



Taxation Laws Amendment Act (No. 3) 1991

Act No. 216 of 1991 as amended

This compilation was prepared on 8 October 2010
taking into account amendments up to Act No. 75 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991 - LONG TITLE

An Act to amend the law relating to taxation

PART 1 - PRELIMINARY

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 1

Short title [see Note 1]

1. This Act may be cited as the Taxation Laws Amendment Act (No. 3) 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 2

Commencement [see Note 1]

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 11 and subsection 89 (2) are taken to have commenced on 22 January 1991.

(3) Sections 40 and 42 commence, or are taken to have commenced, as the case requires, on the commencement of the Life Insurance Policy Holders' Protection Levies Collection Act 1991.

(4) Sections 45 to 66 (inclusive) and sections 90 and 93 to 101 (inclusive) (other than sections 47, 52, 53 and 59, subsection 90 (2) and section 97) are taken to have commenced on 21 August 1991.

(5) Sections 47, 52, 53 and 59, subsection 90 (2) and section 97 are taken to have commenced at 3 p.m., by standard time in the Australian Capital Territory, on 20 August 1991.

(6) Subsection 82 (2) commences on the day after the day on which this Act receives the Royal Assent.

(7) Subject to subsection (8), section 107 commences on a day to be fixed by Proclamation.

(8) If section 107 does not commence under subsection (7) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

(9) Part 9 is taken to have commenced on 1 July 1991.

(10) Subject to subsection (11), sections 112 to 117 (inclusive) commence on a day to be fixed by Proclamation.

(11) If sections 112 to 117 (inclusive) do not commence under subsection (10) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

PART 2 - AMENDMENT OF THE CHILD SUPPORT (REGISTRATION AND COLLECTION) ACT 1988

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 3

Principal Act

3. In this Part, "Principal Act" means the Child Support (Registration and Collection) Act 1988.*1*

1 No. 3, 1988, as amended. For previous amendments, see No. 132, 1988; and Nos. 124 and 163, 1989.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 4

Duty of employer to make deductions from salary or wages

4. Section 46 of the Principal Act is amended:

(a) by omitting from subsection (1) "subsection (3)" and substituting "this section";

(b) by adding at the end the following subsection:

"(9) Subsection (1) has, and is taken to have had, no effect to the extent (if any) that it is inconsistent with paragraph 72 (iii) or 103 (iii) of the Constitution.".

PART 3 - AMENDMENT OF THE FRINGE BENEFITS TAX ASSESSMENT ACT 1986

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 5

Principal Act

5. In this Part, "Principal Act" means the Fringe Benefits Tax Assessment Act 1986.*2*

2 No. 39, 1986, as amended. For previous amendments, see Nos. 48 and 112, 1986; Nos. 23 and 145, 1987; No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 6, 78, 95, 97 and 153, 1988; Nos. 2, 11, 97 and 107, 1989; Nos. 58, 60 and 135, 1990; and Nos. 48 and 100, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 6

Living-away-from-home allowance benefits

6. Section 30 of the Principal Act is amended by adding at the end the following subsection:

"(2) If:

(a) at a particular time after 10 October 1991, in respect of the employment of an employee of an employer, the employer pays an allowance to the employee; and

(b) the employee's usual place of employment is on an oil rig, or other petroleum or gas installation, at sea; and

(c) the employee is provided with residential accommodation at or near that usual place of employment; and

(d) the allowance is expressed to be paid as a living-away-from-home allowance; and

(e) no part of the allowance is covered by subsection (1); and

(f) it would be concluded that the whole or a part of the allowance is in the nature of compensation to the employee for disadvantages to which the employee is subject, during a period, by reason that the employee is required to live away from his or her usual place of residence in order to perform the duties of that employment;

the payment of the whole of the allowance constitutes a benefit provided by the employer to the employee at that time.".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 7

Taxable value of living-away-from-home allowance fringe benefits

7. Section 31 of the Principal Act is amended by omitting all the words after "year of tax" and substituting the following word and paragraphs:

"is:

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- (a) if the fringe benefit is covered by subsection 30 (1) - the amount of the recipients allowance reduced by:
- (i) any exempt accommodation component; and
 - (ii) any exempt food component; or
- (b) if the fringe benefit is covered by subsection 30 (2) - the amount of the recipients allowance."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 8
Amendment of assessments

8. Section 74 of the Principal Act does not prevent the amendment of an assessment made before the commencement of this section for the purpose of giving effect to the amendments made by this Part.

PART 4 - AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 9
Principal Act

9. In this Part, "Principal Act" means the Income Tax Assessment Act 1936.*3*

3 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, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 8, 11, 59, 75, 78, 80, 87, 95, 97, 127 and 153, 1988; Nos. 2, 11, 56, 70, 73, 105, 107, 129, 163 and 167, 1989; No. 97, 1989 (as amended by No. 105, 1989); Nos. 20, 35, 45, 57, 58, 60, 61, 87, 119 and 135, 1990; and Nos. 4, 5, 6, 48, 55 and 100, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 10

Exemption of pay and allowances of members of Defence Force serving in operational areas

10. Section 23AC of the Principal Act is amended:

(a) by omitting from subsection (1), paragraph (2) (a) and subsections (3) and (6) "the operational area" (wherever occurring) and substituting "an operational area";

(b) by inserting in paragraphs (2) (b) and (c) "the operational area is covered by subsection (6) and" after "if";

(c) by inserting after paragraph (2) (c) the following paragraph:

"(ca) if the operational area is covered by subsection (6A) - there is in force a certificate in writing issued by the Chief of the Defence Force to the effect that the allotment concerned was in response to Iraq's invasion of Kuwait;";

(d) by inserting in paragraph (3) (b) "at the earlier of the end of 9 June 1991 and" after "ended";

(e) by adding at the end of subsections (4) and (5) "or (ca)";

(f) by inserting after subsection (6) the following subsection:

"(6A) For the purposes of this section, the area comprising Iraq and Kuwait is taken to have become an operational area on 23 February 1991.";

(g) by inserting "or (6A)" after "(6)" in the definition of "operational area" in subsection (7).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 11

Exemption of certain pensions

11. Section 23AD of the Principal Act is amended:

(a) by omitting "woman" from paragraph (c) of the definition of "prescribed person" in subsection (1) and substituting "person";

(b) by omitting paragraph (b) of the definition of "wife's pension" in subsection (1) and substituting the following paragraph:

"(b) a spouse's service pension payable under Part III of the Veterans' Entitlements Act 1986 to the spouse of a veteran (within the meaning of that Part), being a male veteran who has turned 65 or a female veteran who has turned 60;".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 12

Exemption of certain income derived in respect of approved overseas projects

12. Section 23AF of the Principal Act is amended by omitting from paragraph (15) (b) "the whole or a part of".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 13

Exemption of income earned in overseas employment

13. Section 23AG of the Principal Act is amended by omitting from paragraph (6F) (b) "the whole or a part of ".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 14

Exemption of amounts paid out of attributed income

14. Section 23AI of the Principal Act is amended by adding at the end of the definition of "trust" in subsection (3) ", but does not include a trust covered by subsection 371 (7)".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 15

Interpretation

15. Section 24A of the Principal Act is amended by inserting the following definitions:

" 'bereavement Subdivision' means:

(a) any of the following Subdivisions of the Social Security Act 1991:

- (i) Subdivision A of Division 9 of Part 2.2;
- (ii) Subdivision A of Division 10 of Part 2.3;
- (iii) Subdivision B of Division 9 of Part 2.5;
- (iv) Subdivision B of Division 9 of Part 2.6;
- (v) Subdivision A of Division 9 of Part 2.9;
- (vi) Subdivision A of Division 9 of Part 2.10;
- (vii) Subdivision A of Division 10 of Part 2.16; or

(b) any of the following Subdivisions of the Veterans' Entitlements Act 1986:

- (i) Subdivision F of Division 3 of Part III;
 - (ii) Subdivision F of Division 4 of Part III;
 - (iii) Subdivision G of Division 6 of Part III;
- (Subdivisions providing for bereavement payments);

'exclusion provision' means:

(a) paragraph 82 (1) (e), 135 (1) (e), 146F (1) (e), 237 (1) (e), 303 (1) (e), 449 (1) (e), 501 (1) (e) or 822 (1) (e) of the Social Security Act 1991; or

(b) paragraph 36P (1) (e), 37P (1) (e) or 39R (1) (e) of the Veterans' Entitlements Act 1986;

(paragraphs excluding payments to a person under bereavement Subdivision if person's pension or allowance after partner's death is not less than those payments);".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 16

Age pension

16. Section 24ABC of the Principal Act is amended by adding at the end the following subsection:

"(5) If:

(a) a taxpayer's partner died; and

(b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of age pension under Part 2.2 of the Social Security Act 1991 on one or more of the 7 pension paydays after the death;

then those payments on that payday or each of those paydays are not treated under subsection (1) but as follows:

(d) the supplementary amounts are exempt;

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- (e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;
 - (f) the rest of the balance is not exempt."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 17

17. Section 24ABD of the Principal Act is repealed and the following section is substituted:

Disability support pension

"24ABD. (1) Payments of disability support pension under Part 2.3 of the Social Security Act 1991 are exempt.

"(2) Subsection (1) has effect subject to subsection (4) (which deals with taxpayers who derive bereavement lump sum payments under section 146H of the Social Security Act 1991).

"(3) Payments under sections 146G, 146K, 146P and 146Q of the Social Security Act 1991 (which deal with bereavement payments) are exempt.

"(4) If a taxpayer derives a payment under section 146H of the Social Security Act 1991:

(a) so much of the sum of that payment and other payments under the Social Security Act 1991 derived by the taxpayer on pension paydays that occurred during the bereavement lump sum period as does not exceed the tax-free amount calculated using the exempt bereavement payment calculator A in section 24ABZB is exempt; and

(b) the balance of the sum is not exempt."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 18

18. After section 24ABD of the Principal Act the following sections are inserted:

Pharmaceutical allowance

"24ABDA. Payments of pharmaceutical allowance under Part 2.22 of the Social Security Act 1991 are exempt.

Advance pharmaceutical supplement

"24ABDB. Payments of advance pharmaceutical supplement under Part 2.23 of the Social Security Act 1991 are exempt.

Disaster relief payment

"24ABDC. Payments of disaster relief payment under Part 2.24 of the Social Security Act 1991 are exempt."

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- SECT 19

Carer pension

19. Section 24ABF of the Principal Act is amended:

(a) by omitting from subsection (1) "pensioner" (wherever occurring) and substituting "person";

(b) by adding at the end the following subsections:

"(5) If:

(a) a taxpayer's partner died; and

(b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of carer pension under Part 2.5 of the Social Security Act 1991 on one or more of the 7 pension paydays after the

death;

then those payments on that payday or each of those paydays are not treated under subsection (1) but as follows:

- (d) the supplementary amounts are exempt;
 - (e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;
 - (f) the rest of the balance is not exempt.
- "(6) Subsection (5) does not apply to a payday on which item 3 or 4 of subsection (1) applies to the taxpayer (payments exempt).".

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- SECT 20

Sole parent pension

20. Section 24ABG of the Principal Act is amended by adding at the end the following subsection:

- "(5) If:
- (a) a taxpayer's partner died; and
 - (b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and
 - (c) the taxpayer derives payments of sole parent pension under Part 2.6 of the Social Security Act 1991 on one or more of the 7 pension paydays after the death;
- then those payments on that payday or each of those paydays are not treated under subsection (1) but as follows:
- (d) the supplementary amounts are exempt;
 - (e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;
 - (f) the rest of the balance is not exempt."

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- SECT 21

Repeal of section 24ABJ

21. Section 24ABJ of the Principal Act is repealed.

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- SECT 22

22. Sections 24ABL and 24ABM of the Principal Act are repealed and the following sections are substituted:

Job search allowance

"24ABL. (1) The treatment of payments of job search allowance under Part 2.11 of the Social Security Act 1991 is as follows:

- (a) the supplementary amount is exempt;
- (b) the balance is not exempt.

"(2) Payments under sections 592 and 592A of the Social Security Act 1991 (which deals with bereavement payments) are exempt.

Newstart allowance

"24ABM. (1) The treatment of payments of newstart allowance under Part 2.12 of the Social Security Act 1991 is as follows:

- (a) the supplementary amount is exempt;
- (b) the balance is not exempt.

"(2) Payments under section 6600 and 660P of the Social Security Act 1991 (which deals with bereavement payments) are exempt."

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- SECT 23

23. Section 24ABO of the Principal Act is repealed and the following section is substituted:

Sickness allowance

"24ABO. (1) The treatment of payments of sickness allowance under Part 2.14 of the Social Security Act 1991 is as follows:

- (a) the supplementary amount is exempt;
- (b) the balance is not exempt.

"(2) Payments under section 728S and 728T of the Social Security Act 1991 (which deals with bereavement payments) are exempt.".

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- SECT 24

Special needs age pension

24. Section 24ABQ of the Principal Act is amended by adding at the end the following subsection:

"(3) If:

- (a) a taxpayer's partner died; and
 - (b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and
 - (c) the taxpayer derives payments of special needs age pension under section 772 of the Social Security Act 1991 on one or more of the 7 pension paydays after the death;
- then those payments on that payday or each of those paydays are not treated under subsection (1) but as follows:
- (d) the supplementary amounts are exempt;
 - (e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;
 - (f) the rest of the balance is not exempt.".

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- SECT 25

25. Section 24ABR of the Principal Act is repealed and the following section is substituted:

Special needs disability support pension

"24ABR. (1) Payments of special needs disability support pension under section 773 of the Social Security Act 1991 are exempt.

"(2) Subsection (1) has effect subject to section 24ABV (which deals with bereavement payments).".

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- SECT 26

Special needs wife pension

26. Section 24ABS of the Principal Act is amended by adding at the end the following subsections:

"(3) If:

- (a) a taxpayer's partner died; and
- (b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance

increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of special needs wife pension under section 774 of the Social Security Act 1991 on one or more of the 7 pension paydays after the death;

then those payments on that payday or each of those paydays are not treated under that subsection but as follows:

(d) the supplementary amounts are exempt;

(e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;

(f) the rest of the balance is not exempt.

"(4) Subsection (3) does not apply to a payday on which item 4 of subsection (1) applies to the taxpayer (payments exempt).".

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- SECT 27

Age service pension

27. Section 24ACE of the Principal Act is amended by adding at the end the following subsection:

"(5) If:

(a) a taxpayer's partner died; and

(b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of age service pension under Division 3 of Part III of the Veterans' Entitlements Act 1986 on one or more of the 7 pension paydays after the death;

then those payments on that day or each of those days are not treated under subsection (1) but as follows:

(d) the supplementary amounts are exempt;

(e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;

(f) the rest of the balance is not exempt.".

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- SECT 28

Invalidity service pension

28. Section 24ACF of the Principal Act is amended by adding at the end the following subsections:

"(5) If:

(a) a taxpayer's partner died; and

(b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of invalidity service pension under Division 4 of Part III of the Veterans' Entitlements Act 1986 on one or more of the 7 pension paydays after the death; then those payments on that payday or each of those paydays are not treated under subsection (1) but as follows:

(d) the supplementary amounts are exempt;

(e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;

(f) the rest of the balance is not exempt.

"(6) Subsection (5) does not apply to a payday on which item 2 of subsection

(1) applies to the taxpayer (payments exempt).".

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- SECT 29

Partner service pension

29. Section 24ACG of the Principal Act is amended by omitting from subsection (1) "wife service pension" and substituting "partner service pension".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 30

Carer service pension

30. Section 24ach of the Principal Act is amended by adding at the end the following subsections:

"(5) If:

(a) a taxpayer's partner died; and

(b) the taxpayer would have been qualified for payments under a bereavement Subdivision but for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that no bereavement payments); and

(c) the taxpayer derives payments of carer service pension under Division 6 of Part III of the Veterans' Entitlements Act 1986 on one or more of the 7 pension paydays after the death;

then those payments on that payday or each of those paydays are not treated under that subsection but as follows:

(d) the supplementary amounts are exempt;

(e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the partner had not died is exempt;

(f) the rest of the balance is not exempt.

"(6) Subsection (5) does not apply to a payday on which item 3 or 5 of subsection (1) applies to the taxpayer (payments exempt).".

"Subdivision A - General provisions".

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- SECT 31

31. After section 26AH of the Principal Act the following section is inserted:

Investment-related lottery winnings to be included in assessable income

"26AJ. (1) If:

(a) either:

(i) a loan benefit is provided to a taxpayer, or to another person, in respect of a year of income (in this subsection called the 'current year of income'); or

(ii) an amount (other than loan principal) is paid or credited to a taxpayer, or to another person, during a year of income (in this subsection also called the 'current year of income'); or

(iii) other property or services are provided to a taxpayer, or to another person, during a year of income (in this subsection also called the 'current year of income'); and

(b) the making of a loan, the payment or crediting of the amount, or the provision of the property or services, as the case may be, is by way of winnings from:

(i) betting (including pool betting); or

(ii) a lottery or other form of gambling; or

(iii) a game with prizes; and

(c) the chance to participate in the betting, lottery, gambling or game (in this subsection called the 'betting chance') was provided:

(i) wholly or partly in respect of an investment held by the taxpayer in or with a third person (who may be an associate of the taxpayer) (in this subsection called the 'investment body'); or

(ii) wholly or partly in relation directly or indirectly to such an investment; and

(d) the betting, lottery, gambling or game was organised by, or on behalf of:

(i) the investment body (either acting alone or together with one or more other persons); or

(ii) an associate of the investment body (either acting alone or together with one or more other persons); and

(e) if the recipient of the loan benefit, amount or property or services, as the case may be, is a person other than the taxpayer - either:

(i) the other person is an associate of the taxpayer; or

(ii) the loan benefit, amount or property or services, as the case may be, is provided under an arrangement to which the taxpayer, or an associate of the taxpayer, is a party; and

(f) no part of the value of the betting chance is included in the assessable income of the taxpayer of any year of income; and

(g) the provision of the betting chance is neither:

(i) a fringe benefit within the meaning of the Fringe Benefits Tax Assessment Act 1986; nor

(ii) a benefit that, apart from paragraph (g) of the definition of 'fringe benefit' in subsection 136 (1) of the Fringe Benefits Tax Assessment Act 1986, would be a fringe benefit within the meaning of that Act;

then:

(h) if subparagraph (a) (i) applies - the taxpayer's assessable income of the current year of income includes the amount (if any) by which the benchmark amount of interest in relation to the loan in respect of the current year of income exceeds the amount of interest that has accrued on the loan in respect of the current year of income; or

(i) if subparagraph (a) (ii) applies - the taxpayer's assessable income of the current year of income includes the amount paid or credited; or

(j) if subparagraph (a) (iii) applies - the taxpayer's assessable income of the current year of income includes the arm's length value of the property or services, reduced by the recipient's contribution (if any).

"(2) If:

(a) apart from this subsection, an amount (in this subsection called the 'gross assessable amount') is included in a taxpayer's assessable income of a year of income under paragraph (1) (h) in respect of a loan benefit; and

(b) assuming that:

(i) the recipient of the loan benefit had, on the last day of the period (in this subsection called the 'loan period') during the year of income when the recipient was under an obligation to repay the whole or any part of the loan, incurred and paid unreimbursed interest (in this subsection called the 'gross interest'), in respect of the loan, in respect of the loan period; and

(ii) the amount of the gross interest was equal to the benchmark amount of interest in relation to the loan in respect of the year of income;

a once-only deduction (in this subsection called the 'gross deduction') would, or would apart from section 82A, and Subdivision F of Division 3, have been allowable to the recipient in respect of the gross interest;

the gross assessable amount is reduced by:

(c) if no interest accrued on the loan in respect of the loan period - the amount of the gross deduction; or

(d) in any other case - the amount worked out using the formula:
Gross deduction - Reducing amount

where:

'Gross deduction' means the amount of the gross deduction;

'Reducing amount' means the amount (if any) that would, or that would apart from section 82A, and Subdivision F of Division 3, have been allowable as a once-only deduction to the recipient in respect of the interest that accrued on the loan in respect of the loan period if that interest had been incurred and paid by the recipient on the last day of the loan period.

