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**Taxation Laws Amendment Act (No. 3) 1986**

**No. 112 of 1986**

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**Taxation Laws Amendment Act (No. 3) 1986**

**No. 112 of 1986**

**An Act to amend the law relating to taxation**

[*Assented to 4 November 1986*]

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 (No. 3) 1986.*

**Commencement**

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

**PART II—AMENDMENT OF THE ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) ACT 1977**

**Principal Act**

**3.** The *Administrative Decisions (Judicial Review) Act 1977*1is in this Part referred to as the Principal Act.

**Schedule 1**

**4.** **(1)** Schedule 1 to the Principal Act is amended—

(a) by omitting from paragraph (e) “*States Receipts Duties (Administration) Act 1970*”;and

(b) by omitting paragraph (f).

**(2)** Notwithstanding the amendment made by paragraph (1) (b), Schedule 1 to the Principal Act continues to apply, after the commencement of this section, in relation to a decision of a Taxation Board of Review made before the commencement of this section, as if that amendment had not been made.

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

**Principal Act**

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

**Procedure on review or appeal**

**6.** Section 25d of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

**PART IV—AMENDMENT OF THE ESTATE DUTY ASSESSMENT ACT 1914**

**Principal Act**

**7.** The *Estate Duty Assessment Act 1914*3is in this Part referred to as the Principal Act.

**Procedure on review or appeal**

**8.** Section 27d of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

**PART V—AMENDMENTS OF THE FRINGE BENEFITS TAX ASSESSMENT ACT 1986**

**Principal Act**

**9.** The *Fringe Benefits Tax Assessment Act 1986*4is in this Part referred to as the Principal Act.

**Consideration of applications for extension of time for lodging requests for reference**

**10.** Section 84 of the Principal Act is amended by omitting from paragraph (1) (b) “of” and substituting “if”.

**Procedure on review or appeal**

**11.** Section 86a of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

**PART VI—AMENDMENT OF THE GIFT DUTY ASSESSMENT ACT 1941**

**Principal Act**

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

**Procedure on review or appeal**

**13.** Section 34d of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

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

**Principal Act**

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

**Exemptions**

**15.** Section 23 of the Principal Act is amended—

(a) by omitting from paragraph (s) “one-half of; and

(b) by omitting from paragraph (sa) “one-half of (wherever occurring).

**Value of live stock at end of year of income**

**16.** Section 32 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1a) For the purposes of this section, a horse acquired by the taxpayer under a contract entered into after 19 August 1986 shall not be

taken to be an eligible horse in relation to a year of income unless the horse attained the age of 3 years before the end of the year of income.”.

**Cost price of natural increase**

**17.** Section 34 of the Principal Act is amended—

(a) by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) where the cost price of natural increase of that class has previously been taken into account under this Act by the taxpayer—

(i) the greater of—

(a) the cost price per head at which natural increase of that class was last taken into account; and

(B) the minimum cost price prescribed in respect of live stock of that class; or

(ii) if the taxpayer, with the leave of the Commissioner, selects another cost price that is not less than the minimum cost price prescribed in respect of live stock of that class—that other cost price; and”; and

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

“(3) Where—

(a) after 19 August 1986, a taxpayer has incurred a service fee the whole or a part (which whole or part is in this sub-section referred to as the ‘attributable amount’) of which is attributable to the acquisition of a horse by the taxpayer by natural increase; and

(b) the attributable amount exceeds the amount that, but for this sub-section, would be the cost price of the horse,

the cost price of the horse shall be the attributable amount.

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

(a) under an agreement—

(i) a taxpayer incurs a loss or outgoing; and

(ii) a female horse is inseminated; and

(b) as a result of the insemination, the taxpayer acquires a horse by natural increase,

the Commissioner may, to such an extent as the Commissioner considers reasonable—

(c) in a case to which paragraph (d) does not apply—treat the loss or outgoing as a service fee incurred by the taxpayer and as attributable to that acquisition; or

(d) where the amount of the loss or outgoing incurred under the agreement would have been the same irrespective of the number of inseminations performed on the horse under the

agreement—treat so much of the loss or outgoing as, in the Commissioner’s opinion, relates to inseminations performed on the horse under the agreement as a service fee incurred by the taxpayer and as attributable to that acquisition.

“(5) In this section—

‘agreement’ means an agreement, arrangement or understanding, whether formal or informal, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings;

‘insemination’ includes artificial insemination;

‘service fee’ means a fee for the insemination of a female horse.”.

**Alternative election in case of forced disposal, death or compulsory destruction of live stock**

**18.** Section 36aaa of the Principal Act is amended—

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

“(2a) Where—

(a) live stock (in this sub-section referred to as the ‘deceased live stock’), being assets of a business of primary production carried on in Australia by a taxpayer, a partnership or the trustee of a trust estate—

(i) die by reason of bovine brucellosis or bovine tuberculosis; or

(ii) are destroyed pursuant to a law of the Commonwealth, of a State or of a Territory that makes provision for or in relation to the compulsory destruction of live stock for the purpose of controlling or eradicating bovine brucellosis or bovine tuberculosis; and

(b) an election under sub-section (1a) has been made in relation to the death or destruction of the deceased live stock,

the following provisions have effect:

(c) sub-section (2) does not apply in relation to the death or destruction of the deceased live stock;

(d) the whole of the proceeds of the death of the deceased live stock (whenever received) shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which the election relates and no part of those proceeds shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of any other year of income;

(e) the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to

which the election relates shall be reduced by an amount equal to the profit on the death of the deceased live stock;

(f) if, at a particular time (in this paragraph referred to as the ‘purchase time’) during the year of income to which the election relates or any of the next 10 succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, purchases live stock (in this paragraph referred to as the ‘replacement live stock’) to replace any of the deceased live stock, the purchase price of any animal included in the replacement live stock shall, for the purposes of this Act, be deemed to be an amount equal to the consideration actually paid for the animal reduced by—

(i) the amount calculated in accordance with the formula , where—

**A** is the reduced profit on the disposal or death of the deceased live stock immediately before the purchase time; and

**B** is the number of the replacement live stock; or

(ii) the consideration actually paid for the animal, whichever is the less;

(g) if, in relation to the year of income to which the election relates or any of the next 10 succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, makes an election under sub-section (4a), there shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which the election under sub-section (4a) relates the amount specified in the election;

(h) there shall be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the last year of income of the 10 years of income next succeeding the year of income to which the election under sub-section (1a) relates the amount (if any) that is the reduced profit on the death or destruction of the deceased live stock on the last day of that last year of income.”;

(b) by inserting after sub-section (4) the following sub-section: “(4a) Where—

(a) live stock (in this sub-section referred to as the ‘deceased live stock’), being assets of a business of primary production carried on in Australia by a taxpayer, a partnership or the trustee of a trust estate—

(i) die by reason of bovine brucellosis or bovine tuberculosis; or

(ii) are destroyed pursuant to a law of the Commonwealth, of a State or of a Territory that makes provision for or in relation to the compulsory destruction of live stock for the purpose of controlling or eradicating bovine brucellosis or bovine tuberculosis;

(b) an election under sub-section (1a) has been made in relation to the death or destruction of the deceased live stock; and

(c) during the year of income to which the election relates or any of the next 10 succeeding years of income, the taxpayer, the partnership or the trustee, as the case may be, replaces, by breeding, any of the deceased live stock,

the following provisions have effect:

(d) sub-section (4) does not apply in relation to the death or destruction of the deceased live stock;

