

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 23 September 1981

(*Treasurer*)

INCOME TAX LAWS AMENDMENT BILL (No. 3) 1981

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1980-81

A BILL

FOR

An Act to amend the law relating to income tax

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

PART I—PRELIMINARY

Short title

5 1. This Act may be cited as the *Income Tax Laws Amendment Act (No. 3)* 1981.

Commencement

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

10 PART II—AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936

Principal Act

 3. The *Income Tax Assessment Act 1936*¹ is in this Part referred to as the Principal Act.

Interpretation

4. Section 6 of the Principal Act is amended by inserting after the definition of “friendly society” in sub-section (1) the following definition:

“‘friendly society dispensary’ means a friendly society dispensary within the meaning of section 91 of the *National Health Act* 1953 that is an approved pharmaceutical chemist for the purposes of that Act;”.

Exemptions

5. Section 23 of the Principal Act is amended—

- (a) by omitting from paragraph (g) “subject to Division 9A,”; and
- (b) by inserting in sub-paragraph (g) (i) “, not being a friendly society dispensary” after “friendly society”.

Calculation of taxable income

6. Section 50C of the Principal Act is amended by omitting from sub-paragraph (3) (d) (v) “124AD, 124ADB, 124ADD” and substituting “122DF, 124AD, 124ADB, 124ADD, 124ADF”.

Full-year deductions and partnership deductions

7. Section 50F of the Principal Act is amended—

- (a) by omitting from sub-section (2) “or 122DD” and substituting “, 122DD or 122DF”; and
- (b) by omitting from sub-section (5) “or 122DD” and substituting “, 122DD or 122DF”.

Divisible deductions

8. Section 50G of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “or 122DD” and substituting “, 122DD or 122DF”; and
- (b) by omitting from paragraph (2) (q) “or 122DD” and substituting “, 122DD or 122DF”.

Gifts, calls on afforestation shares, pensions, &c.

9. Section 78 of the Principal Act is amended—

- (a) by inserting after sub-paragraph (1) (a) (lxiii) the following sub-paragraphs:

“; (lxiv) the Victorian Arts Centre Trust;

“(lxv) a public fund established and maintained by a committee appointed or established by the Commonwealth, a State or the Northern Territory and having as its function or one of its functions the promotion of the observance of, or the furtherance of the aims or principles of, the International Year of Disabled Persons, being a fund established and maintained exclusively for the promotion of the observance of, or the furtherance of the aims or principles of, the International Year of Disabled Persons;” and

(b) by inserting after sub-section (6AC) the following sub-section:

“(6AD) A gift to a fund to which sub-paragraph (1) (a) (ixv) applies is not an allowable deduction unless the gift was or is made on or after 1 July 1981 and on or before 30 June 1982.”.

5 **10.** After Division 6A of Part III of the Principal Act the following Division is inserted:

“Division 6B—Income of certain unit trusts

Interpretation

“102D. (1) In this Division, unless the contrary intention appears—

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

15 ‘net income’, in relation to a corporate unit trust, means the total assessable income of the corporate unit trust calculated under this Act as if the trustee were a taxpayer in respect of that income and were a resident, less all allowable deductions;

‘prescribed trust estate’ means a trust estate that is, or has been, a corporate unit trust in relation to any year of income;

20 ‘property’ includes a chose in action and also includes any estate, interest, right or power, whether at law or in equity, in or over property;

‘relevant year of income’ means the year of income that commenced on 1 July 1980 or a subsequent year of income;

‘unit’, in relation to a prescribed trust estate, includes a beneficial interest, however described, in any of the income or property of the trust estate;

25 ‘unitholder’, in relation to a prescribed trust estate, means the holder of a unit or units in the prescribed trust estate;

‘unit trust dividend’ means—

30 (a) any distribution made by the trustee of a prescribed trust estate, whether in money or in other property, to a unitholder; and

(b) any amount credited by the trustee of a prescribed trust estate to a unitholder as a unitholder,

but does not include—

35 (c) moneys paid or credited, or property distributed, by the trustee of a prescribed trust estate to the extent to which the moneys are attributable, or the property is attributable, to profits arising during a year of income in relation to which the prescribed trust estate was not a corporate unit trust; or

40 (d) moneys paid or credited, or property distributed, by the trustee of a prescribed trust estate in respect of the cancellation,

extinguishment or redemption of a unit to the extent to which—

- (i) the moneys paid or credited or the property distributed represent or represents moneys paid to, or property transferred to, the trustee for the purpose of the creation or issue of that unit; and 5
- (ii) the amount of the moneys paid or credited or the value of the property distributed, as the case may be, does not exceed the amount of the moneys paid to the trustee, or the value, at the time of transfer, of the property transferred to the trustee, for the purpose of the creation or issue of that unit. 10

“(2) A reference in this Division to an associate of a company or of the trustee of a unit trust (which company or trustee is in this sub-section referred to as the ‘primary entity’) shall be read as a reference to a company or the trustee of a trust estate (which company or trustee is in this sub-section referred to as the ‘associate’) where— 15

- (a) the affairs or operations of the primary entity are, or are able to be, controlled, either directly or indirectly, by the associate; 20
- (b) the affairs or operations of the associate are, or are able to be, controlled, either directly or indirectly, by the primary entity; or
- (c) the operations of the primary entity are, or are able to be, controlled, either directly or indirectly, by a person who controls or is able to control, or by persons who control or are able to control, either directly or indirectly, the operations of the associate. 25

“(3) A reference in sub-section (2) to the affairs or operations of a primary entity or of an associate, shall, in a case where the primary entity or the associate is a trustee, include a reference to the administration of the trust estate by the trustee.

Prescribed arrangements 30

“102E. (1) A reference in this Division, in relation to a unit trust, to an arrangement that is a prescribed arrangement in relation to a company is a reference to an arrangement under which—

- (a) a shareholder in the company was, by reason of being a shareholder in the company, to be granted a right or an option to acquire, either directly or indirectly through any interposed companies or trusts, a unit or units in the unit trust; and 35
- (b) the units in the unit trust were to be held or dealt with, or the income or property of the unit trust was to be applied, during any year of income, in such a way that, in the opinion of the Commissioner, if section 102G were applied in relation to the unit trust in relation to the year of income, the unit trust would be a public unit trust in relation to the year of income. 40

“(2) Without limiting the generality of sub-section (1), a reference in that sub-section to an arrangement under which a shareholder in a company was, by reason of being a shareholder in the company, to be granted a right or an option to acquire a unit or units in a unit trust includes a reference to an arrangement under which a shareholder in the company was, by reason of being a shareholder in the company, to be given a preference or advantage in relation to—

- (a) the allocation of a unit or units in the unit trust or the acceptance of moneys by any person in relation to the allocation of a unit or units in the unit trust; or
- (b) the acquisition of a unit or units in the unit trust.

