

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 28 May 1981

(*Treasurer*)

A BILL

FOR

An Act to amend the *Local Government (Personal Income Tax Sharing) Act 1976* in consequence of the *States (Tax Sharing and Health Grants) Act 1981*

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

Short title, &c.

1. (1) This Act may be cited as the *Local Government (Personal Income Tax Sharing) Amendment Act 1981*.

(2) The *Local Government (Personal Income Tax Sharing) Act 1976*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on 1 July 1981.

Interpretation

3. Section 3 of the Principal Act is amended—

- (a) by omitting the definition of “base figure” and substituting the following definitions:

“‘base figure’, in relation to the year commencing on 1 July 1981 or any subsequent year, means an amount equal to 2% of the amount determined by the Commissioner under section 4A in respect of the year immediately preceding that year; 5

“‘Commissioner’ means the Commissioner of Taxation;

“‘company’ has the same meaning as in the Income Tax Assessment Act; 10

“‘gross personal income tax collections’, in relation to a year, means the total of—

(a) amounts received by the Commissioner during the year by virtue of the operation of Division 2 and Division 3 of Part VI of the Income Tax Assessment Act; and 15

(b) other amounts received by the Commissioner during the year in respect of liability for personal income tax or in respect of liability for tax (including additional tax, tax of a similar nature to additional tax, penalties, and tax of a similar nature to provisional tax) under a State income tax law, or amounts treated by the Commissioner (otherwise than by virtue of section 45, 160AN or 160AP, or Division 2 or 3 of Part VI, of the Income Tax Assessment Act) as having been so received; 20 25

“‘income tax’ means income tax as defined by sub-section 6 (1) of the Income Tax Assessment Act;

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

- (b) by inserting after the definition of “Local Government Grants Commission” the following definitions: 30

“‘net personal income tax collections’, in relation to a year, means the gross personal income tax collections for the year less refunds of personal income tax made during the year;

“‘person’ does not include a company other than a company in the capacity of a trustee; 35

“‘personal income tax’ means income tax imposed on persons (including income tax imposed on a person in the capacity of a trustee), and includes additional tax payable under section 207 or 226 of the Income Tax Assessment Act in relation to a liability for, or otherwise in connection with, income tax imposed on persons, but does not include withholding tax;” 40

- (c) by inserting after the definition of “population” the following definitions:

“refund of personal income tax’ in relation to a year, means—

(a) a refund or payment made by the Commissioner during the year by virtue of section 45, 160AN or 160AP, or Division 2 or 3 of Part VI, of the Income Tax Assessment Act; or

(b) a refund made by the Commissioner during the year (otherwise than under any of those sections or either of those Divisions) of the whole or part of an amount received by the Commissioner, whether in that year or a previous year, in payment of liability for personal income tax or for tax (including additional tax, tax of a similar nature to additional tax, or a penalty) under a State income tax law;

“special rebate’ means a rebate declared by the Treasurer under section 3A to be a special rebate for the purposes of this Act;

“special surcharge’ means any income tax specified in a declaration by the Treasurer under section 3A to the extent to which, or in the respect in which, it is declared to be a special surcharge for the purposes of this Act;

“State income tax law’ has the meaning given to that expression in sub-section 6 (1) of the Income Tax Assessment Act;

“trustee’ includes trustee of a superannuation fund;

“withholding tax’ means income tax payable in accordance with section 128B or 128V of the Income Tax Assessment Act, and includes tax payable in accordance with sub-section 128N (2) of that Act and additional tax payable under sub-section 128C (3) of that Act;” and

- (d) by adding at the end thereof the following sub-section:

“(2) A reference in the definition of ‘refund of personal income tax’ in sub-section (1) to a refund or payment made by the Commissioner shall be read as including a reference to the application of an amount by the Commissioner in payment of a liability of a person or company other than—

(a) a liability for personal income tax; or

(b) a liability for, or otherwise in connection with, tax under a State income tax law.”.

4. After section 3 of the Principal Act the following section is inserted:

40 Declaration of special surcharges and special rebates

“3A. The Treasurer may, by notice published in the *Gazette*—

- (a) declare that any income tax specified in the notice is, to such extent or

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in such respect as is so specified, a special surcharge for the purposes of this Act; or

- (b) declare that a rebate specified in the notice, being a rebate to which taxpayers are entitled in assessments under the Income Tax Assessment Act, is a special rebate for the purposes of this Act,

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and may, at any time, by notice published in the *Gazette*, revoke such a declaration with effect from such date as is specified in the notice.”.

5. After section 4 of the Principal Act the following section is inserted:

Determination by Commissioner for purposes of ascertaining base figure

“4A. (1) The Commissioner shall, within 1 month after the end of a year to which this Act applies, determine, for the purposes of this Act, the amount that, in his opinion, would have been the amount of the net personal income tax collections for the year if special surcharges (if any) had not been imposed, special rebates (if any) had not been provided for and, if the law of a State imposed a tax upon incomes of its residents of that year or any previous year or had provided for a payment to the Commonwealth in partial discharge of the liability of its residents for income tax in respect of income of that year or any previous year, that law had not imposed that tax or had not provided for that payment.

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“(2) The Commissioner shall inform the Treasurer of the amount determined by the Commissioner under sub-section (1) and the Treasurer shall, as soon as is practicable after being so informed, inform the Premier of each State of that amount.

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“(3) A determination made by the Commissioner under sub-section (1) shall, for the purposes of this Act, be conclusively presumed to be correct.”.

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NOTE

- 1. No. 123, 1976, as amended. For previous amendments, see No. 93, 1977; No. 127, 1979; and No. 25, 1980.