(e) the taxpayer, the partnership or the trustee, as the case may be, may elect that there shall be included in the assessable income of the taxpayer, partnership or trust estate, as the case may be, of the year of income in which the deceased live stock are replaced such amount as is specified in the election.”;

(c) by omitting paragraph (12) (b) and substituting the following paragraph:

“(b) during the year of income in which the live stock were disposed of, died or were destroyed or—

(i) where sub-section (2) applies in relation to the disposal, death or destruction of the live stock—during any of the 5 years of income next succeeding that year of income; or

(ii) where sub-section (2a) applies in relation to the death or destruction of the live stock—during any of the 10 years of income next succeeding that year of income,

a partnership in which the taxpayer or trustee, as the case may be, is a partner commences to carry on the business of primary production of which the live stock that were disposed of or that died or were destroyed were assets; and”;

(d) by omitting from paragraph (13) (a) “(2) (a) and (aa)” and substituting “(2) (a) and (aa) and (2a) (d) and (e)”;

(e) by inserting after paragraph (13) (d) the following paragraph:

“(da) in the application to the partnership of any provision of this section that refers to the 10 years of income next succeeding the year of income in relation to which an election under sub-section (1a) is made, the reference to those years of income shall be read as a reference to the 10 years of income next succeeding the year of income in relation to which the election under sub-section (1a) was

made by the taxpayer or by the trustee, or trustee and beneficiaries, as the case may be;”;

(f) by inserting in paragraph (14) (b) “or (4a)” after “(4)”;

(g) by inserting in sub-section (16) “, or at any time,” after “on any day”;

(h) by inserting in paragraph (16) (a) “or at or before that time, as the case may be,” after “before that day”;

(j) by inserting in paragraph (16) (a) “or (2a) (f), as the case requires,” after “(2) (b)”; and

(k) by adding at the end of paragraph (16) (b) “or that time occurs,

as the case may be”.

**Divisible amounts of assessable income**

**19.** Section 50e of the Principal Act is amended by omitting from paragraphs (1) (e) and (2) (f) “36aaa (2) (c) or (d)” and substituting “36aaa (2) (c) or (d) or (2a) (g) or (h)”.

**Expenditure on scientific research**

**20.** Section 73a of the Principal Act is amended by inserting in the definition of “an approved research institute” in sub-section (6) “, by the Secretary to the Department of Science” after “Department of Health”.

**Gifts, pensions, &c.**

**21.** Section 78 of the Principal Act is amended by inserting after subparagraph (1) (a) (lxxxv) the following sub-paragraphs:

“; (lxxxvi) the Australian Academy of Technological Sciences;

(lxxxvii) the Australian College of Occupational Medicine,”.

**Allowable capital expenditure**

**22.** Section 124aa of the Principal Act is amended by inserting after paragraph (2) (b) the following paragraph:

“(ba) expenditure of a capital nature that the taxpayer is taken to have incurred by sub-section 124aba (1);”.

**Purchase of prospecting or mining rights or information**

**23.** Section 124ab of the Principal Act is amended by omitting from sub-section (1) “the expenditure so incurred” and substituting “so much of the expenditure so incurred as has not been specified in a notice duly given previously under sub-section 124aba (2) in relation to the acquisition”.

**24.** After section 124ab of the Principal Act the following section is inserted:

**Inclusion of amounts in allowable capital expenditure in respect of cash bidding payments**

“124aba. (1) Where, immediately before the grant of a production licence or a first production licence, as the case may be, that is related to a cash bidding exploration permit, a person who has a qualifying interest or

qualifying interests in relation to the permit also has an entitlement to an eligible cash bidding amount in relation to the permit, the taxpayer shall be taken for the purposes of this Division to have incurred, at the time at which the production licence is granted, expenditure of a capital nature in relation to the qualifying interest or qualifying interests of an amount equal to the eligible cash bidding amount.

“(2) Where, at any time before the grant of a production licence or a first production licence, as the case may be, that is related to a cash bidding exploration permit, a person (in this section referred to as the ‘purchaser’) incurs expenditure in acquiring a qualifying interest in relation to the permit from another person (in this section referred to as the ‘vendor’) who has an entitlement to an eligible cash bidding amount in relation to the permit, the purchaser and vendor may give notice to the Commissioner that they have agreed to the transfer to the purchaser of so much of the vendor’s entitlement to the eligible cash bidding amount as is specified in the notice.

“(3) A notice under sub-section (2) shall—

(a) be in writing signed by or on behalf of the persons giving the notice;

(b) specify as the amount of the entitlement that is to be transferred to the purchaser an amount that does not exceed the expenditure incurred by the purchaser in acquiring the qualifying interest in relation to the exploration permit reduced by any amount of that expenditure specified in a notice duly given previously under sub-section 124ab (1) in relation to the acquisition; and

(c) be lodged with the Commissioner not later than 2 months after the end of the year of income of the purchaser in which the acquisition occurred, or within such further time as the Commissioner allows.

“(4) Where at a particular time (in this sub-section referred to as the ‘relevant time’)—

(a) a person is the holder of a qualifying interest or qualifying interests in relation to a cash bidding exploration permit; and

(b) the sum of—

(i) if the permit was granted to the person (whether or not the person holds the permit at the relevant time)—the qualifying cash bidding payment in relation to the grant of the permit; and

(ii) in any case—all eligible cash bidding amounts (if any) specified in notices duly given (including at a time after the relevant time) under sub-section (2), in relation to the acquisition before the relevant time, by the person of qualifying interests in relation to the permit,

exceeds the sum of all eligible cash bidding amounts (if any) specified in notices duly given (including at a time after the relevant time) under sub-section (2) in relation to the acquisition, before the relevant time, from the person of qualifying interests in relation to the permit,

the person shall be taken to have at the relevant time in relation to the permit an entitlement to an eligible cash bidding amount equal to the amount of the excess referred to in paragraph (b).

“(5) For the purposes of this section—

(a) a production licence shall be taken to be related to an exploration permit if—

(i) because of the grant of the production licence, the exploration permit ceases to be in force in respect of the block or blocks in respect of which the production licence is granted; or

(ii) because of the grant of the production licence, a retention lease that is related to the exploration permit ceases to be in force in respect of the block or blocks in respect of which the production licence is granted;

(b) a retention lease shall be taken to be related to an exploration permit if, because of the grant of the retention lease, the exploration permit ceases to be in force in respect of the block or blocks in respect of which the retention lease is granted;

(c) where an exploration permit or a retention lease (in this paragraph referred to respectively as the ‘original permit’ and the ‘original lease’) is renewed, the renewed permit or renewed lease shall be taken to be a continuation of the original permit or original lease notwithstanding that the renewal may not have been granted in respect of all of the blocks in respect of which the original permit or original lease was granted; and

(d) a person shall be taken to have a qualifying interest in relation to an exploration permit if the person is the holder of the permit or a retention lease that is related to the permit, or of an interest in the permit or such a lease.

“(6) In this section—

‘block’ has the same meaning as in the *Petroleum (Submerged Lands) Act 1967*;

‘cash bidding exploration permit’ means an exploration permit in respect of which a qualifying cash bidding payment is or was made;

‘exploration permit’ means an exploration permit for petroleum under Part III of the *Petroleum (Submerged Lands) Act 1967*;

‘production licence’ means a production licence for petroleum under Part III of the *Petroleum (Submerged Lands) Act 1967*;

‘qualifying cash bidding payment’ means an amount of a kind referred to in paragraph 22b (5) (b) of the *Petroleum (Submerged Lands) Act 1967* paid on or after 15 January 1986 in respect of the grant of an exploration permit;

‘retention lease’ means a retention lease under Part III of the *Petroleum (Submerged Lands) Act 1967*.”.