“(3) A reference in this Division, in relation to a unit trust (in this sub-section and sub-section (4) referred to as the ‘second unit trust’), to an arrangement that is a prescribed arrangement in relation to another unit trust (in this sub-section and sub-section (4) referred to as the ‘first unit trust’) is a reference to an arrangement under which—

- (a) a unitholder in the first unit trust was, by reason of being a unitholder in the first unit trust, to be granted a right or an option to acquire, either directly or indirectly through any interposed companies or trusts, a unit or units in the second unit trust; and
- (b) the units in the second unit trust were to be held or dealt with, or the property of the second unit trust was to be applied, during any year of income, in such a way that, in the opinion of the Commissioner, if section 102G were applied in relation to the second unit trust in relation to the year of income, the second unit trust would be a public unit trust in relation to the year of income.

“(4) Without limiting the generality of sub-section (3), a reference in that sub-section to an arrangement under which a unitholder in the first unit trust was, by reason of being a unitholder in the first unit trust, to be granted a right or an option to acquire a unit or units in the second unit trust includes a reference to an arrangement under which a unitholder in the first unit trust was, by reason of being a unitholder in the first unit trust, to be given a preference or advantage in relation to—

- (a) the allocation of a unit or units in the second unit trust or the acceptance of moneys by any person in relation to the allocation of a unit or units in the second unit trust; or
- (b) the acquisition of a unit or units in the second unit trust.

Eligible unit trusts

“102F. (1) For the purposes of this Division, a unit trust is an eligible unit trust in relation to a year of income if—

- (a) property that, at any time during the year of income or a preceding year of income, was property of the unit trust became property of the unit trust in pursuance of an arrangement that is a prescribed arrangement in relation to a company and, at any time before the

property became property of the unit trust, the property was the property of the company or an associate of the company; or

- (b) in pursuance of an arrangement that is a prescribed arrangement in relation to a company, the trustee of the unit trust has, at any time during the year of income or a preceding year of income, carried on a business that, at any time before that time, had been carried on by the company or an associate of the company. 5

“(2) For the purposes of this Division, a unit trust (in this sub-section referred to as the ‘relevant unit trust’) is also an eligible unit trust in relation to a year of income if— 10

- (a) property that, at any time during the year of income or a preceding year of income, was property of the relevant unit trust became property of the relevant unit trust in pursuance of an arrangement that is a prescribed arrangement in relation to another unit trust and, at any time before the property became the property of the relevant unit trust, the property was the property of that other unit trust or of an associate of the trustee of that other unit trust; or 15
- (b) in pursuance of an arrangement that is a prescribed arrangement in relation to another unit trust, the trustee of the relevant unit trust has, at any time during the year of income or a preceding year of income, carried on a business that, at any time before that time, had been carried on by the trustee of that other unit trust or an associate of the trustee of that other unit trust, 20

and that other unit trust is in relation to the year of income, or was in relation to a preceding year of income, an eligible unit trust. 25

“(3) A reference in sub-section (1) or (2), in relation to a company or trustee of a unit trust, to the property of an associate shall, in a case where the associate is the trustee of a trust estate, be read as a reference to property of that trust estate.

Public unit trusts 30

“102G. (1) For the purposes of this Division, but subject to the succeeding provisions of this section, a unit trust is a public unit trust in relation to a year of income if, at any time during the year of income—

- (a) any of the units in the unit trust were listed for quotation in the official list of a stock exchange in Australia or elsewhere; 35
- (b) any of the units in the unit trust were offered to the public; or
- (c) the units in the unit trust were held by not fewer than 50 persons.

“(2) A unit trust shall not be taken to be a public unit trust in relation to a year of income by reason that units in the unit trust were offered to the public at any time during the year of income if the Commissioner is of the opinion that any of those units were offered to the public for the purpose, or for purposes that included the purpose, of enabling the unit trust to be treated as a public unit trust for the purposes of this Division in relation to the year of income. 40

“(3) Notwithstanding sub-section (1) but subject to sub-section (4), a unit trust that, but for this sub-section and sub-section (6), would be a public unit trust in relation to a year of income shall be deemed not to be a public unit trust in relation to the year of income if, at any time during the year of income, one person or persons not more than 20 in number held, or had the right to acquire or become the holder or holders of, a unit or units in the unit trust that entitled the holder or holders thereof to not less than 75% of—

- (a) the beneficial interests in the income of the unit trust; or
- (b) the beneficial interests in the property of the unit trust.

“(4) Subject to sub-section (6), where by virtue of sub-section (3), a unit trust would, but for this sub-section, be deemed not to be a public unit trust in relation to a year of income by reason that, at any time during the year of income, one person or persons not more than 20 in number held, or had the right to acquire or become the holder or holders of, the unit or units referred to in sub-section (3) and the Commissioner is of the opinion that, having regard to—

- (a) the length of the period or the aggregate of the lengths of the periods in the year of income during which one person or persons not more than 20 in number held, or had the right to acquire or become the holder or holders of, the unit or units referred to in sub-section (3); and
- (b) any other matters that the Commissioner considers relevant,

it is reasonable that the unit trust should be treated as a public unit trust in relation to the year of income, the unit trust shall be deemed to be a public unit trust in relation to the year of income.

“(5) For the purposes of sub-sections (3) and (4), a person (in this sub-section referred to as the ‘transferee’) to whom a right to acquire or become the holder of a unit in a unit trust is granted or transferred shall be deemed not to have such a right if the Commissioner is of the opinion, having regard to the financial circumstances of the transferee and to any other matters that the Commissioner considers relevant, that it was not intended by the person who granted or transferred the right to the transferee that the right would be exercised by the transferee.

