

# Income Tax

No. 88 of 1970

An Act to impose a Tax upon Incomes.

[Assented to 27 October 1970]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Income Tax Act 1970*. Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-  
ment.
- 3.—(1.) In this Act, unless the contrary intention appears— Interpretation.
  - “ co-operative company ” has the same meaning as in Division 9 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;
  - “ life assurance company ” has the same meaning as in Division 8 of Part III. of the Assessment Act;

“ mutual income ”, in relation to a life assurance company (other than a mutual life assurance company), means—

- (a) so much of the part of the taxable income of the company that has been derived from its life assurance business as bears the same proportion to that part of the taxable income as the amount of the profits divided for the same year of income among the life assurance policy holders of the company bears to the total profits divided among those policy holders and the shareholders of the company in respect of the company’s life assurance business for the same year of income; or
- (b) where no profits in respect of the company’s life assurance business are divided for the year of income but, by virtue of the company’s constituent document, any profits to be divided among the life assurance policy holders of the company are required to be a certain proportion of the total profits to be divided—that proportion of the part of the taxable income of the company that has been derived from its life assurance business;

“ mutual life assurance company ” has the same meaning as in Division 8 of Part III. of the Assessment Act;

“ 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
- (b) a friendly society dispensary;

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

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

“ the Assessment Act ” means the *Income Tax Assessment Act 1936–1970*;

“ the combined taxable income ”, in relation to a taxpayer and his spouse, means—

- (a) where the spouse of the taxpayer has no taxable income—the taxable income of the taxpayer; or
- (b) where the spouse of the taxpayer has a taxable income—the sum of the taxable incomes of the taxpayer and his spouse less any amount by which the deduction allowable to the taxpayer in respect of the taxpayer’s spouse under section 82B of the Assessment Act would be increased if the separate net income of the spouse were reduced by an amount equal to the taxable income of the spouse.

(2.) In this Act—

- (a) a reference to a Schedule shall be read as a reference to a Schedule to this Act; and
- (b) 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.

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

5.—(1.) Income tax is imposed in accordance with this Act and at the rates declared in this Act. **Imposition of income tax.**

(2.) This Act does not impose—

- (a) further tax payable in pursuance of sub-section (9.), sub-section (11.) or sub-section (12.) of section 94 of the Assessment Act;
- (b) tax payable by a trustee in pursuance of section 99A of the Assessment Act;
- (c) tax payable by a trustee of a superannuation fund in pursuance of section 121CA, section 121CB or section 121DA of the Assessment Act; or
- (d) tax payable in accordance with section 128B of the Assessment Act.

(3.) This Act does not impose tax upon—

- (a) a taxable income that is derived by a person other than a company or by a non-profit company; or
- (b) the net income of a trust estate in respect of which the trustee is liable to be assessed and to pay tax under section 98 or section 99 of the Assessment Act,

where that taxable income or net income, as the case may be, does not exceed Four hundred and sixteen dollars.

6.—(1.) Except as otherwise provided by this Act, the rates of tax are as set out in the First Schedule. **Rates of tax payable by persons other than companies.**

(2.) The rates of tax in respect of a taxable income to which Division 16 of Part III. of the Assessment Act applies are as set out in the Second Schedule.

(3.) The rate of tax in respect of a taxable income in any case where section 59AB, section 86 or section 158D of the Assessment Act applies is as set out in the Third Schedule.

(4.) The rate of tax payable by a trustee in pursuance of section 98 or section 99 of the Assessment Act is as set out in the Fourth Schedule.

(5.) The rates of tax payable by a trustee of a superannuation fund in respect 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 are as set out in the Fifth Schedule.

(6.) In this section, " tax " does not include tax imposed in accordance with section 8 of this Act.

Amount of tax where taxable income or net income does not exceed \$428.

7.—(1.) Where the taxable income of a person does not exceed Four hundred and twenty-eight dollars, the amount of tax payable by him under sub-section (1.), sub-section (2.) or sub-section (3.) of the last preceding section shall not exceed nine-twentieths of the amount by which the taxable income exceeds Four hundred and sixteen dollars, less any rebate or credit to which he is entitled.

(2.) Where the net income of a trust estate in respect of which a trustee is liable to be assessed and to pay tax under section 98 or section 99 of the Assessment Act does not exceed Four hundred and twenty-eight dollars, the amount of tax payable by the trustee under sub-section (4.) of the last preceding section in respect of that net income shall not exceed nine-twentieths of the amount by which that net income exceeds Four hundred and sixteen dollars, less any rebate or credit to which the trustee is entitled.