**Division not to apply to interest on borrowings by Australian Industry Development Corporation**

**25.** Section 128ea of the Principal Act is amended by adding at the end the following sub-section:

“(4) This section does not apply to interest paid after the date of commencement of this sub-section in respect of a loan raised pursuant to a contractual obligation entered into before 20 May 1983 to the extent to which—

(a) the interest is paid in respect of loan money that—

(i) was borrowed by the borrower after 17 September 1986; and

(ii) before 18 September 1986, the borrower was not under a contractual obligation to borrow;

(b) the interest is paid in respect of a loan resulting from a ‘roll-over’, after 17 September 1986, of the whole or a part of a previous loan; or

(c) the interest is paid in respect of a period of extension of the period for which loan money was lent, being an extension occurring after 17 September 1986.”.

**Division not to apply to interest on certain debentures**

**26.** Section 128f of the Principal Act is amended—

(a) by omitting from paragraphs (1) (b) and (d) “in a currency other than the currency of Australia”;

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

“(1a) This section applies in relation to a loan raised by an authority of the Commonwealth, by a State or by an authority of a State pursuant to a contractual obligation entered into after 1 July 1986 as if—

(a) the authority or State, as the case may be, were a company and a resident of Australia; and

(b) paragraph (4) (b) were omitted.”; and

(c) by omitting from paragraphs (6) (c), (d) and (g) “in a currency other than the currency of Australia”.

**Division not to apply to interest on certain loans**

**27.** Section 128g of the Principal Act is amended by adding at the end the following sub-section:

“(4) This section does not apply to interest paid after the date of commencement of this sub-section in respect of a loan raised pursuant to a contractual obligation entered into before 20 May 1983 to the extent to which—

(a) the interest is paid in respect of loan money that—

(i) was borrowed by the borrower after 1 July 1986; and

(ii) before 2 July 1986, the borrower was not under a contractual obligation to borrow;

(b) the interest is paid in respect of a loan resulting from a ‘roll-over’, after 1 July 1986, of the whole or a part of a previous loan; or

(c) the interest is paid in respect of a period of extension of the period for which loan money was lent, being an extension occurring after 1 July 1986.”.

**Division not to apply to interest on certain government loans and government authority loans**

**28.** Section 128gaof the Principal Act is amended by inserting after sub-section (5) the following sub-section:

“(5a) This section does not apply to—

(a) interest paid after the date of commencement of this sub-section in respect of a loan raised pursuant to a contractual obligation entered into after 1 July 1986; or

(b) interest paid after the date of commencement of this sub-section in respect of a loan raised pursuant to a contractual obligation entered into before 2July 1986 to the extent to which—

(i) the interest is paid in respect of loan money that—

(a) was borrowed by the borrower after 1 July 1986; and

(b) before 2 July 1986, the borrower was not under a contractual obligation to borrow;

(ii) the interest is paid in respect of a loan resulting from a ‘rollover’, after 1 July 1986, of the whole or a part of a previous loan; or

(iii) the interest is paid in respect of a period of extension of the period for which loan money was lent, being an extension occurring after 1 July 1986.”.

**Amendment of assessments**

**29.** Section 170 of the Principal Act is amended by omitting from sub-section (10) “or 124ab (3)” and substituting “, 124ab (3) or 124aba (4)”.

**Grounds of objection and burden of proof**

**30.** Section 190 of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

**Provisional tax on estimated income**

**31.** Section 221yda of the Principal Act is amended—

(a) by omitting from paragraph (1) (da) and sub-paragraph (2) (a) (ii) “46c,”; and

(b) by inserting in paragraph (1) (da) and sub-paragraph (2) (a) (ii) “or 160acd” after “160aaa”.

**Provisional tax for 1986-87 year**

**32.** For the purposes of the application of sub-section 221yc (1) of the *Income Tax Assessment Act 1936* (in this section referred to as the “Assessment Act”) in ascertaining the amount of provisional tax payable by a taxpayer in respect of the year of income that commenced on 1 July 1986 (in this section referred to as the “current year of income”), being a taxpayer who would, apart from this section, be liable to pay provisional tax calculated in accordance with sub-section 221yc (1) or (1a) of the Assessment Act in respect of the current year of income—

(a) if paragraph 221yc (1) (a) of the Assessment Act applies to the taxpayer—the amount of provisional tax payable by the taxpayer in respect of the current year of income by virtue of that paragraph is the amount ascertained by deducting from the amount of income tax that would have been assessed in respect of the amount that would have been the taxable income of the taxpayer of the year of income that commenced on 1 July 1985 (in this section referred to as “the preceding year of income”) if—

(i) the taxable income of the taxpayer of the preceding year of income had, except for the purpose of determining the notional income for the purpose of section 59ab, 86 or 158d of the Assessment Act, been increased by 11%;

(ii) where, for the purposes of Division 6aa of Part III of the Assessment Act—

(a) in the case of a taxpayer to whom Division 3 of Part V of the *Income Tax (Rates) Act 1982* applied—the taxpayer’s eligible taxable income of the preceding year of income exceeded $416; or

(B) in the case of a taxpayer to whom Division 4 of Part V of the *Income Tax (Rates) Act 1982* applied—the taxpayer had an eligible taxable income of the preceding year of income,

that eligible taxable income had been increased by 11%;

(iii) for the purposes of section 156 of the Assessment Act, the deemed taxable income from primary production of the taxpayer of the preceding year of income had been increased by 11%;

(iv) the *Income Tax Rates Act 1986*,other than Division 4 of Part II, as that Act applies to assessments in respect of the current year of income, had been in force and applied to assessments in respect of the preceding year of income;

(v) the *Medicare Levy Act 1985* had not applied in relation to assessments in respect of the preceding year of income and the *Medicare Levy Act 1986* had applied in relation to such assessments as if references in that last-mentioned Act to the year of income or financial year that commenced on 1 July

1986 included references to the year of income or the financial year, as the case may be, that commenced on 1 July 1985;

(vi) where Division 16 of Part III of the Assessment Act applied in the taxpayer’s assessment in respect of the preceding year of income—that Division had applied as if the conditions set out in sub-paragraphs (i) to (v) (inclusive) were applicable for the purposes of making that assessment other than for the purpose of determining the average income of the taxpayer for the purposes of the application of that Division;

(vii) the taxpayer had not been entitled to any rebate (other than a rebate under section 156 of the Assessment Act applicable in relation to the taxpayer in accordance with sub-paragraph (vi)) or credit in the taxpayer’s assessment; and

(viii) the assessable income of the taxpayer of the preceding year of income had not included any net capital gain within the meaning of Part IIIa of the Assessment Act,

the sum of—

(ix) the rebates (other than a rebate under section 156 or 160acd of the Assessment Act) and credits to which the taxpayer was entitled in the taxpayer’s assessment in respect of income of the preceding year of income; and

(x) where the taxpayer was entitled to a rebate under section 160acd of the Assessment Act in the taxpayer’s assessment in respect of the income of the preceding year of income—two-thirds of the amount of that rebate; and

(b) if paragraph 221yc (1) (b) of the Assessment Act applies to the taxpayer—the amount of provisional tax payable by the taxpayer in respect of the current year of income by virtue of that paragraph is—

(i) in a case where—

(a) paragraph 221yc (1) (a) of the Assessment Act would apply to the taxpayer in relation to the current year of income but for sub-section 221ya (5) of that Act; and