"(3) If:

(a) apart from this subsection, an amount (in this subsection called the 'gross assessable amount') is included in a taxpayer's assessable income of a year of income under paragraph (1) (j) in respect of the provision of property or services; and

(b) assuming that:

(i) the recipient of the property or services had, at the time the property or services were provided, incurred and paid unreimbursed expenditure in respect of the provision of the property or services; and

(ii) the expenditure was equal to the amount of the arm's length value of the property or services;

a once-only deduction would, or would apart from section 82A, and Subdivision F of Division 3, have been allowable to the recipient in respect of a percentage (in this subsection called the 'deductible percentage') of the expenditure;

the gross assessable amount is reduced by the deductible percentage.

"(4) For the purposes of the application of this section to a taxpayer, if a person (in this subsection called the 'provider') makes a loan to another person (who may be the taxpayer) (in this subsection called the 'recipient'):

(a) the making of the loan is taken to constitute a loan benefit provided by the provider to the recipient; and

(b) that loan benefit is taken to be provided in respect of each year of income of the taxpayer during the whole or part of which the recipient is under an obligation to repay the whole or any part of the loan.

"(5) For the purposes of this section, if a person (in this subsection called the 'provider') makes a deferred interest loan (in this subsection called the 'principal loan') to another person (in this subsection called the 'recipient'):

(a) the provider is taken, at the end of:

(i) the period of 6 months commencing on the day on which the principal loan was made; and

(ii) each subsequent period of 6 months;

(being in either case a period during the whole of which the recipient is under an obligation to repay the whole or any part of the principal loan) to have made a loan (in this subsection called the 'deemed loan') to the recipient; and

(b) the amount of the deemed loan is equal to the amount by which the interest (in this subsection called the 'accrued interest') that has accrued on the principal loan in respect of that period exceeds the amount (if any) paid in respect of the accrued interest before the end of that period; and

(c) if any part of the accrued interest becomes payable or is paid after the time when the deemed loan is taken to have been made, the deemed loan is to be reduced accordingly; and

(d) the deemed loan is taken to have been made at a nil rate of interest.

"(6) For the purposes of this section, if no interest is payable in respect of a loan, a nil rate of interest is taken to be payable in respect of the loan.

"(7) For the purposes of this section, a person is taken to be under an

obligation to pay or repay an amount even though the amount is not due for payment or repayment.

"(8) For the purposes of this section, if a person does anything that results in the creation of property in another person, the first-mentioned person is taken to have provided that property to the other person at the time when the property comes into existence.

"(9) For the purposes of this section, if:

(a) a particular mode of application of money by a taxpayer in relation to another person (in this subsection called the 'investment body') would not, apart from this subsection, be an investment; and

(b) a chance to participate in:

(i) betting (including pool betting); or

(ii) a lottery or other form of gambling; or

(iii) a game with prizes;

is provided to the taxpayer or a third person:

(iv) wholly or partly in respect of the mode of application of money by the taxpayer; or

(v) wholly or partly in relation directly or indirectly to the mode of application of money by the taxpayer; and

(c) if a cash payment had been provided by the investment body to the taxpayer instead of that chance, the payment would constitute, to any extent, a return on an investment held by the taxpayer in or with the investment body;

the mode of application of money is taken to be an investment held by the taxpayer with the investment body.

"(10) If a ballot is held to determine the order in which loans are to be made by a Starr-Bowkett building society to its members, then the making of a loan in accordance with the ballot is not covered by paragraph (1) (b).

"(11) In this section: 'arm's length value', in relation to property or services, means:

(a) the amount that the recipient could reasonably have been expected to have been required to pay to obtain the property or services from the provider under a transaction where the parties to the transaction are dealing with each other at arm's length in relation to the transaction; or

(b) if such an amount cannot be practically determined - such amount as represents a reasonable valuation of the property or services; 'arrangement' means:

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise;

'associate' has the same meaning in relation to a person as that expression has in relation to a person in section 26AAB;

'benchmark amount of interest', in relation to a loan, in relation to a year of income, means the amount of interest that would have accrued on the loan in respect of the year of income if the interest was calculated on the daily balance of the loan at the benchmark interest rate in relation to the year of income;

'benchmark interest rate', in relation to a year of income, means the predominant per cent per annum interest rate on new, variable interest rate housing loans to individuals for owner occupation that is specified, for the June immediately preceding the financial year to which the year of income relates, in the 'Interest Rates and Yields: Banks' table in the Statistical Directory of the Reserve Bank of Australia Bulletin dated July in that financial year;

'deferred interest loan' means a loan in respect of which interest is

payable at a rate exceeding nil, other than:

(a) a loan where the whole of the interest is due for payment within 6 months after the loan is made; or

(b) a loan where:

(i) the interest is payable by instalments; and

(ii) the intervals between instalments do not exceed 6 months; and

(iii) the first instalment is due for payment within 6 months after the loan is made;

'investment' means any mode of application of money for the purpose of gaining a return;

'loan' includes:

(a) an advance of money; and

(b) the provision of credit or any other form of financial accommodation; and

(c) the payment of an amount for, on account of, on behalf of or at the request of a person where there is an obligation (whether express or implied) to repay the amount; and

(d) a transaction (whatever its terms or form) which in substance effects a loan of money;

'loan benefit' has the meaning given by subsection (4);

'once-only deduction', in relation to expenditure, means a deduction in a year of income in respect of a percentage of the expenditure where no deduction is allowable in respect of a percentage of the expenditure in any other year of income;

'person' means any of the following:

(a) a company;

(b) a partnership;

(c) a person in the capacity of trustee;

(d) any other person;

'provide':

(a) in relation to property - includes dispose of (whether by assignment, declaration of trust or otherwise); and

(b) in relation to services - includes allow, confer, give, grant or perform;

'recipient's contribution', in relation to property or services, means the amount of any consideration paid to the provider by the recipient in respect of the provision of the property or services, reduced by the amount of any reimbursement paid to the recipient in respect of that consideration;

'return', in relation to an investment, includes interest, income or profit;

'services' includes any benefit, right (including a right in relation to, and an interest in, real or personal property), privilege or facility and, without limiting the generality of the foregoing, includes a right, benefit, privilege, service or facility that is, or is to be, provided under:

(a) an arrangement for or in relation to:

(i) the performance of work (including work of a professional nature), whether with or without the provision of property; or

(ii) the provision of, or the use of facilities for, entertainment, recreation or instruction; or

(iii) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction; or

(b) a contract of insurance; or

(c) an arrangement for or in relation to the lending of money;

'unreimbursed expenditure' means expenditure no part of which has been reimbursed;

'unreimbursed interest' means interest no part of which has been

reimbursed.".

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- SECT 32

Divisible deductions

32. Section 50G of the Principal Act is amended:

- (a) by inserting in paragraph (1) (a) "82BB," after "77F,";
- (b) by inserting after paragraph (2) (ja) the following paragraphs:

"(jb) if:

(i) a divisible deduction is allowable to the company in relation to the year of income under section 82BB in respect of allowable environmental impact expenditure incurred by the company at a particular time (in this paragraph called the 'expenditure time'); and

(ii) the expenditure time occurred:

(A) during the year of income; and

(B) before the end of the relevant period;

the amount worked out using the following formula is taken to be an allowable deduction in respect of that relevant period:

$$\begin{array}{rcl} \text{Divisible} & & \text{Post-expenditure days} \\ \text{deduction} & \times & \text{in relevant period} \\ & & \text{Post-expenditure days} \\ & & \text{in year} \end{array}$$

where:

'Divisible deduction' means the amount of the divisible deduction;

'Post-expenditure days in relevant period' means the number of whole days in the relevant period that occurred after the expenditure time;

'Post-expenditure days in year' means the number of whole days in the year of income that occurred after the expenditure time;

(jc) if:

(i) a divisible deduction is allowable to the company in relation to the year of income under section 82BB in respect of allowable environmental impact expenditure incurred by the company; and

(ii) the year of income is not the year of income in which the expenditure was incurred; the amount worked out using the following formula is taken to be an allowable deduction in respect of that relevant period:

$$\begin{array}{rcl} \text{Divisible} & & \text{Days in relevant period} \\ \text{deduction} & \times & 365 \end{array}$$

where:

'Divisible deduction' means the amount of the divisible deduction;

'Days in relevant period' means the number of whole days in the relevant period;".

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- SECT 33

Tax-related expenses

33. Section 69 of the Principal Act is amended by inserting in subsection (6) ", other than subsection 51 (1)" after "section 51" (first occurring).

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- SECT 34

Deductions for petroleum resource rent tax payments

34. Section 72A of the Principal Act is amended:

(a) by inserting in subsections (1) and (2) ", or an instalment of petroleum resource rent tax," after "rent tax";

(b) by inserting after subsection (2) the following subsection:

"(2A) A reference in subsections (1) and (2) to a payment of an amount of petroleum resource rent tax does not include a reference to a payment under paragraph 99 (c) of the Petroleum Tax Act.";

(c) by inserting in paragraphs (3) (a) and (4) (a) ", or instalment of petroleum resource rent tax," after "rent tax";

(d) by inserting in paragraphs (3) (a) and (4) (a) ", or would apart from subsection (2A) have been allowable," after "allowable";

(e) by inserting after paragraph (3) (a) the following paragraph:

"(aa) under paragraph 99 (d) of the Petroleum Tax Act, the Commissioner credits an amount paid by a taxpayer in respect of an instalment of petroleum resource rent tax, where a deduction for that amount has been allowed or is allowable to the taxpayer for a year of income; or";

(f) by omitting from subparagraphs (3) (b) (i) and (4) (b) (i) "Petroleum Resource Rent Tax Assessment Act 1987" and substituting "Petroleum Tax Act";

(g) by inserting in subsections (3) and (4) "credited," after "received,";

(h) by inserting after paragraph (4) (a) the following paragraph:

"(aa) under paragraph 99 (d) of the Petroleum Tax Act, the Commissioner credits an amount paid by a taxpayer as agent or trustee in respect of an instalment of petroleum resource rent tax, where a deduction for that amount has been allowed or is allowable to the taxpayer for a year of income; or";

(i) by omitting subsection (5) and substituting the following subsection:

"(5) In this section:

'instalment of petroleum resource rent tax' means an instalment of tax payable under Division 2 of Part VIII of the Petroleum Tax Act;

'petroleum resource rent tax' means tax imposed by the Petroleum Resource Rent Tax Act 1987, as assessed under the Petroleum Tax Act;

'Petroleum Tax Act' means the Petroleum Resource Rent Tax Assessment Act 1987.".

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- SECT 35

Expenditure on research and development activities

35. Section 73B of the Principal Act is amended:

(a) by omitting "during the deduction period" from the definitions of "building expenditure", "contracted expenditure", "plant expenditure", "research and development expenditure" and "salary expenditure" in subsection (1) (wherever occurring) and substituting "on or after 1 July 1985";

(b) by omitting "during the period commencing on 20 November 1987 and ending at the end of the deduction period" from paragraph (c) of the definition of "contracted expenditure" in subsection (1) and substituting "on or after 20 November 1987";

(c) by omitting "during the period concerned" (last occurring) in the definition of "contracted expenditure" in subsection (1) and substituting "on or after the date concerned, or during the period concerned, as the case may be";

(d) by omitting "and before the end of the deduction period" from the definition of "core technology expenditure" in subsection (1);

-
- (e) by omitting from subsection (1) the definition of "deduction period";
 - (f) by omitting from subsection (4) "and before 1 July 1995";
 - (g) by omitting subsection (16).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 36

Recouped expenditure on research and development activities

36. Section 73C of the Principal Act is amended by omitting from paragraph (2) (a) "during the deduction period" and substituting "on or after 1 July 1985".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 37

Gifts, pensions etc.

37. Section 78 of the Principal Act is amended:

- (a) by omitting subparagraphs (1) (a) (xiii), (xxviii), (xxix), (xxxiv), (lxiv), (lxix) and (xcii);
- (b) by inserting after subparagraph (1) (a) (cvi) the following subparagraph:
"(cvii) a fund that, when the gift is made, is on the register kept under section 78AA;"

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- SECT 38

38. After section 78 of the Principal Act the following section is inserted:

Register of Cultural Organisations

"78AA. (1) In this section:

'Arts Department' means the Department of the Arts, Sport, the Environment, Tourism and Territories;

'Arts Minister' means the Minister for the Arts, Tourism and Territories;

'body' means:

- (a) a body corporate (including an incorporated association); or
- (b) a trust established by a deed or will; or
- (c) an unincorporated body established for a public purpose by the Commonwealth, a State or a Territory;

'cultural organisation' means a body with all of the following characteristics:

- (a) its principal purpose, or each of its principal purposes, is a cultural purpose;
- (b) it does not pay any of its profits or financial surplus, or give any of its property, to its shareholders, members, beneficiaries, controllers or owners, as the case requires;
- (c) it has a public fund:
 - (i) to which gifts of money or property for its cultural purpose or purposes are to be made; and
 - (ii) to which any interest on money in the fund is to be credited; and
 - (iii) to which any money derived from the property given to the fund is to be paid; and
 - (iv) that does not receive any other money or property; and
 - (v) that is used only to support the body's cultural purpose or purposes;
- (d) it has agreed to give the Arts Department, at 6 monthly intervals, statistical data about gifts to that fund during the last 6 months;
- (e) it complies with any rules made from time to time by the Treasurer and

the Arts Minister to ensure that gifts to that fund are used only to support its cultural purpose or purposes;

'cultural purpose' means the promotion of any of the following:

- (a) literature;
- (b) music;
- (c) one or more of the performing arts;
- (d) one or more of the visual arts;
- (e) one or more crafts;
- (f) design;
- (g) film;
- (h) video;
- (i) television;
- (j) radio;
- (k) community arts;
- (l) Aboriginal arts;
- (m) movable cultural heritage;

'gift fund', in relation to a cultural organisation, means the organisation's fund described in paragraph (c) of the definition of 'cultural organisation';

'promotion', in relation to an activity or other matter listed in the definition of cultural purpose, includes:

- (a) production, presentation, publication or preservation in relation to the matter; and
- (b) the provision of accommodation for the purpose of the matter; and
- (c) training in relation to the matter;

'register' means the Register of Cultural Organisations required by subsection (2).

"(2) The Arts Department must keep a register, to be known as the Register of Cultural Organisations, listing such cultural organisations and their gift funds as are required to be on the register because of this section.

"(3) If the Arts Minister is satisfied that a body has all the characteristics of a cultural organisation, he or she is to certify to the Treasurer in writing that the body is a cultural organisation.

"(4) If the Arts Minister has certified to the Treasurer that a body is a cultural organisation, they may, in their discretion, direct the Arts Department in writing to enter the organisation and its gift fund on the register on a specified day on or after the day on which the direction is given.

"(5) In considering whether to give a direction, the Treasurer and the Arts Minister are to take into account the policies and budgetary priorities of the Australian Government.

"(6) If:

(a) before the commencement of this section, the Treasurer and the Arts Minister, or the Arts Minister, announced that a specified body would be entered on the register with effect from a specified day after 24 March 1991 (however the announcement was expressed); and

(b) the Arts Minister is satisfied that, on that commencement, the body had all the characteristics of a cultural organisation (whether or not it had them when the announcement was made);

then:

(c) the Arts Minister is to certify to the Treasurer in writing that the body is a cultural organisation; and

(d) the Treasurer and the Arts Minister are to direct the Arts Department in writing to enter the organisation and its gift fund on the register; and

(e) for the purposes of the application of this Act in relation to the organisation:

- (i) the register is taken to have been established on the specified day;

and

(ii) the organisation and its gift fund are taken to have been entered on the register on the specified day; and

(iii) if the gift fund was created after the specified day - gifts made to the organisation before the fund's creation are taken to have been made to that fund.

"(7) If:

(a) before the commencement of this section, the Treasurer and the Arts Minister, or the Arts Minister, announced that a specified body would be entered on the register with effect from a specified day after 24 March 1991 (however the announcement was expressed); and

(b) the Arts Minister is not satisfied that, on that commencement, the body had all the characteristics of a cultural organisation (whether or not it had them when the announcement was made);

then, for the purposes of the application of this Act in relation to the body:

(c) the register is taken to have been established on the specified day; and

(d) the body is taken to have been, on the specified day, a cultural organisation with a gift fund; and

(e) the body and its gift fund are taken to have been:

(i) entered on the register on the specified day; and

(ii) removed from the register on the commencement of this section; and

(f) gifts to the body are taken to have been gifts to its gift fund.

"(8) The Treasurer and the Arts Minister may, in their discretion, direct the Arts Department in writing to remove a cultural organisation and its gift fund from the register on a specified day on or after the day on which the direction is given.".

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- SECT 39

39. After section 82AQ of the Principal Act the following Subdivision is inserted:

"Subdivision C - Deductions for expenditure on environmental impact studies

Objects of Subdivision

"82B. The objects of this Subdivision are:

(a) to provide for the deductibility of allowable environmental impact expenditure (section 82BB); and

(b) to allow property used for eligible environmental impact activities to be treated as if it were used for the purpose of producing assessable income (section 82BG).

Interpretation

"82BA. In this Subdivision:

'allowable environmental impact expenditure' has the meaning given by section 82BC;

'eligible environmental impact activity' has the meaning given by section 82BD;

'environment' includes all aspects of the surroundings of humans, whether affecting them as individuals or in social groupings;

'income-producing project', in relation to a taxpayer, means a project that is, or is to be, carried out for the purpose, or for purposes that include the purpose, of producing assessable income (other than assessable income attributable to section 160Z) of the taxpayer of any year of income;

'project' includes a proposed project.

Deduction of allowable environmental impact expenditure

"82BB. (1) Subject to this Subdivision, if a taxpayer incurs allowable

environmental impact expenditure during a year of income (in this section called the 'current year of income') in connection with an income-producing project of the taxpayer, then:

- (a) if:
 - (i) a decision is made before the end of the current year of income to abandon the project; or
 - (ii) the project ends before the end of the current year of income; the expenditure is an allowable deduction for the current year of income; or
 - (b) if it is not practicable to readily estimate, as at the end of the current year of income, the time when the project will end - 10% of the expenditure is an allowable deduction for:
 - (i) the current year of income; and
 - (ii) each of the 9 subsequent years of income; or
 - (c) if:
 - (i) none of the above paragraphs apply; and
 - (ii) it is practicable to readily estimate, as at the end of the current year of income, the year of income (in this paragraph called the 'final year of income') in which the end of the project will occur; and
 - (iii) the final year of income is one of the 9 years of income subsequent to the current year of income;
- equal parts of the expenditure are respectively allowable deductions for:
 - (iv) the current year of income; and
 - (v) the final year of income; and
 - (vi) each of the intervening years of income (if any); or
 - (d) if:
 - (i) none of the above paragraphs apply; and
 - (ii) it is practicable to readily estimate, as at the end of the current year of income, the year of income (in this paragraph called the 'final year of income') in which the end of the project will occur; and
 - (iii) the final year of income is later than the 9th year of income subsequent to the current year of income;
- 10% of the expenditure is an allowable deduction for:
 - (iv) the current year of income; and
 - (v) each of the 9 subsequent years of income.

"(2) A provision of this Act (including a provision of section 51, other than subsection 51 (1)) that expressly prevents or restricts the operation of section 51 applies in the same way to this section.

Allowable environmental impact expenditure

"82BC. (1) A reference in this Subdivision to allowable environmental impact expenditure of a taxpayer in connection with an income-producing project of the taxpayer is a reference to expenditure (whether of a capital nature or otherwise) incurred by the taxpayer on or after 12 March 1991 to the extent that the expenditure is in respect of eligible environmental impact activities in relation to the project.

"(2) Expenditure is taken not to be allowable environmental impact expenditure to the extent to which a deduction is allowable in respect of that expenditure under a provision of this Act other than section 82BB.

"(3) Expenditure is taken not to be allowable environmental impact expenditure to the extent to which the expenditure is taken into account in calculating an amount of depreciation that is allowable as a deduction.
Eligible environmental impact activities

"82BD. A reference in this Subdivision to an eligible environmental impact activity in relation to an income-producing project is a reference to:

- (a) undertaking a study; or
 - (b) preparing or obtaining a report or other documentation; or
 - (c) carrying out any other activity;
- for the sole or dominant purpose of evaluating the impact, or likely impact,

of the project on the environment.

