

Income Tax Assessment (No. 2)

No. 38 of 1967

An Act to amend the Law relating to Income Tax in relation to Income derived by Persons connected with certain Undertakings of the Governments of the United States of America, in relation to Moneys paid on Shares in certain Prospecting and Mining Companies and in relation to Non-resident Dividend Income.

[Assented to 25 May 1967]

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

Short title and citation.

1.—(1.) This Act may be cited as the *Income Tax Assessment Act (No. 2)* 1967.

(2.) The *Income Tax Assessment Act* 1936–1966,* as amended by the *Income Tax Assessment Act* 1967,† is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Income Tax Assessment Act* 1967 is amended by omitting sub-section (3.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1936–1967.

Commencement.

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

Parts.

3. Section 5 of the Principal Act is amended by omitting the words—
“ Division 11A.—Dividends paid to Non-residents (Sections 128A–128E).”

and inserting in their stead the words—

“ Division 11A.—Dividends paid to Non-residents (Sections 128A–128D).”.

Income of certain persons connected with undertakings of the United States Government.

4. Section 23AA of the Principal Act is amended—

(a) by inserting before the definition of “ Australia ” in sub-section (1.) the following definition:—

“ ‘ approved project ’ means the establishment, maintenance or operation of the North West Cape naval communication station, of the Joint Defence Space Research Facility or of the Sparta project;”;

* Act No. 27, 1936, as amended by No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 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; and Nos. 50 and 83, 1966.

† Act No. 19, 1967.

- (b) by omitting from paragraph (a) of the definition of “ prescribed contract ” in sub-section (1.) the words “ the establishment, maintenance or operation of the North West Cape naval communication station ” and inserting in their stead the words “ an approved project ”;
- (c) by omitting from paragraph (a) of the definition of “ prescribed purposes ” in sub-section (1.) the word “ and ”;
- (d) by inserting after paragraph (a) of the definition of “ prescribed purposes ” in sub-section (1.) the following paragraph:—
“ (aa) in relation to a United States employee—purposes relating to an approved project; and ”;
- (e) by inserting after the definition of “ prescribed purposes ” in sub-section (1.) the following definition:—
“ ‘ the Joint Defence Space Research Facility ’ means the undertaking the establishment of which is provided for by an agreement dated the ninth day of December, One thousand nine hundred and sixty-six, between the Government of the Commonwealth and the Government of the United States of America;”;
- (f) by inserting after the definition of “ the North West Cape naval communication station ” in sub-section (1.) the following definition:—
“ ‘ the Sparta project ’ means the undertaking the establishment of which is provided for by a memorandum of arrangement dated the thirtieth day of March, One thousand nine hundred and sixty-six, between the Government of the Commonwealth, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America;”;
- (g) by adding at the end of sub-section (1.) the following definition:—
“ ‘ United States employee ’ means a person who is employed by the Government of the United States of America and is not—
(a) a member of the United States Forces;
(b) a civilian accompanying the United States Forces;
(c) an Australian citizen; or
(d) a person ordinarily resident in Australia.”;
- (h) by omitting sub-section (2.) and inserting in its stead the following sub-section:—
“ (2.) For the purposes of this section, a foreign contractor, foreign employee or United States employee who is in Australia, or is carrying on business in Australia, solely for prescribed purposes does not cease to be in Australia solely for those purposes, or to be carrying on business in Australia solely for those purposes,

by reason of anything undertaken or done by him in connexion with an undertaking in Australia of the Government of the United States of America, other than an approved project, agreed upon between the Government of the Commonwealth and the Government of the United States of America.”;

(i) by omitting from paragraph (b) of sub-section (3.) and from sub-section (4.) the words “ or a civilian accompanying the United States Forces ” and inserting in their stead the words “, a civilian accompanying the United States Forces or a United States employee ”; and

(j) by inserting in paragraph (a) of sub-section (6.), after the word “ Forces ”, the words “ or as a United States employee ”.

Moneys paid on shares for the purposes of petroleum exploration.