(b) the taxpayer is a taxpayer to whom paragraph 221ya (5) (a) of the Assessment Act applies, but paragraph 221ya (5) (b) of that Act does not apply, in relation to the current year of income,

the amount that would be payable by the taxpayer under paragraph 221yc (1) (a) of the Assessment Act (as affected by paragraph (a) of this section) if sub-section 221ya (5) were not included in that Act and Division 16c of Part III of that Act were not applicable in relation to the preceding year of income;

(ii) in the case where—

(a) paragraph 221yc (1) (a) of the Assessment Act would apply to the taxpayer in relation to the current year of income but for sub-section 221ya (5) of that Act; and

(b) the taxpayer is a taxpayer to whom paragraph 221ya (5) (b) of the Assessment Act applies, but paragraph 221ya (5) (a) of that Act does not apply, in relation to the current year of income,

the amount that would be payable by the taxpayer under paragraph 221yc (1) (a) of the Assessment Act (as affected by paragraph (a) of this section) if sub-section 221ya (5) were not included in that Act and the taxable income of the taxpayer of the preceding year of income had been increased by the sum of the deductions allowed or allowable to the taxpayer under sections 77f, 124zaf and 124zafa of that Act in the taxpayer’s assessment in respect of the preceding year of income;

(iii) in the case where—

(a) paragraph 221yc (1) (a) of the Assessment Act would apply to the taxpayer in relation to the current year of income but for sub-section 221ya (5) of that Act; and

(b) the taxpayer is a taxpayer to whom paragraphs 221ya (5) (a) and (b) of the Assessment Act apply in relation to the current year of income,

the amount that would be payable by the taxpayer under paragraph 221yc (1) (a) of the Assessment Act (as affected by paragraph (a) of this section) if—

(c) sub-section 221ya (5) were not included in the Assessment Act;

(d) Division 16c of Part III of the Assessment Act were not applicable in relation to the preceding year of income; and

(e) the amount that, but for this sub-sub-paragraph, would have been the taxable income of the taxpayer of the preceding year of income had been increased by the sum of the deductions allowed or allowable to the taxpayer under sections 77f, 124zaf and 124zafa of the Assessment Act in the taxpayer’s assessment in respect of the preceding year of income; and

(iv) in any other case—the amount that would be payable by the taxpayer under paragraph (a) of this section if the provisions of that paragraph applied to the taxpayer in relation to the taxpayer’s income of the current year of income and—

(a) the taxable income of the taxpayer of the preceding year of income had been equal to the amount that

the Commissioner estimates would have been the provisional income of the taxpayer if Division 16c of Part III of the Assessment Act were not applicable in relation to the preceding year of income increased by the sum of the deductions (if any) allowed or allowable to the taxpayer under sections 77f, 124zaf and 124zafa of the Assessment Act in the taxpayer’s assessment in respect of the preceding year of income;

(b) for the purposes of Division 16 of Part III of the Assessment Act, the deemed taxable income from primary production of the taxpayer of the preceding year of income were such amount (if any) as the Commissioner determines; and

(c) for the purposes of Division 6aa of Part III of the Assessment Act, the amount of the eligible taxable income of the taxpayer of the preceding year of income were such amount (if any) as the Commissioner determines.

**Transitional**

**33.** **(1)** Where—

(a) section 128ea, 128g or 128ga of the *Income Tax Assessment Act 1936* would, but for this section, apply in respect of interest (in this sub-section referred to as the “pre-commencement interest”) paid on or before the date of commencement of this section; and

(b) the Commissioner, having regard to the amount of the loan to which the pre-commencement interest relates, the terms of any relevant contractual obligation and the amount of the pre-commencement interest, is satisfied that the whole or a part (which whole or part is in this sub-section referred to as the “disqualified interest”) of the pre-commencement interest was paid on or before the date of commencement of this section, rather than at a later time, for the purpose of obtaining the benefit of the application of section 128ea, 128g or 128ga, as the case may be, of the *Income Tax Assessment Act 1936*,

section 128ea, 128g or 128ga, as the case may be, of the *Income Tax Assessment Act 1936* does not apply in relation to the disqualified interest.

**(2)** A person is not guilty of an offence by virtue of the operation of sub-section (1).

**Application of amendments**

**34.** **(1)** The amendments made by section 15 apply to pay and allowances in respect of service, and a gratuity in respect of a calling out, on or after 1 January 1987.

**(2)** The amendment made by paragraph 17 (a) applies in respect of natural increase occurring after 30 June 1984.

**(3)** The amendments made by sections 18 and 19 apply in relation to the death or destruction of live stock on or after 1 July 1986.

**(4)** The amendment made by section 21 applies to gifts made after 19 August 1986.

**(5)** The amendments made by sections 22, 23, 24 and 29 apply as if they had come into operation on 15 January 1986.

**(6)** The amendments made by paragraphs 26 (a) and (c) apply to interest paid after the date of commencement of this sub-section.

**(7)** The amendment made by paragraph 31 (b) applies in relation to the ascertainment of provisional tax in respect of the year of income that commenced on 1 July 1986 and all subsequent years of income.

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

**Principal Act**

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

**Interpretation**

**36.** Section 3 of the Principal Act is amended—

(a) by inserting after the definition of “the Assessment Act” in sub-section (1) the following definition:

“‘the Austrian agreement’ means the Agreement between Australia and the Republic of Austria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, being the agreement a copy of which in the English language is set out in Schedule 27;”;

(b) by omitting from sub-section (1) the definition of “the Netherlands agreement” and substituting the following definition:

“‘the Netherlands agreement’ means the Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and the protocol to that agreement, being the agreement and protocol a copy of each of which in the English language is set out in Schedule 10, as amended by the second Netherlands protocol;”; and

(c) by inserting after the definition of “the previous United States convention” in sub-section (1) the following definition:

“‘the second Netherlands protocol’ means the protocol a copy of which in the English language is set out in Schedule 10a,being the Second Protocol amending the Agreement between Australia and the Kingdom of the Netherlands for the

avoidance of double taxation and the prevention of fiscal evasion with respect to tax on income with Protocol;”.

**37.** After section 11aof the Principal Act the following section is inserted:

**Second protocol with the Kingdom of the Netherlands**

“11aa. (1) Subject to this Act, on and after the date of entry into force of the second Netherlands protocol, the provisions of the protocol, so far as those provisions affect Australian tax, have, and shall be deemed to have had, the force of law in relation to tax in respect of—

(a) income, being income to which sub-paragraph (1) (a) of Article 3 of the protocol applies, of any year of income commencing on or after 1 July 1988; and

(b) income, being income to which sub-paragraph (1) (b) of Article 3 of the protocol applies, of any year of income commencing on or after 1 July 1986.

“(2) As soon as practicable after the entry into force of the second Netherlands protocol in accordance with Article 3 of the protocol, the Treasurer shall cause to be published in the *Gazette* a notice specifying the date on which the protocol entered into force.”.

**38.** After section 11q of the Principal Act the following section is inserted:

**Agreement with the Republic of Austria**

“11r. (1) Subject to this Act, on and after the date of entry into force of the Austrian agreement, the provisions of the agreement, so far as those provisions affect Australian tax, have the force of law—

(a) in relation to withholding tax—in respect of dividends or interest derived on or after 1 January in the calendar year next following that in which the agreement enters into force and in relation to which the agreement remains effective; and

(b) in relation to tax other than withholding tax—in respect of income of any year of income commencing on or after 1 July in the calendar year next following that in which the agreement enters into force and in relation to which the agreement remains effective.

