

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

**INCOME EQUALIZATION DEPOSITS LAWS AMENDMENT BILL
1989**

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1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 23 May 1989

(Minister for Primary Industries and Energy)

A BILL

FOR

An Act to amend the *Loan (Income Equalization Deposits) Act 1976* and the *Income Tax Assessment Act 1936*, and for related purposes

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

PART 1—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Income Equalization Deposits Laws Amendment Act 1989*.

Commencement

- 2.** This Act commences on 1 July 1989.

**PART 2—AMENDMENT OF THE LOAN (INCOME
EQUALIZATION DEPOSITS) ACT 1976**

Principal Act

3. In this Part, "Principal Act" means the *Loan (Income Equalization Deposits) Act 1976*¹. 5

4. Section 3 of the Principal Act is repealed and the following section is substituted:

Interpretation

"3. In this Act, unless the contrary intention appears:

'assessable amount', in relation to the repayment of the whole or part of a deposit under this Act, means the amount (if any) included in the assessable income of a year of income of the owner under section 159GD of the Assessment Act as a result of the whole or the part of the deposit becoming repayable; 10

'assessment' has the same meaning as in the Assessment Act; 15

'Assessment Act' means the *Income Tax Assessment Act 1936*;

'authorized person' means the Secretary to the Department;

'bond' means a Treasury Bond, or Stock, within the meaning of the *Commonwealth Inscribed Stock Act 1911*;

'Commissioner' means the Commissioner of Taxation; 20

'deposit' means an Income Equalization Deposit accepted under this Act after 30 June 1989;

'depositor', in relation to a deposit, means:

(a) in the case of a deposit made by a person in the capacity of a trustee of a trust estate on behalf of a beneficiary who, when the deposit was made, was under a legal disability: 25

(i) if the beneficiary is still under a legal disability—the trustee; or

(ii) if the beneficiary is no longer under a legal disability—the beneficiary; or 30

(b) in any other case—the person who made the deposit;

'eligible primary producer' means:

(a) a natural person who carries on in Australia a business of primary production otherwise than as trustee of a trust estate; 35

(b) a partner (not being a company) in a partnership that carries on in Australia a business of primary production; or

(c) a beneficiary (not being a company) who is presently entitled to a share of the income of a trust estate the trustee of which carries on in Australia a business of primary production; 40

'investment component', in relation to a deposit at a particular time, means the percentage, prescribed at that time in regulations for the purposes of this definition, of the deposit;

'owner', in relation to a deposit, means:

- 5 (a) in the case of a deposit made or being made by the trustee of a trust estate on behalf of a beneficiary—the beneficiary; or
- (b) in any other case—the person who made or is making the deposit;

10 'partnership' has the same meaning as in the Assessment Act;

'primary production' has the same meaning as in the Assessment Act;

'quarter' means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October;

'request' means a request under section 16, 17 or 18A;

15 'short-term bond rate', in relation to a quarter (in this definition called the 'quarter concerned'), means:

(a) where:

(i) the Reserve Bank has published, in respect of one or more days in the last 2 weeks of the preceding quarter, a secondary market weighted average yield for non-rebate bonds; and

20

(ii) the maturity date of the bonds is:

(A) the third anniversary of the 15th day of the quarter concerned; or

25 (B) if there are no bonds with that maturity date—the closer or closest date to that date within 2 years after it;

30 the yield referred to in subparagraph (i) in respect of the day referred to in that subparagraph, or the average of the yields referred to in subparagraph (i) in respect of the days referred to in that subparagraph, as the case requires; or

(b) in any other case—the rate of interest notified by the Minister in the *Gazette* as the rate of interest in relation to the quarter for the purposes of this definition;

35 'tax' has the same meaning as in the Assessment Act;

'year of income' has the same meaning as in the Assessment Act.”