“(6) Notwithstanding any of the preceding provisions of this section but subject to sub-section (7), a unit trust that, but for this sub-section, would be a public unit trust in relation to a year of income, shall be deemed not to be a public unit trust in relation to that year of income if—

- (a) not less than 75% of the total of moneys paid or credited by the trustee of the unit trust during the year of income to unitholders as unitholders, was paid or credited to one person or persons not more than 20 in number; or
- (b) the Commissioner is of the opinion that, by reason of—

- (i) any provision in the instrument by which the trust was created, or any contract, agreement or instrument authorising the variation or abrogation of the rights attaching to any of the

units in the unit trust or relating to the conversion, cancellation, extinguishment or redemption of any such units;

(ii) any contract, agreement, option or instrument under which a person has power to acquire a unit or units in the unit trust; or

(iii) any power, authority, or discretion in a person in relation to the rights attaching to any of the units in the unit trust, 5

the rights attaching to any of the units in the unit trust were, at any time during the year of income, capable of being varied or abrogated in such a manner (notwithstanding that they were not in fact varied or abrogated in that manner) that— 10

(iv) units in the unit trust that entitled the holder or holders thereof to not less than 75% of—

(A) the beneficial interests in the income of the unit trust; or

(B) the beneficial interests in the property of the unit trust, would have been held by one person or persons not more than 20 in number; 15

(v) not less than 75% of the total of moneys paid or credited by the trustee of the unit trust during the year of income to unitholders as unitholders would have been paid or credited to one person or persons not more than 20 in number; or 20

(vi) in the case where no moneys were paid or credited by the trustee of the unit trust during the year of income to unitholders as unitholders—if moneys had been so paid or credited by the trustee of the unit trust during the year of income, not less than 75% of the amount of those moneys would have been paid or credited to one person or persons not more than 20 in number. 25

“(7) A unit trust shall not be deemed by sub-section (6) not to be a public unit trust in relation to a year of income by reason that rights attaching to any of the units in the unit trust were, at any time during the year of income, capable of being varied in the manner mentioned in paragraph (6) (b) if the Commissioner is of the opinion that the person or persons who were able to vary the rights in that manner intended not to vary the rights in that manner during the year of income. 30

“(8) For the purposes of sub-sections (1) and (2), units in a unit trust shall be taken to be offered to the public if and only if— 35

(a) an offer is made to the public or to a section of the public to subscribe for or purchase the units; or

(b) an invitation is issued to the public or to a section of the public to make offers to subscribe for or purchase the units.

“(9) For the purposes of this section, where any units in a unit trust are held by the trustee of another trust estate, a person who has a beneficial interest in property of that other trust estate that consists of those units (whether or not that beneficial interest is deemed to be held by virtue of the application of this sub-section) shall be deemed to hold those units. 40

“(10) For the purposes of this section, a distribution of property of a unit trust to a unitholder shall be taken to be a payment of money to the unitholder of an amount equal to the value of the property.

“(11) For the purposes of this section—

- (a) a person, whether or not he holds units in the unit trust concerned;
- (b) his relatives; and
- (c) in relation to any units in respect of which they are such nominees, his nominees and the nominees of any of his relatives,

shall be deemed to be one person.

Resident unit trusts

“102H. For the purposes of this Division, a unit trust is a resident unit trust in relation to a year of income if, at any time during the year of income—

- (a) either of the following conditions was satisfied:
 - (i) any property of the unit trust was situated in Australia;
 - (ii) the trustee of the unit trust carried on business in Australia; and
- (b) either of the following conditions was satisfied:
 - (i) the central management and control of the unit trust was in Australia;
 - (ii) a person who was a resident or persons who were residents held more than 50% of—
 - (A) the beneficial interests in the income of the unit trust; or
 - (B) the beneficial interests in the property of the unit trust.

Corporate unit trusts

“102J. (1) A unit trust is a corporate unit trust in relation to a relevant year of income if—

- (a) where the relevant year of income is the year of income that commenced on 1 July 1980, the year of income that commenced on 1 July 1981 or the year of income commencing on 1 July 1982—
 - (i) the unit trust was established after 11 July 1980;
 - (ii) the unit trust is an eligible unit trust in relation to the relevant year of income;
 - (iii) the unit trust is a public unit trust in relation to the relevant year of income; and
- (iv) either of the following conditions is satisfied:
 - (A) the unit trust is a resident unit trust in relation to the relevant year of income;
 - (B) the unit trust was a corporate unit trust in relation to a year of income preceding the relevant year of income; or

(b) where the relevant year of income is the year of income commencing on 1 July 1983 or a subsequent year of income—

- (i) the unit trust is an eligible unit trust in relation to the relevant year of income;
- (ii) the unit trust is a public unit trust in relation to the relevant year of income; and
- (iii) either of the following conditions is satisfied:

(A) the unit trust is a resident unit trust in relation to the relevant year of income;

(B) the unit trust was a corporate unit trust in relation to a year of income preceding the relevant year of income.

“(2) Where a unit trust that was established on or before 11 July 1980 is an eligible unit trust in relation to the year of income that commenced on 1 July 1980, the year of income that commenced on 1 July 1981, or the year of income commencing on 1 July 1982 by virtue of a prescribed arrangement in relation to a company or unit trust that was entered into or carried out after 11 July 1980 then, whether or not the unit trust is also an eligible unit trust in relation to any of those years of income by virtue of a prescribed arrangement in relation to a company or unit trust that was entered into or carried out on or before 11 July 1980, the unit trust shall be taken, for the purposes of sub-paragraph (1) (a) (i), to have been established after 11 July 1980.

Taxation of net income of corporate unit trust

“102K. The trustee of a unit trust that is a corporate unit trust in relation to a relevant year of income shall be assessed and is liable to pay tax on the net income of the corporate unit trust of the relevant year of income at the rate declared by the Parliament for the purposes of this section.

Modified application of Act in relation to certain unit trusts

“102L. (1) For the purpose of the application of this Act in relation to the imposition, assessment and collection of tax in respect of—

- (a) the net income of a corporate unit trust; and
- (b) the income or assessable income of a unitholder in a prescribed trust estate,

the following provisions of this section have effect.