“(2) As soon as practicable after the entry into force of the Austrian agreement in accordance with Article 27 of the agreement, the Treasurer shall cause to be published in the *Gazette* a notice specifying the date on which the agreement entered into force.”.

**Schedules 10a and 27**

**39.** The Principal Act is amended—

(a) by inserting after Schedule 10 the Schedule set out in Schedule 1 to this Act; and

(b) by adding at the end the Schedule set out in Schedule 2 to this Act.

**PART IX—AMENDMENT OF THE INCOME TAX REGULATIONS**

**Income Tax Regulations**

**40.** The Income Tax Regulations are in this Part referred to as the Regulations.

**Live stock**

**41.** **(1)** Regulation 5 of the Regulations is amended by omitting from sub-regulation (3) “paragraph 34 (1) (b)” and substituting “section 34”.

**(2)** The amendment made by sub-section (1) applies in respect of natural increase occurring after 30 June 1984.

**(3)** The amendment made by sub-section (1) does not prevent the amendment or repeal, by regulations under the *Income Tax Assessment Act 1936*,of the Regulations as amended by sub-section (1).

**PART X—AMENDMENT OF THE SALES TAX ASSESSMENT ACT (No. 1) 1930**

**Principal Act**

**42.** The *Sales Tax Assessment Act (No. 1) 1930*8 is in this Part referred to as the Principal Act.

**Procedure on review or appeal**

**43.** Section 42e of the Principal Act is amended—

(a) by omitting “Supreme Court” and substituting “court”; and

(b) by omitting from paragraph (a) “Court” and substituting “court”.

**PART XI—AMENDMENT OF THE TAXATION ADMINISTRATION ACT 1953**

**Principal Act**

**44.** The *Taxation Administration Act 1953*9is in this Part referred to as the Principal Act.

**Applications for review of certain decisions**

**45.** Section 14y of the Principal Act is amended by omitting from sub-section (1) “Administrative Appeals”.

**PART XII—MISCELLANEOUS**

**Application**

**46.** The amendments made by sections 6, 8, 11, 13, 30 and 43 apply in relation to proceedings that commenced to be heard after the commencement of this section.

**Amendment of assessments**

**47.** Nothing in section 170 of the *Income Tax Assessment Act 1936* prevents the amendment of an assessment made before the commencement of this section for the purpose of giving effect to Parts VII and IX of this Act.

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**SCHEDULE 1** Section 39

SCHEDULE TO BE INSERTED AFTER SCHEDULE 10 OF THE INCOME TAX (INTERNATIONAL AGREEMENTS) ACT 1953

“SCHEDULE 10a Section 3

SECOND PROTOCOL AMENDING THE AGREEMENT BETWEEN AUSTRALIA AND THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME WITH PROTOCOL

Australia and the Kingdom of the Netherlands,

Desiring to amend the Agreement between Australia and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Canberra on 17 March 1976 (in this Protocol referred to as “the Agreement”),

Have agreed as follows:

ARTICLE 1

Article 6 of the Agreement shall be amended by deleting the second sentence of paragraph (2).

ARTICLE 2

Article 11 of the Agreement shall be amended by omitting paragraph (3) and substituting the following paragraph:

‘(3) The term “interest” in this Article includes interest from Government securities, or from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and interest from any other form of indebtedness as well as all other income assimilated to interest or to income from money lent by the taxation law of the State in which the income arises. The term does not include income to which Article 10 applies.’

ARTICLE 3

(1) This Protocol, which shall form an integral part of the Agreement, shall enter into force on the first day of the second month after the date on which the Contracting States exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give this Protocol the force of law in Australia and in the Kingdom of the Netherlands respectively, and thereupon this Protocol shall have effect—

(a) in relation to income from debt claims of every kind, excluding bonds or debentures, secured by mortgage of real property or of any other direct interest in or over land, in pursuance of a contractual obligation entered into before the date of signature of this Protocol—

(i) in Australia, in respect of tax on income of any year of income beginning on or after the date of commencement of the eighteenth month following that in which signature of the Protocol occurs;

(ii) in the Netherlands, in respect of taxes for taxable years and periods beginning on or after the date of commencement of the eighteenth month following that in which signature of the Protocol occurs;

(b) in any other case, including those referred to in paragraph (2)—

(i) in Australia, in respect of tax on income of any year of income beginning on or after 1 July 1986;

**SCHEDULE 1**—continued

(ii) in the Netherlands, in respect of taxes for taxable years and periods beginning on or after 1 January 1986.

(2) Sub-paragraph (1) (a) does not apply in relation to—

(a) income which is derived before the commencement of the first year of income or the first taxable year or period, as the case may be, determined in accordance with that sub-paragraph, to the extent to which that income is attributable to that or any subsequent year or period; or

(b) income derived pursuant to a contractual obligation where the terms of that obligation are varied, after the date of signature of this Protocol, so as to extend or have the effect of extending the date on which repayment of the relevant debt is due.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Canberra this thirtieth day of June, One thousand nine hundred and eighty-six, in the English and Netherlands languages, both texts being equally authentic.

|  |  |
| --- | --- |
| PAUL KEATING | C. H. A. PLUG |
| For Australia | For the Kingdom of the Netherlands”. |

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**SCHEDULE 2** Section 39

SCHEDULE TO BE ADDED AT END OF THE INCOME TAX (INTERNATIONAL AGREEMENTS) ACT 1953

“SCHEDULE 27 Section 3

AGREEMENT

BETWEEN

AUSTRALIA

AND

THE REPUBLIC OF AUSTRIA

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

Australia and the Republic of Austria,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

**SCHEDULE 2**—continued

Have agreed as follows:

**CHAPTER I**

SCOPE OF THE AGREEMENT

ARTICLE 1

Personal Scope

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

Taxes Covered

(1) The existing taxes to which this Agreement shall apply are:

(a) in the case of Australia:

the income tax imposed under the federal law of the Commonwealth of Australia, including the additional tax upon the undistributed amount of the distributable income of a private company and the tax known as the resource rent tax;

(b) in the case of Austria:

(i) the income tax (die Einkommensteuer);

(ii) the corporation tax (die Korperschaftsteuer);

(iii) the tax on interest yields (die Zinsertragsteuer);

(iv) the directors tax (die Aufsichtsratsabgabe); and

(v) the tax on commercial and industrial enterprises, including the tax levied on the sum of wages (die Gewerbesteuer einschliesslich der Lohnsummensteuer).

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed under the federal law of the Commonwealth of Australia or the law of the Republic of Austria after the date of signature of this Agreement in addition to, or in place of, the existing taxes. As soon as possible after the end of each calendar year, the competent authority of each Contracting State shall notify the competent authority of the other Contracting State of any substantial changes which have been made in the laws of his State relating to the taxes to which this Agreement applies.