Borrowings by accepting deposits

5. Section 4 of the Principal Act is amended:

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

40 “(1) The Minister is to borrow money by accepting deposits in accordance with this Act.”;

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

“(2A) Subject to this section, the Minister is to accept a deposit if and only if the owner of the deposit is an eligible primary producer.”;

(c) by omitting from subsection (3) “Treasurer” and substituting “Minister”;

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

“(5) The Minister is not to accept a deposit unless its amount is \$5,000 or a greater amount that is a multiple of \$1,000.”;

(e) by omitting from subsection (6) “Treasurer” and substituting “Minister”.

6. Sections 4A to 4D (inclusive) of the Principal Act are repealed and the following section is substituted:

Interest payable in respect of deposits

“4A. (1) Interest is payable in accordance with this section in respect of deposits.

“(2) The interest is only payable on the part of any deposit that is its investment component from time to time.

“(3) The interest is payable at the short-term bond rate.”.

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

Manner of making deposits

“10. The Minister is not to accept a deposit unless:

(a) the deposit is accompanied by an application on a form made available by the authorized person and containing such information as is required by that form; and

(b) any fee prescribed by regulations for the purposes of this paragraph has been paid to the authorized person.”.

Repeal of section 12A

8. Section 12A of the Principal Act is repealed.

Repeal of section 15

9. Section 15 of the Principal Act is repealed.

Repayment within 12 months where financial difficulties

10. Section 16 of the Principal Act is amended:

(a) by omitting subsection (1A);

(b) by omitting from subsection (2) “, in the case of a deposit made after 31 January 1977,”;

(c) by omitting subsection (3).

Repayment after 12 months

11. Section 17 of the Principal Act is amended by omitting subsections (1A) and (2).

5 12. Sections 18, 19 and 19A of the Principal Act are repealed and the following sections are substituted:

Request under section 16 or 17 to include statement of assessable amount etc.

“18. Where a person makes a request in relation to the repayment of a deposit or a part of a deposit under section 16 or 17, the person:

- 10 (a) must include in the request a statement of the assessable amount in relation to the repayment or of the fact that there is no assessable amount; and
- 15 (b) may also include in the request a statement, together with any information required by the request form, that the person wishes to have the prescribed percentage of the assessable amount that is otherwise to be deducted under subsection 20B (1) reduced to a percentage (which may be nil percent) specified in the statement.

Repayment where no assessable amount

“18A. (1) Where:

- 20 (a) a deposit has been made; and
- (b) either:
- (i) an assessment has been made in respect of income of the year of income of the owner in which the deposit was made; or
- 25 (ii) the Commissioner has given notice that no tax is payable by the owner in respect of income of that year of income;

the person who is the depositor in respect of the deposit may make a request to the authorized person for the repayment of the deposit or of so much of the deposit as is specified in the request.

30 “(2) The request is of no effect unless it is accompanied by a copy of the notice of assessment or of the notice that no tax is payable.

“(3) Where the request is made, the deposit or the part of the deposit specified in the request becomes repayable on the day on which the request is made.

35 “(4) Where the amount specified in the request is such that there is an assessable amount in relation to the repayment, the depositor is liable to pay to the Commissioner, by way of penalty, an amount at the rate of 20% per annum, on the prescribed percentage, referred to in subsection 20B (1), of the assessable amount, from the time of the repayment until the time of making of the assessment of the owner for the year of income in which the

40 assessable amount is included in the owner’s assessable income.

Repayment where owner not eligible primary producer

“19. (1) Where the authorized person is satisfied that the owner of a deposit:

(a) was not an eligible primary producer when the deposit was accepted;
or

(b) was an eligible primary producer then but ceased to be one and did not again become one within 120 days after the day of so ceasing;
the authorized person must declare in writing that the deposit is repayable and, where the authorized person does so, the deposit becomes repayable.

“(2) The authorized person must not make the declaration while a request under section 16 is pending, if a request has been duly made under section 17 or 18A or if a declaration has been made under section 20, in respect of the deposit.”.