“(2) Subject to the succeeding provisions of this section, sections 46, 46A and 46B apply, *mutatis mutandis*, in relation to trustees of corporate unit trusts and in relation to unit trust dividends so that—

- (a) the trustee of a corporate unit trust, being a shareholder in a company or a unitholder in a prescribed trust estate, will be entitled to a rebate of tax under section 46 or 46A in respect of dividends or unit trust dividends included in the net income of the corporate unit trust in like manner as a shareholder, being a company that is a resident but not being a private company, is entitled to a rebate of tax in respect of dividends included in its taxable income; and

5 (b) a unitholder in a prescribed trust estate, being a company that is a resident but not being the trustee of a corporate unit trust, will be entitled to a rebate of tax under section 46 or 46A in respect of unit trust dividends included in its taxable income in like manner as a shareholder, being a company that is a resident but not being a private company, is entitled to a rebate of tax in respect of dividends included in its taxable income.

10 “(3) For the purposes of the application of sections 46A and 46B in accordance with sub-section (2), the Commissioner may be satisfied, in relation to a unit trust dividend, that a transaction, operation, undertaking, scheme or arrangement was by way of dividend stripping or similar to a transaction, operation, undertaking, scheme or arrangement by way of dividend stripping if the Commissioner would have been satisfied, had the unit trust dividend been a dividend paid by a company, that the transaction, operation, undertaking, scheme or arrangement would have been a transaction, operation, undertaking, scheme or arrangement by way of dividend stripping or, as the case requires, would have been similar to a transaction, operation, undertaking, scheme or arrangement by way of dividend stripping.

20 “(4) Section 221AC shall have effect as if there were inserted after sub-section (1) of that section the following sub-section:

25 ‘(1A) Subject to sub-section (2), for the purpose of securing generally the more expeditious collection of income tax payable by trustees of corporate unit trusts, a trustee of a corporate unit trust is liable to pay, during the relevant year of tax and in accordance with this Division, 3 instalments of tax in respect of income of the year of income that commenced on 1 July 1980 and in respect of income of each subsequent year of income.’

30 “(5) For the purposes of the application of the definition of ‘year of income’ in sub-section 6 (1), the reference in that definition to a company (except a company in the capacity of a trustee) shall be read as including a reference to a corporate unit trust or, as the context requires, to the trustee of a corporate unit trust.

35 “(6) A reference in the definition of ‘person’ in sub-section 6 (1) or in section 160AF or Division 1A of Part VI (other than sub-section 221AA (1) or section 221AC) to a company shall be read as including a reference to a corporate unit trust or, as the context requires, to the trustee of a corporate unit trust.

“(7) The reference in section 158 to the taxable income of a company except income in respect of which it is assessable as trustee shall be read as including a reference to the net income of a corporate unit trust.

40 “(8) The reference in sub-section 221AA (1) to income tax that a company is liable to pay in the capacity of a trustee shall be read as not including a reference to income tax that a company, being the trustee of a corporate unit trust, is liable to pay in respect of the net income of the corporate unit trust.

“(9) For the purposes of sub-section 221YB (1), the trustee of a corporate unit trust shall be taken to be a company not being a company in the capacity of a trustee.

“(10) A reference in sub-section 44 (1), section 128B or Division 4 of Part VI (other than sub-section 221YK (2)) to a company or to a company that is a resident shall be read as including a reference to a prescribed trust estate or, as the context requires, to the trustee of a prescribed trust estate. 5

“(11) A reference in the definition of ‘paid’ in sub-section 6 (1) or in sub-section 44 (1), section 116AA, 128A or 128B or Division 4 of Part VI (other than sub-section 221YK (2)) to a dividend shall be read as including a reference to a unit trust dividend. 10

“(12) A reference in sections 116AA and 221YL to a share in relation to a company shall be read as including a reference to a unit in a prescribed trust estate.

“(13) A reference in sub-section 44 (1) to a shareholder in relation to a company shall be read as including a reference to a unitholder in a prescribed trust estate. 15

“(14) A reference in Division 1A of Part VI (other than section 221AC) to taxable income in relation to a company shall be read as including a reference to the net income of a corporate unit trust. 20

“(15) A reference in section 6B, Division 6 or sub-section 128A (3) or 157 (3) to a trust estate or to a trustee shall be read as not including a reference to a trust estate that is a corporate unit trust or to the trustee of a corporate unit trust, as the case may be.

“(16) A reference in paragraph 26 (b) to beneficial interests in income derived under an instrument of trust shall be read as not including a reference to beneficial interests in income of a corporate unit trust. 25

“(17) The reference in sub-section 221YL (1) to the register of members in relation to a company shall be read as including a reference to any book, document or record in the possession of, or kept or maintained by or on behalf of, the trustee of a prescribed trust estate, being a book, document or record containing, or containing information relating to, the names or addresses of unitholders in the prescribed trust estate. 30

“(18) For the purposes of sub-section 44 (1), a unit trust dividend paid by the trustee of a prescribed trust estate out of corpus of the trust estate shall, to the extent to which the unit trust dividend is attributable to profits derived by the trustee, be taken to be paid out of those profits. 35

“(19) For the purposes of section 128B, a unit trust dividend paid to a unitholder in a prescribed trust estate shall be deemed to be income derived by the unitholder at the time at which the unit trust dividend is paid.”. 40

Private companies

11. Section 103A of the Principal Act is amended by omitting from sub-paragraph (2) (d) (ii) “within the meaning of section 121A”.

Co-operative companies

5 12. Section 117 of the Principal Act is amended by inserting in sub-section (1) “, not being a friendly society dispensary,” after “a company” (wherever occurring).

Repeal of Division 9A

13. Division 9A of Part III of the Principal Act is repealed.

10 **Interpretation**

14. Section 121F of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “friendly society dispensary”; and

15 (b) by omitting from sub-section (1) the definition of “public company rate” and substituting the following definition:

“‘public company rate’ means the rate of tax payable in respect of the taxable income of a company that is not a private company;”.

Deduction of residual previous capital expenditure

20 15. Section 122D of the Principal Act is amended by inserting in sub-section (3) “, 122DF” after “122DD”.

