &c.

“61. (1) Where a person refuses or fails to furnish, when and as required under or pursuant to this Act or the regulations to do so, a return, or any information, relating to shorn wool, the person is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the person in respect of the shorn wool.

“(2) Where—

(a) a person—

(i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, that is false or misleading in a material particular; or

(ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations, any matter or thing without which the statement is misleading in a material particular; and

(b) the tax properly payable by the person exceeds the tax that would have been payable by the person if it were assessed or determined on the basis that the statement were not false or misleading, as the case may be,

the person is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

“(3) Where, but for this sub-section, an amount of additional tax, being an amount less than \$20, is payable by a person under this section in respect of an act or omission, then, by force of this sub-section, the amount of the additional tax shall be taken to be \$20.

“(4) The Commissioner shall make an assessment of the additional tax payable by a person under this section.

“(5) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of a person under sub-section (4) from being incorporated in notice of any other assessment made in respect of the person under this Act.

“(6) The Commissioner may, in the Commissioner’s discretion, remit the whole or any part of the additional tax payable by a person under this section, but, for the purposes of the application of sub-section 33 (1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this sub-section, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under sub-section (4) of the additional tax.

“(7) A reference in sub-section (2) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form, and, without limiting the generality of the foregoing, includes a statement—

- (a) made in an application, certificate, declaration, notification, objection, return or other document made, given or furnished, or purporting to be made, given or furnished, under or pursuant to this Act or the regulations;
- (b) made in answer to a question asked of a person under or pursuant to this Act or the regulations;
- (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act or the regulations; or
- (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act or the regulations,

but does not include a statement made in a document produced pursuant to paragraph 34 (1) (c).

“(8) A reference in sub-section (2) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act or the regulations is a reference to such a statement made orally, in writing, in a data processing device or in any other form and, without limiting the generality of the foregoing, includes such a statement—

- (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
- (b) made in answer to a question asked by the person; or
- (c) made in any information furnished to the person.

“(9) In this section—

‘data processing device’ means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

‘taxation officer’ means a person exercising powers, or performing functions under, pursuant to or in relation to this Act or the regulations.”.

Public officer of company

378. Section 86 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, being a person residing in Australia and”;
- (b) by inserting after sub-section (1) following sub-section:

“(1A) A person is not capable of being a public officer of a company unless the person—

 - (a) is a natural person who has attained the age of 18 years;
 - (b) is ordinarily resident in Australia; and
 - (c) is capable of understanding the nature of the person’s appointment as the public officer of the company.”; and
- (c) by inserting in sub-section (9) “refusal or” before “failure”.

Agents or trustees

379. Section 87 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(9) In this section, ‘tax’ includes additional tax under section 38 or 61.”.

Person in receipt or control of money for non-resident

380. Section 88 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(7) In this section, ‘tax’ includes additional tax under section 38 or 61.”.

Further amendments relating to offences

381. The Principal Act is amended as set out in Schedule 16.

Application of amendments

382. (1) In this section, “amended Act” means the Principal Act as amended by this Act.

(2) In determining whether, at a time before the commencement of this section, a reference in a provision of the Principal Act to tax included a reference to additional tax, the amendments made by this Act shall be disregarded.

(3) Sub-section 38 (3) of the amended Act applies in relation to judgments given or entered after the commencement of this section.

(4) Notwithstanding the repeal of section 38 and Parts X and XI of the Principal Act effected by this Act—

- (a) sub-sections 38 (2) and 62 (2) and (3) of the Principal Act continue to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement;
- (b) sub-sections 61 (2) and (3) of the Principal Act continue to apply, after that commencement, in relation to a person convicted, whether before or after that commencement, of an offence against sub-section 61 (1) of the Principal Act; and
- (c) sections 68 to 82 (inclusive) and 85 of the Principal Act continue to apply, after that commencement, in relation to offences against the Principal Act committed before that commencement,

as if that repeal had not been effected.

(5) Notwithstanding the amendment of section 40 of the Principal Act made by this Act, sub-section 40 (3) of the Principal Act continues to apply, after the commencement of this section, in relation to a liability for additional tax that accrued before that commencement, as if that amendment had not been made.

(6) The amendments of sub-section 86 (1) of the Principal Act by this Act, and sub-section 86 (1A) of the amended Act, do not have effect in relation to a company during the period of 30 days immediately after the commencement of this section.

(7) In determining whether, at a time before the commencement of this section, a person other than a natural person was capable of being a public officer of a company for the purposes of section 86 of the Principal Act, the amendments made by this Act shall be disregarded.

Default imprisonment—transitional provisions

383. (1) Notwithstanding the repeal of sections 83 and 84 of the Principal Act effected by this Act, those sections of the Principal Act continue to apply, after the commencement of this section, but subject to sub-section (3) of this section, in relation to a person in relation to whom an order was made by virtue of paragraph 83 (1) (a) of the Principal Act before the commencement of this section, as if those sections had not been repealed.

(2) Where a court had, before the commencement of this section, made an order (in sub-section (3) referred to as the “relevant order”) by virtue of paragraph 83 (1) (a) of the Principal Act committing a person (in this sub-section and sub-section (3) referred to as the “relevant person”) to gaol until a pecuniary penalty was paid and—

- (a) the person is imprisoned in pursuance of the order and has not been discharged under sub-section 84 (1) of the Principal Act by the gaoler of the gaol; or
- (b) the person has not been imprisoned in pursuance of the order and the order has not been discharged by virtue of paragraph 83 (2) (b) of the Principal Act,

then—

- (c) in a case to which paragraph (a) applies—the Commissioner, the relevant person or the gaoler of the gaol; or
- (d) in a case to which paragraph (b) applies—the Commissioner or the relevant person,

may apply to the court under sub-section (3).

(3) Where the court, on application made in accordance with sub-section (2) of this section, is satisfied that it is reasonably likely that, if sections 83 and 84 of the Principal Act had not been applicable in relation to the pecuniary penalty and section 18A of the *Crimes Act 1914* had been applicable in relation to the pecuniary penalty—

- (a) the period of imprisonment (in this paragraph referred to as the “revised period of imprisonment”) that the relevant person would have been required to serve in default of payment of the pecuniary penalty is shorter than the period of imprisonment (in this paragraph referred to as the “original period of imprisonment”) that, but for this sub-section, the relevant person would have been required to serve in default of payment of the pecuniary penalty—the court shall vary the relevant order so that, in lieu of serving the original period of imprisonment in default of payment of the pecuniary penalty, the relevant person serves—

- (i) in a case where the relevant person—
 - (A) is serving the original period of imprisonment; and
 - (B) the period (in this paragraph referred to as the “completed period of imprisonment”) of the original period of imprisonment that the relevant person has completed serving is not less than the revised period of imprisonment,
the completed period of imprisonment; or
 - (ii) in any other case—the revised period of imprisonment,
in default of payment of the pecuniary penalty;
 - (b) the relevant person would have been subject to a sentence or order other than a sentence or order of imprisonment (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order) in default of payment of the pecuniary penalty—the court shall—
 - (i) revoke the relevant order; and
 - (ii) pass such sentence, or make such order, in relation to the relevant person in relation to the pecuniary penalty as appears to it to be just and equitable; or
 - (c) the relevant person would not have been subject to any sentence or order in default of payment of the pecuniary penalty—the court shall revoke the relevant order.
- (4) Notwithstanding anything contained in section 8 of the *Acts Interpretation Act 1901*—
- (a) sections 83 and 84 of the Principal Act do not have effect, after the commencement of this section, except in relation to a person in relation to whom a court took action under sub-section 83 (1) of the Principal Act before the commencement of this section; and
 - (b) section 18A of the *Crimes Act 1914* applies in relation to a person (not being a person referred to in paragraph (a) of this sub-section) who committed an offence against the Principal Act before the commencement of this section.