No deduction where expenditure is recouped

"82BE. (1) Section 82bb does not apply, and is to be taken never to have applied, to expenditure if:

(a) the taxpayer, whether before or after the commencement of this subsection, receives, or becomes entitled to receive, a recoupment of, or grant in respect of, the expenditure; and

(b) the amount of the recoupment or the grant is not, and will not be, included in the assessable income of the taxpayer of any year of income.

"(2) For the purposes of subsection (1), if a taxpayer receives, or becomes entitled to receive, an amount that constitutes to an unspecified extent a recoupment of, or a grant in respect of, expenditure, then so much of that amount as is reasonable is taken to be a recoupment of, or grant in respect of, that expenditure, as the case requires.

"(3) Section 170 does not prevent the amendment of an assessment at any time for the purpose of giving effect to this section.

Transactions between persons not at arm's length

"82BF. If:

(a) a person has incurred expenditure in connection with a transaction where the parties to the transaction are not dealing with each other at arm's length in relation to the transaction; and

(b) deductions are or have been allowable under this Subdivision in respect of the expenditure; and

(c) the amount of the expenditure is greater or less than is reasonable; the amount of the expenditure is taken, for all purposes of the application of this Act in relation to the parties to the transaction, to be the amount that would have been reasonable if the parties were dealing with each other at arm's length.

Property used for eligible environmental impact activities taken to be used for the purpose of producing assessable income

"82BG. (1) For the purposes of this Act, if property is used by a taxpayer on or after 12 March 1991 for eligible environmental impact activities in relation to an income-producing project of the taxpayer, that use of the property by the taxpayer is taken to be for the purpose of producing assessable income of the taxpayer.

"(2) Subsection (1) has effect subject to a provision of this Act that expressly provides that a particular use of property is not taken to be for the purpose of producing assessable income."

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- SECT 40

40. Before section 110 of the Principal Act the following heading is inserted:

"Subdivision A - General Provisions".

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- SECT 41

Expenses of general management

41. Section 113 of the Principal Act is amended by inserting in subsection (4) ", other than subsection 51 (1)" after "section 51" (first occurring).

42. After section 116D of the Principal Act the following Subdivision is inserted:

"Subdivision B - Tax treatment of matters relating to life insurance policy holders' protection levies

Interpretation

"116DA. In this Subdivision:

'Collection Act' means the Life Insurance Policy Holders' Protection Levies Collection Act 1991;

'final winding-up payment' has the same meaning as in the Collection Act;

'grant' has the same meaning as in the Collection Act;

'protection levy' has the same meaning as in the Collection Act;

'winding-up advance' has the same meaning as in the Collection Act.

Deduction for protection levy

"116DB. Protection levy incurred by a taxpayer is an allowable deduction for the year of income in which the protection levy is incurred.

Deduction for protection levy relates to non-fund assessable income

"116DC. For the purposes of Subdivision A, a deduction allowable to a taxpayer under section 116DB is taken to relate exclusively to non-fund assessable income of the taxpayer.

Assessable income to include winding-up advances and final winding-up payments

"116DD. The assessable income of a taxpayer of a year of income includes a winding-up advance or a final winding-up payment payable to the taxpayer in the year of income.

Winding-up advances and final winding-up payments to be non-fund assessable income

"116DE. For the purposes of Subdivision A, an amount included in a taxpayer's assessable income under section 116DD is taken to be non-fund assessable income of the taxpayer.

Tax treatment of transfer of equity in Fund

"116DF. If:

(a) a scheme covered by section 19 of the Collection Act makes provision for a transfer of the kind mentioned in that section; and

(b) the transferee pays or gives consideration to the transferor in respect of the transfer;

then:

(c) the amount or value of the consideration is included in the assessable income of the transferor for the year of income in which it was incurred by the transferee; and

(d) for the purposes of Subdivision A, an amount included in a taxpayer's assessable income under paragraph (c) is taken to be non-fund assessable income of the taxpayer; and

(e) the amount or value of the consideration is a deduction allowable to the transferee for the year of income in which it was incurred; and

(f) for the purposes of Subdivision A, a deduction allowable to a taxpayer under paragraph (e) is taken to relate exclusively to non-fund assessable income of the taxpayer.

Grant exempt from income tax

"116DG. A grant is exempt from income tax.

Amendment of assessments - remission or refund of protection levy

"116DH. (1) Section 170 does not prevent the amendment of an assessment for the purpose of giving effect to section 116DB.

"(2) The following are examples of situations which could result in such an amendment being made:

(a) the remission of the whole or a part of an amount of protection levy;
(b) the refund or other application of an overpayment of protection levy.

"(3) For the purposes of section 116DB, the effect of a remission of protection levy is that the amount remitted is taken never to have been incurred.

Assessability provisions not to affect meaning of "fund assessable income" when used in Subdivision A

"116DJ. Section 116DE and paragraph 116DF (d) are enacted for the avoidance of doubt and do not, by implication, affect the meaning of 'fund assessable income' when used in Subdivision A.

This Subdivision to be primary code for tax treatment of matters relating to protection levy

"116DK. If any of the following events happen:

(a) a taxpayer incurs protection levy;
(b) a taxpayer derives a winding-up advance or a final winding-up payment;
(c) a transfer of the kind mentioned in section 19 of the Collection Act;
(d) the payment or giving of consideration in respect of such a transfer by the transferee to the transferor;
(e) the remission of the whole or a part of an amount of protection levy;
(f) the refund or other application of an overpayment of protection levy;
the event is to be ignored in determining:

(g) whether an amount is included in the assessable income of a taxpayer under a provision of this Act other than this Subdivision or Part IIIA; or
(h) whether an amount is allowable as a deduction to a taxpayer under a provision of this Act other than this Subdivision; or
(i) whether Part IIIA applies in respect of the disposal of an asset."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 43
Exploration and prospecting expenditure

43. Section 122J of the Principal Act is amended by omitting from subsection (1) and subparagraph (4D) (b) (i) "on any mining tenements".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 44
Deduction of expenditure on rehabilitation-related activities

44. Section 124BA of the Principal Act is amended by inserting in subsection (2) ", other than subsection 51 (1)" after "section 51" (first occurring).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 45
Application of credits

45. Section 160AN of the Principal Act is amended by inserting after subsection (3) the following subsection:

"(3A) Subsection (3) does not apply for the purposes of Division 2 of Part IIIAA (which deals with franking credits and debits)."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 46
Interpretation

46. Section 160APA of the Principal Act is amended:

(a) by omitting subparagraph (a) (i) of the definition of "applicable general company tax rate";

(b) by inserting "company" after "on account of" in subparagraph (a) (ib) of the definition of "applicable general company tax rate";

(c) by inserting after subparagraph (a) (ib) of the definition of "applicable general company tax rate" the following subparagraphs:

"(iba) the payment of a final payment of tax in respect of a year of income under section 221AZD;

(ibb) the making of a payment by a company of, or on account of, company tax in respect of a year of income where the payment is covered by section 160APMD;"

(d) by inserting after subparagraph (a) (ic) of the definition of "applicable general company tax rate" the following subparagraphs:

"(id) the payment of a refund to a company of an amount paid by the company in respect of a year of income where the refund is covered by section 160APYBA;

(ie) the application by the Commissioner of an amount paid by a company in respect of a year of income where the application is covered by section 160APYBA;"

(e) by omitting "assessment or" from subparagraph (a) (ii) of the definition of "applicable general company tax rate";

(f) by omitting "the formula" from paragraph (aa) of the definition of "applicable general company tax rate" and substituting "a formula";

(g) by omitting subparagraph (aa) (i) of the definition of "applicable general company tax rate" and substituting the following subparagraph:

"(i) sections 160APVBA to 160APVD (inclusive);"

(h) by omitting "160AQCH" from subparagraph (aa) (ii) of the definition of "applicable general company tax rate" and substituting "160AQCL";

(i) by inserting "(except as provided by subsection 160AN (3A))" after "includes" in the definition of "paid";

(j) by omitting paragraph (b) of the definition of "termination time" and substituting the following paragraph:

"(b) in relation to the payment of an initial payment of tax under section 221AP in respect of a year of income - the earlier of the following times:

(i) the time at which the company receives an amount as a refund of that payment under whichever of the following provisions is applicable:

(A) subsection 221AQ (3);

(B) subsection 221AR (6);

(C) subsection 221AU (4);

(ii) whichever of the following is applicable:

(A) if the company is required to make a payment under section 221AZD in respect of the year of income - the day on which that payment is made;

(B) in any other case - on the day that would have been applicable under subparagraph 166A (a) (i) if the company had been required to make such a payment under section 221AZD; or";

(k) by omitting the definition of "company tax instalment";

(l) by omitting the definition of "liability reduction action" and substituting the following definition:

"'liability reduction action', in relation to a company, means action seeking a reduction in an amount of company tax;"

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 47

47. After section 160APKA of the Principal Act the following section is inserted:

No credits of a registered organization

"160APKB. A franking credit of a registered organization does not arise after 3 p.m., by standard time in the Australian Capital Territory, on 20 August 1991.".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 48

Repeal of section 160APM

48. Section 160APM of the Principal Act is repealed.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 49

Subsequent payments of tax before determination of taxable income

49. Section 160APMB of the Principal Act is amended by inserting "company" after "on account of".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 50

50. After section 160APMB of the Principal Act the following sections are inserted:

Final payment of tax

"160APMC. If, on a particular day, a company makes a final payment of tax in respect of a year of income under section 221AZD, there arises on that day a franking credit of the company equal to the adjusted amount in relation to the amount of that payment.

Payments of tax made after the final payment of tax

"160APMD. If, on a particular day:

(a) a company makes a payment of, or on account of, company tax in respect of an eligible year of income; and

(b) that payment is not covered by section 160APMA, 160APMB or 160APMC; there arises, on the day on which that payment is made, a franking credit of the company equal to the adjusted amount in relation to the amount of that payment.".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 51

Repeal of sections 160APN and 160APNA

51. Sections 160APN and 160APNA of the Principal Act are repealed.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 52

Receipt of franked dividends

52. Section 160APP of the Principal Act is amended by omitting subsection (4).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 53

Receipt of franked dividends through trusts and partnerships

53. Section 160APQ of the Principal Act is amended by omitting subsection (2).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 54

54. After section 160APQ of the Principal Act the following sections are inserted:

Payment of excess offset

"160APQA. If, on a particular day, a company makes a payment of an excess amount that:

(a) is covered by section 160AQR; and

(b) relates to an offset to which the company is entitled; there arises on that day a franking credit of the company equal to the adjusted amount in relation to the amount of the payment.

Payment of excess foreign tax credit

"160APQB. If, on a particular day, a company makes a payment of an excess amount that:

(a) is covered by subsection 160AN (5); and

(b) relates to a foreign tax credit allowable in respect of tax paid or payable by the company in respect of income derived by the company in an eligible year of income;

there arises on that day a franking credit of the company equal to the adjusted amount in relation to the amount of the payment."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 55

Repeal of sections 160APR, 160APS and 160APT

55. Sections 160APR, 160APS and 160APT of the Principal Act are repealed.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 56

56. Sections 160APVA and 160APVB of the Principal Act are repealed and the following sections are substituted:

Life assurance companies - credit reducing section 160APYBA debit

"160APVBA. (1) If, on a particular day, a franking debit of a life assurance company arises under section 160APYBA in relation to the refund or application of an amount paid by the company in respect of a year of income, there arises on that day a franking credit of the company worked out under subsection (2) of this section.

"(2) The amount of the franking credit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad \times \quad \begin{array}{c} \text{Refunded} \\ \text{applied amount} \end{array} \quad \times \quad \begin{array}{c} \text{Company tax - Non-fund component} \\ \text{of company tax} \\ \text{Company tax} \end{array}$$

where:

'Refunded/applied amount' means the amount refunded or applied;

'Company tax' means the company tax assessed to the company for the year of income;

'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component.

Life assurance companies - credit reducing section 160APYBB debit

"160APVBB. (1) If, on a particular day, a franking debit of a life assurance company arises under section 160APYBB in relation to the payment or application of a foreign tax credit in respect of tax paid or payable by a company in respect of a year of income, there arises on that day a franking credit of the company worked out under subsection (2) of this section.

"(2) The amount of the franking credit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \text{Refunded/} \quad X \quad \text{Company tax - Non-fund component}$$

applied amount of company tax
Company tax

where:

'Foreign tax credit paid or applied' means the amount paid or applied;

'Non-fund component of foreign tax credit paid or applied' means so much of the foreign tax credit paid or applied as is attributable to the non-fund component in relation to the year of income."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 57

Life assurance companies - credits reducing section 160APYB debit

57. Section 160APVC of the Principal Act is amended:

(a) by omitting from subsection (1) "in this section" and substituting "in subsection (2) of this section";

(b) by adding at the end the following subsections:

"(3) If:

(a) on a particular day, a franking debit of a life assurance company arises under section 160APYB in relation to an amount received as a refund in relation to a year of income; and

(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking credit of the company worked out under subsection (4) of this section.

"(4) The amount of the franking credit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \text{Refunded} \quad X \quad \text{Company tax-Non-fund component}$$

amount of company tax
Company tax

where:

'Refunded amount' means the amount received as a refund;

'Company tax' means the company tax assessed to the company for the year of income;

'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 58

58. Section 160APVE of the Principal Act is repealed and the following sections are substituted:

Life assurance companies - credit reducing subsection 160AQCD(1) debit

"160APVF. If:

(a) on a particular day, a franking debit of a life assurance company arises under subsection 160AQCD (1) in relation to an initial payment of tax in respect of a year of income; and

(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking credit of the company equal to the amount of the franking debit.

Life assurance companies - credit reducing subsection 160AQCE

(1) debit

"160APVG. If:

(a) on a particular day, a franking debit of a life assurance company arises under subsection 160AQCE (1) in relation to a further payment on account of tax in respect of a year of income; and

(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking credit of the company equal to the amount of the franking debit."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 59

59. After section 160APWA of the Principal Act the following section is inserted:

No debits of a registered organization

"160APWB. A franking debit of a registered organization does not arise after 3 p.m., by standard time in the Australian Capital Territory, on 20 August 1991."

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- SECT 60

Repeal of sections 160APY, 160APYA and 160APYAA

60. Sections 160APY, 160APYA and 160APYAA of the Principal Act are repealed.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 61

61. After section 160APYB of the Principal Act the following sections are inserted:

Refunds of company tax

"160APYBA. If:

(a) a company makes a payment covered by section 160APMA, 160APMB, 160APMC or 160APMD; and

(b) either:

(i) the company receives an amount as a refund of that payment (not being a refund covered by section 160APYB); or

(ii) the Commissioner applies the payment against a liability of the company; and

(c) the amount refunded or applied, as the case may be, is not attributable to a reduction of company tax covered by section 160APZ;

there arises, on the day on which the company receives the refund, or on the day on which that payment is applied, as the case may be, a franking debit of the company equal to the adjusted amount in relation to the amount received or applied, as the case requires.

Foreign tax credits - actual payment or application against non-franking credit liabilities

"160APYBB. If:

(a) a company receives a payment of a foreign tax credit under subsection 160AN (1); or

(b) a foreign tax credit to which a company is entitled is applied by the Commissioner under subsection 160AN (2) against a liability of the company other than:

(i) a liability for company tax in respect of an eligible year of income; or

(ii) a liability under Division 1B of Part VI; or
(iii) a liability under subsection 160AN (5); or
(iv) a liability under section 160AQR;
there arises, on the day on which the payment is made, or on the day on which that credit is applied, as the case may be, a franking debit of the company equal to the adjusted amount in relation to the amount paid or applied, as the case requires."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 62
Repeal of sections 160AQ and 160AQA

62. Sections 160AQ and 160AQA of the Principal Act are repealed.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 63
Life assurance companies - debits reducing section 160APMA credit

63. Section 160AQCD of the Principal Act is amended:
(a) by omitting from subsection (1) "in this section" and substituting "in subsection (2) of this section";
(b) by adding at the end the following subsections:
"(3) If:
(a) on a particular day, a franking credit of a life assurance company arises under section 160APMA in relation to an initial payment of tax that the company is required to make under section 221AP in respect of a year of income; and
(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking debit of the company worked out under subsection (4) of this section.
"(4) The amount of the franking debit is equal to the adjusted amount in relation to the amount calculated using the formula:
$$0.8 \times \frac{\text{Initial payment} \times \text{Company tax-Non-fund component of company tax}}{\text{Company tax}}$$

where:
'Initial payment' means the initial payment of tax;
'Company tax' means the company tax assessed to the company for the year of income;
'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component."

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- SECT 64
Life assurance companies - debits reducing section 160APMB credit

64. Section 160AQCE of the Principal Act is amended:
(a) by omitting from subsection (1) "in this section" and substituting "in subsection (2) of this section";
(b) by adding at the end the following subsections:
"(3) If:
(a) on a particular day, a franking credit of a life assurance company arises under section 160APMB in relation to a further payment on account of tax in respect of a year of income; and

(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking debit of the company worked out under subsection (4) of this section.

"(4) The amount of the franking debit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \begin{array}{c} \text{Further} \\ \text{payment} \end{array} \quad X \quad \begin{array}{c} \text{Company tax-Non-fund component} \\ \text{of company tax} \\ \text{Company tax} \end{array}$$

where:

'Further payment' means the amount of the further payment;

'Company tax' means the company tax assessed to the company for the year of income;

'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component."

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65. Sections 160AQCF, 160AQCG and 160AQCH of the Principal Act are repealed and the following sections are substituted:

Life assurance companies - debit reducing section 160APMC credit

"160AQCI. (1) If, on a particular day, a franking credit of a life assurance company arises under section 160APMC in relation to a final payment of tax in respect of a year of income, there arises on that day a franking debit of the company worked out under subsection (2) of this section.

"(2) The amount of the franking debit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \text{Final payment} \quad X \quad \begin{array}{c} \text{Company tax-Non-fund component} \\ \text{of company tax} \\ \text{Company tax} \end{array}$$

where:

'Final payment' means the amount of the final payment;

'Company tax' means the tax assessed to the company for the year of income;

'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component.

Life assurance companies - debit reducing section 160APMD credit

"160AQCK. (1) If, on a particular day, a franking credit of a life assurance company arises under section 160APMD in relation to a payment of, or on account of, company tax in respect of a year of income, there arises on that day a franking debit of the company worked out under subsection (2) of this section.

"(2) The amount of the franking debit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \text{Payment} \quad X \quad \begin{array}{c} \text{Company tax-Non-fund component} \\ \text{of company tax} \\ \text{Company tax} \end{array}$$

where:

'Payment' means the amount of the payment;

'Company tax' means the company tax assessed to the company for the year of income;

'Non-fund component of company tax' means so much of the company tax assessed to the company for the year of income as is attributable to the non-fund component.

Life assurance companies - debit reducing section 160APQB credit

"160AQCL. (1) If, on a particular day, a franking credit of a life assurance company arises under section 160APQB in relation to a payment of an excess amount in respect of a foreign tax credit allowable in relation to a year of income, there arises on that day a franking debit of the company worked out under subsection (2) of this section.

"(2) The amount of the franking debit is equal to the adjusted amount in relation to the amount calculated using the formula:

$$0.8 \quad X \quad \frac{\text{Excess amount-Non-fund component}}{\text{of excess amount}}$$

where:

'Excess amount' means the amount of the excess;

'Non-fund component of excess amount' means so much of the excess amount as is attributable to the non-fund component in relation to the year of income.

Life assurance companies - debit reducing subsection 160APVC (1) credit

"160AQCM. If:

(a) on a particular day, a franking credit of a life assurance company arises under subsection 160APVC (1) in relation to an amount received as a refund in relation to a year of income; and

(b) on or after that day, a notice of an original company tax assessment for the year of income is served, or deemed to be served, on the company; there arises, on the day on which the notice is served or deemed to be served, a franking debit of the company equal to the amount of the franking credit."

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- SECT 66

Determination of estimated debit

66. Section 160AQD of the Principal Act is amended:

(a) by omitting from paragraph (1) (b) "a company tax instalment or company tax instalments or";

(b) by omitting from paragraph (1) (c) "of the instalment or instalments or";

(c) by inserting after subsection (1) the following subsection:

"(1A) An estimated debit in relation to an initial payment of tax must relate to the refund of that payment under subsection 221AQ (3), 221AR (6) or 221AU (4)."