**CHAPTER II**

DEFINITIONS

ARTICLE 3

General Definitions

(1) In this Agreement, unless the context otherwise requires:

(a) the term ‘Australia’, when used in a geographical sense, excludes all external territories other than:

(i) the Territory of Norfolk Island;

(ii) the Territory of Christmas Island;

(iii) the Territory of Cocos (Keeling) Islands;

(iv) the Territory of Ashmore and Cartier Islands;

(v) the Territory of Heard and McDonald Islands; and

(vi) the Coral Sea Islands Territory,

**SCHEDULE 2**—continued

and includes any area adjacent to the territorial limits of Australia (including the Territories specified in sub-paragraphs (i) to (vi) inclusive) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploitation of any of the natural resources of the sea-bed and subsoil of the continental shelf;

(b) the term ‘Austria’ means the Republic of Austria;

(c) the terms ‘Contracting State’, ‘one of the Contracting States’ and ‘other Contracting State’ mean Australia or Austria, as the context requires;

(d) the term ‘person’ includes an individual, a company and any other body of persons;

(e) the term ‘company’ means any body corporate or any entity which is treated as a company or body corporate for tax purposes;

(f) the terms ‘enterprise of one of the Contracting States’ and ‘enterprise of the other Contracting State’ mean an enterprise carried on by a resident of Australia or an enterprise carried on by a resident of Austria, as the context requires;

(g) the term ‘tax’ means Australian tax or Austrian tax, as the context requires;

(h) the term ‘Australian tax’ means tax imposed by Australia, being tax to which this Agreement applies by virtue of Article 2;

(i) the term ‘Austrian tax’ means tax imposed by Austria, being tax to which this Agreement applies by virtue of Article 2;

(j) the term ‘competent authority’ means, in the case of Australia, the Commissioner of Taxation or his authorized representative and, in the case of Austria, the Federal Minister of Finance.

(2) In this Agreement, the terms ‘Australian tax’ and ‘Austrian tax’ do not include any penalty or interest imposed under the law of either Contracting State relating to the taxes to which this Agreement applies by virtue of Article 2.

(3) In the application of this Agreement by a Contracting State, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that State from time to time in force relating to the taxes to which this Agreement applies.

ARTICLE 4

Residence

(1) For the purposes of this Agreement, a person is a resident of one of the Contracting States:

(a) in the case of Australia, if the person is a resident of Australia for the purposes of Australian tax; and

(b) in the case of Austria, if the person is subject to unlimited tax liability under Austrian law.

(2) A person is not a resident of a Contracting State for the purposes of this Agreement if he is liable to tax in that State in respect only of income from sources in that State.

(3) Where by reason of the preceding provisions of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

(a) he shall be deemed to be a resident solely of the Contracting State in which he has a permanent home available to him;

(b) if he has a permanent home available to him in both Contracting States, or if he does not have a permanent home available to him in either of them, he shall

**SCHEDULE 2**—continued

be deemed to be a resident solely of the Contracting State with which his personal and economic relations are the closer.

(4) Where by reason of the provisions of paragraph (1), a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the Contracting State in which its place of effective management is situated.

ARTICLE 5

Permanent Establishment

(1) For the purposes of this Agreement, the term ‘permanent establishment’, in relation to an enterprise, means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

(2) The term ‘permanent establishment’ shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(g) an agricultural, pastoral or forestry property;

(h) a building site or construction, installation or assembly project, or supervisory activities in connection with such a site or project, where that site or project exists, or those activities are carried on, for more than twelve months.

(3) An enterprise shall not be deemed to have a permanent establishment merely by reason of:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of activities which have a preparatory or auxiliary character for the enterprise, such as advertising or scientific research.

(4) A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:

(a) he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless, his activities are limited to the purchase of goods or merchandise for the enterprise; or

(b) in so acting, he manufactures or substantially processes in that State for the enterprise goods or merchandise belonging to the enterprise, provided that the provisions of this sub-paragraph shall apply only in relation to the goods or merchandise so manufactured or processed.

**SCHEDULE 2**—continued

(5) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where that person is acting in the ordinary course of his business as such a broker or agent.

(6) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

(7) The principles set forth in the preceding paragraphs of this Article shall be applied in determining for the purposes of this Agreement whether there is a permanent establishment outside both Contracting States, and whether an enterprise, not being an enterprise of one of the Contracting States, has a permanent establishment in one of the Contracting States.

**CHAPTER III**

TAXATION OF INCOME

ARTICLE 6

Income from Real Property

(1) Income from real property, including royalties and other payments in respect of the operation of mines or quarries or of the exploitation of any natural resource, may be taxed in the Contracting State in which the real property, mines, quarries or natural resources are situated.

(2) Income from a lease of land and income from any other direct interest in or over land, whether or not improved, shall be regarded as income from real property situated where the land to which the lease or other direct interest relates is situated.

(3) The provisions of paragraphs (1) and (2) shall also apply to the income from real property of an enterprise and to income from real property used for the performance of professional services.

ARTICLE 7

Business Profits

(1) The profits of an enterprise of one of the Contracting States shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3), where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment or with other enterprises with which it deals.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise, being expenses which are incurred for the purposes of the permanent establishment (including executive and general

**SCHEDULE 2**—continued

administrative expenses so incurred) and which would be deductible if the permanent establishment were an independent entity which paid those expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(5) Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person in cases where the information available to the competent authority of that State is inadequate to determine the profits to be attributed to a permanent establishment, provided that that law shall be applied, so far as the information available to the competent authority permits, consistently with the principles of this Article.

(6) Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

(7) Nothing in this Article shall affect the operation of any law of a Contracting State relating to tax imposed on profits from insurance with non-residents provided that if the relevant law in force in either Contracting State at the date of signature of this Agreement is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph that may be appropriate.

(8) The provisions of this Article shall also apply to income derived by a sleeping partner from participation in a sleeping partnership (stille Gesellschaft) created under Austrian law.

(9) Where:

(a) a resident of Austria is beneficially entitled, whether directly or through one or more interposed trust estates, to a share of the business profits of an enterprise carried on in Australia by the trustee of a trust estate other than a corporate unit trust; and

(b) in relation to that enterprise, that trustee would, in accordance with the principles of Article 5, have a permanent establishment in Australia,

the enterprise carried on by the trustee shall be deemed to be a business carried on in Australia by that resident through a permanent establishment situated therein and that share of business profits shall be attributed to that permanent establishment.

ARTICLE 8

Ships and Aircraft

(1) Profits from the operation of ships or aircraft derived by a resident of one of the Contracting States shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph (1), such profits may be taxed in the other Contracting State where they are profits from operations of ships or aircraft confined solely to places in that other State.

(3) The provisions of pargraphs (1) and (2) shall apply in relation to the share of the profits from the operation of ships or aircraft derived by a resident of one of the Contracting States through participation in a pool service, in a joint transport operating organization or in an international operating agency.

(4) For the purposes of this Article, profits derived from the carriage by ships or aircraft of passengers, livestock, mail, goods or merchandise shipped in one of the

**SCHEDULE 2**—continued

Contracting States for discharge at another place in that State shall be treated as profits from operations of ships or aircraft confined solely to places in that State.

(5) Income derived by an enterprise of one of the Contracting States from the alienation of ships or aircraft operated in international traffic while owned by that enterprise or of personal property pertaining to the operation of those ships or aircraft shall be taxable only in that State.

ARTICLE 9

Associated Enterprises

(1) Where:

(a) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the Contracting States and an enterprise of the other Contracting State,

and in either case conditions operate between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing wholly independently with one another, then any profits which, but for those conditions, might have been expected to accrue to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person, including determinations in cases where the information available to the competent authority of that State is inadequate to determine the income to be attributed to an enterprise, provided that that law shall be applied, so far as it is practicable to do so, consistently with the principles of this Article.

(3) Where profits on which an enterprise of one of the Contracting States has been charged to tax in that State are also included, by virtue of paragraph (1) or (2), in the profits of an enterprise of the other Contracting State and charged to tax in that other State, and the profits so included are profits which might have been expected to have accrued to that enterprise of the other State if the conditions operative between the enterprises had been those which might have been expected to have operated between independent enterprises dealing wholly independently with one another, then the first-mentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State. In determining such an adjustment, due regard shall be had to the other provisions of this Agreement and for this purpose the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

Dividends

(1) Dividends paid by a company which is a resident of one of the Contracting States for the purposes of its tax, being dividends to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

(2) Such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident for the purposes of its tax, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

**SCHEDULE 2**—continued

(3) The term ‘dividends’ in this Article means income from shares and other income assimilated to income from shares by the law, relating to tax, of the Contracting State of which the company making the distribution is a resident for the purposes of its tax.

