

1980–81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Presented and read a first time, 23 September 1981

(*Treasurer*)

## A BILL

FOR

### **An Act to impose a tax upon incomes of companies, corporate unit trusts and superannuation funds**

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

#### **Short title**

5     **1.** This Act may be cited as the *Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1981*.

#### **Commencement**

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

#### **Interpretation**

10     **3. (1)** In this Act, unless the contrary intention appears—

“Assessment Act” means the *Income Tax Assessment Act 1936*;

“corporate unit trust” means a unit trust that is a corporate unit trust within the meaning of Division 6B of Part III of the Assessment Act;

“friendly society dispensary” means a friendly society dispensary to which Division 9A of Part III of the Assessment Act applies;

“investment income” has the same meaning as in Division 9B of Part III of the Assessment Act; 5

“non-profit company” means—

(a) a company that is not carried on for the purposes of profit or gain to its individual members and is, by the terms of the company’s constituent document, prohibited from making any distribution, whether in money, property or otherwise, to its members; or 10

(b) a friendly society dispensary;

“superannuation fund” means a provident, benefit, superannuation or retirement fund; 15

“tax” means income tax referred to in sub-section 5 (1).

(2) In this Act, a reference to investment income, net income or taxable income shall be read as a reference to investment income, net income or taxable income, as the case may be, of the year of income.

### **Incorporation** 20

4. The Assessment Act is incorporated, and shall be read as one, with this Act.

### **Imposition of income tax**

5. (1) Income tax is imposed in accordance with this Act and at the rates declared in this Act. 25

(2) This Act does not impose tax payable in accordance with section 121H, 128B, 128T, 128V or 136A of the Assessment Act.

(3) This Act does not impose tax payable by—

(a) a natural person (other than a person in the capacity of a trustee of a superannuation fund or in the capacity of a trustee of a corporate unit trust); or 30

(b) a company in the capacity of a trustee (other than a company in the capacity of a trustee of a superannuation fund or in the capacity of a trustee of a corporate unit trust).

(4) This Act does not impose tax upon the taxable income of a non-profit company where that taxable income does not exceed \$416. 35

### **Rates of tax payable by companies**

6. (1) The rates of tax payable by a company, other than a company in the capacity of a trustee, are as set out in the following provisions of this section.

(2) The rate of tax in respect of the taxable income of a company not being—

(a) a private company; or

(b) a non-profit company that is a friendly society dispensary,  
5 is 46%.

(3) In the case of a company that is a private company, the rates of tax are—

(a) in respect of the taxable income—46%; and

(b) in respect of the undistributed amount in respect of which the  
10 company is liable under section 104 of the Assessment Act to pay  
additional tax—50%.

(4) The rate of tax in respect of the taxable income of a non-profit  
company that is a friendly society dispensary is 41%.

(5) Where the taxable income of a non-profit company other than a  
15 friendly society dispensary does not exceed \$2,542, the amount of tax payable  
by the company shall not exceed 55% of the amount by which the taxable  
income exceeds \$416 less any rebate or credit to which the company is entitled.

(6) Where the taxable income of a non-profit company that is a friendly  
20 society dispensary does not exceed \$2,311, the amount of tax payable by the  
company shall not exceed 50% of the amount by which the taxable income  
exceeds \$416 less any rebate or credit to which the company is entitled.

#### **Rates of tax payable by trustees of corporate unit trusts**

7. The rate of tax payable by a trustee of a corporate unit trust in respect of  
25 the net income of the corporate unit trust in respect of which the trustee is  
liable, in pursuance of section 102K of the Assessment Act, to be assessed and to  
pay tax is 46%.

#### **Rates of tax payable by trustees of superannuation funds**

8. (1) The rate of tax payable by a trustee of a superannuation fund in  
30 respect of the taxable income of the fund in respect of which the trustee is  
liable, in pursuance of section 121CA or 121CB of the Assessment Act, to be  
assessed and to pay tax is 50%.

(2) The rate of tax payable by a trustee of a superannuation fund in respect  
35 of investment income of the fund in respect of which the trustee is liable, in  
pursuance of section 121D of the Assessment Act, to be assessed and to pay tax  
is 46%.

(3) The rate of tax payable by a trustee of a superannuation fund in respect  
of the taxable income of the fund in respect of which the trustee is liable, in  
pursuance of section 121DA of the Assessment Act, to be assessed and to pay  
tax is 60%.

**Adjustment where amount payable does not exceed 49 cents**

9. (1) This section applies for the purposes of the making of an assessment of tax under this Act in respect of the income of a taxpayer of a year of income where, upon the making of the assessment and the serving of notice of the assessment upon the taxpayer, there would, but for this section, be a net amount of not more than 49 cents payable by the Commissioner to the taxpayer, or by the taxpayer to the Commissioner, under the law relating to income tax, after taking into account all liabilities of the taxpayer, and all rebates and credits allowable to the taxpayer, under that law. 5

(2) Where this section applies in relation to the making of an assessment— 10

(a) if the amount of not more than 49 cents would be an amount payable to the taxpayer—additional tax equal to that amount is imposed by this Act in respect of the income of the taxpayer of the year of income; and

(b) if the amount of not more than 49 cents would be an amount payable to the Commissioner—the amount that, but for this section, would be the amount of income tax imposed by this Act in respect of the income of the taxpayer of the year of income, before the allowance of any rebate to which the taxpayer is entitled, is reduced by so much of that amount of not more than 49 cents as does not exceed the amount calculated by deducting the amount of any such rebates from the amount that is to be so reduced. 15  
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(3) A reference in this section to a liability of the taxpayer shall be read as including a reference to a liability in respect of income tax notified to the taxpayer by the Commissioner, notwithstanding that the amount of the liability has not become due and payable. 25

(4) For the purposes of any calculation under the law relating to income tax that depends upon the amount of tax paid or payable by, or assessed in respect of the income of, a taxpayer, the tax assessed and payable under an assessment in relation to which this section applies shall be deemed to be the tax that would have been so assessed and payable if this section had not applied. 30

**Levy of tax**

10. (1) The tax imposed by this Act is levied, and shall be paid, for the financial year that commenced on 1 July 1981.

(2) Until the Parliament otherwise provides, the tax imposed by this Act is also levied, and shall be paid, for the financial year commencing on 1 July 1982. 35

**Act to be deemed to be the Act declaring rates of income tax**

11. For the purposes of sub-section 104 (1) of the Assessment Act, this Act shall be deemed to be the Act declaring the rates of income tax payable for the financial year that commenced on 1 July 1981. 40

**Instalments of tax**

5      **12. (1)** Instalments of tax are payable by a trustee of a corporate unit trust, in accordance with the provisions of Division 1A of Part VI of the Assessment Act, in respect of the year of income that commenced on 1 July 1980.

**(2)** Instalments of tax are payable by a company, and by a trustee of a corporate unit trust, in accordance with the provisions of Division 1A of Part VI of the Assessment Act, in respect of the year of income that commenced on 1 July 1981.