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- SECT 67

67. After section 160W of the Principal Act the following section is inserted:

Deemed disposal and re-acquisition of valueless shares in companies in liquidation

"160WA. (1) For the purposes of this Part, if:

(a) a taxpayer owns a share in a company as at a particular time (in this subsection called the 'test time') after 11 November 1991; and

(b) there is a liquidator of the company; and

(c) at or after the test time, the liquidator makes a written declaration that the liquidator has reasonable grounds to believe that:

(i) if the share belongs to a particular class of shares in the company - there is no likelihood that the relevant class of shareholders in the company as at the test time will receive any distributions in the course of winding up the company; or

(ii) in any other case - there is no likelihood that the shareholders in the company as at the test time will receive any distributions in the course

of winding up the company; and

(d) the taxpayer elects that this section applies in relation to the taxpayer and in relation to the share;
the taxpayer is taken:

(e) to have disposed of the share at the time the declaration was made for no consideration; and

(f) to have immediately re-acquired the share for no consideration.

"(2) An election by a taxpayer under subsection (1) must be made by written notice given to the Commissioner on or before the date of lodgment of the taxpayer's return of income for the later of the following years of income:

(a) the year of income in which the declaration was made;

(b) the year of income in which this section commenced;

or within such further period as the Commissioner allows."

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- SECT 68

Cost base, indexed cost base and reduced cost base

68. Section 160ZH of the Principal Act is amended:

(a) by inserting after paragraphs (1) (b) and (2) (b) the following paragraph:

"(ba) except where the asset is a personal-use asset of the taxpayer - the amount of the non-capital costs to the taxpayer of the ownership of the asset;"

(b) by inserting after subsection (6) the following subsections:

"(6A) Subject to subsection (6B), a reference in subsection (1) or (2) to the non-capital costs to a taxpayer of the ownership of an asset is a reference to any expenditure of a non-capital nature incurred by the taxpayer to the extent to which it was incurred:

(a) by way of interest on a loan taken out to finance the acquisition of the asset; or

(b) in connection with the continuing ownership of the asset, for example:

(i) expenditure on repairs to, or maintenance of, the asset; or

(ii) premiums to insure the asset; or

(iii) if the asset is land - rates or land tax.

"(6B) The non-capital costs to a taxpayer of the ownership of an asset do not include any amount that has been allowed or is allowable as a deduction to the taxpayer in respect of any year of income."

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- SECT 69

Explanation of terms: investment, investor, investment body

69. Section 202D of the Principal Act is amended:

(a) by adding at the end of the table in subsection (1) the following item:

"7	An investment-related betting chance	The betting investor	The betting investment body";
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(b) by adding at the end the following subsection:

"(8) If subparagraph 26AJ (1) (a) (ii) and paragraphs 26AJ (1) (b), (c), (d), (e), (f) and (g) apply in relation to the payment or crediting of an amount to a person, being the taxpayer referred to in subsection 26AJ (1), then:

(a) for the purposes of this section:

(i) the betting chance referred to in paragraph 26AJ (1) (c) is an investment-related betting chance; and

(ii) the person is the betting investor in relation to the investment-related betting chance; and

(iii) the investment body referred to in paragraph 26AJ (1) (c) is the

betting investment body in relation to the investment-related betting chance; and

(b) for the purposes of this Part and Division 3B of Part VI:

(i) the betting chance referred to in paragraph 26AJ (1) (c) is taken to be an investment; and

(ii) the amount paid or credited is taken to be income in respect of the investment.".

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- SECT 70

Refund to reduce initial payment of tax

70. Section 221AZA of the Principal Act is amended by inserting "(other than Part IIIAA)" after "this Act".

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- SECT 71

Interpretation

71. Section 221A of the Principal Act is amended:

(a) by omitting "partner," from paragraph (b) of the definition of "employer" in subsection (1) and substituting "partner; and";

(b) by omitting from the definition of "employer" in subsection (1) all the words after paragraph (b) and substituting the following paragraph:

"(c) a government body;";

(c) by omitting "an employee as such" from the definition of "salary or wages" in subsection (1) and substituting "an eligible person as such";

(d) by inserting "a person who is, or performs the duties of," before "a director" in paragraph (b) of the definition of "salary or wages" in subsection (1);

(e) by inserting after paragraph (p) of the definition of "salary or wages" in subsection (1) the following paragraph:

"(pa) payments by way of remuneration or allowances to a member of a local governing body established by or under a law of a State or Territory;";

(f) by omitting from subsection (1) the definition of "employee" and substituting the following definition:

" 'employee' means a person who receives, or is entitled to receive, salary or wages;";

(g) by inserting in subsection (1) the following definitions: " 'Australian Parliament' means:

(a) the Parliament of the Commonwealth of Australia; or

(b) the Parliament of a State; or

(c) the Legislative Assembly for the Australian Capital Territory; or

(d) the Legislative Assembly of the Northern Territory of Australia;

'director', in relation to an unincorporated company, includes an officeholder of the company;

'eligible person' means:

(a) a person who is an employee within the ordinary meaning of that expression; or

(b) a person who holds or performs the duties of an appointment, office or position under the Constitution or under a law of the Commonwealth, a State or a Territory; or

(c) a person who is otherwise in the service of the Commonwealth, a State or a Territory (including service as a member of the Defence Force or as a member of a police force); or

(d) a member of an Australian Parliament;".

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- SECT 72

Repeal of section 221B

72. Section 221B of the Principal Act is repealed.

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- SECT 73

73. After section 221D of the Principal Act the following section is inserted:

No obligation to make deductions if inconsistent with the Constitution

"221DA. Sections 221C and 221D have, and are taken to have had, no effect to the extent (if any) that they are inconsistent with paragraph 72 (iii) or 103 (iii) of the Constitution.".

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- SECT 74

Interpretation

74. Section 221YA of the Principal Act is amended by inserting after subsection (1B) the following subsection:

"(1C) If an amount is included in a taxpayer's assessable income for a year of income under section 26AJ, then, for the purposes of this Division, the taxpayer's taxable income for the year of income is taken to be the amount that would have been that taxable income if that amount had not been so included.".

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- SECT 75

Certain employees to be subject to provisional tax

75. Section 221YAB of the Principal Act is amended:

(a) by omitting subparagraph (a) (vi);

(b) by omitting from subparagraph (a) (viii) ", (vi) or (vii)" and substituting "or (v)".

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- SECT 76

Uplifted provisional tax amount

76. Section 221YCAA of the Principal Act is amended:

(a) by adding "and" at the end of paragraph (2) (k);

(b) by inserting after paragraph (2) (k) the following paragraph:

"(ka) no amount had been included in the taxpayer's assessable income of the preceding year of income under section 26AJ;".

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- SECT 77

Provisional tax on estimated income

77. Section 221YDA of the Principal Act is amended:

(a) by inserting in paragraph (1) (da) "160AAB, 160AB," after "160AAA,";

(b) by inserting after paragraph (1) (da) the following paragraph:

"(db) the sum of the credits to which the taxpayer will be entitled in respect of that year of income under section 160AF or 221YHZK;"

(c) by omitting from subsection (1AA) all the words after "based on" and

substituting the following words and paragraphs:

"the following assumptions:

(a) the assumption that the taxpayer's assessable income of the year of income will not include any net capital gain within the meaning of Part IIIA;

(b) the assumption that no amount will be included in the taxpayer's assessable income of the year of income under section 26AJ.";

(d) by inserting in subparagraph (2) (a) (ii) "160AAB, 160AB," after "160AAA,";

(e) by omitting paragraph (2) (b) and substituting the following paragraph:

"(b) by deducting from the amount calculated in accordance with paragraph (a):

(i) so much of the estimated amounts of credits referred to in paragraph (1) (db), as shown in the statement, as is estimated by the Commissioner to represent credits to which the taxpayer is, or will be, entitled under section 160AF or 221YHZK, as the case may be; and

(ii) so much of the estimated amounts of deductions referred to in paragraphs (1) (e) and (f), as shown in the statement, as is estimated by the Commissioner to represent deductions that have been, and will be, made in accordance with sections 221C and 221D, or Division 3A, as the case may be.".

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- SECT 78

78. Before section 221yhza of the Principal Act the following heading is inserted:

"Subdivision A - Interpretation".

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- SECT 79

Interpretation

79. Section 221YHZA of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions:

" 'eligible deferred interest investment' means a qualifying security (within the meaning of Division 16E of Part III), being:

(a) a Part VA investment of a kind mentioned in item 1 or 2 in the table in subsection 202D (1); or

(b) a non-transferable Part VA investment of a kind mentioned in item 3 in the table in subsection 202D (1);

'term', in relation to an eligible deferred interest investment, has the same meaning as in Division 16E of Part III;"

(b) by inserting after subsection (2A) the following subsection:

"(2B) If, apart from this subsection, an investment body is liable to pay an amount of income to an investor under an eligible deferred interest investment, this Subdivision and Subdivision B only apply to so much of that payment as is covered by either of the following paragraphs:

(a) so much of a payment as consists of a periodic interest payment (within the meaning of Division 16E of Part III);

(b) so much of a payment that became payable at the end of the term of the investment as does not exceed the amount that would have been included in the investor's assessable income for the year of income in which the end of the term occurred under:

(i) section 159GQ; and

(ii) paragraph 159GR (2) (c);

if any adoption of an accounting period in lieu of a year of income were ignored for the purposes of:

(iii) this paragraph; and
(iv) the application of Division 16E of Part III in relation to this paragraph.";

(c) by adding at the end the following subsection:

"(4) For the purposes of this Division (other than paragraph (b) of the definition of 'unattributed income' in subsection (1)), if the investment body in relation to an investment of the kind mentioned in item 7 in the table in subsection 202D (1) is not liable to pay income in respect of the investment, the person who is liable to pay it is taken to be the investment body.".

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- SECT 80

80. Before section 221YHZB of the Principal Act the following heading is inserted:

"Subdivision B - Deductions from certain payments".

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- SECT 81

81. After section 221YHZO of the Principal Act the following Subdivision is inserted:

"Subdivision C - Collection of TFN withholding tax payable on the
non-quotation of tax file numbers in respect of eligible
deferred interest investments

Interpretation

"221YHZP. In this Subdivision:

'TFN withholding tax' means the tax imposed by the Income Tax (Deferred Interest Securities) (Tax File Number Withholding Tax) Act 1991;

'undeducted TFN amount' has the meaning given by section 221YHZQ;

'untaxable Commonwealth entity' means:

(a) the Commonwealth; or

(b) a Commonwealth authority that cannot, by a law of the Commonwealth, be made liable to taxation by the Commonwealth.

Undeducted TFN amount

"221YHZP. (1) If, in relation to an eligible deferred interest investment:

(a) an amount (in this section called the 'deemed payment amount') is included in the investor's assessable income for a year of income under section 159GQ; and

(b) if subsection 221YHZA (2B) had not been enacted and if the deemed payment amount had been income paid in money by the investment body to the investor, the investment body would have been required to make a deduction (in this section called the 'notional deduction') under subsection 221YHZC (1A); and

(c) the term of the eligible deferred interest investment does not end during the year of income;
there is taken to be an undeducted TFN amount equal to the notional deduction.

"(2) Any adoption of an accounting period in lieu of a year of income is to be ignored for the purposes of:

(a) this section; and

(b) the application of Division 16E of Part III in relation to this section.

Liability for TFN withholding tax

"221YHZR. A tax is payable on an undeducted TFN amount."

Amount of TFN withholding tax

"221YHZS. The amount of TFN withholding tax is equal to the undeducted TFN amount.

By whom TFN withholding tax is payable

"221YHZT. TFN withholding tax is payable:

- (a) if the investment body in relation to the eligible deferred interest investment is an untaxable Commonwealth entity - by the investor; or
- (b) in any other case - jointly and severally by the investor and the investment body.

Untaxable Commonwealth entity authorised to pay TFN withholding tax for investor

"221YHZU. If the investment body in relation to an eligible deferred interest investment is an untaxable Commonwealth entity, the investor is taken to have authorised the investment body to pay TFN withholding tax on behalf of the investor.

Investment body may recover TFN withholding tax from investor

"221YHZV. (1) If an investment body pays TFN withholding tax, whether or not on behalf of the investor:

(a) the investor in relation to the eligible deferred interest investment is liable to pay to the investment body an amount equal to that TFN withholding tax; and

(b) the investment body may recover that amount from the investor as a debt due to the investment body.

"(2) If:

(a) an investor is liable to pay an amount (in this section called the 'TFN withholding tax amount') under subsection (1) in respect of an eligible deferred interest investment; and

(b) there is an amount (in this section called the 'investment balance') accruing to, or standing to the credit of, the investor, in relation to the eligible deferred interest investment, whether or not the investment balance is due; the investment body may:

(c) reduce the investment balance by an amount equal to the TFN withholding tax amount; or

(d) deduct or set-off an amount equal to the TFN withholding tax amount from the investment balance.

"(3) This section does not prevent an investment body from entering into an agreement or arrangement with an investor under which the investment body is entitled to recover from the investor amounts payable under subsection (1).

When TFN withholding tax payable

"221YHZW. TFN withholding tax is due and payable at the end of:

(a) 21 days after the end of the year of income (within the meaning of section 221YHZQ) to which the undeducted TFN amount relates; or

(b) such further period as the Commissioner, in special circumstances, allows.

Extended operation of certain provisions of Subdivision B

"221YHZX. (1) Subsection 221YHZD (2) has effect as if a reference in that subsection to an amount payable to the Commissioner by a person by virtue of subsection 221YHZD (1A) included a reference to an amount of TFN withholding tax payable by a person.

"(2) Subsection 221YHZD (3) has effect as if a reference in that subsection to an amount payable to the Commissioner under subsection 221YHZD (1A) included a reference to an amount of TFN withholding tax payable by a person.

"(3) In addition to its effect apart from this subsection, section 221YHZK also has effect as if:

(a) in the case of an investor who has not adopted an accounting period in lieu of a year of income - an amount of TFN withholding tax paid in relation to a year of income and in relation to an eligible deferred interest

investment of the investor were an amount deducted during the year of income under subsection 221YHZA (1A) from a payment to the investor; or

(b) in any other case - an amount of TFN withholding tax that was paid during a year of income of the investor and in relation to an eligible deferred interest investment of the investor were an amount deducted during the year of income under subsection 221YHZA (1A) from a payment to the investor.

Remission of TFN withholding tax - TFN exemption declarations not given

"221YHZY. If, on written application by an investor in relation to an eligible deferred interest investment, the Commissioner is satisfied that:

(a) TFN withholding tax is or was payable in relation to the eligible deferred interest investment; and

(b) the investor did not give the investment body concerned a declaration under Division 5 of Part VA in relation to the investment even though the investor was entitled to do so; and

(c) it would be fair and reasonable to remit the whole or a part of the TFN withholding tax, having regard to:

(i) the purposes of this Division; and

(ii) such other matters (if any) as the Commissioner thinks appropriate; the Commissioner must remit the whole, or the part, of that amount, as the case may be.

Overpayments of TFN withholding tax

"221YHZZ. If any TFN withholding tax has been overpaid, whether as the result of a remission or for any other reason:

(a) the Commissioner must refund the amount overpaid; and

(b) the investor is not entitled to a credit under section 221YHZA in respect of the amount overpaid.

TFN withholding tax not deductible to investors

"221YHZZA. A deduction is not allowable under this Act to an investor in respect of TFN withholding tax.

Other laws do not exempt a person from TFN withholding tax

"221YHZZB. (1) A law, or a provision of a law, passed before the commencement of this subsection that purports to exempt a person from liability to pay TFN withholding tax or to pay taxes that include TFN withholding tax does not exempt that person from liability to pay TFN withholding tax.

"(2) A law, or a provision of a law, passed after the commencement of this subsection that purports to exempt a person from liability to pay taxes under the laws of the Commonwealth or to pay certain taxes under those laws that include TFN withholding tax, other than a law or a provision that expressly exempts a person from liability to pay TFN withholding tax, is not to be construed as exempting the person from liability to pay TFN withholding tax. Subdivision to bind Crown

"221YHZZC. This Subdivision binds the Crown in the right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island."

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- SECT 82

Prescribed persons

82. (1) Section 251U of the Principal Act is amended by omitting paragraph (1) (c) and substituting the following paragraphs:

"(c) the person was, during the whole of that period, a recipient of a sickness benefit under Part 2.14 of the Social Security Act 1991;

(ca) the person was, during the whole of that period, a

recipient of:

(i) an age pension under Part 2.2 of the Social Security Act 1991; or

(ii) an invalid pension under Part 2.3 of the Social Security Act 1991;

where the rate of the pension was calculated under section 1065 of the Social Security Act 1991;

(cb) the person was, during the whole of that period, a recipient of:

(i) an age service pension under Division 3 of Part III of the Veterans' Entitlements Act 1986; or

(ii) an invalid service pension under Division 4 of Part III of the Veterans' Entitlements Act 1986;

where the rate of the pension was calculated under subsection 43 (1) of the Veterans' Entitlements Act 1986;".

(2) Section 251U of the Principal Act is amended:

(a) by omitting from paragraph (1) (c) "sickness benefit" and substituting "sickness allowance";

(b) by omitting from subparagraph (1) (ca) (ii) "an invalid pension" and substituting "a disability support pension";

(c) by inserting after paragraph (1) (ca) the following paragraph:

"(caa) the person was, during the whole of that period, a recipient of a disability support pension under Part 2.3 of the Social Security Act 1991 where the rate of the pension was calculated under section 1066B of the Social Security Act 1991;".

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- SECT 83

Keeping of records

83. Section 262A of the Principal Act is amended by inserting in subsection (4A) "or under subsection 371 (8)" before "must retain".

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- SECT 84

Attribution account entity

84. Section 363 of the Principal Act is amended by adding at the end the following subsection:

"(2) If:

(a) a company ceases to be resident in an unlisted country and becomes a Part X Australian resident; and

(b) a taxpayer is an attributable taxpayer in relation to the company immediately before the time of the change of residence; in determining whether an attribution debit arises for the company in relation to the taxpayer in respect of an attribution account payment made to the taxpayer or another attribution account entity, the company is taken to be an attribution account entity.".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 85

Attribution credit

85. Section 371 of the Principal Act is amended:

(a) by inserting in paragraph (5) (b) "subject to subsection (8)," before "at the time";

(b) by adding at the end the following subsections:

"(8) If:

(a) a company ceases to be resident in an unlisted country and becomes a resident of a listed country; and

(b) an amount (in this subsection called the 'section 457 amount') is included in a taxpayer's assessable income under section 457 as a result of the change of residence; and

(c) a particular part (in this subsection called the 'eligible part') of the section 457 amount is attributable to a hypothetical disposal of a particular asset of the company at the residence change time; and

(d) it might reasonably be expected that, if and when the company actually disposes of the asset, so much of the gain derived by the company on the actual disposal of the asset that accrued before the residence change time will be subject to tax in the listed country;

the taxpayer may, by notice in writing, elect to defer the timing of so much of the paragraph (1) (b) attribution credit as is attributable to the eligible part from the time of the change of residence referred to in that paragraph until immediately before the payment by the company of a dividend out of the gain derived by the company on the actual disposal of the asset.

"(9) An election for the purposes of subsection (8):

(a) has effect according to its tenor; and

(b) is irrevocable; and

(c) has no effect unless it is made:

(i) within 6 months after the end of the later of the following years of income:

(A) the year of income in which the residence change time took place;

(B) the year of income in which this subsection commenced;

or

(ii) within such further period as the Commissioner allows.".

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- SECT 86

Exempting profits

86. Section 378 of the Principal Act is amended by adding at the end the following subsection:

"(3) In spite of anything in subsection (1), if a company ceases to be a resident of a listed country and becomes a resident of an unlisted country, the company's exempting profits in relation to a taxpayer, at a particular time at or after the residence change time are:

(a) the amount of the exempting profits worked out under subsection (1); and

(b) so much of the distributable profits, at that particular time, of the company as:

(i) is attributable to the distributable profits of the company immediately before the residence change time; and

(ii) is not covered by paragraph (a); and

(iii) does not represent the attribution surplus for the company in relation to the taxpayer.".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 87

Further amendments relating to social security and veterans' payments

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

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

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 88

Amendments consequential upon the repeal of section 221B of the Principal Act

88. The Acts specified in Schedule 3 are amended as set out in that Schedule.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 89

Application of amendments - general

89. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) The amendments made by section 11 apply to payments derived after 21 January 1991.