PART XXIX—MISCELLANEOUS

Deferment for 2 months of increased penalty for unpaid tax, &c.

384. (1) This section applies in relation to each of the following provisions, namely:

- (a) sub-section 81 (1) of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) sub-section 31 (1) of the *Estate Duty Assessment Act 1914*;
- (c) sub-sections 27 (1) and (2) of the *Gift Duty Assessment Act 1941*;
- (d) sub-sections 221YDB (1), 221ZD (1) and 221ZO (1) of the *Income Tax Assessment Act 1936*;

- (e) sub-section 27 (1) of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (f) sub-section 29 (1) of the *Sales Tax Assessment Act (No. 1) 1930* (including that sub-section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*);
- (g) sub-section 18 (1) of the *Tobacco Charges Assessment Act 1955*;
- (h) sub-section 38 (1) of the *Wool Tax (Administration) Act 1964*.

(2) For the purpose of the computation of an additional amount or an amount of additional charge, additional duty or additional tax, as the case requires, under a provision in relation to which this section applies, in respect of any period that occurred or occurs before the expiration of 2-months after the day on which this Act receives the Royal Assent, a reference in that provision to 20% shall be construed as a reference to 10%.

Agreement to remit penalty for unpaid tax, &c.

385. (1) In this section, “relevant provision” means—

- (a) section 81 of the *Australian Capital Territory Taxation (Administration) Act 1969*;
- (b) section 31 of the *Estate Duty Assessment Act 1914*;
- (c) section 27 of the *Gift Duty Assessment Act 1941*;
- (d) section 27 of the *Pay-roll Tax (Territories) Assessment Act 1971*;
- (e) section 29 of the *Sales Tax Assessment Act (No. 1) 1930* (including that section as applied by Part V of the *Sales Tax Assessment Act (No. 2) 1930*, Part V of the *Sales Tax Assessment Act (No. 3) 1930*, Part V of the *Sales Tax Assessment Act (No. 4) 1930*, Part V of the *Sales Tax Assessment Act (No. 5) 1930*, Part V of the *Sales Tax Assessment Act (No. 6) 1930*, Part V of the *Sales Tax Assessment Act (No. 7) 1930*, Part V of the *Sales Tax Assessment Act (No. 8) 1930* or Part V of the *Sales Tax Assessment Act (No. 9) 1930*); or
- (f) section 38 of the *Wool Tax (Administration) Act 1964*.

(2) Notwithstanding any amendment made or repeal effected by this Act, where, in relation to an additional amount or an amount of additional duty or additional tax, as the case requires, that is payable, or will become payable, by a person under a relevant provision in relation to—

- (a) an amount of duty or tax, as the case requires, payable under an assessment, or in accordance with a decision or determination, against which an objection has been lodged, being an objection within the meaning of the *Taxation (Interest on Overpayments) Act 1983*; or

- (b) an amount of sales tax, the liability for which is being contested, whether by proceedings in a court or otherwise, by the person liable to pay the sales tax,

the Commissioner has, before the commencement of this section, entered into an agreement or arrangement with the person, or otherwise indicated to the person an intention, to remit the whole or part of the additional amount, additional duty or additional tax, as the case may be, either unconditionally or subject to conditions, the relevant provisions as in force after the commencement of this section do not apply in relation to the additional amount, additional duty or additional tax, as the case may be, but the Commissioner may, for reasons that the Commissioner thinks sufficient, remit the additional amount, additional duty or additional tax, as the case may be, or any part of the additional amount, additional duty or additional tax, as the case may be.

SCHEDULE 1

Sub-section 22 (1)

**FURTHER AMENDMENTS OF THE AUSTRALIAN CAPITAL TERRITORY
TAXATION (ADMINISTRATION) ACT 1969 RELATING TO OFFENCES**

Sub-section 7 (1)—

Omit "Imprisonment for two years", substitute "\$5,000 or imprisonment for 12 months, or both".

Sub-section 8 (2)—

Omit "Imprisonment for two years", substitute "\$10,000 or imprisonment for 5 years, or both".

Section 10—

Repeal the section.

Sub-section 12 (1)—

Omit "Imprisonment for two years", substitute "\$10,000 or imprisonment for 2 years, or both".

Sub-section 14 (1)—

Omit "Fifty dollars", substitute "\$1,000".

Sub-section 14 (3)—

Omit "One thousand dollars or imprisonment for six months", substitute "\$5,000 or imprisonment for 12 months, or both".

Section 14—

Omit "Penalty: Fifty dollars." (last occurring), substitute "Penalty for contravention of this sub-section: \$1,000.".

Sub-section 17 (4)—

Omit "Imprisonment for two years", substitute "\$10,000 or imprisonment for 2 years, or both".

Section 19—

Omit "Two hundred dollars", substitute "\$1,000".

Section 22—

Omit "One thousand dollars", substitute "\$5,000".

Section 23—

Omit "One hundred dollars", substitute "\$1,000".

Section 24—

Omit "Penalty: Fifty dollars.".

Section 28—

Omit "Penalty: Fifty dollars.".

Sub-section 29 (1)—

Omit "Fifty dollars", substitute "\$500".

SCHEDULE 1—continued

Sub-section 32 (1)—

Omit "Penalty: Fifty dollars."

Sub-section 33 (1)—

Omit "Fifty dollars", substitute "\$500".

Section 36—

Omit "Penalty: Two hundred dollars."

Sub-section 39 (1)—

Omit the sub-section, substitute the following sub-section:

"(1) An insurer who carries on in the Territory the business of insurance in respect of which tax is imposed without being registered under this Division is, in respect of each day on which the insurer so carries on such business of insurance (including the day of a conviction of an offence against this section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50."

Sub-section 42 (1)—

Omit "Penalty: Fifty dollars."

Sub-section 44B (1)—

Omit the sub-section, substitute the following sub-section:

"(1) An insurer who carries on in the Territory the business of life insurance in respect of which tax is imposed without being registered under this Division is, in respect of each day on which the insurer so carries on such business of life insurance (including the day of a conviction of an offence against this section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50."

Sub-section 44E (1)—

Omit "Penalty: \$50."

Sub-section 47 (1)—

Omit "Penalty: Twenty dollars."

Sub-section 47 (2)—

Omit "Penalty: Two hundred dollars."

Sub-section 47 (3)—

Omit "Penalty: Twenty dollars."

Sub-section 47 (4)—

Omit "Penalty: Twenty dollars."

Sub-section 47 (5)—

Omit "Penalty: Twenty dollars."

Sub-section 47 (6)—

Omit "Penalty: One hundred dollars."

Sub-section 47 (7)—

Omit "Penalty: One hundred dollars."

SCHEDULE 1—continued

Section 51—

Omit “Five hundred dollars”, substitute “\$2,000”.

Section 52—

Omit “One thousand dollars”, substitute “\$10,000”.