Deposits repayable in case of death or bankruptcy

13. Section 20 of the Principal Act is amended:

(a) by omitting from subsection (1) “subsection (3)” and substituting “subsection (2)”;

(b) by omitting subsections (2) and (3) and substituting the following subsection:

“(2) The authorized person must not make the declaration while a request under section 16 is pending, if a request has been duly made under section 17 or 18A or if a declaration has been made under section 19, in respect of the deposit.”.

14. After section 20 of the Principal Act the following sections are inserted:

Advice of right to give assessable amount statement etc. in section 19 or 20 cases

“20A. (1) Where the authorized person declares, in a case to which paragraph 19 (1) (b) or section 20 applies, that a deposit is repayable, the authorized person must, in writing, advise the person to whom the deposit concerned is repayable that the person, within 14 days after receiving the advice:

(a) may give the authorized person a statement of the assessable amount in relation to the repayment or of the fact that there is no assessable amount; and

(b) may include with the statement, a further statement, together with any information required by the further statement form, that the person wishes to have the prescribed percentage of the assessable amount that is otherwise to be deducted under subsection 20B (1) reduced to a percentage (which may be nil percent) specified in the further statement.

“(2) The authorized person must not repay the deposit until:

- (a) the statement referred to in paragraph (1) (a) has been given; or
- (b) the 14 days have passed;

whichever is the earlier.

Authorized person to make deduction in respect of assessable amounts

5 “20B. (1) Where:

(a) the authorized person is given a statement under section 18 or 20A of the assessable amount in relation to the repayment of the whole or part of a deposit; or

10 (b) the authorized person is not given any statement under paragraph 20A (1) (a) in relation to the repayment of a deposit within the 14 days referred to in subsection 20A (1);

the authorized person must, subject to this section, deduct from the amount of the deposit or the part of the deposit:

15 (c) where paragraph (a) applies—the percentage, prescribed in regulations for the purposes of this paragraph, of the assessable amount; or

(d) where paragraph (b) applies—that percentage of the deposit.

“ (2) The authorized person must pay the amount deducted to the Commissioner.

20 “ (3) Where the authorized person makes a deduction from a deposit or part of a deposit that is repayable to a person, the authorized person is discharged from any liability to pay or account for the amount deducted to any person other than the Commissioner.

Reduction in prescribed percentage of deduction under section 20B

25 “20C. (1) Where the authorized person is given a statement under section 18 or 20A that a person wishes to reduce the prescribed percentage of an assessable amount otherwise to be deducted under section 20B to a specified percentage, the authorized person may deduct, from the deposit or part of the deposit concerned, the specified percentage, instead of the
30 prescribed percentage, of the assessable amount.

“ (2) In deciding whether to do so the authorized person is to have regard to the amount of tax that is likely to be payable in respect of the assessable amount in the assessment concerned.

35 “ (3) Where the authorized person does not, because of a decision under subsection (1), deduct the specified percentage instead of the prescribed percentage, the other person may apply to the Administrative Appeals Tribunal for a review of the decision.

“ (4) If:

40 (a) the Administrative Appeals Tribunal decides, on the application, that the authorized person should have deducted the specified percentage instead of the prescribed percentage; and

- (b) the other person notifies the Commissioner in writing of the decision of the Tribunal before the Commissioner has made or amended, as the case requires, an assessment in relation to the owner of the deposit, or part of the deposit, concerned, in relation to the year of income in which the assessable amount is or would be included; 5

the following provisions apply:

- (c) the Commissioner must refund to the other person the difference between the specified percentage and the prescribed percentage of the assessable amount;
- (d) for the purposes of section 159GDA of the Assessment Act, the amount so refunded shall be taken never to have been deducted from the deposit or part of the deposit. 10

“(5) The refund is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Penalty tax payable if assessable amounts understated 15

“20D. Where:

- (a) in a statement under section 18 or 20A, a person understates the assessable amount, or states incorrectly that there is no assessable amount, in relation to a repayment; and
- (b) as a result, the deduction that the authorized person is required to make under section 20B from the repayment is less by an amount (in this section called the ‘lost withholding amount’) than the deduction that would have been required if there had been a statement of the correct assessable amount; 20

the person is liable to pay to the Commissioner, by way of penalty, an amount at the rate of 20% per annum, on the lost withholding amount, from the time of the repayment until: 25

- (c) where the assessable amount is included in the assessable income of the owner of the deposit concerned for the year of income in which the repayment is made—the time of making of the owner’s assessment for that year of income; or 30
- (d) where the assessable amount is included in the assessable income of the owner of the deposit concerned for an earlier year of income—the time of making, or amending, as the case requires, the owner’s assessment for that year of income. 35

Recovery of amounts by Commissioner

“20E. (1) An amount payable to the Commissioner under subsection 18A (4) or section 20D is a debt due to the Commonwealth and payable to the Commissioner and may be sued for and recovered in a court of competent jurisdiction by the Commissioner or a Deputy Commissioner of Taxation suing in his or her official name. 40

“(2) Section 8ZL of the *Taxation Administration Act 1953* applies in proceedings for the recovery of an amount payable to the Commissioner

under subsection 18A (4) or section 20D of this Act in like manner as section 8ZL applies in relation to a prosecution for a prescribed taxation offence within the meaning of Part III of that Act.

Remission of penalties

5 “20F. (1) The Commissioner may, for reasons that he or she thinks sufficient, remit the whole or part of any amount payable by way of penalty under subsection 18A (4) or section 20D.

10 “(2) Where the Commissioner makes a decision to remit part only of an amount payable or not to remit any part of such an amount, the Commissioner shall give notice in writing of the decision to the person by whom the amount is, or but for the remission would be, payable.

“(3) Division 2 of Part V of the Assessment Act applies with appropriate changes in relation to the decision.”.

15 **15.** Section 21 of the Principal Act is repealed and the following section is substituted:

Deposits repayable only in certain amounts

“21. A person must not specify in a request under section 16 or 17 an amount other than:

- 20 (a) if, apart from this section, the maximum amount that the person would be entitled to specify does not exceed \$5,000—that maximum amount; or
- (b) in any other case—an amount of \$5,000 or a greater amount that is a multiple of \$1,000.”.

Request under section 16 to lapse in certain circumstances

25 **16.** Section 23 of the Principal Act is amended by omitting “18 or 19” and substituting “18A”.

Provisions applicable where request under section 16 pending 12 months after making of deposit

17. Section 24 of the Principal Act is amended:

- 30 (a) by omitting from subsection (1) all the words after “deposit was” and substituting “made, the owner:
- (a) ceased to be an eligible primary producer, except where he or she again became one within 120 days after the day of so ceasing (whether or not before the end of the period of 12 months); or
- 35 (b) died or became bankrupt.”;
- (b) by omitting from subsection (6) “(1)” and substituting “(5)”;
- (c) by omitting subsection (7).

Form of requests etc.

18. Section 25 of the Principal Act is amended:

- (a) by omitting from subsection (1) “A request or application” and substituting “A request, statement or application (other than an application to the Administrative Appeals Tribunal)”; 5
- (b) by omitting from subsection (1) “the request or application” and substituting “the request, statement or application”.

Lodging of deposits etc.

19. Section 26 of the Principal Act is amended by omitting “direction” and substituting “statement”. 10

Offences

20. Section 27A of the Principal Act is amended:

- (a) by omitting subsections (1) and (2);
- (b) by omitting from paragraph (3) (a) “in an application, notice or request under this Act, make a statement” and substituting “under section 18 or 20A give information, or in an application or request under this Act make a statement (other than under section 18),”. 15

Regulations

21. Section 28 of the Principal Act is amended by omitting from paragraph (1) (a) “or the liquidator of a company that is a depositor and is in the course of being wound up”. 20