Additional tax payable by certain persons other than companies.

8. In the case of a person who is liable to pay income tax ascertained by reference to sub-section (1.), (2.), (3.) or (4.) of section 6 or to section 7 of this Act, there is payable additional income tax at the rate of two and one-half per centum of the income tax so ascertained that would have been payable in respect of the taxable income, or, in the case of a person being a trustee, in respect of the net income of the trust estate in respect of which the trustee is liable to be assessed and to pay tax, if there had not been allowed or allowable from that income tax any rebate or credit.

Limitation of tax payable by aged persons.

9.—(1.) This section applies to a taxpayer who—

(a) being a man, has attained the age of sixty-five years, or, being a woman, has attained the age of sixty years, on or before the last day of the year of income; and

(b) is a resident of Australia during the whole of the year of income, but does not apply to a taxpayer in the capacity of a trustee.

(2.) Where the taxable income of a taxpayer to whom this section applies does not exceed Two thousand two hundred and seventy-three dollars, the amount of tax payable by him by reason of the last three preceding sections shall not exceed the amount calculated in relation to that taxable income in accordance with the rates prescribed for the purposes of this sub-section by the Sixth Schedule, less any rebate or credit to which he is entitled, or, if his taxable income does not exceed One thousand three hundred and twenty-six dollars, no tax is payable by him.

(3.) Where the taxable income of a taxpayer to whom this section applies does not exceed Four thousand one hundred and two dollars and during the year of income the taxpayer contributes to the maintenance

of his spouse, being a person who is a resident of Australia during the whole of the year of income—

- (a) the amount of tax payable by the taxpayer by reason of the last three preceding sections shall not exceed the amount calculated in relation to the combined taxable income of the taxpayer and his spouse in accordance with the rates prescribed for the purposes of this sub-section by the Seventh Schedule, less any rebate or credit to which he is entitled; or
- (b) if the combined taxable income of the taxpayer and his spouse does not exceed Two thousand three hundred and fourteen dollars, no tax is payable by the taxpayer.

(4.) In this section, “ resident of Australia ” includes a person who is a resident of the Territory of Papua and New Guinea, of Norfolk Island, of the Territory of Cocos (Keeling) Islands or of the Territory of Christmas Island.

**10.**—(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 Eighth Schedule.

Rates of tax payable by a company.

(2.) Where the taxable income of a non-profit company does not exceed One thousand six hundred and sixty-four dollars, the amount of tax payable by the company shall not exceed one-half of the amount by which the taxable income exceeds Four hundred and sixteen dollars, less any rebate or credit to which the company is entitled.

**11.**—(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 Twenty 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.

Adjustment where amount to be paid by, or refunded to, taxpayer would not exceed Twenty cents.

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

- (a) if the amount of not more than Twenty 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 Twenty 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 rebates to which the taxpayer is entitled, is reduced by so much of that amount of not more than Twenty cents as does not exceed the amount calculated by

deducting the amount of any such rebates from the sum of the amount that is to be so reduced and any amount of income tax payable by the taxpayer in respect of that year of income under the *Income Tax (Partnerships and Trusts) Act 1970*.

(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 or provisional tax notified to the taxpayer by the Commissioner, notwithstanding that the amount of the liability has not become due and payable.

(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.

Levy of tax.

**12.** The tax imposed by the preceding provisions of this Act is levied, and shall be paid, for the financial year that commenced on the first day of July, One thousand nine hundred and seventy, and, until the Parliament otherwise provides, for the next succeeding financial year.

Provisional tax.

**13.** Provisional tax is imposed and is payable, in accordance with the provisions of the Assessment Act, in respect of the income of the year of income that commenced on the first day of July, One thousand nine hundred and seventy.

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

**14.** For the purposes of sub-section (1.) of section 104, sub-section (3.) of section 160 and sub-section (3.) of section 221YB 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 the first day of July, One thousand nine hundred and seventy.

## THE SCHEDULES

## FIRST SCHEDULE

Section 6 (1.).