Sub-section 53 (1)—

Omit “Penalty: Fifty dollars.”.

Section 56—

Omit “Penalty: Fifty dollars.”.

Section 62—

Repeal the section.

Section 63—

Repeal the section.

Section 64—

- (a) Omit “(3) of section 62 of this Act”, substitute “8G (1) of the *Taxation Administration Act 1953*, being an order made in relation to this Act or the regulations,”.
- (b) Omit “under this Act”, substitute “for a taxation offence within the meaning of Part III of the *Taxation Administration Act 1953* that relates to this Act or the regulations”.

Section 65—

Repeal the section.

Sub-section 84 (2)—

Omit the sub-section, substitute the following sub-sections:

“(2) A person who refuses or fails to comply with an instrument under this section is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

“(2A) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (2) in relation to the refusal or failure of the convicted person or another person to comply with an instrument under this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount that the convicted person or the other person, as the case may be, refused or failed to pay to the Commissioner in accordance with the notice.”.

Part VII—

Repeal the Part.

Section 93—

Repeal the section.

Sub-section 96 (1)—

Omit “Five hundred dollars”, substitute “\$2,000”.

SCHEDULE 1—continued

Paragraph 96 (1) (a)—

- (a) Omit “proper”.
- (b) Omit “full”.

Sub-section 97 (3)—

Omit the sub-section and the penalty at the foot thereof.

Paragraph 99 (d)—

Omit “One hundred dollars”, substitute “\$500”.

SCHEDULE 2

Sub-section 22 (2)

**FORMAL AMENDMENTS OF THE AUSTRALIAN CAPITAL TERRITORY
TAXATION (ADMINISTRATION) ACT 1969**

Sub-section 4 (1) (definitions of “approved” and “impressed stamp”), paragraph 4 (3) (b), section 5, sub-sections 6A (1), 7 (2) and 8 (1), paragraph 9 (1) (b), sub-sections 9 (2) and (3) and 12 (2), section 13, sub-sections 17 (1) and (2) and 18 (1) and (2), sections 20 and 21, paragraph 24 (1) (a), sections 25, 30 and 31, paragraph 32 (1) (a), sections 40 and 41, paragraph 42 (1) (a), sections 43, 44C and 44D, paragraph 44E (1) (a), section 46, sub-sections 47 (1), (3), (4) and (5) and 50 (2), paragraph 50A (1) (e), sub-section 50A (3), paragraph 53 (1) (a), sub-sections 56 (2) and 58D (1) and (2), section 58E, sub-sections 58F (1) and (3), 59 (1) and 60 (1), section 61, sub-sections 66 (1), (2) and (3), section 67, sub-section 68 (1), section 69, sub-sections 71 (1) and (4), section 72, paragraph 73A (a), sub-sections 74 (1), (1A), (3), (4) and (5), 75 (1), (3) and (6), 76 (1) and 78 (1), paragraph 79 (a), section 80A, sub-sections 83 (1), 84 (1), (3), (4) and (5) and 85 (1) and (2), paragraph 86 (a), section 91, paragraph 96 (2) (a), sub-sections 97 (1) and (2), section 98 and paragraph 99 (a)—

Omit “of Taxation” (wherever occurring).

Sub-section 4 (1) (definition of “adhesive stamp”)—

Omit “sub-section (1) of section 8 of this Act”, substitute “sub-section 8 (1)”.

Sub-section 4 (1) (definition of “Board of Review”)—

Omit “1936-1968”, substitute “1936”.

Sub-section 4 (1) (definition of “cancel”)—

Omit “sub-section (1) of section 14 of this Act”, substitute “sub-section 14 (1)”.

Sub-section 4 (1)—

After the definition of “cheque”, insert the following definition:
“ ‘Commissioner’ means the Commissioner of Taxation;”.

Sub-section 4 (1) (definition of “impressed stamp”)—

Omit “sub-section (1) of section 8 of this Act”, substitute “sub-section 8 (1)”.

Sub-section 4 (1) (definition of “insurer”)—

Omit “Director of War Service Homes”, substitute “Defence Service Homes Corporation”.

SCHEDULE 2—continued

Sub-section 4 (1) (definition of “life insurance”)—

Omit “paragraph (c) of this definition”, substitute “paragraph (c)”.

Sub-section 4 (1) (definition of “Motor Traffic Ordinance”)—

Omit “, as amended and in force for the time being”.

Sub-section 4 (1) (definition of “return”)—

Omit “of this Act”.

Sub-section 4 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Paragraph 4 (7) (b)—

Omit “, as amended and in force for the time being,”.

Sub-section 7 (2)—

Omit “The last preceding sub-section”, substitute “Sub-section (1)”.

Sub-section 8 (1)—

Omit “of this Act” (last occurring).

Paragraph 9 (1) (b)—

Omit “thirty”, substitute “30”.

Sub-section 14 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 14 (3)—

Omit “of this section”.

Sub-section 15 (2)—

Omit “two”, substitute “2”.

Paragraph 17 (6) (a)—

Omit “two”, substitute “2”.

Sub-section 18 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 18 (3)—

Omit “the last preceding sub-section”, substitute “sub-section (2)”.

Section 22—

Omit “of this Act”.

Section 23—

Omit “of this Act”.

Sub-section 24 (1)—

Omit “twenty-one”, substitute “21”.

SCHEDULE 2—continued

Paragraph 24 (1) (b)—

Omit “the next succeeding section”, substitute “section 25”.

Sub-section 29 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 29 (4)—

Omit “the last preceding sub-section”, substitute “sub-section (3)”.

Sub-section 31 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 32 (1)—

Omit “twenty-one”, substitute “21”.

Sub-section 33 (1)—

Omit “the last preceding section”, substitute “section 32”.

Sub-section 41 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 42 (1)—

Omit “twenty-one”, substitute “21”.

Paragraph 42 (1) (b)—

Omit “the next succeeding section”, substitute “section 43”.

Sub-section 45 (1)—

Omit “five”, substitute “5”.

Sub-section 45 (3)—

Omit “five”, substitute “5”.

Sub-section 47 (1)—

(a) Omit “thirty”, substitute “30”.

(b) Omit “five”, substitute “5”.

Paragraph 47 (2) (b)—

Omit “One thousand five hundred dollars”, substitute “\$1,500”.

Paragraph 47 (2) (c)—

Omit “three”, substitute “3”.

Paragraph 47 (3) (a)—

Omit “One thousand five hundred dollars”, substitute “\$1,500”.

Paragraph 47 (3) (c)—

Omit “three”, substitute “3”.

Sub-section 47 (3)—

Omit “thirty”, substitute “30”.

SCHEDULE 2—continued

Sub-sections 47 (4) and (5)—

- (a) Omit “Five hundred dollars” (wherever occurring), substitute “\$500”.
- (b) Omit “thirty” (wherever occurring), substitute “30”.

Sub-sections 47 (6) and (7)—

- (a) Omit “five years” (wherever occurring), substitute “5 years”.
- (b) Omit “Five hundred dollars” (wherever occurring), substitute “\$500”.

Sub-section 50 (1)—

Omit “two”, substitute “2”.

Sub-section 50 (2)—

Omit “ninety”, substitute “90”.

Sub-section 51 (3)—

Omit “three”, substitute “3”.

Sub-section 52 (2)—

- (a) Omit “the last preceding sub-section”, substitute “sub-section (1)”.
- (b) Omit “the last preceding section”, substitute “section 51”.