PART 3—TRANSITIONAL PROVISIONS RELATING TO AMENDMENTS MADE BY PART 2

Interpretation

22. In this Part: 25

“amended IED Act” means the *Loan (Income Equalization Deposits) Act 1976* as amended by this Act;

“first IED scheme deposit” means a deposit, within the meaning of the former IED Act, made before 1 September 1983, other than such a deposit, or the part (if any) of such a deposit, that was converted under section 12A of that Act or that became repayable before 1 July 1989; 30

“former IED Act” means the *Loan (Income Equalization Deposits) Act 1976* as in force immediately before the commencement of this Act;

“second IED scheme deposit” means a deposit, within the meaning of the former IED Act, made after 31 August 1983 and before 1 July 1989, and includes a conversion deposit, within the meaning of that Act, except to the extent that the deposit or conversion deposit became repayable before 1 July 1989. 35

First IED scheme deposits assumed to be made under amended IED Act

23. Subject to this Part, the amended IED Act applies as if all first IED scheme deposits were made on 1 July 1989 in accordance with the amended IED Act.

5 **Meaning of “depositor” and “owner” etc. of first IED scheme deposit unaffected by amendments**

10 24. For the purposes of applying the amended Act in accordance with this Part to the first IED scheme deposits, they have the same owner and depositor, and shall be taken to have been made by or on behalf of the same person, as they would if the amendments made by this Act had not been made.

First IED scheme deposits repayable under section 17 despite being assumed to be made on 1 July 1989

15 25. Section 16 of the amended Act does not apply to the first IED scheme deposits and, even though 12 months may not have passed since they were assumed by section 23 of this Act to have been made, requests may be made in relation to them under section 17 of the amended Act at any time on or after 1 July 1989.

20 **First IED scheme deposits not required to be repaid if owner ceases to be eligible primary producer**

26. The amended IED Act applies in relation to the first IED scheme deposits as if section 19 of that Act were omitted.

Certain provisions of former IED Act to replace those of amended IED Act

25 27. The amended IED Act applies in relation to the first IED scheme deposits as if sections 20, 21, 24 and 28 of the former IED Act were substituted for the corresponding sections of the amended IED Act.

First IED scheme deposits that were repayable before 1 July 1989 continue to be repayable

30 28. First IED scheme deposits that were repayable, but had not been repaid, before 1 July 1989 continue to be repayable despite the amendments made by this Act.

Continued application of former IED Act in relation to second IED scheme deposits

35 29. The former IED Act continues to apply, subject to this Part, in relation to second IED scheme deposits as if the amendments made by this Act had not been made.

Second IED scheme deposits repayable on 30 June 1992

40 30. All second IED scheme deposits, if not repayable beforehand, become repayable on 30 June 1992.

PART 4—AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936

Principal Act

31. In this Part, “Principal Act” means the *Income Tax Assessment Act 1936*². 5

32. Section 97A of the Principal Act is repealed and the following section is substituted:

Beneficiaries who are owners of income equalization deposits

“97A. (1) Where a beneficiary who is under a legal disability:

(a) is presently entitled to a share of the income of a trust estate derived during a year of income of the beneficiary; 10

(b) is the owner of a current IED scheme deposit made during the year of income; and

(c) is an eligible primary producer when the deposit is made;

this Division applies in relation to the beneficiary in relation to the year of income as if the beneficiary were not under any legal disability. 15

“(1A) Where a beneficiary who is deemed by subsection 95A (2) to be presently entitled to any income of a trust estate derived during a year of income of the beneficiary:

(a) is not under a legal disability; 20

(b) is the owner of a current IED scheme deposit made during the year of income; and

(c) is an eligible primary producer when the deposit is made because the trustee of the trust estate is carrying on in Australia a business of primary production; 25

the beneficiary is, for the purposes of the application of this Division in relation to that beneficiary in relation to that year of income, a beneficiary to whom this subsection applies.