(3) The amendments made by sections 12 and 13 apply in relation to income derived on or after 1 July 1990.

(4) The amendment made by section 14 applies to an attribution account payment, whether paid before or after the commencement of this subsection.

(5) The amendments made by sections 15, 16, 18, 19, 20, 22, 24, 26, 27, 28, 29 and 30 and subsection 87 (1) apply to payments derived after 30 June 1991.

(6) The amendments made by sections 17, 21, 23 and 25 and subsection 87 (2) apply to payments derived after 11 November 1991.

(7) Section 26AJ of the amended Act applies to a win that was drawn or decided after the commencement of this subsection.

(8) The amendments made by section 32 apply to assessments in respect of income of the year of income in which 12 March 1991 occurred and of all subsequent years of income.

(9) The amendments made by sections 37 and 38 apply to gifts made after 24 March 1991.

(10) The amendments made by section 34 apply in relation to instalments of tax under Division 2 of Part VIII of the Petroleum Resource Rent Tax Assessment Act 1987 paid on or after 1 July 1991.

(11) The amendments made by section 43 apply in relation to expenditure incurred on or after 1 July 1991.

(12) The amendments made by section 68 apply in relation to assets acquired on or after 21 August 1991.

(13) The amendment made by section 70 applies in relation to initial payments of tax in respect of the 1990-91 year of income and of all subsequent years of income.

(14) The amendments made by section 75 and paragraphs 77 (a), (b), (d) and (e) apply to the ascertainment of provisional tax (including instalments) payable in respect of income of the 1991-92 year of income and of all subsequent years of income.

(15) Subdivision C of Division 3B of Part VI of the amended Act applies in relation to eligible deferred interest investments issued on or after 1 February 1992.

(16) The amendments made by subsection 82 (1) apply in relation to periods commencing on or after 1 July 1991.

(17) The amendments made by subsection 82 (2) apply in relation to periods commencing on or after 12 November 1991.

(18) The amendments made by sections 84 and 85 apply in relation to residence change times that occurred on or after 1 July 1989.

(19) The amendment made by section 86 applies in relation to a non-portfolio dividend paid after 28 June 1991 where the residence change time occurred on or after 1 July 1989.

90. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) The amendments made by sections 52 and 53 apply in relation to franking credits arising after 3 p.m., by standard time in the Australian Capital Territory, on 20 August 1991.

(3) Section 160APMC of the amended Act applies in relation to a final payment of tax made by a company after 20 August 1991 in respect of a year of income where notice of an original company tax assessment in respect of the year of income was served, or deemed to be served, on the company after 20 August 1991.

(4) Section 160APMD of the amended Act applies in relation to payments made by a company after 20 August 1991 of, or on account of:

(a) tax covered by a notice of an original company tax assessment; or

(b) increased tax covered by notice of an amended company tax assessment; where the notice was served, or deemed to be served, on the company after 20 August 1991.

(5) The amendment of subparagraph (a) (ii) of the definition of "applicable general company tax rate" in section 160APA of the Principal Act made by this Act, and the repeals of sections 160APN, 160APNA, 160APR, 160AQCF and 160AQCG of the Principal Act effected by this Act, apply to notices served, or deemed to be served, after 20 August 1991.

(6) The repeals of sections 160APM, 160APVA, 160APVB, 160APY, 160APYA and 160APYAA of the Principal Act effected by this Act apply in relation to payments made by a company in respect of a year of income where notice of an original company tax assessment in respect of that year of income was served, or deemed to be served, on the company after 20 August 1991.

(7) Subsections 160APVC (3) and (4), sections 160APVF and 160APVG, subsections 160AQCD (3) and (4) and 160AQCE (3) and (4) and section 160AQCM of the amended Act apply in relation to notices of original company tax assessments served, or deemed to be served, after 20 August 1991.

(8) Section 160APYBA of the amended Act, insofar as it applies in relation to payments covered by section 160APMA or 160APMB of the amended Act, applies where notice of an original company tax assessment in respect of the year of income to which the payment relates was served, or deemed to be served, on the company concerned after 20 August 1991.

(9) Section 160APYBB of the amended Act applies in relation to foreign tax credits allowable in respect of tax paid or payable by a company in respect of income derived in a year of income where notice of an original company tax assessment in respect of the year of income was served, or deemed to be served, on the company after 20 August 1991.

(10) The repeals of sections 160APS, 160APT and 160AQCH of the Principal Act effected by this Act apply in relation to notices served after 20 August 1991.

(11) Section 160APQA of the amended Act applies to payments of amounts that relate to a notice of a determination reducing an offset to which a company is entitled, where the notice was served on the company after 20 August 1991.

(12) Section 160APQB of the amended Act applies to payments of amounts that relate to a notice of a determination reducing a foreign tax credit allowable in respect of tax paid or payable by a company, where the notice was served on the company after 20 August 1991.

(13) The repeal of section 160AQ of the Principal Act effected by this Act applies in relation to an offset, or an increased offset, that was applied in reduction of:

-
- (a) tax covered by a notice of an original company tax assessment; or
 - (b) increased tax covered by a notice of an amended company tax assessment;

where the notice was served, or deemed to served, on the company after 20 August 1991.

(14) Subsection 160AQD (1A) of the amended Act applies in relation to an initial payment of tax made by a company in respect of a year of income where notice of an original company tax assessment in respect of the year of income was served, or deemed to be served, on the company after 20 August 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 91

Application of amendments - section 221A of the Principal Act

91. (1) The amendments made by section 71, insofar as they apply to Subdivision F of Division 3 of Part III of the Income Tax Assessment Act 1936, apply in relation to expenses incurred after the commencement of this subsection.

(2) The amendments made by section 71, insofar as they apply to section 102AF, Subdivision AB of Division 17 of Part III and Division 3 of Part VI of the Income Tax Assessment Act 1936, apply in relation to income derived, and other amounts paid, after the commencement of this subsection.

(3) The amendments made by section 71, insofar as they apply to assessments under the Fringe Benefits Tax Assessment Act 1986, apply as follows:

(a) in the case of a loan benefit - in relation to a loan made after the commencement of this subsection;

(b) in the case of a housing benefit - in relation to the subsistence, after the commencement of this subsection, the housing right concerned;

(c) in the case of a residual benefit provided during a period - in relation to so much of the period as occurs after the commencement of this subsection;

(d) in the case of any other benefit - in relation to a benefit provided after the commencement of this subsection.

(4) Expressions used in subsection (3) of this section and in the Fringe Benefits Tax Assessment Act 1986 have the same meaning in that subsection as they have in that Act.

(5) The amendments made by section 71, insofar as they apply for the purposes of Division 4 of Part II of the Income Tax Rates Act 1986, apply in relation to assessable income derived after the commencement of this subsection.

(6) The amendments made by section 71, insofar as they apply in relation to the Child Support (Registration and Collection) Act 1988, apply in relation to income derived, and other amounts paid, after the commencement of this subsection.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 92

Transitional - section 160AFD of the Principal Act

92. (1) For the purposes of section 160AFD of the Principal Act, if:

(a) a taxpayer incurred a particular overall foreign loss in respect of a particular class (in this section called the "first class") of assessable foreign income in respect of a year of income earlier than the 1990-91 year of income; and

(b) the whole or a part of the loss is attributable to assessable foreign income derived from a particular foreign source; and

(c) assuming that the taxpayer had derived assessable foreign income of the

1990-91 year of income from that foreign source, it would have been assessable foreign income of another class (in this section called the "second class"); and

(d) assuming that the taxpayer had derived assessable foreign income of the 1990-91 year of income of the first class, the loss would, to any extent, have been available to reduce that class of assessable foreign income under subsection (1) or (2) of that section; and

(e) the taxpayer elects that this section applies; then, the whole or the part, as the case may be, of the loss referred to in paragraph (b) is taken to be in respect of the second class instead of the first class.

(2) An election for the purposes of this section has no effect unless it is made:

(a) within 6 months after the commencement of this section; or

(b) within such further period as the Commissioner allows.

(3) In this section:

"foreign source", in relation to a taxpayer, means any business, commercial or investment activity carried on by the taxpayer in a foreign country.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 93

Transitional - old system company tax instalments

93. In addition to its effect apart from this section, section 160APYBA of the Principal Act as amended by this Act has effect as if a reference in paragraph (a) to a payment made by a company included a reference to a payment covered by the repealed section 160APM of the Principal Act, where notice of an original company tax assessment in respect of the year of income to which the payment relates was served on the company after 20 August 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 94

Transitional - franking debits and credits for life assurance companies

94. If:

(a) paragraph (aa) of the definition of "applicable general company tax rate" in section 160APA of the Principal Act referred to a provision of that Act which has been repealed by this Act; and

(b) the repealed provision continues to apply in spite of its repeal; then, in spite of the amendments of the paragraph made by this Act, that paragraph continues to apply, in relation to the repealed provision, as if those amendments had not been made.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 95

Transitional - estimated franking debits

95. In spite of the omission of the definition of "liability reduction action" in section 160APA of the Principal Act effected by this Act:

(a) paragraph (b) of that definition continues to apply, in relation to debits under section 160AQA of the Principal Act (as that section continues to apply in spite of its repeal), as if that omission had not been effected; and

(b) paragraph (c) of that definition continues to apply, in relation to debits under section 160AQ of the Principal Act (as that section continues to apply in spite of its repeal), as if that omission had not been effected.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 96

Transitional - franking debits for foreign tax credits

96. In spite of the repeals of sections 160APVE and 160AQA of the Principal Act effected by this Act, those sections continue to apply, in relation to:

(a) a foreign tax credit, or an increased foreign tax credit, that was applied in discharge of:

(i) tax covered by a notice of an original company tax assessment; or

(ii) increased tax covered by a notice of an amended company tax assessment;

where the notice was served, or deemed to be served, on the company concerned before 21 August 1991; or

(b) a notice of:

(i) a determination that a foreign tax credit is allowable in respect of tax paid or payable by a company in respect of income derived in a year of income; or

(ii) a determination increasing such a foreign tax credit; that was served on the company after 20 August 1991, where a notice of an original company tax assessment in respect of the year of income was served, or deemed to be served, on the company before 21 August 1991; as if those repeals had not been effected.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 97

Transitional - cancellation of franking surplus for registered organizations

97. In spite of anything in Part IIIAA of the Principal Act as amended by this Act, for the purposes of that Part of that Act, if a registered organization has a franking surplus immediately before 3 p.m., by standard time in the Australian Capital Territory, on 20 August 1991, there arises at that time a franking debit of the registered organization equal to that franking surplus.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 98

Transitional - section 160APMC of the amended Act

98. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) For the purposes of section 160APMC of the amended Act, if:

(a) on a particular day (in this section called the "notice day") after 20 August 1991:

(i) the Commissioner serves on a company a notice of an original company tax assessment for an eligible year of income; or

(ii) a company is, under section 166A of the amended Act, deemed to have been served with a notice of an original company tax assessment for an eligible year of income; and

(b) before 21 August 1991, the company made a final payment of tax under section 221AZD of the Principal Act in respect of the year of income; then, that payment is taken to have been made on the notice day instead of on the day on which it was actually made.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 99

Transitional - section 160APMD of the amended Act

99. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) For the purposes of section 160APMD of the amended Act, if:

(a) on a particular day (in this section called the "notice day") after 20 August 1991:

(i) the Commissioner serves on a company a notice of an original company tax assessment for an eligible year of income; or

(ii) a company is, under section 166A of the amended Act, deemed to have been served with a notice of an original company tax assessment for an eligible year of income; or

(iii) the Commissioner serves on a company a notice of an amended company tax assessment for an eligible year of income, where the amendment increases the company tax of the company; and

(b) before 21 August 1991, the company made a payment of, or on account of:

(i) if subparagraph (a) (i) or (ii) applies - the company tax covered by the original company tax assessment; or

(ii) if subparagraph (a) (iii) applies - the increased company tax covered by the amended company tax assessment;

then, that payment is taken to have been made on the notice day instead of on the day on which it was actually made.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 100

Transitional - section 160APQA of the amended Act

100. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) For the purposes of section 160APQA of the amended Act, if:

(a) on a particular day (in this section called the "notice day") after 20 August 1991, the Commissioner serves on a company a notice of a determination reducing an offset to which the company is entitled; and

(b) before 21 August 1991, the company made a payment of an excess amount that:

(i) is covered by section 160AQR of the Principal Act; and

(ii) relates to the reduction covered by that notice;

then, that payment is taken to have been made on the notice day instead of on the day on which it was actually made.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 101

Transitional - section 160APQB of the amended Act

101. (1) In this section:

"amended Act" means the Principal Act as amended by this Act.

(2) For the purposes of section 160APQB of the amended Act, if:

(a) on a particular day (in this section called the "notice day") after 20 August 1991, the Commissioner serves on a company a notice of a determination reducing a foreign tax credit allowable in respect of tax paid or payable by the company; and

(b) before 21 August 1991, the company made a payment of an excess amount that:

(i) is covered by subsection 160AN (5) of the Principal Act; and

(ii) relates to the reduction covered by that notice; then, that payment is taken to have been made on the notice day instead of on the day on which it was actually made.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 102
Transitional - section 221A of the Principal Act

102. The amendments of section 221A of the Principal Act made by this Part are to be disregarded in determining the meaning that an expression defined in that section had before those amendments were made.

PART 5 - AMENDMENT OF THE INCOME TAX RATES ACT 1986

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 104
Principal Act

104. In this Part, "Principal Act" means the Income Tax Rates Act 1986.*4*
4 No. 107, 1986, as amended. For previous amendments, see Nos. 60 and 138, 1987; and Nos. 11, 78 and 118, 1988; Nos. 98 and 106, 1989; No. 87, 1990; and No. 100, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 105
Interpretation

105. (1) Section 16 of the Principal Act is amended by omitting "or 2.14" from paragraph (c) of the definition of "eligible pensioner" in subsection (1) and substituting ", 2.14 or 2.15".

(2) The amendment made by subsection (1) applies in relation to assessments in respect of income of the year of income in which 1 July 1991 occurred and of all subsequent years of income.

PART 6 - AMENDMENT OF THE OCCUPATIONAL SUPERANNUATION STANDARDS ACT 1987

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 106
Principal Act

106. In this Part, "Principal Act" means the Occupational Superannuation Standards Act 1987.*5*
5 No. 97, 1987, as amended. For previous amendments, see No. 138, 1987; Nos. 97 and 105, 1989; Nos. 61 and 135, 1990; and No. 55, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 107
Pre-1 July funding credits and debits

107. Section 15D of the Principal Act is amended by omitting from paragraph (3) (b) "31 December 1991" and substituting "the prescribed day".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 108

Interpretation

108. Section 15E of the Principal Act is amended by omitting from subsection (1) the definition of "payer" and substituting the following definition:

" 'payer' means any person or other entity (other than a continuously non-complying ADF) that makes, or is liable to make, an eligible termination payment, a payment of a superannuation pension or a payment of an annuity;".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 109

Deemed commutation of annuities and pensions

109. Section 15S of the Principal Act is amended by inserting in subsection (4) ", unless the Commissioner determines (on an application having been made by the fund) that the fund is taken to have satisfied those conditions in relation to that year of income and any specified subsequent year or years of income" after "subsequent year of income".

PART 7 - AMENDMENT OF THE TAXATION ADMINISTRATION ACT 1953

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 110

Principal Act

110. In this Part, "Principal Act" means the Taxation Administration Act 1953.*6*

6 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; Nos. 41, 46, 48, 112, 144 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); Nos. 120 and 145, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); Nos. 95 and 97, 1988; Nos. 97, 105, 107, 124, 163 and 167, 1989; Nos. 20, 60, 61, 110, 119 and 136, 1990; and Nos. 5, 6, 48, and 100, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 111

Conducting affairs so as to avoid tax file number requirements

111. Section 8WC of the Principal Act is amended:

(a) by omitting subparagraph (1) (b) (iii) and substituting the following subparagraph:

"(iii) although the person has not, under Part VA of the Income Tax Assessment Act 1936, quoted the person's tax file number in connection with those investments (in this subparagraph called the 'non-TFN investments'):

(A) amounts would not be deducted under Division 3B of that Act from income in respect of one or more of the non-TFN investments; and

(B) amounts would not be paid to the Commissioner under subsection 221YHZD (1B) of that Act in relation to income in respect of one or more of the non-TFN investments; and

(C) TFN withholding tax would not be payable under section 221YHZR of that Act in respect of one or more of the non-TFN investments;

or";

(b) by omitting from subparagraph (1) (b) (iv) "the investment is" and substituting "the investments are".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 112

112. Parts IVAB and IVB of the Principal Act are repealed and the following Part is substituted:

"PART IVC - TAXATION OBJECTIONS, REVIEWS AND APPEALS

"Division 1 - Introduction

Part applies to taxation objections

"14ZL. (1) This Part applies if a provision of an Act (including the provision as applied by another Act) provides that a person who is dissatisfied with an assessment, determination, notice or decision may object against it in the manner set out in this Part.

"(2) Such an objection is in this Part called a 'taxation objection'.

Division 2 - Interpretive

"14ZM. Division 2 contains interpretive provisions necessary for this Part.

Division 3 - Taxation objections

"14ZN. Division 3 describes how taxation objections are to be made and how they are to be dealt with by the Commissioner.

Division 4 - AAT review

"14ZO. Division 4 contains provisions about applications to the AAT for review of decisions by the Commissioner in relation to certain taxation objections and requests for extension of time.

Division 5 - Federal Court appeals

"14ZP. Division 5 contains provisions about appeals to the Federal Court against decisions by the Commissioner in relation to certain taxation objections.

"Division 2 - Interpretive provisions

General interpretive provisions

"14ZQ In this Part:

'AAT' means the Administrative Appeals Tribunal;

'AAT Act' means the Administrative Appeals Tribunal Act 1975;

'AAT extension application' means an application under subsection 29 (7) of the AAT Act that relates to a review of a reviewable objection decision or an extension of time refusal decision;

'appealable objection decision' means an objection decision other than one made on a taxation objection under:

(a) section 63 of the Pay-roll Tax (Territories) Assessment Act 1971; or

(b) section 14E of this Act; or

(c) section 43A of the Wool Tax (Administration) Act 1964;

'delayed administration (beneficiary) objection' means a taxation objection made under:

(a) subsection 98 (3) of the Fringe Benefits Tax Assessment Act 1986; or

(b) subsection 220 (3) of the Income Tax Assessment Act 1936 (including that subsection as applied by any other Act); or

(c) subsection 34 (3) of the Pay-roll Tax (Territories) Assessment Act 1971; or

(d) subsection 90 (3) of the Petroleum Resource Rent Tax Assessment Act 1987; or

(e) subsection 35 (6) of the Sales Tax Assessment Act (No. 1) 1930 (including that subsection as applied by any other Sales Tax Assessment Act); or

(f) subsection 80 (3) of the Training Guarantee (Administration) Act 1990; or

(g) subsection 51 (3) of the Wool Tax (Administration) Act 1964;
 'delayed administration (trustee) objection' means a taxation objection made under:

- (a) subsection 98 (7) of the Fringe Benefits Tax Assessment Act 1986; or
- (b) subsection 220 (7) of the Income Tax Assessment Act 1936 (including that subsection as applied by any other Act); or
- (c) subsection 34 (7) of the Pay-roll Tax (Territories) Assessment Act 1971; or
- (d) subsection 90 (7) of the Petroleum Resource Rent Tax Assessment Act 1987; or
- (e) subsection 35 (10) of the Sales Tax Assessment Act (No. 1) 1930 (including that subsection as applied by any other Sales Tax Assessment Act); or
- (f) subsection 80 (7) of the Training Guarantee (Administration) Act 1990; or
- (g) subsection 51 (7) of the Wool Tax (Administration) Act 1964;

'extension of time refusal decision' means a decision of the Commissioner under subsection 14ZX (1) to refuse a request by a person;

'Family Court' means the Family Court of Australia;

'Family Court Judge' means a Judge of the Family Court (including the Chief Judge, the Deputy Chief Judge, a Judge Administrator or a Senior Judge);

'Federal Court' means the Federal Court of Australia;

'franking assessment' means a franking assessment within the meaning of section 160APA of the Income Tax Assessment Act 1936;

'ineligible income tax remission decision' has the meaning given by section 14ZS;

'ineligible sales tax remission decision' has the meaning given by section 14ZT;

'objection decision' has the meaning given by subsection 14ZY (2);

'registration-type sales tax decision' means a decision covered by subsection 38A (4) of the Sales Tax Assessment Act (No. 1) 1930 (including that subsection as applied by any other Sales Tax Assessment Act);

'reviewable objection decision' means an objection decision that is not:

- (a) an ineligible income tax remission decision; or
- (b) an ineligible sales tax remission decision;

'Sales Tax Assessment Act' means any Act providing for the assessment of sales tax;

'taxation decision' means the assessment, determination, notice or decision against which a taxation objection may be, or has been, made;

'taxation objection' has the meaning given by section 14ZL.