Sub-section 53 (1)—

Omit “fourteen”, substitute “14”.

Section 54—

Omit “the last preceding section”, substitute “section 53”.

Section 56—

Omit “thirty” (wherever occurring), substitute “30”.

Sub-section 58 (1)—

Omit “sub-section (1) of section 56 of this Act”, substitute “sub-section 56 (1)”.

Sub-paragraph 58C (1) (c) (i)—

Omit “, or that Ordinance as amended and in force for the time being”.

Sub-section 58F (2)—

Omit “paragraph 68 (1) (c)”, substitute “paragraph 68 (1) (a)”.

Sub-section 58F (2A)—

Omit “paragraph 68 (1) (c)”, substitute “paragraph 68 (1) (a)”.

Sub-section 60 (1)—

Omit “thirty”, substitute “30”.

Sub-section 61 (3)—

Omit “the last preceding sub-section”, substitute “sub-section (2)”.

Section 64—

Omit “of this Act” (first occurring).

SCHEDULE 2—continued

Paragraph 66 (1) (a)—

Omit “sub-section (2) of section 17 of this Act”, substitute “sub-section 17 (2)”.

Sub-section 66 (2)—

(a) Omit “the last preceding sub-section”, substitute “sub-section (1)”.

(b) Omit “thirty”, substitute “30”.

Sub-section 67 (2)—

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

Sub-section 67 (3)—

Omit “the last preceding sub-section”, substitute “sub-section (2)”.

Sub-section 71 (1)—

Omit “three”, substitute “3”.

Sub-section 71 (2)—

Omit “The last preceding sub-section”, substitute “Sub-section (1)”.

Sub-sections 74 (1) and (5)—

Omit “sixty” (wherever occurring), substitute “60”.

Sub-section 74 (5)—

Omit “Two dollars”, substitute “\$2”.

Sub-section 75 (2)—

Omit “the last preceding section”, substitute “section 74”.

Sub-section 82 (1)—

Omit “of this Act or the last preceding section”, substitute “or 81”.

Sub-sections 84 (3) and (4)—

Omit “sub-section (1) of” (wherever occurring).

Sub-section 84 (8)—

(a) Omit “, a State or Territory”, substitute “or a State”.

(b) Add at the end thereof the following definition:

“ ‘State’ includes a Territory.”.

Paragraph 85 (2) (b)—

Omit “the last preceding paragraph”, substitute “paragraph (a)”.

Paragraphs 94 (1) (b) and (d) and (2) (a)—

Omit “two” (wherever occurring), substitute “2”.

Paragraphs 94 (1) (c) and (d) and (2) (b)—

Omit “sixteen” (wherever occurring), substitute “16”.

SCHEDULE 2—continued

Section 95—

Omit “Commissioner of Taxation, Second Commissioner of Taxation, Acting Commissioner of Taxation, Acting Second Commissioner of Taxation, Deputy Commissioner of Taxation”, substitute “Commissioner”.

Paragraphs 96 (1) (b) and (c)—

Omit “three” (wherever occurring), substitute “3”.

SCHEDULE 3

Section 41

**FURTHER AMENDMENTS OF THE BANK ACCOUNT DEBITS TAX
ADMINISTRATION ACT 1982 RELATING TO OFFENCES**

Sub-section 7 (2)—

Omit “summary”.

Sub-section 11 (4)—

Omit the sub-section, substitute the following sub-sections:

“(4) Subject to sub-section (4A), where—

- (a) an eligible debit has been made to an exempt account; or
- (b) the account holder or one or more of the account holders, as the case requires, of an exempt account expects or expect that an eligible debit will be made to the exempt account within the ensuing period of 30 days,

the account holder or each of the account holders, as the case requires, of the exempt account, shall, within 7 days, notify the Commissioner in writing accordingly.

“(4A) Where—

- (a) there are 2 or more account holders of an exempt account; and
- (b) one of those account holders notifies the Commissioner in accordance with sub-section (4) of an eligible debit to, or expected to be made to, the exempt account,

the other account holder or account holders, as the case requires, shall not be required to notify the Commissioner under that sub-section of the eligible debit.”.

Sub-section 12 (1)—

Omit the penalty at the foot thereof.

Sub-section 12 (5)—

Omit the sub-section.

Part VII—

Repeal the Part.

Part VIII—

Repeal the Part.

Section 56—

Omit “Penalty: \$2,000.”.

SCHEDULE 3—continued

Sub-section 57 (1)—

Omit “fails to comply with this sub-section, the bank is guilty of a separate offence punishable on conviction by a penalty”, substitute “refuses or fails to comply with this sub-section (including the day of a conviction of an offence against this sub-section or any subsequent day), the bank is guilty of an offence punishable on conviction by a fine”.

Sub-section 57 (2)—

- (a) Insert “refuses or” before “fails”.
- (b) Omit “, guilty of a separate offence punishable on conviction by a penalty”, substitute “(including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine”.

Paragraph 62 (c)—

- (a) Insert “a fine of” after “exceeding”.
- (b) Omit “, for a breach of”, substitute “for offences against”.

SCHEDULE 4

Section 72

**FURTHER AMENDMENT OF THE ESTATE DUTY ASSESSMENT ACT 1914
RELATING TO OFFENCES**

Section 50—

Omit all the words after “to this Act”, substitute “and, in particular, may make regulations—

- (a) prescribing penalties not exceeding a fine of \$500 for offences against the regulations; and
- (b) for and in relation to the practice and procedure of a Supreme Court in proceedings to which section 28D applies”.

SCHEDULE 5

Section 89

**FURTHER AMENDMENTS OF THE GIFT DUTY ASSESSMENT ACT 1941
RELATING TO OFFENCES**

Section 10—

Omit “Five hundred dollars or imprisonment for twelve months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Paragraph 47 (b)—

Omit “less than \$2 or more than \$40 for any breach of”, substitute “exceeding a fine of \$500 for offences against”.

SCHEDULE 6

Section 163

**FURTHER AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936
RELATING TO OFFENCES**

Section 16—

Omit “\$500 or imprisonment for 12 months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 82T (2)—

Omit the sub-section.

Sub-section 128A (4)—

Omit “227, 230, 251,”.

Sub-section 128U (2)—

Omit “227, 230,”.

Sub-section 136A (7)—

Omit “and is punishable, on conviction, by a fine not exceeding the sum of \$200”, substitute “punishable on conviction by a fine not exceeding the sum of \$2,000”.

Sub-section 165 (1)—

Add at the foot thereof the following: “Penalty: \$1,000.”.

Sub-section 213 (2)—

- (a) Insert “refuses or” after “who”.
- (b) Omit “shall be”, substitute “is”.
- (c) Omit “Penalty: Not less than \$4 or more than \$200.”, substitute “Penalty for contravention of this sub-section: \$2,000.”.

Sub-section 215 (4)—

Insert “refuses or” before “fails” (wherever occurring).

Paragraph 215 (4) (b)—

Omit “and is punishable, upon conviction, by a fine of not less than \$2 and not more than \$100”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

Sub-section 218 (2)—

- (a) Insert “refuses or” before “fails”.
- (b) Omit “shall be”, substitute “is”.
- (c) Omit “\$100”, substitute “\$1,000”.