“(2) In this section, ‘current IED scheme deposit’, ‘eligible primary producer’ and ‘owner’ have the same meanings as in Division 16C.”. 30

Interpretation

33. Section 159GA of the Principal Act is amended:

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

“(1) In this Division, unless the contrary intention appears:

‘assessable primary production income’, in relation to a taxpayer in relation to a year of income, means so much of the taxpayer’s assessable income of the year of income as was derived from the carrying on by the taxpayer of a business of primary production in Australia; 35

‘current IED scheme deposit’ means a deposit made after 30 June 1989 under the Deposits Act, other than a first IED scheme converted deposit;

5 ‘deposit’ means a current IED scheme deposit or a first IED scheme converted deposit;

‘Deposits Act’ means the *Loan (Income Equalization Deposits) Act 1976*;

‘eligible primary producer’ has the same meaning as in the Deposits Act;

10 ‘first IED scheme deposit’ has the same meaning as in Part 3 of the *Income Equalization Deposits Laws Amendment Act 1989*;

15 ‘first IED scheme converted deposit’ means a first IED scheme deposit that is assumed to be made on 1 July 1989 by section 23 of the *Income Equalization Deposits Laws Amendment Act 1989*;

‘owner’ has the same meaning as in the Deposits Act;

‘primary production deductions’, in relation to a taxpayer in relation to a year of income, means:

20 (a) any deductions allowed or allowable to the taxpayer for the year of income that relate exclusively to the taxpayer’s assessable primary production income of a year of income; and

25 (b) so much of any other deductions (other than apportionable deductions) allowed or allowable to the taxpayer for the year of income as, in the opinion of the Commissioner, may appropriately be related to the taxpayer’s assessable primary production income of a year of income;

30 ‘taxable primary production income’, in relation to a taxpayer in relation to a year of income, means the sum of the following:

35 (a) in any case—the amount (if any) by which the taxpayer’s assessable primary production income for the year of income (derived other than as a trustee or a partner) exceeds the taxpayer’s primary production deductions for the year of income (incurred other than as a trustee or a partner);

40 (b) if the taxpayer is a partner in a partnership—so much as the Commissioner considers reasonable of any amount that would result under paragraph (a) for the year of income if the partnership were a taxpayer; and

45 (c) if the taxpayer is a beneficiary presently entitled to a share of the net income of a trust estate—so much as the Commissioner considers reasonable of any amounts

- that would result under paragraphs (a) and (b) for the year of income if the trust estate were a taxpayer; 'unrecouped deduction' has the meaning given by subsection (3).";
- (b) by omitting subsection (2);
 - (c) by omitting subsections (4) and (5) and substituting the following subsection: 5

"(4) For the purposes of this Division, any unrecouped deduction existing in relation to a first IED scheme deposit that became a first IED scheme converted deposit shall be taken to exist in relation to the first IED scheme converted deposit." 10

34. Sections 159GB and 159GC of the Principal Act are repealed and the following section is substituted:

Deductions in respect of income equalization deposits

"159GC. (1) Subject to this section, if, when a current IED scheme deposit is made, a taxpayer is the owner of the deposit and is an eligible primary producer, the amount of the deposit is allowable as a deduction from the assessable income of the taxpayer of the year of income in which the deposit is made. 15

"(2) Subsection (1) does not apply in relation to a deposit or a part of a deposit that has become or becomes repayable because of: 20

- (a) a declaration under section 16 of the Deposits Act as a result of a request made during the year of income;
- (b) a declaration under section 19 of that Act as a result of the taxpayer having ceased to be an eligible primary producer during the year of income; or 25
- (c) a declaration under section 20 of that Act as a result of the taxpayer having died or become bankrupt during the year of income.

"(3) The sum of the deductions that, apart from this subsection, would be allowable to the taxpayer under this section in respect of deposits for the year of income is not to exceed the lesser of the following amounts: 30

- (a) the taxable primary production income of the taxpayer of the year of income;
- (b) the amount calculated using the formula: 35

$$\$250,000 - \text{Total unrecouped deductions}$$

where:

Total unrecouped deductions is the total amount of unrecouped deductions existing at the end of the year of income in respect of:

- (i) current IED scheme deposits made before the year of income; and 40
- (ii) first IED scheme converted deposits.