(4) The provisions of paragraph (2) shall not apply if the person beneficially entitled to the dividends, being a resident of one of the Contracting States, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In any such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Dividends paid by a company which is a resident of one of the Contracting States, being dividends to which a person who is not a resident of the other Contracting State is beneficially entitled, shall be exempt from tax in that other State except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State. Provided that this paragraph shall not apply in relation to dividends paid by any company which is a resident of Australia for the purposes of Australian tax and which is also resident of Austria for the purposes of Austrian tax.

(6) Nothing in this Agreement shall be construed as preventing Australia from imposing, under a federal law, tax on the income of a company that is a resident of Austria in addition to the taxes referred to in Article 2 in relation to Australia which are payable by a company which is a resident of Australia, provided that any such additional tax shall not exceed 15 per cent of the amount by which the taxable income of the first-mentioned company of a year of income exceeds the tax payable on that taxable income to Australia. Any tax payable to Australia on the undistributed profits of a company which is a resident of Austria shall be calculated as if that company were not liable to the additional tax referred to in this paragraph and had paid dividends of such amount that tax equal to the amount of that additional tax would have been payable on the dividends in accordance with paragraph (2) of this Article.

ARTICLE 11

Interest

(1) Interest arising in one of the Contracting States, being interest to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

(2) Such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) The term ‘interest’ in this Article includes interest from Government securities or from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and interest from any other form of indebtedness as well as all other income assimilated to income from money lent by the law, relating to tax, of the Contracting State in which the income arises.

(4) The provisions of paragraph (2) shall not apply if the person beneficially entitled to the interest, being a resident of one of the Contracting States, carries on business in the other Contracting State, in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the indebtedness in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

**SCHEDULE 2**—continued

(5) Interest shall be deemed to arise in a Contracting State when the payer is that State itself or a political subdivision or local authority of that State or a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the interest, whether he is a resident of one of the Contracting States or not, has in one of the Contracting States or outside both Contracting States a permanent establishment or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, owing to a special relationship between the payer and the person beneficially entitled to the interest, or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the interest paid shall remain taxable according to the law, relating to tax, of each Contracting State, but subject to the other provisions of this Agreement.

ARTICLE 12

Royalties

(1) Royalties arising in one of the Contracting States, being royalties to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

(2) Such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term ‘royalties’ in this Article means payments or credits, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:

(a) the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trademark, or other like property or right;

(b) the use of, or the right to use, any industrial, commercial or scientific equipment;

(c) the supply of scientific, technical, industrial or commercial knowledge or information;

(d) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in sub-paragraph (a), any such equipment as is mentioned in sub-paragraph (b) or any such knowledge or information as is mentioned in sub-paragraph (c);

(e) the use of, or the right to use:

(i) motion picture films;

(ii) films or video tapes for use in connection with television; or

(iii) tapes for use in connection with radio broadcasting; or

(f) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

(4) The provisions of paragraph (2) shall not apply if the person beneficially entitled to the royalties, being a resident of one of the Contracting States, carries on business in the other Contracting State, in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the property or right in respect of which

**SCHEDULE 2**—continued

the royalties are paid or credited is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself or a political subdivision or local authority of that State or a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the royalties, whether he is a resident of one of the Contracting States or not, has in one of the Contracting States or outside both Contracting States a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment or fixed base, then the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, owing to a special relationship between the payer and the person beneficially entitled to the royalties, or between both of them and some other person, the amount of the royalties paid or credited, having regard to what they are paid or credited for, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the royalties paid or credited shall remain taxable according to the law, relating to tax, of each Contracting State, but subject to the other provisions of this Agreement.

ARTICLE 13

Alienation of Property

(1) Income from the alienation of real property may be taxed in the Contracting State in which that property is situated.

(2) For the purposes of this Article:

(a) the term ‘real property’ shall include:

(i) a lease of land or any other direct interest in or over land;

(ii) rights to exploit, or to explore for, natural resources; and

(iii) shares or comparable interests in a company, the assets of which consists wholly or principally of direct interests in or over land in one of the Contracting States or of rights to exploit, or to explore for, natural resources in one of the Contracting States;

(b) real property shall be deemed to be situated:

(i) where it consists of direct interests in or over land—in the Contracting State in which the land is situated;

(ii) where it consists of rights to exploit, or to explore for, natural resources—in the Contracting State in which the natural resources are situated or the exploration may take place; and

(iii) where it consists of shares or comparable interests in a company, the assets of which consist wholly or principally of direct interests in or over land in one the Contracting States or of rights to exploit, or to explore for, natural resources in one of the Contracting States—in the Contracting State in which the assets or the principal assets of the company are situated.

**SCHEDULE 2**—continued

ARTICLE 14

Independent Personal Services

(1) Income derived by an individual who is a resident of one of the Contracting States in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to activities exercised from that fixed base.

(2) The term ‘professional services’ includes services performed in the exercise of independent scientific, literary, artistic, educational or teaching activities as well as in the exercise of the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

Dependent Personal Services

(1) Subject to the provisions of Articles 16, 18, and 19, salaries, wages and other similar remuneration derived by an individual who is a resident of one of the Contracting States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived from that exercise may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by an individual who is a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the year of income or the taxable year, as the case may be, of that other State;

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State;

(c) the remuneration is not deductible in determining taxable profits of a permanent establishment or a fixed base which the employer has in that other State; and

(d) the remuneration is, or upon the application of this Article will be, subject to tax in the first-mentioned State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of one of the Contracting States may be taxed in that State.

ARTICLE 16

Directors’ Fees

Directors’ fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

Entertainers

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers (such as theatrical, motion picture, radio or television artistes and musicians and athletes) from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

**SCHEDULE 2**—continued

(2) Where income in respect of the personal activities of an entertainer as such accrues not to that entertainer but to another person that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer are exercised.

ARTICLE 18

Pensions and Annuities

(1) Subject to the provisions of paragraph (2) of Article 19, pensions and annuities paid to a resident of one of the Contracting States shall be taxable only in that State.

(2) The term ‘annuity’ means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

(3) Any alimony or other maintenance payment arising in one of the Contracting States and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

ARTICLE 19

Government Service

(1) Remuneration, other than a pension or annuity, paid by one of the Contracting States or a political subdivision or local authority of that State to any individual in respect of services rendered in the discharge of governmental functions shall be taxable only in that State. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that other State who:

(a) is a citizen or national of that State; or

(b) did not become a resident of that State solely for the purpose of performing the services.

(2) (a) Subject to the provisions of sub-paragraph (b), a pension paid by, or out of funds created by, one of the Contracting States or a political subdivision or a local authority of that State to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) A pension referred to in sub-paragaph (a) shall be taxable only in the other Contracting State if the individual is a resident of, and a citizen or national of, that State.

(3) The provisions of paragraph (1) shall also apply to remuneration paid out of public funds provided by Austria to any individual in respect of services rendered as a member of the Austrian permanent delegation of foreign commerce in Australia.

(4) The provisions of paragraph (1) shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or local authority of that State. In such a case, the provisions of Article 15 or Article 16, as the case may be, shall apply.

ARTICLE 20

Students

Where a student, who is a resident of one of the Contracting States or who was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of his education, receives

**SCHEDULE 2**—continued

payments from sources outside that other State for the purpose of his maintenance or education, those payments shall be exempt from tax in that other State.