After sub-section 218 (2)—

Insert the following sub-section:

“(3) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (2) in relation to the refusal or failure of the convicted person or another person to comply with a notice under this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount or the aggregate of the amounts, as the case requires, that the convicted person or the other person, as the case may be, refused or failed to pay to the Commissioner in accordance with the notice.”.

SCHEDULE 6—continued

Sub-section 221C (1A)—

Omit “\$40”, substitute “\$1,000”.

After sub-section 221C (1A)—

Insert the following sub-section:

“(1B) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (1A) in relation to the refusal or failure of the convicted person or another person to make a deduction from salary or wages in accordance with that sub-section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount of the deduction.”.

Section 221D—

Omit “\$40”, substitute “\$500”.

Sub-section 221E (3)—

Omit “\$40”, substitute “\$500”.

Section 221E—

Omit “Penalty: \$100.”, substitute “Penalty for contravention of this sub-section: \$2,000.”.

Sub-section 221F (7)—

Omit all the words after “requirements of”, substitute “a paragraph of sub-section (5)”.

Section 221F—

Add at the end thereof the following sub-sections:

“(13) A person who contravenes sub-section (1), (2) or (2A) is, in respect of each day on which the person contravenes the sub-section (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.

“(14) A person shall not contravene sub-section (5) by virtue of paragraph (a) of that sub-section.

Penalty: \$5,000 or imprisonment for 12 months, or both.

“(15) A person shall not contravene—

(a) sub-section (5) by virtue of paragraph (b), (c), (ca), (d), (e) or (f) of that sub-section; or

(b) sub-section (6).

Penalty: \$2,000.

“(16) A reference in sub-section (14) or (15) to a contravention of sub-section (5) by virtue of a paragraph of sub-section (5) includes a reference to a contravention of the requirements of the paragraph as varied under sub-section (7).”.

Sub-sections 221G (5) and (6)—

Omit the sub-sections, substitute the following sub-sections:

“(5) A person shall not contravene—

(a) sub-section (1) by virtue of paragraph (b) of that sub-section; or

(b) sub-section (2B) by virtue of paragraph (b) of that sub-section.

Penalty: \$5,000 or imprisonment for 12 months, or both.

SCHEDULE 6—continued

“(6) A person shall not contravene—

- (a) sub-section (1) (otherwise than by virtue of paragraph (b) of that sub-section);
- (b) sub-section (2B) (otherwise than by virtue of paragraph (b) of that sub-section); or
- (c) sub-section (2), (3) or (4).

Penalty: \$2,000.”.

Section 221L—

Omit “Penalty: \$40.”, substitute “Penalty for contravention of this sub-section: \$500.”.

Sub-section 221M (1)—

Omit “\$100”, substitute “\$1,000”.

Sub-section 221S (2)—

Omit “\$40”, substitute “\$500”.

Sub-section 221T (2)—

Omit “\$200”, substitute “\$2,000”.

Sub-section 221T (3)—

- (a) Omit “any” (last occurring).
- (b) Omit “\$200”, substitute “\$2,000”.

Paragraph 221V (e)—

Add at the end thereof “or”.

Paragraph 221V (f)—

Omit “or” (last occurring).

Paragraph 221V (g)—

Omit the paragraph.

Section 221V—

Omit “Not less than \$4 or more than \$1,000, or imprisonment for 6 months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 221Y (1)—

Omit “shall be guilty of an indictable offence and liable to imprisonment, with or without hard labour, for a term not exceeding 5 years”, substitute “is guilty of an offence punishable on conviction by a fine not exceeding \$20,000 or imprisonment for a period not exceeding 10 years, or both”.

Section 221YAA—

Repeal the section.

Sub-section 221YHD (3)—

Omit “or fails to comply with”.

Paragraph 221YHD (3) (b)—

Omit all the words from and including “applies—” to the end of the paragraph, substitute “applies—a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both; or”.

SCHEDULE 6—continued

Sub-section 221YHN (2)—

- (a) Omit “section 243”, substitute “section 8ZL of the *Taxation Administration Act 1953*”.
- (b) Omit all the words after “provisions apply in”, substitute “relation to a prosecution for a prescribed taxation offence within the meaning of Part III of that Act”.

Sub-section 221YHN (3)—

Omit the sub-section.

Sub-section 221YHR (4)—

Insert “refuses or” before “fails”.

Section 221YHV—

Repeal the section.

Sub-section 221YL (4A)—

Omit “against this Act punishable upon conviction by a fine not exceeding \$200”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

After sub-section 221YL(4A)—

Insert the following sub-section:

“(4B) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (4A) in relation to the refusal or failure of the convicted person or another person to make a deduction from a dividend or from interest as required by this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount of the deduction.”.

Sub-section 221YN (2)—

- (a) Insert “refuses or” after “who”.
- (b) Omit “against this Act punishable, upon conviction,”, substitute “punishable on conviction”.
- (c) Omit “\$1,000 or imprisonment for a period not exceeding 6 months”, substitute “\$5,000 or imprisonment for a period not exceeding 12 months, or both”.

Sub-section 221YN (3)—

- (a) Insert “refuses or” after “who”.
- (b) Omit “against this Act punishable, upon conviction,”, substitute “punishable on conviction”.
- (c) Omit “\$200”, substitute “\$1,000”.

Sub-section 221YP (4)—

- (a) Insert “refuses or” after “who”.
- (b) Omit “against this Act punishable upon conviction,”, substitute “punishable on conviction”.
- (c) Omit “\$200”, substitute “\$1,000”.

Sub-section 221YQ (1)—

Insert “refused or” after “person has”.

SCHEDULE 6—continued

Sub-section 221YR (2)—

- (a) Omit “section 243”, substitute “section 8ZL of the *Taxation Administration Act 1953*”.
- (b) Omit all the words after “provisions apply in”, substitute “relation to a prosecution for a prescribed taxation offence within the meaning of Part III of that Act”.

Sub-section 221YR (3)—

Omit the sub-section.

Section 221YX—

Repeal the section.

Sub-section 221ZB (2)—

- (a) Omit “and is punishable, upon conviction,”, substitute “punishable on conviction”.
- (b) Omit “\$200”, substitute “\$1,000”.

Section 221ZB—

Add at the end thereof the following sub-section:

“(3) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (2) in relation to the refusal or failure of the convicted person or another person to make a deduction from a mining payment in accordance with sub-section (1), the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount of the deduction.”.

Sub-section 221ZC (2)—

- (a) Insert “refuses or” after “who”.
- (b) Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both”.

Sub-section 221ZC (3)—

- (a) Insert “refuses or” after “who”.
- (b) Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

Sub-section 221ZE (2)—

- (a) Omit “section 243”, substitute “section 8ZL of the *Taxation Administration Act 1953*”.
- (b) Omit all the words after “provisions apply in”, substitute “relation to a prosecution for a prescribed taxation offence within the meaning of Part III of that Act”.

Sub-section 221ZE (3)—

Omit the sub-section.

Section 221ZK—

Repeal the section.

Sub-section 221ZN (5)—

- (a) Insert “refuses or” before “fails”.
- (b) Omit “upon”, substitute “on”.

SCHEDULE 6—continued

Paragraph 221ZN (5) (a)—

- (a) Insert “refusal or” before “failure”.
- (b) Omit “\$1,000 or imprisonment for a period not exceeding 6 months”, substitute “\$5,000 or imprisonment for a period not exceeding 12 months, or both”.