## GENERAL RATES OF TAX

The rate of tax in respect of each part of the taxable income specified in the first column of the following table is the rate per centum set out in the second column of that table opposite to the reference to that part of the taxable income:—

First Column Parts of Taxable Income	Second Column Rates per centum
The part of the taxable income that—	
does not exceed \$200	0.3
exceeds \$200 but does not exceed \$300	1.2
exceeds \$300 but does not exceed \$400	2.7
exceeds \$400 but does not exceed \$500	4.1
exceeds \$500 but does not exceed \$600	5.5
exceeds \$600 but does not exceed \$800	7.4
exceeds \$800 but does not exceed \$1,000	9.7
exceeds \$1,000 but does not exceed \$1,200	11.3
exceeds \$1,200 but does not exceed \$1,400	12.8
exceeds \$1,400 but does not exceed \$1,600	14.3
exceeds \$1,600 but does not exceed \$1,800	15.8
exceeds \$1,800 but does not exceed \$2,000	17.3
exceeds \$2,000 but does not exceed \$2,400	19.5
exceeds \$2,400 but does not exceed \$2,800	22.1
exceeds \$2,800 but does not exceed \$3,200	24.4
exceeds \$3,200 but does not exceed \$3,600	26.7
exceeds \$3,600 but does not exceed \$4,000	28.8
exceeds \$4,000 but does not exceed \$4,800	31.9
exceeds \$4,800 but does not exceed \$5,600	34.5
exceeds \$5,600 but does not exceed \$6,400	37.0
exceeds \$6,400 but does not exceed \$7,200	39.4
exceeds \$7,200 but does not exceed \$8,000	41.7
exceeds \$8,000 but does not exceed \$8,800	43.9
exceeds \$8,800 but does not exceed \$10,000	46.5
exceeds \$10,000 but does not exceed \$12,000	50.6
exceeds \$12,000 but does not exceed \$16,000	56.4
exceeds \$16,000 but does not exceed \$20,000	62.4
exceeds \$20,000	66.7

## SECOND SCHEDULE

Section 6 (2.).

## RATES OF TAX BY REFERENCE TO AN AVERAGE INCOME

In the case of a taxpayer to whose income Division 16 of Part III. of the Assessment Act applies, the rates of tax are—

- (a) for every One dollar of so much of the taxable income as does not exceed Sixteen thousand dollars—
- (i) the rate ascertained by determining the tax that would be payable if the rates set out in the First Schedule were applied to a taxable income equal to his average income and dividing the resultant amount by a number equal to the number of whole dollars in that average income; or
- (ii) 39.565625 cents,
- whichever is the less; and

SECOND SCHEDULE—*continued*

(b) for every One dollar of the remainder of the taxable income, the rate ascertained by deducting the amount of Six thousand three hundred and thirty dollars fifty cents from the tax that would be payable if the rates set out in the First Schedule were applied to the total taxable income and dividing the resultant amount by a number equal to the number of whole dollars in that remainder.

THIRD SCHEDULE

Section 6 (3.).

RATE OF TAX BY REFERENCE TO A NOTIONAL INCOME

For every One dollar of the taxable income of a taxpayer deriving a notional income, as specified by section 59AB, section 86 or section 158D of the Assessment Act, the rate of tax is the rate ascertained by dividing the tax that would be payable under the First Schedule upon a taxable income equal to his notional income by a number equal to the number of whole dollars in that notional income.

FOURTH SCHEDULE

Section 6 (4.).

RATE OF TAX PAYABLE BY A TRUSTEE IN PURSUANCE OF SECTION 98 OR SECTION 99 OF THE ASSESSMENT ACT

The rate of tax in respect of the net income of a trust estate in respect of which a trustee is liable, in pursuance of section 98 or section 99 of the Assessment Act, to be assessed and to pay tax is the rate that would be payable under the First, Second or Third Schedule, as the case requires, if one individual were liable to be assessed and to pay tax on that income as his taxable income.

FIFTH SCHEDULE

Section 6 (5.).

RATES OF TAX PAYABLE BY A TRUSTEE OF A SUPERANNUATION FUND IN RESPECT OF INVESTMENT INCOME OF THE FUND

The rates of tax in respect of investment income of a superannuation fund in respect of which the trustee of the fund is liable, in pursuance of section 121D of the Assessment Act, to be assessed and to pay tax are—

- (a) for so much of that investment income as does not exceed Ten thousand dollars—thirty-two and one-half per centum; and
- (b) for the remainder of that investment income—forty-two and one-half per centum.

SIXTH SCHEDULE

Section 9 (2.).

RATES PRESCRIBED FOR THE PURPOSES OF SECTION 9 (2.)