Deduction of residual capital expenditure

16. Section 122DB of the Principal Act is amended by inserting in sub-section (3) “, 122DF” after “122DD”.

25 **Residual (1 May 1981 to 18 August 1981) capital expenditure**

17. Section 122DC of the Principal Act is amended—

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

30 “(1) For the purposes of this Division, but subject to sub-section (2), the residual (1 May 1981 to 18 August 1981) capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) shall be ascertained by deducting from the amount of allowable capital expenditure incurred by the taxpayer after 30 April 1981 and before the end of the relevant year of income, being—

35 (a) expenditure incurred on or before 18 August 1981; or

(b) expenditure incurred after 18 August 1981—

(i) under a contract entered into on or before 18 August 1981; or

- (ii) in respect of the construction of property by the taxpayer where that construction commenced on or before 18 August 1981,
- but not being—
- (c) expenditure incurred under a contract entered into on or before 30 April 1981; or 5
- (d) expenditure incurred in respect of the construction of property by the taxpayer where that construction commenced on or before 30 April 1981,
- the sum of— 10
- (e) any part of that allowable capital expenditure that—
- (i) has been allowed or is allowable as a deduction under section 122DD from the assessable income of a year of income preceding the relevant year of income; or
- (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 122B by the taxpayer and a person who acquired the property from the taxpayer)— 15
- (A) that has been disposed of, lost or destroyed; or
- (B) the use of which by the taxpayer for prescribed purposes has been otherwise terminated, 20
- and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place; and 25
- (f) so much of any amounts specified in notices duly given to the Commissioner under section 122B in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a mining or prospecting right or mining or prospecting information as is attributable to expenditure that would, but for this paragraph, be included in the residual (1 May 1981 to 18 August 1981) capital expenditure of the taxpayer as at the end of the relevant year of income.”; and 30 35
- (b) by inserting in sub-section (2) “and on or before 18 August 1981” after “30 April 1981”.

Deduction of residual (1 May 1981 to 18 August 1981) capital expenditure

18. Section 122DD of the Principal Act is amended—

- (a) by omitting “residual (post 30 April 1981) capital expenditure” (wherever occurring) and substituting “residual (1 May 1981 to 18 August 1981) capital expenditure”; and 40
- (b) by inserting in sub-section (3) “122DF or” before “122J”.

19. After section 122DD of the Principal Act the following sections are inserted:

Residual (post 18 August 1981) capital expenditure

5 “122DE. (1) For the purposes of this Division, but subject to sub-section (2), the residual (post 18 August 1981) capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) shall be ascertained by deducting from the amount of allowable capital expenditure incurred by the taxpayer after 18 August 1981 and before the end of the relevant year of income, not being expenditure incurred—

- 10 (a) under a contract entered into on or before 18 August 1981; or
(b) in respect of the construction of property by the taxpayer where that construction commenced on or before 18 August 1981,

the sum of—

- (c) any part of that allowable capital expenditure that—

- 15 (i) has been allowed or is allowable as a deduction under section 122DF from the assessable income of a year of income preceding the relevant year of income; or
20 (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 122B by the taxpayer and a person who acquired the property from the taxpayer)—

- (A) that has been disposed of, lost or destroyed; or
(B) the use of which by the taxpayer for prescribed purposes has been otherwise terminated,

25 and has not been allowed and is not allowable as a deduction from the assessable income of any year that ended before the year of income in which the disposal, loss, destruction or termination of use took place; and

- 30 (d) so much of any amounts specified in notices duly given to the Commissioner under section 122B in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a mining or prospecting right or mining or prospecting information as is attributable to expenditure that would, but for this paragraph, be included in the residual (post 18 August 1981) capital expenditure of the taxpayer as at the end of the relevant year of
35 income.

40 “(2) Where property referred to in sub-sub-paragraph (1) (c) (ii) (B) has, after 18 August 1981, come into use for purposes for which allowable capital expenditure may be incurred, so much of the capital expenditure incurred by the taxpayer on that property after 17 August 1976 and before the termination of use as the Commissioner determines shall, for the purposes of this section, be deemed to have been incurred, on the day on which the property so came into use, for the purposes for which the property so came into use.

Deduction of residual (post 18 August 1981) capital expenditure

“122DF. (1) Where, as at the end of the year of income, there is, in relation to a taxpayer, an amount of residual (post 18 August 1981) capital expenditure, an amount ascertained in accordance with this section is an allowable deduction. 5

“(2) Subject to sub-section (3), the deduction allowable is the amount ascertained by dividing the amount of residual (post 18 August 1981) capital expenditure referred to in sub-section (1) by—

(a) a number equal to the number of whole years in the estimated life of the mine or proposed mine on the mining property, or, if there is more than one such mine, of the mine that has the longer or longest estimated life, as at the end of the year of income; or 10

(b) 10,

whichever number is the less.

“(3) Unless the taxpayer makes an election under sub-section (4) in relation to the year of income, the amount, or the total of the amounts, of the deduction or deductions allowable under this section shall not exceed an amount equal to so much of the assessable income of the year of income as remains after deducting all allowable deductions, other than deductions allowable under this section or under section 122J, and, where the total of the amounts of 2 or more deductions that would be allowable under this section but for this sub-section exceeds the maximum amount determined in accordance with this sub-section, those deductions shall be reduced respectively by amounts proportionate to those deductions and equal in total to the excess. 15 20

“(4) A taxpayer may elect, in relation to a year of income specified in the election, that sub-section (3) shall not apply in respect of the taxpayer. 25

“(5) Where, having regard to the information in his possession, the Commissioner is not satisfied that the estimated life of a mine or a proposed mine as made by the taxpayer is a reasonable estimate, the estimated life shall, for the purposes of sub-section (2), be taken to be such period as the Commissioner considers reasonable.”. 30

Elections

20. Section 122M of the Principal Act is amended by inserting in sub-paragraph (b) (iii) “, 122DF” after “122DD”.

Deductions not allowable under other provisions 35

21. Section 122N of the Principal Act is amended by inserting in sub-section (3) “, 122DF (3)” after “122DD (3)”.

Deduction of residual previous capital expenditure

22. Section 124AD of the Principal Act is amended—

(a) by inserting in sub-section (3) “, section 124ADF” after “section 124ADD”; and 40

- (b) by inserting in sub-section (4) “, section 124ADF” after “section 124ADD” (wherever occurring).

Deduction of residual capital expenditure

5 23. Section 124ADB of the Principal Act is amended by inserting in sub-section (3) “, 124ADF” after “124ADD”.