Paragraph 221ZN (5) (b)—

Omit “\$200”, substitute “\$1,000”.

Sub-section 221ZR (2)—

- (a) Omit “section 243”, substitute “section 8ZL of the *Taxation Administration Act 1953*”.
- (b) Omit all the words after “provisions apply in”, substitute “relation to a prosecution for a prescribed taxation offence within the meaning of Part III of that Act”.

Sub-section 221ZR (3)—

Omit the sub-section.

Section 221ZW—

Repeal the section.

Sub-section 251J (10)—

Omit “\$20”, substitute “\$500”.

Paragraph 251K (2A) (b)—

Insert “refused or” after “has”.

Sub-section 251K (7)—

Omit “\$20”, substitute “\$500”.

Sub-section 251K (8)—

- (a) Omit “a” (last occurring).
- (b) Omit “\$20”, substitute “\$500”.

Sub-section 251L (1)—

Omit “Not less than \$4 or more than \$200”, substitute “\$2,000”.

Sub-section 251N (1)—

Omit “Not less than \$4 or more than \$100”, substitute “\$1,000”.

Sub-section 251N (2)—

Omit “Not less than \$4 or more than \$100”, substitute “\$1,000”.

Section 251O—

Omit “Not less than \$4 or more than \$100”, substitute “\$1,000”.

Section 251P—

Insert “refusal or” before “failure” (wherever occurring).

Sub-section 252A (1)—

Omit all the words after “trust estate” (sixth occurring), substitute “is, in respect of each day on which the circumstances set out in paragraphs (a), (b), (c) and (d) are in existence

SCHEDULE 6—continued

(including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

Sub-section 252A (13)—

Insert “refusal or” before “failure”.

Sub-section 262A (1)—

- (a) Omit “keep sufficient”, substitute “, for the purposes of this Act, keep”.
- (b) Omit “to enable his assessable income and allowable deductions to be readily ascertained”.
- (c) Omit “Not less than \$4 or more than \$200”, substitute “\$2,000”.

After sub-section 262A (1)—

Insert the following sub-section:

“(1A) A person who is required by sub-section (1) to keep records shall so keep the records as to enable the person’s assessable income and allowable deductions to be readily ascertained.

Penalty: \$2,000.”.

Sub-section 266 (1)—

Omit “not less than \$2 or more than \$40 for any breach of”, substitute “not exceeding a fine of \$500 for offences against”.

SCHEDULE 7

Section 164

FORMAL AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936

Paragraph 16 (4) (i)—

Omit the paragraph, substitute the following paragraph:

“(ha) the Secretary to the Department of Education and Youth Affairs for the purpose of the administration of any law of the Commonwealth relating to financial assistance to students;”.

Sub-sub-paragraph 23 (c) (vii) (1) (B)—

Omit “Secretary to the Department of Trade and Resources”, substitute “Secretary to the Department of Trade”.

Sub-paragraph 23AD (3) (d) (iii)—

Omit “Division 5B of Part V of the *National Health Act 1953-1973*”, substitute “Part VB of the *National Health Act 1953*”.

Sub-sections 23AF (11), (12), (13) and (14)—

Omit “Minister for Trade and Resources” (wherever occurring), substitute “Minister for Trade”.

Sub-section 23AF (18) (definition of “eligible project”)—

Omit “Minister for Trade and Resources”, substitute “Minister for Trade”.

Sub-paragraph 78 (1) (a) (iv)—

Omit “Minister for Education”, substitute “Minister for Education and Youth Affairs”.

SCHEDULE 7—continued

Paragraphs 78 (5) (a) and (b)—

Omit “Minister for Education” (wherever occurring), substitute “Minister for Education and Youth Affairs”.

Sub-section 82KA (1) (definition of “gross income”)—

Omit “Division 5B of Part V of the *National Health Act 1953-1974*”, substitute “Part VB of the *National Health Act 1953*”.

Sub-section 124K (1) (definition of “Australian film”)—

Omit “Minister for Home Affairs”, substitute “Minister for Home Affairs and Environment”.

Sub-section 124K (1A)—

Omit “Minister for Home Affairs”, substitute “Minister for Home Affairs and Environment”.

Sub-section 159J (6) (definition of “separate net income”)—

Omit “Division 5B of Part V of the *National Health Act 1953-1975*”, substitute “Part VB of the *National Health Act 1953*”.

Sub-section 159P (2)—

Omit “Division 5B of Part V of the *National Health Act 1953-1975*”, substitute “Part VB of the *National Health Act 1953*”.

Paragraph 160ABA (2) (b)—

Omit “Secretary to the Department of Trade and Resources”, substitute “Secretary to the Department of Trade”.

SCHEDULE 8

Section 202

**FURTHER AMENDMENTS OF THE PAY-ROLL TAX (TERRITORIES)
ASSESSMENT ACT 1971 RELATING TO OFFENCES**

Sub-section 8 (2)—

Omit “\$500 or imprisonment for 12 months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 30 (4)—

Insert “refuses or” before “fails” (wherever occurring).

Paragraph 30 (4) (b)—

Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

After sub-section 36 (1)—

Insert the following sub-sections:

“(1A) A person who refuses or fails to comply with a notice under sub-section (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

SCHEDULE 8—continued

“(1B) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (1A) in relation to the refusal or failure of the convicted person or another person to comply with a notice under this sub-section (1), the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount that the convicted person or the other person, as the case may be, refused or failed to pay to the Commissioner in accordance with the notice.”.

Sub-section 64 (3)—

- (a) Insert “refuses or” after “company” (first occurring).
- (b) Omit all the words after “it is”, substitute “, in respect of each day on which it so refuses or fails to appoint a public officer (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50”.

Sub-section 64 (6)—

Insert “refusal or” before “failure”.

Section 64—

Add at the end thereof the following sub-section:

“(10) Unless the contrary intention appears, a reference in this section to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.”.

Sub-section 67 (1)—

- (a) Omit “proper”.
- (b) Omit “\$200”, substitute “\$2,000”.

Paragraph 70 (1) (b)—

Omit “\$40”, substitute “\$500”.

SCHEDULE 9

Section 231

**FURTHER AMENDMENTS OF THE SALES TAX ASSESSMENT ACT (No. 1)
1930 RELATING TO OFFENCES**

Sub-section 10 (2)—

Omit “\$500”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 10 (3)—

Omit “\$500”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Section 12—

Omit “\$200”, substitute “\$2,000”.

Section 13—

- (a) Insert “refuses or” before “fails” (first and second occurring).
- (b) Omit all the words after “so required by”, substitute “the Commissioner is, in respect of each day on which he refuses or fails to become so registered, to apply for

SCHEDULE 9—continued

a fresh certificate or to give security to the satisfaction of the Commissioner (including the day of a conviction of an offence against this section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$250”.

Section 14—

- (a) Omit “or fails to observe”.
- (b) Omit “\$200”, substitute “\$2,000”.

Section 15—

Omit “\$200”, substitute “\$2,000”.

Sub-section 32 (2E)—

Insert “refuses or” before “fails” (wherever occurring).

Paragraph 32 (2E) (b)—

Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

Sub-section 38 (2)—

- (a) Insert “refuses or” after “who”.
- (b) Omit “\$100”, substitute “\$1,000”.