"(4) Where subsection (3) prevents deductions otherwise allowable in respect of 2 or more deposits from being allowed in full, the deductions are

to be allowable in the order in which the deposits were made until the limit imposed by that subsection is reached.”.

Unrecouped deduction included in assessable income on deposit becoming repayable

5 **35.** Section 159GD of the Principal Act is amended:

- (a) by inserting in paragraph (1) (a) “current IED scheme deposit or first IED scheme converted” before “deposit”;
- (b) by omitting from subparagraph (1) (a) (i) “*Loan (Income Equalization Deposits) Act 1976*” and substituting “*Deposits Act*”;
- 10 (c) by inserting in subparagraph (1) (a) (ii) “or 18A” after “17”;
- (d) by omitting from subsection (1) “depositor” and substituting “owner”;
- (e) by omitting subsections (2) and (2A) and substituting the following subsections:

“(1A) Where:

- 15 (a) the whole or a part of a current IED scheme deposit has become repayable because of a declaration under section 19 of the Deposits Act as a result of the owner having ceased to be an eligible primary producer after the end of the year of income in which the deposit was made; and
- 20 (b) immediately before the owner ceased to be an eligible primary producer, there was an unrecouped deduction in respect of the deposit;

there shall be included in the assessable income of the owner of the year of income in which the owner ceased to be an eligible primary producer an amount equal to the amount of the unrecouped deduction.

“(2) Where:

- 30 (a) the whole or a part of a current IED scheme deposit or first IED scheme converted deposit has become repayable because of a declaration under section 20 of the Deposits Act as a result of the owner having died, become bankrupt or, in the case of a company that is the owner of a first IED scheme converted deposit, commenced to be wound up, after the end of the year of income in which the deposit was made; and
- 35 (b) immediately before the owner died, became bankrupt or commenced to be wound up, as the case may be, there was an unrecouped deduction in respect of the deposit;

there shall be included in the assessable income of the owner of the year of income in which the owner died, became bankrupt or commenced to be wound up an amount equal to the amount of the unrecouped deduction.”;

- 40 (f) by omitting from subsection (3) “made by the deceased person” and substituting “of which the deceased person was the owner”.

36. After section 159GD of the Principal Act the following section is inserted in Division 16C of Part III:

Credit for amounts withheld under section 20B of Deposits Act

“159GDA. Where:

- (a) the authorized person, within the meaning of the Deposits Act, has deducted an amount under section 20B of that Act in respect of the whole or a part of a deposit that has become repayable under that Act; and 5
- (b) an assessment has been made or amended, as the case requires, in respect of income of the owner of the year of income in which an amount is or would be included in the assessable income of the owner because of the deposit or part of the deposit becoming repayable; 10

the Commissioner shall credit the amount so deducted in payment successively of: 15

- (c) any tax payable by the owner in respect of that year of income, whether or not that tax is due for payment; and
- (d) any other liability of the owner to the Commonwealth arising under, or by virtue of:
 - (i) any Act of which the Commissioner has the general administration; or 20
 - (ii) subsection 18A (4) or section 20D of the Deposits Act;

and shall refund to the owner so much of the amount as is not credited.”.

Application

37. (1) The amendment made by section 32 does not apply to any deposit made before 1 July 1989. 25

(2) The other amendments made by this Part do not apply in relation to:

- (a) the allowability of deductions for deposits made before 1 July 1989; or 30
- (b) the inclusion in assessable income of an amount in respect of the whole or a part of a deposit that has become repayable before 1 July 1989.

NOTES

1. No. 206, 1976, as amended. For previous amendments, see No. 148, 1979; and No. 173, 1984.
2. 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,

NOTES—continued

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; and Nos. 2, 11 and 000, 1989.

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