The rate in respect of each part of the taxable income specified in the first column of the following table is the rate per centum set out in the second column of that table opposite to the reference to that part of the taxable income:—

First Column Parts of Taxable Income	Second Column Rates per centum
The part of the taxable income that—	
exceeds \$1,326 but does not exceed \$1,532 .. .. .	16 $\frac{2}{3}$
exceeds \$1,532 but does not exceed \$2,080 .. .. .	18
exceeds \$2,080 but does not exceed \$2,132 .. .. .	45
exceeds \$2,132 .. .. .	66 $\frac{2}{3}$



## SEVENTH SCHEDULE

Section 9 (3.).

## RATES PRESCRIBED FOR THE PURPOSES OF SECTION 9 (3.)

The rate in respect of each part of the combined taxable income specified in the first column in the following table is the rate per centum set out in the second column of that table opposite to the reference to that part of the combined taxable income:—

First Column Parts of Combined Taxable Income	Second Column Rates per centum
The part of the combined taxable income that—	
exceeds \$2,314 but does not exceed \$2,500 .. .. .	16½
exceeds \$2,500 but does not exceed \$3,000 .. .. .	31
exceeds \$3,000 but does not exceed \$3,640 .. .. .	40
exceeds \$3,640 but does not exceed \$3,744 .. .. .	45
exceeds \$3,744 .. .. .	66½

## EIGHTH SCHEDULE

Section 10.

## RATES OF TAX PAYABLE BY A COMPANY OTHER THAN A COMPANY IN THE CAPACITY OF A TRUSTEE

1. In the case of a company (not being a private company, a co-operative company, a non-profit company or a life assurance company) that is a resident, the rates of tax are—
  - (a) in respect of so much of the taxable income as does not exceed Ten thousand dollars—forty-two and one-half per centum; and
  - (b) in respect of the remainder of the taxable income—forty-seven and one-half per centum.
2. In the case of a company (not being a private company, a co-operative company, a non-profit company or a life assurance company) that is a non-resident, the rates of tax are—
  - (a) in respect of so much of the taxable income consisting of dividends as does not exceed Ten thousand dollars—thirty-seven and one-half per centum;
  - (b) in respect of so much of the taxable income not consisting of dividends as does not exceed the amount (if any) by which the taxable income consisting of dividends is less than Ten thousand dollars—forty-two and one-half per centum; and
  - (c) in respect of the part of the taxable income to which neither of the preceding subparagraphs of this paragraph applies—forty-seven and one-half per centum.
3. In the case of a company that is a private company, the rates of tax are—
  - (a) in respect of so much of the taxable income as does not exceed Ten thousand dollars—thirty-two and one-half per centum;
  - (b) in respect of the remainder of the taxable income—forty-two and one-half per centum; and
  - (c) in respect of the undistributed amount in respect of which the company is liable under section 104 of the Assessment Act to pay additional tax—fifty per centum.
4. In the case of a company (not being a private company or a life assurance company) that is a co-operative company or a non-profit company other than a friendly society dispensary, the rates of tax are—
  - (a) in respect of so much of the taxable income as does not exceed Ten thousand dollars—thirty-seven and one-half per centum; and
  - (b) in respect of the remainder of the taxable income—forty-seven and one-half per centum.

EIGHTH SCHEDULE—*continued*

5. The rate of tax in respect of the taxable income of a non-profit company that is a friendly society dispensary is thirty-seven and one-half per centum.
6. In the case of a company (not being a private company) that is a mutual life assurance company, the rates of tax are—
- (a) in respect of so much of the taxable income as does not exceed Ten thousand dollars—thirty-two and one-half per centum; and
  - (b) in respect of the remainder of the taxable income—forty-two and one-half per centum.
7. In the case of a company (not being a private company) that is a life assurance company, other than a mutual life assurance company, the rates of tax are—
- (a) in respect of so much of the mutual income as does not exceed Ten thousand dollars—thirty-two and one-half per centum;
  - (b) in respect of the remainder of the mutual income—forty-two and one-half per centum;
  - (c) if the company is a non-resident, in respect of so much of the taxable income, other than the mutual income, consisting of dividends as does not exceed the amount (if any) by which the mutual income is less than Ten thousand dollars—thirty-seven and one-half per centum;
  - (d) in respect of so much of the taxable income, other than the amounts of income to which the preceding sub-paragraphs of this paragraph apply, as does not exceed the amount (if any) by which the total of those amounts is less than Ten thousand dollars—forty-two and one-half per centum; and
  - (e) in respect of the part of the taxable income to which none of the preceding sub-paragraphs of this paragraph applies—forty-seven and one-half per centum.
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