Residual (1 May 1981 to 18 August 1981) capital expenditure

24. Section 124ADC of the Principal Act is amended—

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

10 “(1) For the purposes of this Division, but subject to the succeeding provisions of this section, the residual (1 May 1981 to 18 August 1981) capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) shall be ascertained by deducting from the sum of—

- 15 (a) the amount of allowable capital expenditure (other than allowable capital expenditure to which paragraph (b) applies) incurred by the taxpayer after 30 April 1981 and before the end of the relevant year of income, being—

(i) expenditure incurred on or before 18 August 1981; or

(ii) expenditure incurred after 18 August 1981—

20 (A) under a contract entered into on or before 18 August 1981; or

(B) in respect of the construction of property by the taxpayer where that construction commenced on or before 18 August 1981,

25 but not being—

(iii) expenditure incurred under a contract entered into on or before 30 April 1981; or

(iv) expenditure incurred in respect of the construction of property by the taxpayer where that construction commenced on or before 30 April 1981; and

30 (b) any amount of allowable capital expenditure that is deemed by sub-section (2) to have been incurred by the taxpayer after 30 April 1981 and on or before 18 August 1981,

the following amounts:

35 (c) any part of the expenditure included in that sum that—

(i) has been allowed or is allowable as a deduction under section 124ADD from the assessable income of a year of income preceding the relevant year of income; or

40 (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 124AB by the taxpayer and a person who acquired the last-mentioned property from the taxpayer) that has been disposed of, lost or

destroyed or the use of which by the taxpayer for the purposes of carrying on prescribed petroleum operations has been otherwise terminated, and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place; and

5

- (d) the sum of so much of any amounts specified in notices duly given to the Commissioner under section 124AB in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a petroleum prospecting or mining right or petroleum prospecting or mining information as is attributable to expenditure that would, but for this paragraph, be included in the residual (1 May 1981 to 18 August 1981) capital expenditure of the taxpayer as at the end of the relevant year of income.”; and

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- (b) by inserting in sub-section (2) “and on or before 18 August 1981” after “30 April 1981”.

Deduction of residual (1 May 1981 to 18 August 1981) capital expenditure

25. Section 124ADD of the Principal Act is amended—

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- (a) by omitting “residual (post 30 April 1981) capital expenditure” (wherever occurring) and substituting “residual (1 May 1981 to 18 August 1981) capital expenditure”; and
- (b) by omitting from sub-section (3) “and section 124AH” and substituting “, section 124DF and section 124AH”.

25

26. After section 124ADD of the Principal Act the following sections are inserted:

Residual (post 18 August 1981) capital expenditure

“124ADE. (1) For the purposes of this Division, but subject to the succeeding provisions of this section, the residual (post 18 August 1981) capital expenditure of a taxpayer as at the end of a year of income (in this section referred to as the ‘relevant year of income’) shall be ascertained by deducting from the sum of—

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- (a) the amount of allowable capital expenditure (other than allowable capital expenditure to which paragraph (b) applies) incurred by the taxpayer after 18 August 1981 and before the end of the relevant year of income, not being expenditure that was incurred—

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- (i) under a contract entered into on or before 18 August 1981; or
- (ii) in respect of the construction of property by the taxpayer where that construction commenced on or before 18 August 1981; and

40

- (b) any amount of allowable capital expenditure that is deemed by sub-section (2) to have been incurred by the taxpayer after 18 August 1981,

the following amounts:

- 5 (c) any part of the expenditure included in that sum that—
 - (i) has been allowed or is allowable as a deduction under section 124ADF from the assessable income of a year of income preceding the relevant year of income; or
 - 10 (ii) was incurred on property (not being property in respect of which a notice has been duly given to the Commissioner under section 124AB by the taxpayer and a person who acquired the last-mentioned property from the taxpayer) that has been disposed of, lost or destroyed or the use of which by the taxpayer for the purposes of carrying on prescribed petroleum operations has been otherwise terminated, and has not been allowed and is not allowable as a deduction from the assessable income of any year of income that ended before the year of income in which the disposal, loss, destruction or termination of use took place; and
- 20 (d) the sum of so much of any amounts specified in notices duly given to the Commissioner under section 124AB in relation to the acquisition from the taxpayer, during the relevant year of income or a preceding year of income, of a petroleum prospecting or mining right or petroleum prospecting or mining information as is attributable to expenditure that would, but for this paragraph, be included in the residual (post 18 August 1981) capital expenditure of the taxpayer as at the end of the relevant year of income.

“(2) Where—

- (a) after 17 August 1976—
 - 30 (i) the taxpayer has incurred allowable capital expenditure on property the use of which by the taxpayer for the purpose of carrying on prescribed petroleum operations has, before the relevant year of income, been terminated; or
 - 35 (ii) the taxpayer has, otherwise than in carrying on prescribed petroleum operations, incurred expenditure of a capital nature on property, being expenditure that would have been allowable capital expenditure if it had been incurred in carrying on such operations; and
- 40 (b) the property has, after 18 August 1981, come into use by the taxpayer for purposes for which allowable capital expenditure may be incurred, so much of that expenditure as the Commissioner determines shall be deemed to have been incurred by the taxpayer in respect of that property, on the day on which the property so came into use by the taxpayer, for the purposes for which the property so came into use.

“(3) Nothing contained in section 122N prejudices the operation of sub-section (2).

Deduction of residual (post 18 August 1981) capital expenditure

“124ADF. (1) Where, as at the end of the year of income, there is, in relation to a taxpayer, an amount of residual (post 18 August 1981) capital expenditure, an amount ascertained in accordance with this section is an allowable deduction. 5

“(2) Subject to sub-section (3), the deduction allowable is the amount ascertained by dividing the amount of residual (post 18 August 1981) capital expenditure referred to in sub-section (1) by a number equal to the number of whole years in the estimated life of the petroleum field or proposed petroleum field as at the end of the year of income or by 10, whichever number is the less. 10

“(3) The amount of the deduction, or the total of the amounts of the deductions, allowable under this section shall not exceed an amount equal to so much of the assessable income of the taxpayer of the year of income as remains after deducting from that assessable income all deductions allowable otherwise than under this section and section 124AH in respect of that assessable income and, where the total of the amounts of 2 or more deductions that would be allowable under this section but for this sub-section exceeds the maximum amount determined in accordance with this sub-section, those deductions shall be reduced respectively by amounts proportionate to those deductions and equal in total to the excess. 15 20

“(4) Where, having regard to the information in his possession, the Commissioner is not satisfied that the estimated life of a petroleum field or proposed petroleum field as made by the taxpayer is a reasonable estimate, the estimated life shall, for the purposes of sub-section (2), be taken to be such period as the Commissioner considers reasonable.”. 25

Deduction of unrecovered previous capital expenditure

27. Section 124AF of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, 124ADF” after “124ADD”; and 30
- (b) by inserting in sub-section (2) “, 124ADF” after “124ADD” (wherever occurring).