ARTICLE 21

Income Not Expressly Mentioned

(1) Items of income of a resident of one of the Contracting States which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State.

(2) However, any such income derived by a resident of one of the Contracting States from sources in the other Contracting State may also be taxed in that other State.

(3) The provisions of paragraph (1) shall not apply to income derived by a resident of one of the Contracting States where that income is effectively connected with a permanent establishment or fixed base situated in the other Contracting State. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 22

Source of Income

(1) Income derived by a resident of Austria which, under any one or more of Articles 6 to 8, Articles 10 to 19 and Article 21, may be taxed in Australia shall for the purposes of the law of Australia relating to Australian tax be deemed to be income from sources in Australia.

(2) Income derived by a resident of Australia which, under any one or more of Articles 6 to 8, Articles 10 to 19 and Article 21, may be taxed in Austria shall for the purposes of paragraph (1) of Article 23 and of the law of Australia relating to Australian tax be deemed to be income from sources in Austria.

**CHAPTER IV**

METHODS OF ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

(1) Subject to the provisions of the law of Australia from time to time in force which relate to the allowance of a credit against Australian tax of tax paid in a country outside Australia (which shall not affect the general principle hereof), Austrian tax paid under the law of Austria and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in Austria (not including, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against Australian tax payable in respect of that income.

(2) For the purposes of paragraph (1), the term ‘Austrian tax’ shall include the tax on commercial and industrial enterprises, referred to in sub-paragraph (b) (v) of paragraph (1) of Article 2, only where it is levied on a basis other than capital or the sum of wages.

(3) In the case of a resident of Austria double taxation shall be avoided as follows:

(a) where a resident of Austria derives income which in accordance with the provisions of this Agreement may be taxed in Australia, Austria shall, subject to the provisions of sub-paragraphs (b) and (c), exempt such income from tax;

(b) where a resident of Austria derives items of income which, in accordance with the provisions of paragraph (2) of Article 10, 11 or 12, paragraph (1) of Article 13 (in regard only to income from the alienation of real property as defined in

**SCHEDULE 2**—continued

sub-paragraph (2) (a) (iii) of that Article) or paragraph (2) of Article 21, may be taxed in Australia, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Australia. Such deduction shall not, however, exceed that part of the tax as computed before the deduction is given, which is attributable to such items of income derived in Australia; and

(c) where in accordance with any provision of this Agreement income derived by a resident of Austria, is exempt from tax in Austria, may nevertheless, in calculating the amount of tax on the remaining income of that resident, take into account the exempted income.

(4) If, in an agreement for the avoidance of double taxation that is made, after the date of signature of this Agreement, between Australia and a third State, being a State that is a member of the Organization for Economic Co-operation and Development, Australia agrees to limit the rate of tax:

(a) on dividends paid by a company which is a resident of Australia for the purposes of Australian tax to which a company that is a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 10;

(b) on interest arising in Australia to which a resident of the third State is entitled, to a rate less that that provided in paragraph (2) of Article 11; or

(c) on royalties arising in Australia to which a resident of the third State is entitled, to a rate less that that provided in paragraph (2) of Article 12,

the Government of Australia shall immediately inform the Government of Austria in writing through the diplomatic channel and shall enter into negotiations with the Government of Austria to review the relevant provision or provisions in order to provide the same treatment for Austria as that provided for the third State.

**CHAPTER V**

SPECIAL PROVISIONS

ARTICLE 24

Mutual Agreement Procedure

(1) Where a resident of one of the Contracting States considers that the actions of the competent authority of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with this Agreement.

(2) The competent authority shall endeavour, if the claim appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement. The solution so reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

(3) The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the application of this Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement.

**SCHEDULE 2**—continued

ARTICLE 25

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement or of the domestic laws of the Contracting States concerning the taxes to which this Agreement applies insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1. Any information received by the competent authority of a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes to which this Agreement applies and shall be used only for such purposes.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on the competent authority of a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or to supply information the disclosure of which would be contrary to public policy.

ARTICLE 26

Diplomatic and Consular Officials

Nothing in this Agreement shall affect diplomatic or consular privileges under the general rules of international law or under the provisions of special international agreements.

**CHAPTER VI**

FINAL PROVISIONS

ARTICLE 27

Entry into force

This Agreement shall enter into force on the first day of the third month next following that in which the Contracting States exchange notes through the diplomatic channel notifying each other that the last of such constitutional processes has been completed as are necessary to give this Agreement the force of law in Australia and in Austria, as the case may be, and thereupon this Agreement shall have effect:

(a) in Australia:

(i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1 January in the calendar year next following that in which the Agreement enters into force; and

(ii) in respect of other Australian tax, in relation to income of any year of income beginning on or after 1 July in the calendar year next following that in which the Agreement enters into force;

(b) in Austria:

(i) in respect of tax withheld at the source on amounts paid on or after 1 January in the calendar year next following that in which the Agreement enters into force; and

**SCHEDULE 2**—continued

(ii) in respect of other Austrian tax for taxable years beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force.

ARTICLE 28

Termination

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force, give to the other Contracting State through the diplomatic channel written notice of termination and, in that event, this Agreement shall cease to be effective:

(a) in Australia:

(i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1 January in the calendar year next following that in which the notice of termination is given;

(ii) in respect of other Australian tax, in relation to income of any year of income beginning on or after 1 July in the calendar year next following that in which the notice of termination is given;

(b) in Austria:

(i) in respect of tax withheld at the source on amounts paid on or after 1 January in the calendar year next following that in which the notice of termination is given; and

(ii) in respect of other Austrian tax for taxable years beginning on or after 1 January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate in Vienna this eighth day of July One thousand nine hundred and eighty-six, in the English and German languages, both texts being equally authentic.

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| J. R. KELSO | Dr. E. BAUER |
| FOR AUSTRALIA | FOR THE REPUBLIC OF AUSTRIA”. |

**NOTES**

1. No. 59, 1977, as amended. For previous amendments, see No. 66, 1978; No. 111, 1980; Nos. 111, 115, 122, 137, 140 and 153, 1982; Nos. 62 and 144, 1983; Nos. 76, 159 and 164, 1984; Nos. 4, 47 and 65, 1985; and Nos. 41 and 76, 1986.

2. No. 142, 1982, as amended. For previous amendments, see Nos. 39 and 110, 1983; Nos. 102 and 123, 1984; Nos. 65 and 123, 1985; and No. 48, 1986.

3. 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; No. 39, 1983; No. 123, 1984; No. 65, 1985; and No. 48, 1986.

4. No. 39, 1986, as amended. For previous amendments, see No. 48, 1986.

**NOTES**—continued

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; No. 39, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); No. 123, 1985; and No. 48, 1986.

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, 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, 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; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123 and 168, 1985; No. 173, 1985 (as amended by No. 49, 1986); and Nos. 41, 46, 48, 49, 51, 52 and 90, 1986.

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; Nos. 51 and 57, 1983; Nos. 123 and 125, 1984; Nos. 168 and 173, 1985; and Nos. 49 and 51, 1986.

8. 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; No. 39, 1983; No. 123, 1984; Nos. 47, 123 and 144, 1985; and Nos. 41 and 48, 1986.

9. 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; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); Nos. 4, 47, 104, 123 and 168, 1985; and Nos. 41, 46, 48 and 49, 1986.

[*Minister’s second reading speech made in—*

*House of Representatives on 17 September 1986*

*Senate on 9 October 1986*]