After sub-section 38 (2)—

Insert the following sub-section:

“(3) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (2) in relation to the refusal or failure of the convicted person or another person to comply with a notice under this section, the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount that the convicted person or the other person, as the case may be, refused or failed to pay to the Commissioner in accordance with the notice.”.

Sub-section 70C (1)—

Omit “\$200”, substitute “\$2,000”.

Sub-section 70D (1)—

Omit “Penalty: \$200.”.

Section 70D—

Omit “Penalty: \$200.” (last occurring), substitute “Penalty: \$5,000.”.

Sub-section 70E (1)—

- (a) Omit “proper”.
- (b) Omit “\$200”, substitute “\$2,000”.

Paragraph 73 (b)—

Omit “not less than \$2 nor more than \$40 for any breach of the regulations”, substitute “not exceeding a fine of \$500 for offences against the regulations”.

SCHEDULE 10

Section 257

**FURTHER AMENDMENT OF THE SALES TAX ASSESSMENT ACT (No. 5)
1930 RELATING TO OFFENCES**

Section 8—

Omit all the words after “entry” (first occurring), substitute “and who refuses or fails to lodge that entry is guilty of an offence punishable on conviction by a fine not exceeding \$2,000”.

SCHEDULE 11

Section 284

**FURTHER AMENDMENT OF THE SALES TAX (EXEMPTIONS AND
CLASSIFICATIONS) ACT 1935 RELATING TO OFFENCES**

Section 7—

Omit “not less than Two dollars or more than Forty dollars for any breach of the regulations”, substitute “not exceeding a fine of \$500 for offences against the regulations”.

SCHEDULE 12

Section 289

**FURTHER AMENDMENTS OF THE SALES TAX PROCEDURE ACT 1934
RELATING TO OFFENCES**

Section 7—

Repeal the section.

Section 9—

Repeal the section.

Section 11—

Repeal the section.

Section 12—

Repeal the section.

Paragraph 13 (d)—

Omit the paragraph.

Paragraph 13 (i)—

Omit “for any breach of the Regulations”, substitute “not exceeding a fine of \$500 for offences against the regulations”.

SCHEDULE 13

Section 316

**FURTHER AMENDMENT OF THE TAXATION ADMINISTRATION ACT
1953 RELATING TO OFFENCES**

Paragraph 18 (b)—

Omit “, by way of fines not exceeding \$250,”, substitute “not exceeding a fine of \$500”.

SCHEDULE 14

Section 333

**FURTHER AMENDMENT OF THE TAXATION (UNPAID COMPANY TAX)
ASSESSMENT ACT 1982 RELATING TO OFFENCES**

Section 24—

Add at the end thereof “and, in particular, may make regulations prescribing penalties not exceeding a fine of \$500 for offences against the regulations”.

SCHEDULE 15

Section 348

**FURTHER AMENDMENTS OF THE TOBACCO CHARGES ASSESSMENT
ACT 1955 RELATING TO OFFENCES**

Section 10—

Omit “\$500 or imprisonment for 12 months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 27 (4)—

Insert “refuses or” before “fails” (wherever occurring).

Paragraph 27 (4) (b)—

Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

Sub-section 40 (2)—

Omit the penalty at the foot thereof.

After sub-section 40 (2)—

Insert the following sub-section:

“(2A) A company that contravenes sub-section (2) is, in respect of each day on which it contravenes that sub-section (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

SCHEDULE 15—continued

Section 40—

Add at the end thereof the following sub-section:

“(11) A reference in this section (other than in sub-section (2)) to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.”.

Paragraph 42 (b)—

Omit “\$40 for a breach of the regulations”, substitute “a fine of \$500 for offences against the regulations”.

SCHEDULE 16

Section 381

**FURTHER AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT
1964 RELATING TO OFFENCES**

Section 8—

Omit “\$500 or imprisonment for 12 months”, substitute “\$5,000 or imprisonment for 12 months, or both”.

Sub-section 13 (1)—

Omit the sub-section, substitute the following sub-section:

“(1) A wool-broker who sells shorn wool without being registered under this section as a wool-broker in respect of the State in which shorn wool is sold is, in respect of each day on which the wool-broker so sells shorn wool (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

Sub-section 14 (4)—

Omit “\$200”, substitute “\$2,000”.

Sub-section 15 (1)—

Omit the sub-section, substitute the following sub-section:

“(1) A person who subjects shorn wool—

- (a) produced by the person;
- (b) purchased by the person from a person other than a wool-broker or registered wool-dealer; or
- (c) owned by another person (not being a manufacturer or registered wool-dealer),

to a process of manufacture without being registered under this section as a manufacturer in respect of the State in which the shorn wool is subjected to the process of manufacture is, in respect of each day on which the person so subjects such shorn wool to the process of manufacture (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

Sub-section 16 (1)—

Omit the sub-section, substitute the following sub-section:

“(1) A person who exports shorn wool—

- (a) in respect of which the person is not in possession of a prescribed certificate; and
- (b) that has not, in pursuance of an arrangement with the Commissioner, been appraised,

SCHEDULE 16—continued

without being registered under this section as an exporter in respect of the State from a place in which the wool is exported is, in respect of each day on which the person so exports such shorn wool (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

Section 21—

Omit “\$200”, substitute “\$1,000”.

Section 22—

Omit “\$200”, substitute “\$1,000”.

Section 23—

Omit “\$400”, substitute “\$2,000”.

Section 24—

Omit “\$400”, substitute “\$2,000”.

Section 25—

Omit “\$400”, substitute “\$2,000”.

Section 26—

Omit “\$200”, substitute “\$1,000”.

Section 27—

Omit “\$400”, substitute “\$1,000”.

Sub-section 47 (4)—

Insert “refuses or” before “fails” (wherever occurring).

Paragraph 47 (4) (b)—

Omit all the words after “offence”, substitute “punishable on conviction by a fine not exceeding \$1,000”.

After sub-section 54 (1)—

Insert the following sub-sections:

“(1A) A person who refuses or fails to comply with a notice under sub-section (1) is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

“(1B) Where a person (in this sub-section referred to as the ‘convicted person’) is convicted before a court of an offence against sub-section (1A) in relation to the refusal or failure of the convicted person or another person to comply with a notice under this sub-section the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding the amount that the convicted person or the other person, as the case may be, refused or failed to pay to the Commissioner in accordance with the notice.”.

Sub-section 86 (6)—

Omit the sub-section, substitute the following sub-section:

“(6) If the company refuses or fails duly to appoint a public officer when and as often as such an appointment becomes necessary, the company is, in respect of each day on which it so refuses or fails to appoint a public officer (including the day of a conviction of an offence against this sub-section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$50.”.

SCHEDULE 16—continued

Section 86—

Add at the end thereof the following sub-section:

“(13) A reference in this section to this Act or the regulations includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act or the regulations.”

Sub-section 89 (1)—

Omit “\$200”, substitute “\$2,000”.

Paragraph 89 (1) (a)—

(a) Omit “proper”.

(b) Omit “full”.

Paragraph 93 (1) (b)—

Omit “\$100”, substitute “\$500”.