5. Section 77A of the Principal Act is amended by omitting from sub-section (18.) the words “ One thousand nine hundred and sixty-seven ” and inserting in their stead the words “ One thousand nine hundred and seventy ”.

Moneys paid on shares for the purposes of certain mining or prospecting.

6. Section 77AA of the Principal Act is amended by omitting from sub-section (9.) the words “ One thousand nine hundred and sixty-seven ” and inserting in their stead the words “ One thousand nine hundred and seventy ”.

Interpretation.

7. Section 128A of the Principal Act is amended—

(a) by omitting from sub-section (1.) the definition of “ non-resident ” and inserting in its stead the following definition:—

“ ‘ non-resident ’ does not include a resident of the Territory of Papua and New Guinea, of Norfolk Island, of the Territory of Cocos (Keeling) Islands, of the Territory of Christmas Island or of the Territory of Nauru.”; and

(b) by omitting from sub-section (3.) the words “ two hundred and twenty-six,”.

8. Section 128D of the Principal Act is repealed and the following section inserted in its stead:—

“ 128D. Non-resident dividend income shall not be included in the assessable income of a person.”.

Non-resident dividend income not included in assessable income.

Credits and rebates where election made.

9. Section 128E of the Principal Act is repealed.

Amendment of assessments.

10. Section 170 of the Principal Act is amended by omitting from sub-section (10.) the words “, sub-section (2.) of section one hundred and twenty-four DE or sub-section (4.) of section one hundred and twenty-eight D,” and inserting in their stead the words “ or sub-section (2.) of section one hundred and twenty-four DE,”.

11. Section 221YAB of the Principal Act is repealed.

Provisional tax not payable in respect of non-resident dividend income.

12. Section 221YC of the Principal Act is amended by omitting from sub-section (5.) the words " or non-resident dividend income ".

Amount of provisional tax.

13. Section 221YK of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Interpretation.

"(1.) In this Division, unless the contrary intention appears—

'Australia' includes the Territory of Papua and New Guinea, Norfolk Island, the Territory of Cocos (Keeling) Islands, the Territory of Christmas Island and the Territory of Nauru;

'dividend' includes part of a dividend;

'non-resident' does not include a resident of the Territory of Papua and New Guinea, of Norfolk Island, of the Territory of Cocos (Keeling) Islands, of the Territory of Christmas Island or of the Territory of Nauru."

14. Section 221YL of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-section:—

Deductions from dividends.

"(5.) In this section, 'money' includes postal orders, money orders, bills of exchange, promissory notes, drafts and letters of credit."

15.—(1.) This section applies in relation to a taxpayer whose assessable income for the year of income that commenced on the first day of July, One thousand nine hundred and sixty-six (in this section referred to as "the relevant year of income") included non-resident dividend income.

Calculation of provisional tax payable in respect of year of income commencing on 1 July, 1967.

(2.) For the purpose of ascertaining the amount of provisional tax payable by a taxpayer to whom this section applies in accordance with Division 3 of Part VI. of the Principal Act as amended by this Act in respect of income of the year of income next succeeding the relevant year of income—

- (a) a reference in that Division to assessable income shall be read as not including a reference to non-resident dividend income;
- (b) the taxable income of the taxpayer for the relevant year of income shall be deemed to be the amount that would have been his taxable income for that year of income if his assessable income for that year of income had not included non-resident dividend income; and
- (c) the income tax assessed in respect of the taxable income of the taxpayer for the relevant year of income shall, for the purposes of paragraph (a) of sub-section (1.) of section two hundred and twenty-one YC of the Principal Act as so amended, be deemed to be the amount that would have been the income tax assessed in respect of the amount that would have been his taxable income for that year of income if his assessable income for that year of income had not included non-resident dividend income.

Application
of amendments.

16.—(1.) The amendments made by section 4 of this Act apply to assessments in respect of income of the year of income that commenced on the first day of July, One thousand nine hundred and sixty-five, and in respect of income of all subsequent years of income.

(2.) The amendments made by sections 7 to 14 (inclusive) of this Act apply in respect of income derived on or after the first day of July, One thousand nine hundred and sixty-seven.