Taxation decisions covered by single notice to be treated as single decision

"14ZR. (1) If:

- (a) a provision of an Act (including a provision as applied by another Act, but not including section 14E of this Act) provides that a person who is dissatisfied with a taxation decision may object against it in the manner set out in this Part; and
- (b) a notice incorporates notice of 2 or more such taxation decisions; then, for the purposes of the provision and of this Part, the taxation decisions are taken to be one taxation decision.

"(2) If:

- (a) under subsection (1), 2 or more taxation decisions are taken to be a single taxation decision (in this subsection called the 'deemed single taxation decision'); and
- (b) the Commissioner makes an objection decision in relation to the deemed single taxation decision; and
- (c) the objection decision is, to any extent:
- (i) an ineligible income tax remission decision; or

(ii) an ineligible sales tax remission decision;
then, this Part has effect, in relation to any review or appeal, as if:

(d) so much of the objection decision as consists of one or more ineligible income tax remission decisions were taken to be a separate objection decision; and

(e) so much of the objection decision as consists of one or more ineligible sales tax remission decisions were taken to be a separate objection decision.

Ineligible income tax remission decisions

"14ZS. (1) For the purposes of this Part, an objection decision is an ineligible income tax remission decision if subsection (2) or (4) applies.

"(2) An objection decision is an ineligible income tax remission decision if it relates to the remission of additional tax payable by a taxpayer under the Income Tax Assessment Act 1936 (other than Division 11 of Part IIIAA), except where the additional tax is payable under Part VII of that Act and its amount, after the decision is made, exceeds:

(a) in the case of additional tax payable under section 222 of that Act because of the refusal or failure to furnish a return, or any information, relating to a year of income - the amount calculated, in respect of the period commencing on the last day allowed for furnishing the return or information and ending on:

(i) the day on which the return or information is furnished; or

(ii) the day on which the assessment of the additional tax is made; whichever first happens, at the rate of 20% per year of the tax properly payable by the taxpayer in respect of the year of income; or

(b) in the case of additional tax payable under section 223 of that Act because of the making of a statement:

(i) if the statement relates to only one year of income - the amount calculated, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of the additional tax is made, at the rate of 20% per year of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income; or

(ii) if the statement relates to 2 or more years of income - the sum of the amounts calculated in relation to each of those years of income, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of the additional tax is made, at the rate of 20% per year of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income; or

(c) in the case of additional tax payable under section 224, 225 or 226 of that Act in relation to a year of income - the amount calculated, in respect of the period commencing on the day that is the prescribed day in relation to the taxpayer in relation to the year of income and ending on the day on which the assessment of additional tax is made, at the rate of 20% per year of the amount of relevant affected tax in relation to the taxpayer in relation to the year of income; or

(d) if the amount calculated in accordance with paragraph (a), (b) or (c) is less than \$20 - \$20.

"(3) In subsection (2):

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

'relevant affected tax', in relation to a taxpayer in relation to a year of income, means:

(a) in a case where paragraph (2) (b) applies - whichever of the following is applicable in relation to the taxpayer in relation to the year of income,

namely, the excess referred to in subsection 223 (1), paragraph 223 (2) (c) or (d) or subsection 223 (4) of the Income Tax Assessment Act 1936 or, if paragraph 223 (2) (e) of that Act is so applicable, one half of the sum referred to in that paragraph; or

(b) in a case where paragraph (2) (c) applies in relation to additional tax payable under section 224 of the Income Tax Assessment Act 1936 - the amount of the difference referred to in whichever of paragraphs 224 (1) (e) and (f) of that Act is applicable in relation to the taxpayer in relation to the year of income; or

(c) in a case where paragraph (2) (c) applies in relation to additional tax payable under section 225 or 226 of the Income Tax Assessment Act 1936 and:

(i) subparagraph 225 (1) (c) (i) or 226 (c) (i) of that Act applies in relation to the additional tax - the amount of the tax referred to in paragraph 225 (1) (a) or 226 (a) of that Act, as the case requires, in relation to the taxpayer in relation to the year of income; or

(ii) subparagraph 225 (1) (c) (ii) or 226 (c) (ii) of the Income Tax Assessment Act 1936 applies in relation to the additional tax - the amount by which the amount of the tax referred to in paragraph 225 (1) (a) or 226 (a) of that Act, as the case requires, in relation to the taxpayer in relation to the year of income exceeds the amount that is the amount referred to in subsection 225 (1) or section 226 of that Act, as the case requires, as the amount of claimed tax in relation to the taxpayer in relation to the year of income.

"(4) An objection decision is an ineligible income tax remission decision if it relates to the remission of additional tax payable under the Income Tax Assessment Act 1936 by a person who is not a taxpayer under that Act, except where the additional tax is payable by a trustee of a trust estate under subsection 223 (4) of that Act and its amount, after the decision is made, exceeds \$20.

"(5) A reference in this section to a provision of the Income Tax Assessment Act 1936 includes a reference to that provision as applied by any other Act. Ineligible sales tax remission decisions

"14ZT. (1) For the purposes of this Part, an objection decision is an ineligible sales tax remission decision if it relates to the remission of additional tax under the Sales Tax Assessment Act (No. 1) 1930, except where the additional tax payable, after the decision is made, exceeds:

(a) in the case of additional tax payable under subsection 45 (1) of that Act because of a refusal or failure to furnish a return or information in respect of goods - the amount calculated, in respect of the period commencing on the last day allowed for furnishing the return or information, as the case may be, and ending on:

(i) the day on which the return or information is furnished; or

(ii) the day on which the assessment of additional tax is made;

whichever first happens, at the rate of 20% per year of the tax properly payable in respect of those goods; or

(b) in the case of additional tax payable under subsection 45 (2) of that Act because of the making of a false or misleading statement - the amount calculated, in respect of the period commencing on the day the amount of the excess referred to in that subsection became due and payable and ending on the day on which the assessment of additional tax is made, at the rate of 20% per year of that excess; or

(c) in the case of additional tax payable under section 46 of that Act in consequence of an alteration in sale value of goods - the amount calculated, in respect of the period commencing on the day the amount of the difference referred to in that section became due and payable and ending on the day on which the assessment of additional tax is made, at the rate of 20% per year of the amount of that difference; or

(d) if the amount ascertained in accordance with paragraph (a), (b) or (c)

is less than \$20 - \$20.

"(2) A reference in this section to a provision of the Sales Tax Assessment Act (No. 1) 1930 includes a reference to that provision as applied by any Sales Tax Assessment Act.

"Division 3 - Taxation objections

How taxation objections are to be made

"14ZU. A person making a taxation objection must:

- (a) make it in writing; and
- (b) lodge it with the Commissioner within the period set out in section 14ZW; and
- (c) state in it, fully and in detail, the grounds that the person relies on.

Limited objection rights in the case of certain amended taxation decisions

"14ZV. If the taxation objection is made against a taxation decision, being an assessment or determination that has been amended in any particular, then a person's right to object against the amended assessment or amended determination is limited to a right to object against alterations or additions in respect of, or matters relating to, that particular.

When taxation objections are to be made

"14ZW. (1) The person must lodge the taxation objection with the Commissioner within 60 days after:

- (a) if the taxation objection is a delayed administration (beneficiary) objection - notice of the taxation decision to which it relates has been first published; or
- (b) if the taxation objection is a delayed administration (trustee) objection - probate of the will, or letters of administration of the estate, of the deceased person concerned has been granted; or
- (c) in any other case - notice of the taxation decision to which it relates has been served on the person.

"(2) If the 60 days have passed, the person may nevertheless lodge the objection with the Commissioner together with a written request asking the Commissioner to deal with the objection as if it had been lodged within the 60 days.

"(3) The request must state fully and in detail the circumstances concerning, and the reasons for, the person's failure to lodge the objection with the Commissioner within the 60 days.

Commissioner to consider applications for extension of time

"14ZX. (1) After considering the request, the Commissioner must decide whether to agree to it or refuse it.

"(2) The Commissioner must give the person written notice of the Commissioner's decision.

"(3) If the Commissioner decides to agree to the request, then, for the purposes of this Part, the objection is taken to have been lodged with the Commissioner within the 60 days.

"(4) If the Commissioner decides to refuse the request, the person may apply to the AAT for review of the decision.

Commissioner to decide taxation objections

"14ZY. (1) If the taxation objection has been lodged with the Commissioner within the 60 days, the Commissioner must decide whether to:

- (a) allow it, wholly or in part; or
- (b) disallow it.

"(2) Such a decision is in this Part called an 'objection decision'.

"(3) The Commissioner must cause to be served on the person written notice of the Commissioner's objection decision.

Person may require Commissioner to make an objection decision

"14ZYA. (1) This section applies if the taxation objection has been lodged with the Commissioner within the 60 days and the Commissioner has not made an

objection decision by whichever is the later of the following times:

(a) the end of the period (in this section called the 'original 60-day period') of 60 days after whichever is the later of the following days:

(i) the day on which the taxation objection is lodged with the Commissioner;

(ii) if the Commissioner decides under section 14ZX to agree to a request in relation to the taxation objection - the day on which the decision is made;

(b) if the Commissioner, by written notice served on the person within the original 60-day period, requires the person to give information relating to the taxation objection - the end of the period of 60 days after the Commissioner receives that information.

"(2) The person may give the Commissioner a written notice requiring the Commissioner to make an objection decision.

"(3) If the Commissioner has not made an objection decision by the end of the period of 60 days after being given the notice, then, at the end of that period, the Commissioner is taken to have made a decision under subsection 14ZY (1) to disallow the taxation objection.

Person may seek review of, or appeal against, Commissioner's decision

"14ZZ. If the person is dissatisfied with the Commissioner's objection decision, the person may:

(a) if the decision is both a reviewable objection decision and an appealable objection decision - either:

(i) apply to the AAT for review of the decision; or

(ii) appeal to the Federal Court against the decision; or

(b) if the decision is a reviewable objection decision (other than an appealable objection decision) - apply to the AAT for review of the decision; or

(c) if the decision is an appealable objection decision (other than a reviewable objection decision) - appeal to the Federal Court against the decision.

"Division 4 - AAT review of objection decisions and extension of time refusal decisions

Modified AAT Act to apply

"14ZZA. The AAT Act applies in relation to:

(a) the review of reviewable objection decisions; and

(b) the review of extension of time refusal decisions; and

(c) AAT extension applications;

subject to the modifications set out in this Division.

Sections 27, 28, 41 and 44A of the AAT Act not to apply to certain decisions

"14ZZB. (1) Sections 27 and 41 of the AAT Act do not apply in relation to:

(a) a reviewable objection decision (other than a reviewable objection decision that relates to a registration-type sales tax decision); or

(b) an extension of time refusal decision.

"(2) Sections 28 and 44A of the AAT Act do not apply in relation to a reviewable objection decision (other than a reviewable objection decision that relates to a registration-type sales tax decision).

Modification of section 29 of the AAT Act

"14ZZC. Section 29 of the AAT Act applies in relation to a reviewable objection decision as if subsections (1) to (6) (inclusive) of that section were omitted and the following subsection were substituted:

'(1) An application to the Tribunal for a review of a decision:

(a) must be in writing; and

(b) may be made in accordance with the prescribed form; and

(c) must set out a statement of the reasons for the application; and

(d) must be lodged with the Tribunal within 60 days after the person making

the application is served with notice of the decision.'

Modification of section 30 of the AAT Act

"14ZZD. Section 30 of the AAT Act applies in relation to a reviewable objection decision or an extension of time refusal decision as if subsection (1A) of that section were omitted and the following subsection were substituted:

'(1A) If an application has been made by a person to the Tribunal for the review of a reviewable objection decision or an extension of time refusal decision:

(a) any other person whose interests are affected by the decision may apply, in writing, to the Tribunal to be made a party to the proceeding; and

(b) the Tribunal may, in its discretion, by order, if it is satisfied that the person making the application consents to the order, make that person a party to the proceeding.'

Hearings generally not to be in public in spite of section 35 of the AAT Act

"14ZZE. In spite of section 35 of the AAT Act, the hearing of a proceeding before the AAT for:

(a) a review of a reviewable objection decision; and

(b) a review of an extension of time refusal decision; and

(c) an AAT extension application;

is not to be in public unless the party who made the application requests that it be in public.

Modification of section 37 of the AAT Act

"14ZZF. (1) Section 37 of the AAT Act applies in relation to an application for review of a reviewable objection decision as if:

(a) the requirement in subsection (1) of that section to lodge with the Tribunal such numbers of copies as is prescribed of statements or other documents were instead a requirement to lodge with the Tribunal such numbers of copies as is prescribed of:

(i) a statement giving the reasons for the decision; and

(ii) the notice of the taxation decision concerned; and

(iii) the taxation objection concerned; and

(iv) the notice of the objection decision; and

(v) every other document that is in the Commissioner's possession or under the Commissioner's control and is considered by the Commissioner to be necessary to the review of the objection decision concerned; and

(vi) a list of the documents (if any) being lodged under subparagraph (v); and

(b) the power of the Tribunal under subsection (2) of that section to cause a notice to be served containing a statement and imposing a requirement on a person were instead:

(i) a power to make such a statement and impose such a requirement orally at a conference held in accordance with subsection 34 (1) of the AAT Act; and

(ii) a power, by such a notice, to make such a statement and impose a requirement that the person lodge with the Tribunal, within the time specified in the notice, the prescribed number of copies of each of those other documents that is in the person's possession or under the person's control; and

(iii) a power, by such a notice, to make such a statement and impose a requirement that the person lodge with the Tribunal, within the time specified in the notice, the prescribed number of copies of a list of the documents in the person's possession or under the person's control considered by the person to be relevant to the review of the objection decision concerned.

"(2) Paragraph (1) (b) does not affect any powers that the Tribunal has apart from that paragraph.

"(3) The imposition of a requirement covered by subparagraph (1) (b) (iii) does not prevent the subsequent imposition of a requirement covered by

subparagraph (1) (b) (ii).

Modification of section 38 of the AAT Act

"14ZZG. Section 38 of the AAT Act applies in relation to an application for a review of a reviewable objection decision as if the reference to paragraph 37 (1) (a) of that Act were instead a reference to subparagraph 14ZZF (1) (a) (i) of this Act.

Modification of section 41 of the AAT Act

"14ZZH. If:

(a) a person applies to the AAT for the review of a reviewable objection decision; and

(b) the objection decision relates to a registration-type sales tax decision;

section 41 of the AAT Act applies as if the reference in that section to a decision were a reference both to the objection decision and to the registration-type sales tax decision.

Modification of section 43 of the AAT Act

"14ZZJ. Section 43 of the AAT Act applies in relation to:

(a) a review of a reviewable objection decision; and

(b) a review of an extension of time refusal decision; and

(c) an AAT extension application;

as if the following subsections were inserted after subsection (2B):

'(2C) If a hearing of a proceeding for the review of a decision or an AAT extension application is not conducted in public, that fact does not prevent the Tribunal from publishing its reasons for the decision.

'(2D) If:

(a) a hearing of a proceeding for the review of a decision or an AAT extension application is not conducted in public; and

(b) a notice of appeal has not been lodged with the Federal Court; the Tribunal must ensure, as far as practicable, that its reasons for the decision are framed so as not to be likely to enable the identification of the person who applied for the review.

'(2E) In subsections (2C) and (2D):

"reasons for decision" includes findings on material questions of fact and references to the evidence or other material on which those findings were based.'.

Grounds of objection and burden of proof

"14ZZK. On an application for review of a reviewable objection decision:

(a) the applicant is, unless the AAT orders otherwise, limited to the grounds stated in the taxation objection to which the decision relates; and

(b) the applicant has the burden of proving that:

(i) if the taxation decision concerned is an assessment (other than a franking assessment) - the assessment is excessive; or

(ii) if the taxation decision concerned is a franking assessment - the assessment is incorrect; or

(iii) in any other case - the taxation decision concerned should not have been made or should have been made differently.

Implementation of AAT decisions

"14ZZL. (1) When the decision of the AAT on the review of a reviewable objection decision or an extension of time refusal decision becomes final, the Commissioner must, within 60 days, take such action, including amending any assessment or determination concerned, as is necessary to give effect to the decision.

"(2) For the purposes of subsection (1), if no appeal is lodged against the AAT's decision within the period for lodging an appeal, the decision becomes final at the end of the period.

Pending review not to affect implementation of taxation decisions

"14ZZM. The fact that a review is pending in relation to a taxation decision (other than a registration-type sales tax decision) does not in the meantime interfere with, or affect, the decision and any tax, additional tax or other amount may be recovered as if no review were pending.

"Division 5 - Federal Court appeals against objection decisions
Time limit for appeals

"14ZZN. An appeal to the Federal Court against an appealable objection decision must be lodged with the Court within 60 days after the person appealing is served with notice of the decision.

Grounds of objection and burden of proof

"14ZZO. In proceedings on an appeal under section 14ZZ to the Federal Court against an appealable objection decision:

(a) the appellant is, unless the Court orders otherwise, limited to the grounds stated in the taxation objection to which the decision relates; and

(b) the appellant has the burden of proving that:

(i) if the taxation decision concerned is an assessment (other than a franking assessment) - the assessment is excessive; or

(ii) if the taxation decision concerned is a franking assessment - the assessment is incorrect; or

(iii) in any other case - the taxation decision should not have been made or should have been made differently.

Order of Federal Court on appealable objection decision

"14ZZP. Where the Federal Court hears an appeal against an appealable objection decision under section 14ZZ, the Court may make such order in relation to the decision as it thinks fit, including an order confirming or varying the decision.

Implementation of Federal Court order in respect of appealable objection decision

"14ZZQ. (1) When the order of the Federal Court in relation to the decision becomes final, the Commissioner must, within 60 days, take such action, including amending any assessment or determination concerned, as is necessary to give effect to the decision.

"(2) For the purposes of subsection (1):

(a) if the order is made by the Federal Court constituted by a single Judge and no appeal is lodged against the order within the period for lodging an appeal - the order becomes final at the end of the period; and

(b) if the order is made by the Full Court of the Federal Court and no application for special leave to appeal to the High Court against the order is made within the period of 30 days after the order is made - the order becomes final at the end of the period.

Pending appeal not to affect implementation of taxation decisions

"14ZZR. The fact that an appeal is pending in relation to a taxation decision (other than a registration-type sales tax decision) does not in the meantime interfere with, or affect, the decision and any tax, additional tax or other amount may be recovered as if no appeal were pending.

Transfer of certain proceedings to Family Court

"14ZZS. (1) If:

(a) a proceeding is pending in the Federal Court on an appeal under section 14ZZ in relation to an appealable objection decision; and

(b) the taxation decision to which the appealable objection decision relates was made under the Income Tax Assessment Act 1936;

the Federal Court may, on the application of a party to the proceeding or on its own initiative, transfer the proceeding to the Family Court.