NOTES

1. No. 42, 1969, as amended. For previous amendments, see No. 216, 1973; No. 61, 1981; No. 92, 1981; No. 127, 1981; No. 127, 1982; and No. 39, 1983.
2. No. 142, 1982, as amended. For previous amendments, see Nos. 39 and 110, 1983; and No. 102, 1984.
3. No. 156, 1980.
4. No. 22, 1914, as amended. For previous amendments, see No. 29, 1916; No. 34, 1922; No. 47, 1928; No. 12, 1940; No. 18, 1942; No. 16, 1947; No. 80, 1950; Nos. 1 and 52, 1953; No. 94, 1956; No. 60, 1957; No. 97, 1962; No. 72, 1963; Nos. 32 and 138, 1965; Nos. 53 and 93, 1966; No. 40, 1967; No. 9, 1970; No. 95, 1972; No. 216, 1973; No. 130, 1974; No. 169, 1976; No. 22, 1978; Nos. 19 and 60, 1979; No. 92, 1981; and No. 39, 1983.
5. No. 52, 1941, as amended. For previous amendments, see No. 17, 1942; No. 14, 1947; No. 80, 1950; No. 1, 1953; No. 57, 1957; No. 73, 1963; No. 93, 1966; No. 41, 1967; No. 97, 1972; No. 216, 1973; No. 24, 1978; Nos. 19 and 61, 1979; Nos. 61 and 92, 1981; and No. 39, 1983.
6. No. 27, 1936, as amended. For previous amendments, see 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; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109,

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- 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; and Nos. 14, 47 and 115, 1984.
7. No. 82, 1953, as amended. For previous amendments, see No. 25, 1958; No. 88, 1959; Nos. 19 and 29, 1960; No. 71, 1963; No. 112, 1964; No. 105, 1965; No. 17, 1966; Nos. 39 and 86, 1967; No. 3, 1968; No. 24, 1969; No. 48, 1972; Nos. 11 and 216, 1973; No. 129, 1974; No. 119, 1975; Nos. 52, 55 and 143, 1976; No. 134, 1977; No. 87, 1978; Nos. 23 and 127, 1980; Nos. 28, 110, 143 and 154, 1981; and; Nos. 51 and 57, 1983.
 8. No. 123, 1976, as amended. For previous amendments, see No. 93, 1977; No. 127, 1979; No. 25, 1980; No. 100, 1981; and No. 51, 1983.
 9. No. 62, 1958, as amended. For previous amendments, see No. 87, 1964; No. 10, 1966; Nos. 16 and 216, 1973; No. 91, 1976; Nos. 117 and 118, 1979; Nos. 89 and 175, 1980; No. 61, 1981; No. 51, 1982; and Nos. 73 and 112, 1983.
 10. No. 41, 1984.
 11. No. 77, 1971, as amended. For previous amendments, see No. 66, 1972; No. 216, 1973; No. 172, 1976; Nos. 55 and 62, 1978; Nos. 10, 19 and 64, 1979; Nos. 11 and 134, 1980; No. 69, 1981; Nos. 122 and 128, 1982; and No. 39, 1983.
 12. No. 25, 1930, as amended. For previous amendments, see No. 62, 1930; No. 25, 1931; Nos. 39 and 64, 1932; Nos. 17 and 47, 1933; Nos. 16 and 29, 1934; Nos. 8, 45 and 61, 1935; No. 78, 1936; Nos. 30 and 64, 1940; No. 54, 1942; No. 1, 1953; No. 40, 1962; No. 93, 1966; No. 216, 1973; No. 197, 1978; No. 19, 1979; No. 134, 1980; Nos. 51 and 122, 1982; and No. 39, 1983.
 13. No. 27, 1930, as amended. For previous amendments, see No. 64, 1930; No. 27, 1931; Nos. 40 and 64, 1932; Nos. 17 and 48, 1933; Nos. 16 and 30, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 198, 1978.
 14. No. 29, 1930, as amended. For previous amendments, see No. 65, 1930; No. 29, 1931; Nos. 41 and 64, 1932; Nos. 17 and 49, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 199, 1978.
 15. No. 31, 1930, as amended. For previous amendments, see No. 66, 1930; No. 31, 1931; Nos. 42 and 64, 1932; Nos. 17 and 50, 1933; No. 16, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 200, 1978.
 16. No. 33, 1930, as amended. For previous amendments, see No. 67, 1930; No. 33, 1931; Nos. 43 and 64, 1932; Nos. 17, 25 and 51, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 26, 1939; No. 71, 1953; No. 45, 1963; No. 93, 1966; No. 109, 1968; No. 216, 1973; No. 91, 1976; No. 201, 1978; and Nos. 51 and 80, 1982.
 17. No. 35, 1930, as amended. For previous amendments, see No. 68, 1930; No. 35, 1931; Nos. 44 and 64, 1932; Nos. 17, 25 and 52, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 202, 1978.
 18. No. 37, 1930, as amended. For previous amendments, see No. 69, 1930; No. 37, 1931; Nos. 45 and 64, 1932; Nos. 17, 25 and 53, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 203, 1978.

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19. No. 39, 1930, as amended. For previous amendments, see No. 70, 1930; No. 39, 1931; Nos. 46 and 64, 1932; Nos. 17, 25 and 54, 1933; Nos. 16 and 62, 1934; Nos. 45 and 61, 1935; No. 78, 1936; No. 93, 1966; No. 216, 1973; and No. 204, 1978.
20. No. 41, 1930, as amended. For previous amendments, see No. 71, 1930; No. 41, 1931; No. 47, 1932; No. 55, 1933; Nos. 9 and 61, 1935; No. 78, 1936; No. 13, 1946; No. 93, 1966; No. 216, 1973; and No. 205, 1978.
21. No. 60, 1935, as amended. For previous amendments, see No. 41, 1936; No. 78, 1938; No. 32, 1939; Nos. 29 and 76, 1940; No. 32, 1941; No. 6, 1942; Nos. 35 and 44, 1943; No. 31, 1944; No. 36, 1945; Nos. 12 and 67, 1946; No. 65, 1947; No. 42, 1948; No. 54, 1949; No. 37, 1950; No. 42, 1951; No. 44, 1952; No. 53, 1953; No. 45, 1954; No. 5, 1956; No. 71, 1957; Nos. 17 and 92, 1959; Nos. 65 and 88, 1960; Nos. 1 and 76, 1961; No. 4, 1962; No. 44, 1963; No. 30, 1965; Nos. 26 and 62, 1966; Nos. 21, 29 and 80, 1967; No. 78, 1970; Nos. 67 and 87, 1972; Nos. 17, 181 and 216, 1973; No. 24, 1975; No. 175, 1976; No. 107, 1978; Nos. 3, 94 and 157, 1979; No. 142, 1981; Nos. 64, 93 and 115, 1982; Nos. 63, 84 and 136, 1983; and No. 81, 1984.
22. No. 53, 1934, as amended. For previous amendments, see No. 12, 1935; No. 78, 1936; No. 63, 1940; No. 1, 1953; No. 93, 1966; and No. 216, 1973.
23. No. 1, 1953, as amended. For previous amendments, see Nos 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37, 1976; Nos. 19 and 59, 1979; and Nos. 39 and 117, 1983.
24. No. 12, 1983.
25. No. 119, 1982.
26. No. 58, 1955, as amended. For previous amendments, see No. 43, 1962; No. 93, 1966; No. 216, 1973; No. 134, 1980; No. 122, 1982; and No. 39, 1983.
27. No. 30, 1964, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; No. 19, 1979; No. 134, 1980; No. 61, 1981; No. 122, 1982; and No. 39, 1983.