Exploration and prospecting expenditure

28. Section 124AH of the Principal Act is amended by inserting in sub-section (3) “, 124ADF” after “124ADD”. 35

Double deductions

29. Section 124AN of the Principal Act is amended by inserting in sub-section (3) “, 124ADF (3)” after “124ADD (3)”.

Reduction of allowable deductions where certain declarations lodged

30. Section 124AR of the Principal Act is amended—

- (a) by inserting “, 124ADF” after “124ADD” in the definition of “eligible petroleum deduction” in sub-section (1);
- 5 (b) by inserting “, 124ADF” after “124ADD” in the definition of “prescribed deduction” in sub-section (1); and
- (c) by inserting “, 124ADF” after “124ADD” in the definition of “prescribed petroleum deduction” in sub-section (1).

Interpretation

10 31. Section 221YA of the Principal Act is amended by omitting sub-sections (5) and (5A) and substituting the following sub-section:

“(5) For the purposes of the application of the definition of ‘provisional income’ in sub-section (1) in relation to a taxpayer in relation to a year of income—

- 15 (a) where the taxable income of the taxpayer of the next preceding year of income was, by virtue of the application of any of the provisions of Division 16C of Part III, greater or less than it would have been but for the application of that Division; or
- (b) where a deduction has been allowed or is allowable, or deductions have been allowed or are allowable, to a taxpayer under section 124ZAF in his assessment in respect of income of the next preceding year of income,

the taxable income of the taxpayer of that next preceding year of income shall be deemed to be—

- 25 (c) where paragraph (a) applies, but paragraph (b) does not apply, to the taxpayer—the amount that would have been that taxable income but for the application of Division 16C of Part III;
- (d) where paragraph (b) applies, but paragraph (a) does not apply, to the taxpayer—the amount that, but for this sub-section, would have been that taxable income, increased by the aggregate of the deductions allowed or allowable to the taxpayer under section 124ZAF in his assessment in respect of income of the next preceding year of income; and
- 30 (e) where paragraphs (a) and (b) apply to the taxpayer—the amount that would have been that taxable income but for the application of Division 16C of Part III and but for this sub-section increased by the aggregate of the deductions allowed or allowable to the taxpayer under section 124ZAF in his assessment in respect of income of the next preceding year of income.”.
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**PART III—AMENDMENTS OF THE INCOME TAX
(INTERNATIONAL AGREEMENTS) ACT 1953**

Principal Act

32. The *Income Tax (International Agreements) Act 1953*² is in this Part referred to as the Principal Act.

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Interpretation

33. Section 3 of the Principal Act is amended by inserting in sub-section (4) “, other than a trust estate that is a corporate unit trust, within the meaning of Division 6B of Part III of the Assessment Act, in relation to the year of income,” after “a trust estate”.

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Ascertainment of Australian tax

34. Section 15 of the Principal Act is amended by inserting after sub-section (5) the following sub-section:

“(5A) Where a relevant part of the income of a trust estate that is a corporate unit trust, within the meaning of Division 6B of Part III of the Assessment Act, in relation to the year of income consists of dividends in respect of which the trustee of the trust estate is entitled to a rebate under section 46 or 46A of the Assessment Act, there shall be deemed to be no amount of Australian tax payable in respect of that part of the income of the trust estate under sub-section (3).”.

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Withholding tax

35. Section 17A of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(2) Where the liability of a taxpayer for withholding tax payable in respect of a unit trust dividend would have been reduced in pursuance of sub-section (1) if that unit trust dividend had been a dividend paid to the taxpayer by a company that is a resident, that liability shall be reduced by an amount equal to the amount by which the liability would have been reduced if the unit trust dividend had been a dividend paid to the taxpayer by a company that is a resident.

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“(3) In sub-section (2), ‘unit trust dividend’ has the same meaning as in Division 6B of Part III of the Assessment Act.”.

**PART IV—AMENDMENTS OF THE INCOME TAX (RATES) ACT
1976**

Principal Act

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36. The *Income Tax (Rates) Act 1976*³ is in this Part referred to as the Principal Act.

Amendment of long title

37. The title of the Principal Act is amended by inserting “, of Corporate Unit Trusts” after “Companies”.

Interpretation

38. Section 3 of the Principal Act is amended by inserting after paragraph (a) of the definition of “tax” in sub-section (1) the following paragraph:

“(aa) income tax payable by a person in the capacity of a trustee of a trust estate that is a corporate unit trust, within the meaning of Division 6B of Part III of the Assessment Act, in relation to the year of income;”.

PART V—MISCELLANEOUS**Provisional tax for 1981-82 year of income**

39. For the purposes of the application of sub-section 221YC (1) of the *Income Tax Assessment Act* 1936 (in this section referred to as the “Assessment Act”) in ascertaining the amount of provisional tax payable by a taxpayer in respect of income of the year of income that commenced on 1 July 1981 (in this section referred to as the “relevant year of income”), being a taxpayer who would, apart from this section, be liable to pay provisional tax calculated in accordance with sub-section 221YC (1) or (1A) of the Assessment Act in respect of income of the relevant year of income—

(a) if paragraph 221YC (1) (a) of the Assessment Act applies to the taxpayer—the amount of provisional tax payable by the taxpayer in respect of income of the relevant year of income by virtue of that paragraph is the amount ascertained by deducting from the amount of income tax that would have been assessed in respect of the amount that would have been the taxable income of the taxpayer of the year of income next preceding the relevant year of income if—

- (i) the taxable income of the taxpayer of the year of income next preceding the relevant year of income had, except for the purpose of determining the notional income for the purpose of section 59AB, 86 or 158D of the Assessment Act, been increased by 10%;
- (ii) where the eligible taxable income for the purposes of Division 6AA of Part III of the Assessment Act of the taxpayer of the year of income next preceding the relevant year of income exceeded \$1,040—that eligible taxable income had been increased by 10%;
- (iii) the deemed taxable income from primary production for the purposes of section 156 of the Assessment Act of the taxpayer of the year of income next preceding the relevant year of income had been increased by 10%;
- (iv) each reference in Schedules 17, 18 and 20 to the *Income Tax (Rates) Act* 1976 to \$4,041 were a reference to \$4,195;