"(2) Subject to subsection (3), if the proceeding is transferred to the Family Court:

(a) the Family Court has jurisdiction to hear and determine the proceeding;

and

(b) the Family Court also has jurisdiction to hear and determine matters not otherwise within its jurisdiction (whether because of paragraph (a) or otherwise):

(i) that are associated with matters arising in the proceeding; or
(ii) that, apart from subsection 32 (1) of the Federal Court of Australia Act 1976, the Federal Court would have had jurisdiction to hear and determine in the proceeding; and

(c) the Family Court may, in and in relation to the proceeding:

(i) grant such remedies; and

(ii) make orders of such kinds; and

(iii) issue, and direct the issue of, writs of such kinds;

as the Federal Court could have granted, made, issued or directed the issue of, as the case may be, in and in relation to the proceeding; and

(d) remedies, orders and writs granted, made or issued by the Family Court in and in relation to the proceeding have effect, and may be enforced by the Family Court, as if they had been granted, made or issued by the Federal Court; and

(e) appeals lie from judgments of the Family Court given in and in relation to the proceeding as if the judgments were judgments of the Federal Court constituted by a single Judge of that Court, and do not otherwise lie; and

(f) subject to paragraphs (a) to (e) (inclusive), this Act, the regulations, the Federal Court of Australia Act 1976, the Rules of the Court made under that Act, and other laws of the Commonwealth, apply in and in relation to the proceeding as if:

(i) a reference to the Federal Court (other than in the expression 'the Court or a Judge') included a reference to the Family Court; and

(ii) a reference to a Judge of the Federal Court (other than in the expression 'the Court or a Judge') included a reference to a Family Court Judge; and

(iii) a reference to the expression 'the Court or a Judge' when used in relation to the Federal Court included a reference to a Family Court Judge sitting in Chambers; and

(iv) a reference to a Registrar of the Federal Court included a reference to a Registrar of the Family Court; and

(v) any other necessary changes were made.

"(3) If any difficulty arises in the application of paragraphs (2) (c), (d) and (f) in or in relation to a particular proceeding, the Family Court may, on the application of a party to the proceeding or on its own initiative, give such directions, and make such orders, as it considers appropriate to resolve the difficulty.

"(4) An appeal does not lie from a decision of the Federal Court in relation to the transfer of a proceeding under this Part to the Family Court."

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 113

Consequential amendments - new objection, review and appeal procedures

113. The Acts specified in Schedule 4 are amended as set out in that Schedule.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 114

Application of amendments - new objection, review and appeal procedures

114. The amendments made by sections 112 and 113 apply as follows:
Item

Amendments

Application

1.

(a) The following amendments of the Training Guarantee (Administration) Act 1990:

(i) the amendment of the definition of "training advisory certificate" in section 4;

(ii) the insertion of sections 44A and 44B;

(iii) the repeal of Division 2 of Part 7;

(iv) the amendment of paragraph 101A (1) (b);

(b) The omission and substitution of subsection 3 (4) of the Taxation (Interest on Overpayments) Act 1983;

(c) The repeal of Part IVAB of the Taxation Administration Act 1953, to the extent to which that repeal relates to decisions covered by subsection 14ZAB (2) of that Act;

(d) The repeal of Part IVB of the Taxation Administration Act 1953, to the extent to which that repeal relates to decisions covered by subsection 14ZB (2) of that Act.

Whichever of the following paragraphs is applicable:

(a) if the amendments relate to certificates given under section 44 of the Training Guarantee (Administration) Act 1990 - the amendments apply in relation to certificates given after the commencement of this section;

(b) in any other case - the amendments apply in relation to refusals notified under subsection 43 (3) of that Act after the commencement of this section. 2.

Amendments not covered by the above item.

The amendments apply in relation to objections where the assessments, determinations, notices or decisions to which the objections relate were notified, or were first notified, as the case may be, after the commencement of this section.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 115

Savings

115. In spite of the amendments of sections 3B and 3C of the Taxation Administration Act 1953 made by this Part, and the repeal of Parts IVAB and IVB of that Act effected by this Part, those sections and Parts of that Act continue to apply in relation to:

(a) the Australian Capital Territory Taxation (Administration) Act 1969; and

(b) the Debits Tax Administration Act 1982; and

(c) the Pay-roll Tax Assessment Act 1941;

as if those amendments had not been made and those repeals had not been effected.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 116

Transitional - new review/appeal procedures apply to post-commencement decisions disallowing objections against pre-commencement assessments or against other pre-commencement decisions

116. (1) If:

(a) the Commissioner makes a decision under an old law:

(i) disallowing an objection; or

(ii) allowing an objection, either wholly or in part; and

(b) notice of the Commissioner's decision is served on the objector after the commencement of this section;

then:

(c) the new law has effect, in relation to any review of, or any appeal against, the Commissioner's decision as if:

(i) the Commissioner's decision had been made under subsection 14ZY (1) of the Taxation Administration Act 1953; and

(ii) the Commissioner's decision related to a taxation decision; and

(iii) the objection were a taxation objection; and

(iv) the objection had been made under the corresponding new objection provision instead of under the provision under which it was actually made; and

(d) the old law has effect, in relation to the Commissioner's decision, as if there were no provisions under which the Commissioner could be requested to refer the Commissioner's decision to the AAT or to the Federal Court.

(2) In this section:

"old law" means a provision of an Act repealed by section 113 which continues to apply in spite of its repeal;

"new law" means:

(a) Part IVC of the Taxation Administration Act 1953; or

(b) any other provision of an Act (including a provision of Part IV of the Taxation Administration Act 1953) which directly or indirectly refers to, or to a provision of, Part IVC of the Taxation Administration Act 1953;

"new objection provision" means a provision of an Act covered by subsection 14ZL (1) of the Taxation Administration Act 1953.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 117

Transitional - section 159F of the Income Tax Assessment Act 1936

117. Section 159F of the Income Tax Assessment Act 1936 (as that section continues to apply in spite of its repeal by section 31 of the Taxation Laws Amendment Act (No. 3) 1989) has the effect that it would have if the following subsections were added at the end:

"(2) Subsection (1) does not apply to a determination notified after the commencement of section 113 of the Taxation Laws Amendment Act (No. 3) 1991.

"(3) In a case where a determination is notified after the commencement of section 113 of the Taxation Laws Amendment Act (No. 3) 1991, a person to whom the determination relates and who is dissatisfied with the determination may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

PART 8 - AMENDMENT OF THE TAXATION LAWS AMENDMENT (FOREIGN INCOME) ACT 1990

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 118

Principal Act

118. In this Part, "Principal Act" means the Taxation Laws Amendment (Foreign Income) Act 1990.*7*

7 No. 5, 1991.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 119

Transitional - section 160AFD of the amended Act

119. Section 53 of the Principal Act is amended by inserting in subparagraphs (2) (b) (ii) and (iii) "modified" before "passive".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 120

Application of amendment

120. The amendments made by this Part apply to assessments in respect of income of the 1990-91 year of income and of all subsequent years of income.

PART 9 - AMENDMENT OF THE WOOL TAX (ADMINISTRATION) ACT 1964

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 121

Principal Act

121. In this Part, "Principal Act" means the Wool Tax (Administration) Act 1964.*8*

8 No. 30, 1964, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; No. 37, 1976; No. 19, 1979; No. 134, 1980; No. 61, 1981; No. 122, 1982; No. 39, 1983; No. 123, 1984; Nos. 47, 65 and 123, 1985; Nos. 41 and 48, 1986; Nos. 62 and 145, 1987; No. 97, 1988; and Nos. 60 and 96, 1990.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 122

Interpretation

122. Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of "registered laboratory" and substituting the following definition:

" 'registered laboratory' has the same meaning as in Part 10 of the Australian Wool Corporation Act 1991;".

PART 10 - AMENDMENTS RELATING TO GARNISHEE NOTICES

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 123

Amendments relating to garnishee notices

123.(1) Each of the provisions specified in subsection (2) is amended by omitting paragraph (a) and substituting the following paragraph:

"(a) money has been paid by a person to a building society

in respect of the issue of withdrawable shares in the capital of the society; and".

- (2) The provisions are as follows:
- (a) subsection 99 (9) of the Fringe Benefits Tax Assessment Act 1986;
 - (b) subsection 218 (6) of the Income Tax Assessment Act 1936;
 - (c) subsection 36 (4) of the Pay-roll Tax (Territories) Assessment Act 1971;
 - (d) subsection 91 (9) of the Petroleum Resource Rent Tax Assessment Act 1987;
 - (e) subsection 38 (6) of the Sales Tax Assessment Act (No. 1) 1930;
 - (f) subsection 81 (9) of the Training Guarantee (Administration) Act 1990;
 - (g) subsection 54 (3A) of the Wool Tax (Administration) Act 1964.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 124

Application of amendments

124. The amendments made by this Part apply in relation to notices given by the Commissioner after the commencement of this section.

PART 11 - DEFERRAL OF INITIAL PAYMENTS OF COMPANY TAX FOR 1990-91

Division 1 - Interpretation

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 125

Interpretation

125. (1) In this Part:

"Assessment Act" means the Income Tax Assessment Act 1936;

"company" has the same meaning as in Part IIIAA of the Assessment Act;

"franking deficit tax" has the same meaning as in Part IIIAA of the Assessment Act;

"franking year" has the same meaning as in Part IIIAA of the Assessment Act;

"initial payment of tax" has the same meaning as in Division 1B of Part VI of the Assessment Act;

"paragraph 221AQ (1) (a) notice" means a notice under paragraph 221AQ(1) (a) of the Assessment Act;

"relevant entity" has the same meaning as in Division 1B of the Assessment Act.

(2) A reference in this Part to a provision of Part IIIAA of the Assessment Act that is repealed by this Act is a reference to:

(a) that provision as in force before its repeal; or

(b) that provision as it continues to apply in spite of its repeal.

Division 2 - Deferral of initial payments of tax for 1990-91

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 126

7-week deferral of initial payments of tax for 1990-91

126. If:

(a) a relevant entity's 1990-91 year of income ends after 30 April 1991; and

(b) the amount calculated using the following formula is less than \$400,000:

Initial payment	X	100
of tax		85

where: "Initial payment of tax" means the amount that, apart from this Part, is the initial payment of tax payable by the entity in respect of its taxable income of that year of income; then, section 221AP of the Assessment Act has, and is taken to have had, effect as if the reference in that section to 28 July next following that year of income were a reference to the 15th day of the 3rd month next following the month in which the last day of that year of income occurs.

Division 3 - Deferred initial payments of tax for 1990-91 to be offset by prior payments of franking deficit tax

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 127

Deferred initial payments of tax for 1990-91 to be offset by prior payments of franking deficit tax

127. (1) This section applies if:

(a) a relevant entity has given a paragraph 221AQ (1) (a) notice for the 1990-91 year of income; and

(b) apart from this section, the relevant entity is liable to make an initial payment of tax in respect of its taxable income of the year of income not later than the 15th day of the 3rd month next following the month in which the last day of that year of income occurs; and

(c) before the notice was given, the relevant entity paid an amount (in this section called the "FDT amount") in respect of franking deficit tax in respect of the franking year in which the last day of that year of income occurs.

(2) If the relevant entity is not a life assurance company and the amount of the initial payment of tax does not exceed the FDT amount, the relevant entity is not liable to pay the initial payment of tax.

(3) If the relevant entity is not a life assurance company and the amount of the initial payment of tax exceeds the FDT amount, the initial payment of tax is taken to be an amount equal to the excess.

(4) If:

(a) the relevant entity is a life assurance company; and

(b) the amount of the initial payment does not exceed the sum of:

(i) the FDT amount; and

(ii) the eligible fund component;

the initial payment of tax is taken to be an amount equal to the eligible fund component.

(5) If:

(a) the relevant entity is a life assurance company; and

(b) the amount of the initial payment exceeds the sum of:

(i) the FDT amount; and

(ii) the eligible fund component;

the initial payment of tax is taken to be an amount equal to the amount by which the initial payment of tax exceeds the FDT amount.

(6) For the purposes of this section, the eligible fund component of a life assurance company is the amount calculated using the formula:

$$0.8 \times \text{Fund component}$$

where:

"Fund component" means so much of the initial payment of tax as is attributable to so much of the estimated tax as relates to the following components of taxable income:

(a) the CS/RA component (within the meaning of Division 8 of Part III of

the Assessment Act);

(b) the AD/RLA component (within the meaning of Division 8 of Part III of the Assessment Act);

(c) the NCS component (within the meaning of Division 8 of Part III of the Assessment Act).

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 128

Section 127 to be ignored in calculating certain company tax thresholds

128. In spite of anything in this Division, a reference in subsection 221AT (3) or 221AU (5) of the Assessment Act to a particular amount is to be construed as if section 127 of this Act had not been enacted.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 129

Eliminated or reduced initial payments of tax to be treated as fully paid for credit/refund purposes

129. (1) If, under section 127 of this Act, no initial payment of tax is payable by a relevant entity, section 221AZF of the Assessment Act has, and is taken to have had, effect as if that initial payment of tax had been paid by the relevant entity on the day on which its paragraph 221AQ (1) (a) notice for the 1990-91 year of income was given to the Commissioner.

(2) If:

(a) an initial payment of tax payable by a relevant entity is reduced under section 127 of this Act; and

(b) the relevant entity pays that reduced initial payment of tax; section 221AZF of the Assessment Act has, and is taken to have had, effect as if the amount of that payment had been increased by the amount of the reduction.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 130

Franking credits and debits - effect of elimination or reduction of initial payment of tax

130. (1) If, under section 127 of this Act, no initial payment of tax is payable by a company, then, sections 160APMA, 160APVA, 160APYC, 160APYC and 160AQCD of the Assessment Act have, and are taken to have had, effect as if the company had, on the day on which its paragraph 221AQ (1) (a) notice for the 1990-91 year of income was given to the Commissioner, paid that initial payment of tax.

(2) If:

(a) the initial payment of tax payable by a company is reduced under section 127 of this Act; and

(b) the company pays that reduced initial payment of tax; then, sections 160APMA, 160APVA, 160APYA, 160APYC and 160AQCD of the Assessment Act have, and are taken to have had, effect as if the amount of that payment had been increased by the amount of the reduction.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991

- SECT 131

Reduction of liability for franking deficit tax

131. In spite of section 160AQJ of the Assessment Act, a company's liability for franking deficit tax in respect of the franking year in which the last day

of its 1990-91 year of income occurred is to be calculated on the following assumptions:

- (a) if:
 - (i) an initial payment of tax payable by the company is reduced under section 127 of this Act; and
 - (ii) the company pays that reduced initial payment of tax; the assumption that the amount of that payment had been increased by the amount of the reduction;
- (b) if, under section 127 of this Act, no initial payment of tax is payable by the company - the assumption that the company had, on the day on which its paragraph 221AQ (1) (a) notice for the 1990-91 year of income was given to the Commissioner, paid that initial payment of tax.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 132

No refunds of amounts of franking deficit tax overpaid because of section 131

132. In spite of section 160ARR of the Assessment Act, paragraph 172 (1) (b) of the Assessment Act does not apply to, and a company is not otherwise entitled to a refund in respect of, an overpayment of franking deficit tax that arises out of the operation of section 131 of this Act.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991
- SECT 133

Reduction of liability for franking deficit tax does not give rise to a franking credit under section 160APS of the Assessment Act

133. In spite of section 160APS of the Assessment Act, a franking credit does not arise under that section to the extent to which it is attributable to the operation of section 131 of this Act.

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991 - SCHEDULE 1

SCHEDULE 1

Schedule 87 (1)

ADDITIONAL AMENDMENTS OF THE INCOME TAX
ASSESSMENT ACT 1936 RELATING TO SOCIAL SECURITY PAYMENTS AND
VETERANS' PAYMENTS AFTER 30 JUNE 1991

Section 24AB (Table):

- (a) Omit:

"Job search allowance	24 ABM
Unemployment benefit	24 ABL".
- (b)

Insert in the appropriate alphabetical positions, determined on a letter-by-letter basis:

- | | |
|------------------------------------|----------|
| "Advance pharmaceutical supplement | 24ABDB |
| Disaster relief payment | 24ABDC |
| Job search allowance | 24ABL |
| Newstart allowance | 24ABM |
| Pharmaceutical allowance | 24ABDA". |

Section 24ABA (Table):

Omit "Unemployment benefit", substitute "Newstart allowance".

Subsection 24ABE (3):

Omit "and 195", substitute ", 195 and 195A".

Subsection 24ABO (2):

Omit "section 728", substitute "sections 728 and 728A".

Subsection 24ABP (2):

Omit "section 771", substitute "sections 771 and 771A".

Subsection 24ABW (2):
 Omit "and 890", substitute "890 and 890A".

Subsection 24ABX (2):
 Omit "section 951", substitute "sections 951 and 951A".

Subsection 24ABY (2):
 Omit "section 992", substitute "sections 992 and 992A".

Subsection 24ABZ (2):
 Omit "section 1034", substitute "sections 1034 and 1034A".

Section 24AC (Table):
 (a) Omit:
 "Wife service pension 24ACG".
 (b) After:
 "Loss of earnings allowance 24ACU"
 insert:
 "Partner service pension 24ACG".

Section 160AAA (paragraph (a) of the definition of "rebatable benefit"):
 Omit "or 2.14", substitute ", 2.14 or 2.15".

Section 160AAA (paragraph (b) of the definition of "rebatable pension"):
 Omit "or 2.14", substitute ", 2.14 or 2.15".

Paragraph 20CBb (6) (a):
 Omit "an unemployment benefit", substitute "a job search allowance, a newstart allowance".

Paragraph 202CE (7) (a):
 Omit "an unemployment benefit", substitute "a job search allowance, a newstart allowance".

Section 221A (paragraph (c) of the definition of "prescribed non-resident"):
 Omit "or 2.14", substitute "2.14 or 2.15".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991 - SCHEDULE 2

SCHEDULE 2 Schedule 87 (2)
 ADDITIONAL AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936 RELATING
 TO

SOCIAL SECURITY PAYMENTS AFTER 11 NOVEMBER 1991

Section 24AB (Table):
 (a) Omit:
 "Invalid pension 24ABD
 Sheltered employment allowance 24ABJ
 Sickness benefit 24ABO
 Special needs invalid pension 24ABR".
 (b) Insert in the appropriate alphabetical positions,
 determined on a letter-by-letter basis:
 "Disability support pension 24ABD
 Sickness allowance 24ABO
 Special needs disability support pension 24ABR".

Section 24ABA (Table):
 Omit "Sickness benefit", substitute "Sickness allowance".

Subparagraph 102AC (2) (c) (ii):
 Omit "an invalid pension", substitute "a disability support pension".

Sub-subparagraph 102AC (2) (d) (i) (B):
 Omit "is permanently incapacitated for work", substitute
 "has a continuing inability to work".

Subsection 159J (6) (paragraph (a) of the definition of "invalid relative"):
 (a) Omit "an invalid pension", substitute "a disability support pension".

(b) Omit "special needs invalid pension", substitute "special needs disability support pension".
Subsection 159J (6) (paragraph (c) of the definition of "invalid relative"):
(a) Omit "invalid pensions", substitute "disability support pensions".
(b) Omit "is permanently incapacitated for work", substitute "has a continuing inability to work".
Paragraph 159L (1) (c):
Omit "an invalid pension", substitute "a disability support pension".
Subsection 159L (4):
Omit "an invalid pension", substitute "a disability support pension".
Subsection 159L (6):
Omit "an invalid pension" (second occurring), substitute "a disability support pension".
Paragraph 202CB (6) (a):
Omit "sickness benefit", substitute "sickness allowance".
Paragraph 202CE (7) (a):
Omit "sickness benefit", substitute "sickness allowance".
Paragraph 202EA (5) (b):
Omit "an invalid pension", substitute "a disability support pension".
Subparagraph 202EB (5) (a) (ii):
Omit "an invalid pension", substitute "a disability support pension".

TAXATION LAWS AMENDMENT (No. 3) ACT 1991 No. 216 of 1991 - SCHEDULE 3

SCHEDULE 3

Schedule 88

AMENDMENTS CONSEQUENTIAL UPON THE REPEAL OF

SECTION 221B OF THE INCOME TAX ASSESSMENT ACT 1936

Child Support (Registration and Collection) Act 1988

Subsection 4 (1) (definition of "employee"):

Omit all the words after "1936".

Subsection 4 (1) (definition of "employer"):

Omit all the words after "1936".

Fringe Benefits Tax Assessment Act 1986

Subsection 136 (1) (definition of "current employee"):

Omit all the words after "1936".

Subsection 136 (1) (definition of "current employer"):

Omit all the words after "1936".

Income Tax Assessment Act 1936

Subsection 82KT (1) (definition of "employee"):

Omit all the words after "221A".

Subsection 82KT (1) (definition of "employer"):

Omit all the words after "221A".

Subsection 159ZR (3):

Omit the subsection.

Income Tax Rates Act 1986

Subsection 16 (1) (definition of "salary or wages"):

Omit all the words after "Assessment Act".

SCHEDULE 4

Section 113

AMENDMENTS OF CERTAIN ACTS IN RELATION TO

TAXATION OBJECTIONS, REVIEWS AND APPEALS

Administrative Decisions (Judicial Review) Act 1977

After paragraph (g) of Schedule 1:

Insert:

"(ga) decisions under section 14ZY of the Taxation Administration Act 1953 disallowing objections to assessments or calculations of tax, charge or duty;"

Estate Duty Assessment Act 1914

Subsection 3 (1):

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;"

Subparagraph 9D (8) (b) (i):

Omit "made a request under section 25", substitute "applied to the Tribunal for a review of, or appealed to the Federal Court against, the decision of the Commissioner on the objection".

Subparagraph 9D (8) (b) (ii):

Omit "made such a request", substitute "so applied or appealed".

Paragraph 22 (1) (b):

Omit "on appeal against", substitute "under Part IVC of the Taxation Administration Act 1953 on an appeal or review relating to".

After section 23:

Insert in Part IV:

Objections

"23A. An administrator who is dissatisfied with an assessment in relation to the administrator may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Part V:

Repeal the Part.

Subsection 34 (4):

(a) Omit "Part V" (first occurring), substitute "section 23A of this Act and Part IVC of the Taxation Administration Act 1953".

(b) Omit "Part V" (last occurring), substitute "section 23A of this Act".

Fringe Benefits Tax (Application to the Commonwealth) Act 1986
Paragraphs 4 (1) (c) and (d):

Omit the paragraphs, substitute:

"; and (c) the responsible Department were a government body."

After section 5:

Insert:

Modified objection, review and appeal provisions

"5A. If, apart from this section, Part IVC of the Taxation Administration Act 1953 would apply to an objection made under the Assessment Act in its application in accordance with this Act, then that Part applies as if subsection 14ZX (4), section 14ZZ and Divisions 4 and 5 of that Part were omitted."

Fringe Benefits Tax Assessment Act 1986

Subsections 67 (6) and (7):

Omit the subsections, substitute:

"(6) If the employer is dissatisfied with the Commissioner's decision on the request, the employer may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

After section 78:

Insert in Part V:

Objections

"78A. An employer who is dissatisfied with an assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Part VI:

Repeal the Part.

Subsection 98 (3):

Omit the subsection, substitute:

"(3) A person who claims an interest in the estate of the deceased employer and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsections 98 (7) and (8):

Omit the subsections, substitute:

"(7) In spite of subsections (4), (5) and (6), if probate of the will, or letters of administration of the estate, of the deceased employer is or are granted to a person, and the person is dissatisfied with the assessment, the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(8) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsection (3) or (7) as if the person were the deceased employer."

Subsection 126 (1):

Omit "Part VI", substitute "Part IVC of the Taxation Administration Act 1953".

Subsection 136 (1) (definition of "this Act"):

Omit the definition, substitute:

" 'this Act' includes:

(a) the regulations; and

(b) Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;".

Gift Duty Assessment Act 1941

Subsection 4 (1):

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;".

After section 24:

Insert in Part IV:

Objections

"24AA. A person required to pay gift duty who is dissatisfied with an assessment in relation to the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Part VI:

Repeal the Part.

Gift Duty Convention (United States of America) Act 1953

Section 3:

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act."

Section 9:

Repeal the section, substitute:

Objections

"9. A person who is dissatisfied with a determination made in relation to the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Higher Education Funding Act 1988

Subsection 72 (1):

Omit "Parts IV and V", substitute "Part IV".

Income Tax Assessment Act 1936

Subsection 6 (1):

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;".

Subsections 78B (5) and (6):

Omit the subsections, substitute:

"(5) If the taxpayer is dissatisfied with the Commissioner's decision on the request, the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsections 82KL (9) and (10):

Omit the subsections, substitute:

"(9) If the taxpayer is dissatisfied with the Commissioner's decision on the request, the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Paragraph 82KZAA (3) (a):

After "subsection 188 (1) or (2)" insert ", as in force immediately before the commencement of section 113 of the Taxation Laws Amendment Act (No. 3) 1991."

Subparagraph 82KZAA (3) (d) (ii):

Omit the subparagraph, substitute:

"(ii) the Tribunal or the Federal Court of Australia, when making a decision under:

(A) paragraph 190 (a) of this Act, as in force immediately before the commencement of section 113 of the Taxation Laws Amendment Act (No. 3) 1991; or

(B) paragraph 14ZZK (a) or 14ZZO (a) of the Taxation Administration Act 1953, as the case requires; must disregard subsection (1) of this section."

Subsection 102AAM (14):

Omit "201,".

Subsections 124ZADA (10) and (11):

Omit the subsections, substitute:

"(10) A person who is notified of a decision of the Commissioner under subsection (2) or (4) and who is dissatisfied with the decision may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsections 124ZAGA (4) and (5):

Omit the subsections, substitute:

"(4) If the taxpayer is dissatisfied with the Commissioner's decision on the request, the taxpayer may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

Section 128P:

Repeal the section, substitute:

Objections

"128P. If an applicant for a certificate under this Division is dissatisfied with a decision of the Commissioner:

(a) in any case - to refuse to issue the certificate; or

(b) in the case of a certificate under section 128AB - to specify a particular amount in the certificate;
the applicant may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Subsections 136AF (6) and (7):

Omit the subsections, substitute:

"(6) If the taxpayer is dissatisfied with the Commissioner's decision on the request, the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Section 160AJ:

Omit "on appeal against", substitute "under Part IVC of the Taxation Administration Act 1953 on an appeal or review relating to".

Section 160AL:

Repeal the section, substitute:

Objections

"160AL. A person to whom a determination relates who is dissatisfied with the determination may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Paragraph 160AQP (d):

Omit "on appeal against", substitute "under Part IVC of the Taxation Administration Act 1953 on an appeal or review relating to".

Section 160AQQ:

Repeal the section, substitute:

Objections

"160AQQ. If the company to which an offset determination relates is dissatisfied with the offset determination, it may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Division 9 of Part IIIAA:

Repeal the Division, substitute:

"Division 9 - Objections

Objections

"160ART. A company that is dissatisfied with a franking assessment made in relation to the company may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Subsection 170AA (12):

Omit ", 201".

After section 175:

Insert:

Objections against assessments

"175A. A taxpayer who is dissatisfied with an assessment made in relation to the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Subsection 177 (1):

Omit "Part V", substitute "Part IVC of the Taxation Administration Act 1953".

Subsections 177F (7) and (8):

Omit the subsections, substitute:

"(7) If the taxpayer is dissatisfied with the Commissioner's decision on the request, the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Part V:

Repeal the Part.

Subsection 220 (3):

Omit the subsection, substitute:

"(3) A person who claims an interest in the estate of the taxpayer and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Subsection 220 (7):

Omit the subsection, substitute:

"(7) In spite of subsections (4), (5) and (6), if probate of the will, or letters of administration of the estate, of the deceased is or are granted to a person, and the person is dissatisfied with the assessment, the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(7A) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsection (3) or (7) as if the person were the taxpayer."

Section 221N:

Add at the end:

"(4) A person who is dissatisfied with a decision of the Commissioner in relation to the person under subsection (2) (other than in relation to an amount payable under subsection 221EAA (2)) may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Section 221U:

Repeal the section.

Subsections 221YHAAE (1) and (2):

Omit the subsections, substitute:

"(1) A taxpayer who is dissatisfied with a notice served on the taxpayer under paragraph 221YHAAC (1) (c) or 221YHAAD (1) (c) may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 221YHAAE (3):

Omit all the words after "in that", substitute "subsection".

Subsections 221YHT (2) and (3):

Omit the subsections, substitute:

"(2) A person who is dissatisfied with a decision of the Commissioner in relation to the person made under:

(a) subsection 221YHL (2) (other than in relation to an amount payable under subsection 221YHH (2)); or

(b) any of sections 221YHP, 221YHQ, 221YHR and 221YHS;

may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

Section 221YHBM:

Repeal the section, substitute:

Objections

"221YHBM. A person who is dissatisfied with a decision of the Commissioner in relation to the person under subsection 221YHZE (2) (other than in relation to an amount payable under subsection 221YHZE (4)) may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

Pay-roll Tax (Territories) Assessment Act 1971

Subsection 4 (1):

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;"

Subsection 34 (3):

Omit the subsection, substitute:

"(3) A person who claims an interest in the estate of the deceased employer and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 34 (7):

Omit the subsection, substitute:

"(7) In spite of subsections (4), (5) and (6), if probate of the will, or letters of administration of the estate, of the deceased employer is or are granted to a person, and the person is dissatisfied with the assessment, the

person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(7A) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsection (3) or (7) as if the person were the deceased employer."

Subsection 37 (1):

Insert "under Part IVC of the Taxation Administration Act 1953" after "proceedings".

Part VI:

Repeal the Part.

Before section 64:

Insert in Part IX:

Objections

"63. An employer who is dissatisfied with:

(a) an assessment made by the Commissioner under this Act in relation to the employer; or

(b) a determination made by the Commissioner under this Act in relation to the employer; or

(c) a decision made by the Commissioner under this Act by which the employer's liability to pay tax is affected;
may object against the assessment, determination or decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

Petroleum Resource Rent Tax Assessment Act 1987

Section 2 (definition of "this Act"):

Omit the definition, substitute:

" 'this Act' includes:

(a) the regulations; and

(b) Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;"

Subsections 53 (4) and (5):

Omit the subsections, substitute:

"(4) If the person is dissatisfied with the Commissioner's decision on the request, the person may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 65 (12):

Omit "81,".

After section 69:

Insert in Part VI:

Objections

"69A. A person who is dissatisfied with an assessment made in relation to the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Part VII:

Repeal the Part.

Subsection 90 (3):

Omit the subsection, substitute:

"(3) A person who claims an interest in the estate of the deceased and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsections 90 (7) and (8):

Omit the subsections, substitute:

"(7) In spite of subsections (4), (5) and (6), if probate of the will, or letters of administration of the estate, of the deceased is or are granted to a person, and the person is dissatisfied with the assessment, the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

"(8) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsections (3) or (7) as if the person were the deceased person."

Subsection 106 (1):

Omit "Part VII", substitute "Part IVC of the Taxation Administration Act 1953".

Sales Tax Assessment Act (No. 1) 1930

Subsection 3 (1):

Insert:

" 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;".

Subsection 35 (6):

Omit the subsection, substitute:

"(6) A person who claims an interest in the estate of the taxpayer and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 35 (10):

Omit the subsection, substitute:

"(10) In spite of subsections (8) and (9), if probate of the will, or letters of administration of the estate, of the deceased is or are granted to a person, and the person is dissatisfied with the assessment, the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(10A) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsections (6) or (10) as if the person were the taxpayer."

After section 38:

Insert in Part VI:

Objections against assessments and certain decisions

"38A. (1) A taxpayer who is dissatisfied with an assessment made in relation to the taxpayer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(2) Subject to subsection (3), a person who applies:

(a) for action to be taken under section 26; or

(b) under the Sales Tax Regulations for the refund or payment of an amount of money:

(i) to prevent double taxation; or

(ii) for the purpose of giving effect to an exemption from sales tax; and who is dissatisfied with a decision made on the application may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(3) If an applicant referred to in subsection (2) claims to be entitled to have the action taken or the refund or payment made in respect of an act, transaction or operation done or effected in relation to goods in a month in a sales tax quarter, subsection (2) does not apply unless the application is lodged with the Commissioner:

(a) if the applicant is a monthly remitter in relation to the month - within 60 days after the act, transaction or operation (not being the payment of tax) that is claimed to entitle the person to have the action taken or the refund or payment made or within such further time as the Commissioner allows; or

(b) if the applicant is a quarterly remitter in relation to the quarter - within 120 days after the act, transaction or operation (not being the payment of tax) that is claimed to entitle the person to have the action taken or the refund or payment made or within such further time as the Commissioner allows.

"(4) A person affected by a decision under subsection 11 (3B), (8A) or (11), 15A (1) or (5) or 16 (3) who is dissatisfied with the decision may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.".

Part VII:

Repeal the Part.

Paragraphs 67 (1) (d) and (e):

Omit "Part VII", substitute "Part IVC of the Taxation Administration Act 1953".

Subsection 67 (6):

Omit the subsection, substitute:

"(6) In this section:

'refund decision' means a decision made on or after 1 July 1986 in respect of an application:

(a) for action to be taken under section 26; or

(b) under the Sales Tax Regulations for the refund or payment of an amount of money:

(i) to prevent double taxation; or

(ii) for the purpose of giving effect to an exemption from sales tax.".

Sales Tax Assessment Act (No. 2) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Parts VII,", substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 3) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Parts VII,", substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 4) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Parts VII,", substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 5) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Part VII,", substitute "27 to 38A (inclusive), and".

Paragraph 12 (1) (d):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 6) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Parts VII,", substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 7) 1930

Subsection 12 (1):

Omit "27 to 38 inclusive, and Parts VII,", substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):

Omit "39A", substitute "38A and subsection 67 (6)".

Sales Tax Assessment Act (No. 8) 1930

Subsection 12 (1):
 Omit "27 to 38 inclusive, and Parts VII," substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (ca):
 Omit "39A", substitute "38A and subsection 67 (6)".
 Sales Tax Assessment Act (No. 9) 1930

Subsection 12 (1):
 Omit "27 to 38 inclusive, and Part VII," substitute "27 to 38A (inclusive), and".

Paragraph 12 (1) (d):
 Omit "39A", substitute "38A and subsection 67 (6)".
 Sales Tax Assessment Act (No. 10) 1985

Subsection 12 (1):
 Omit "27 to 38 (inclusive), and Parts VII," substitute "27 to 38A (inclusive), and Parts".

Paragraph 12 (1) (e):
 Omit "39A", substitute "38A and subsection 67 (6)".
 Sales Tax Assessment Act (No. 11) 1985

Subsection 16 (1):
 Omit "27 to 38 (inclusive), and Parts VII," substitute "27 to 38A (inclusive), and Parts".

Paragraph 16 (1) (d):
 Omit "39A", substitute "38A and subsection 67 (6)".
 Sales Tax Procedure Act 1934

Subsection 3 (1):
 Insert:
 " 'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to a Sales Tax Assessment Act;".
 Taxation Administration Act 1953

Section 3B:
 Add at the end:
 "(4) In this section:
 'this Act' does not include Part IVC except insofar as it relates to Part IV.".

Section 3C:
 Add at the end:
 "(9) In this section:
 'this Act' does not include Part IVC except insofar as it relates to Part IV.".

Section 14A:
 Insert:
 " 'this Part' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Part.".

After section 14D:
 Insert:

Objections
 "14E. An applicant who is dissatisfied with a decision of the Commissioner to refuse an application made under section 14B may object against the decision in the manner set out in Part IVC.".

Sections 14G to 14HG (inclusive):
 Repeal the sections.
 Taxation (Interest on Overpayments) Act 1983

Subsection 3 (1) (definition of "objection"):
 Omit the definition, substitute:
 " 'objection' means:
 (a) a taxation objection within the meaning of Part IVC of the Taxation

Administration Act 1953; or

(b) an objection under subsection 22 (1) of the Debits Tax Administration Act 1982; or

(c) an objection under subsection 74 (1) or (1A) of the Australian Capital Territory Taxation (Administration) Act 1969;".

Subsection 3 (4):

Omit the subsection, substitute:

"(4) For the purposes of this Act, an application to the Tribunal under section 44B of the Training Guarantee (Administration) Act 1990 is taken to be an objection.".

Taxation (Unpaid Company Tax) Assessment Act 1982

Subsection 3 (1) (definitions of "object" and "objection"):

Omit the definitions, substitute:

" 'object', in relation to an assessment, means object against the assessment under section 175A of the Assessment Act;

'objection', in relation to an assessment, means an objection against the assessment under section 175A of the Assessment Act;".

Subsection 4 (1):

Omit "Parts IV and V", substitute "Part IV".

Subsection 15 (9):

Omit "Division 2 of Part V of the Assessment Act", substitute "section 175A of the Assessment Act and Part IVC of the Taxation Administration Act 1953".

Subsection 18 (3):

Omit "Division 2 of Part V of the Assessment Act", substitute "section 175A of the Assessment Act and Part IVC of the Taxation Administration Act 1953".

Subsection 18 (8):

Omit "Division 2 of Part V of the Assessment Act", substitute "section 175A of the Assessment Act and Part IVC of the Taxation Administration Act 1953".

Subsection 23 (1):

Omit "Division 2 of Part V of the Assessment Act", substitute "Part IVC of the Taxation Administration Act 1953".

Training Guarantee (Administration) Act 1990

Section 4 (definition of "this Act"):

Omit the definition, substitute:

" 'this Act' includes:

(a) the regulations; and

(b) Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;".

Section 4 (definition of "training advisory certificate"):

Omit "61 (2)", substitute "44A (3)".

After section 44:

Insert in Division 2 of Part 6:

Review of industry training agent's refusal to give training advisory certificate

"44A. (1) If a registered industry training agent refuses to give an employer a training advisory certificate, the employer may apply in writing to the training advisory body for a review of the training agent's decision.

"(2) The training advisory body may charge the employer a fee for making the application.

"(3) On considering the application, the training advisory body must give the employer a certificate stating whether or not the activities specified in the application constitute an eligible training program, or the expenditure specified in the application constitutes eligible training expenditure, as the case requires.

"(4) The training advisory body must give the Commissioner a copy of the certificate.

Tribunal review of training advisory certificate decisions

"44B. An employer who is dissatisfied with the decision of the training advisory body stated in a training advisory certificate given in relation to the employer by the training advisory body under section 44 or 44A may apply to the Tribunal for review of the decision."

After section 53:

Insert in Part 6:

Objections against assessments

"53A. An employer who is dissatisfied with an assessment made in relation to the employer may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Part 7:

Repeal the Part.

Subsection 80 (3):

Omit the subsection, substitute:

"(3) A person who claims an interest in the deceased employer's estate and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsections 80 (7) and (8):

Omit the subsections, substitute:

"(7) In spite of subsections (4), (5) and (6), if probate of the will, or letters of administration of the estate, of the deceased employer is or are granted to a person, and the person is dissatisfied with the assessment, the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(8) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsections (3) or (7) as if the person were the deceased employer."

Subsection 97 (1):

Omit "Part 7", substitute "Part IVC of the Taxation Administration Act 1953".

Paragraph 101A (1) (b):

Omit "61 (1A)", substitute "44A (2)".

Trust Recoupment Tax Assessment Act 1985

Subsection 4 (1):

Omit "Parts IV and V", substitute "Part IV".

Wool Tax (Administration) Act 1964

Subsection 4 (1):

Insert:

"'this Act' includes Part IVC of the Taxation Administration Act 1953, insofar as that Part relates to this Act;"

After section 43:

Insert:

Objections against assessments

"43A. A person who is dissatisfied with an assessment made in relation to the person may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 51 (3):

Omit the subsection, substitute:

"(3) Any person who claims an interest in the estate of the deceased and who is dissatisfied with the assessment may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953."

Subsection 51 (7):

Omit the subsection, substitute:

"(7) In spite of subsections (4), (5) and (6), where probate of the will, or letters of administration of the estate, of the deceased is or are granted to a person, and the person is dissatisfied with the assessment, the person

may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

"(7A) Part IVC of the Taxation Administration Act 1953 applies in relation to an objection under subsections (3) and (7) as if the person were the deceased person.".

Subsection 55 (1):

Insert "under Part IVC of the Taxation Administration Act 1953" after "proceedings".

Part IX:

Repeal the Part.

Notes to the *Taxation Laws Amendment Act (No. 3) 1991*

Note 1

The *Taxation Laws Amendment Act (No. 3) 1991* as shown in this compilation comprises Act No. 216, 1991 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 1991</i>	216, 1991	24 Dec 1991	See s. 2	
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 119): 24 Dec 1991	—
<i>Tax Laws Amendment (2010 Measures No. 2) Act 2010</i>	75, 2010	28 June 2010	Schedule 6 (item 59): 29 June 2010	—

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 75	am. No. 43, 1996
S. 103	rep. No. 75, 2010