- (v) each reference in Schedules 17, 18 and 20 to the *Income Tax (Rates) Act* 1976 to \$17,239 were a reference to \$17,894;
 - (vi) each reference in Schedules 17, 21 and 22 to the *Income Tax (Rates) Act* 1976 to \$34,478 were a reference to \$35,788; and
 - (vii) the taxpayer were not entitled to any rebate or credit in his assessment, 5
- the sum of—
- (viii) the rebates (if any) to which the taxpayer would have been entitled under sections 23AB, 79A and 79B of the Assessment Act in his assessment in respect of income of the year of income next preceding the relevant year of income if the rebates (if any) to which the taxpayer was entitled in his assessment in respect of income of that last-mentioned year of income under sections 159J, 159K and 159L of the Assessment Act or would have been entitled in respect of that last-mentioned year of income under section 159J of the Assessment Act but for sub-section 159J (1A) of that Act had been increased by 3.8%; 10
 - (ix) the rebate (if any) to which the taxpayer would have been entitled under section 156 of the Assessment Act in his assessment in respect of income of the year of income next preceding the relevant year of income if the conditions set out in sub-paragraphs (i) to (vi) (inclusive) of this paragraph were applicable for the purposes of making that assessment other than for the purposes of determining the average income of the taxpayer for the purposes of the application of Division 16 of Part III of the Assessment Act; 15
 - (x) each of the rebates (if any) to which the taxpayer was entitled under sections 159J, 159K and 159L of the Assessment Act in his assessment in respect of income of the year of income next preceding the relevant year of income, as increased by 3.8%; and 20
 - (xi) the rebates and credits (other than a rebate under section 23AB, 79A, 79B, 156, 159J, 159K or 159L of the Assessment Act) to which the taxpayer was entitled in his assessment in respect of income of the year of income next preceding the relevant year of income; and 25
- (b) if paragraph 221YC (1) (b) of the Assessment Act applies to the taxpayer—the amount of provisional tax payable by him in respect of income of the relevant year of income by virtue of that paragraph is— 40
- (i) in a case where—
 - (A) paragraph 221YC (1) (a) of the Assessment Act would apply to the taxpayer in relation to the relevant year of income but for sub-section 221YA (5) of that Act; and
 - (B) the taxpayer is a taxpayer to whom paragraph 221YA (5) (a) of the Assessment Act applies, but 45

paragraph 221YA (5) (b) of that Act does not apply, in relation to the relevant year of income,

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

(ii) in a case where—

10 (A) paragraph 221YC (1) (a) of the Assessment Act would apply to the taxpayer in relation to the relevant year of income but for sub-section 221YA (5) of that Act; and

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

20 the amount that would be payable by the taxpayer under paragraph 221YC (1) (a) of the Assessment Act (as affected by paragraph (a) of this section) if sub-section 221YA (5) were not included in that Act and the taxable income of the taxpayer of the year of income next preceding the relevant year of income had been increased by the aggregate of the deductions allowed or allowable to the taxpayer under section 124ZAF of that Act in his assessment in respect of income of the year of income next preceding the relevant year of income;

25 (iii) in a case where—

30 (A) paragraph 221YC (1) (a) of the Assessment Act would apply to the taxpayer in relation to the relevant year of income but for sub-section 221YA (5) of that Act; and

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

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

(C) sub-section 221YA (5) were not included in the Assessment Act;

40 (D) Division 16C of Part III of the Assessment Act were not applicable in relation to the year of income next preceding the relevant year of income; and

45 (E) the amount that, but for this sub-sub-paragraph, would have been the taxable income of the taxpayer of the year of income next preceding the relevant year of income had been increased by the aggregate of the deductions allowed or allowable to the taxpayer under section 124ZAF of the Assessment Act in his assessment in

- relation to the year of income next preceding the relevant year of income; and
- (iv) in any other case—the amount that would be payable by the taxpayer under paragraph (a) of this section if the provisions of that paragraph applied to the taxpayer in relation to his income of the relevant year of income and—
- (A) the taxable income of the taxpayer of the year of income next preceding the relevant year of income had been equal to the amount that the Commissioner estimates would have been his provisional income if Division 16C of Part III of the Assessment Act were not applicable in relation to the year of income next preceding the relevant year of income increased by the aggregate of the deductions (if any) allowed or allowable to the taxpayer under section 124ZAF of the Assessment Act in his assessment in relation to the year of income next preceding the relevant year of income;
- (B) the deemed taxable income from primary production for the purposes of Division 16 of Part III of the Assessment Act of the taxpayer of that next preceding year were such amount (if any) as the Commissioner determines; and
- (C) the amount of the eligible taxable income for the purposes of Division 6AA of Part III of the Assessment Act of the taxpayer of that next preceding year were such amount (if any) as the Commissioner determines.

Amendment of assessments

40. Nothing in section 170 of the *Income Tax Assessment Act 1936* prevents the amendment of an assessment made before the commencement of this section for the purpose of giving effect to the amendments made by sections 6 to 10 (inclusive), sections 15 to 30 (inclusive) and sections 33, 34, 35, 37 and 38.

Application of amendments

41. (1) The amendments made by sections 4, 5, 11, 12, 13 and 14 apply to assessments in respect of income of the year of income commencing on 1 July 1982 and in respect of income of all subsequent years of income.

(2) Sub-paragraph 78 (1) (a) (lxiv) of the *Income Tax Assessment Act 1936* inserted by section 9 of this Act applies to gifts made after 30 June 1981.

NOTES

1. 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; Nos. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 60, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; and Nos. 61, 108, 109, 110 and 111, 1981.
2. No. 82, 1953, as amended. For previous amendments, see No. 25, 1958; No. 88, 1959; Nos. 19 and 29, 1960; No. 71, 1963; No. 112, 1964; No. 105, 1965; No. 17, 1966; Nos. 39 and 86, 1967; No. 3, 1968; No. 24, 1969; No. 48, 1972; No. 11, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 129, 1974; No. 119, 1975; Nos. 52, 55 and 143, 1976; No. 134, 1977; No. 87, 1978; No. 23, 1980; and Nos. 28 and 110, 1981.
3. No. 57, 1976, as amended. For previous amendments, see Nos. 42 and 128, 1977; Nos. 124 and 175, 1978; Nos. 43 and 150, 1979; Nos. 22 and 59, 1980; and No. 109, 1981.

