

## INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT.

### No. 28 of 1953.

An Act to amend the *Income Tax and Social Services Contribution Assessment Act 1936-1952*, as amended by the *Taxation Administration Act 1953*.

[Assented to 15th April, 1953.]

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

1.—(1.) This Act may be cited as the *Income Tax and Social Services Contribution Assessment Act 1953*.

Short title  
and citation.

(2.) The *Income Tax and Social Services Contribution Assessment Act 1936-1952*,\* as amended by the *Taxation Administration Act 1953*,† is in this Act referred to as the Principal Act.

(3.) The *Taxation Administration Act 1953* is amended by omitting from the Second Schedule the words—

“ <i>Income Tax and Social Services Contribution Assessment Act 1936-1952</i> ”	“ <i>Income Tax and Social Services Contribution Assessment Act 1936-1953</i> ”.
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(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936-1953*.

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

Commencement.

3.—(1.) After section thirty-one of the Principal Act the following section is inserted:—

“ 31A.—(1.) This section applies to trading stock, being wine, brandy or grape spirit, owned by a taxpayer who carries on in Australia a business of winemaking or of distilling spirits from wine or lees of wine.

Value of  
trading stock  
of  
winemaker.

“ (2.) A taxpayer may, in the prescribed manner and within the time allowed by or under the regulations, elect that the value of each prescribed unit of a class of trading stock, being trading stock to which

\* 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; and Nos. 4, 28 and 90, 1952.

† Act No. 1, 1953.

this section applies, to be taken into account at the end of the first year of income after the year of income which ended on the thirtieth day of June, One thousand nine hundred and fifty-two, in which the taxpayer owns trading stock of that class, shall be ascertained upon the basis of the value specified in the instrument of election, being a value not less than the minimum value prescribed in respect of a prescribed unit of trading stock of that class.

“(3.) Subject to this section, an election under this section has effect in respect of the year of income in relation to which it is made and each subsequent year of income.

“(4.) Where an election by a taxpayer under this section in respect of a class of trading stock has effect in relation to a year of income—

(a) the last preceding section does not apply in respect of the value of trading stock of that class at the end of that year of income ; and

(b) the value of each prescribed unit of trading stock of that class to be taken into account at the end of the year of income is the sum of—

(i) the value specified in the instrument of election ; and

(ii) the amount (if any) which has been allowed or is allowable as a deduction in respect of excise duty upon that unit of trading stock or upon excisable goods used in the manufacture of that unit.

“(5.) Where a taxpayer has made, in relation to a year of income, an election under sub-section (2.) of this section in respect of a class of trading stock, the Commissioner may, if he considers the circumstances so warrant, permit the taxpayer, in relation to a subsequent year of income—

(a) to abandon that election ; or

(b) to make a further election under that sub-section in respect of that class of trading stock as if that subsequent year of income were the year of income first referred to in that sub-section.

“(6.) Where a taxpayer who has made an election under this section abandons that election, or makes a further election in respect of the same class of trading stock, in pursuance of permission granted under the last preceding sub-section, the first-mentioned election does not have effect in relation to the year of income in relation to which the abandonment takes place or the further election is made, or a subsequent year of income.”.

(2.) The value at which any trading stock, being wine, brandy or grape spirit, which was owned by a taxpayer who carried on in Australia a business of winemaking or of distilling spirits from wine or lees of wine has been taken into account in the assessment of the

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taxpayer under the Principal Act or the previous Act upon income derived during a year of income prior to the year of income which commenced on the first day of July, One thousand nine hundred and fifty-two, shall be deemed to have been the proper value to be so taken into account.

4. Section two hundred and twenty-one YDA of the Principal Act is repealed and the following section inserted in its stead :—

“ 221YDA.—(1.) A taxpayer who receives a notice of assessment on which is notified the amount of provisional tax payable in respect of the income of a year of income (including an accounting period adopted by the taxpayer under this Act) may, not later than—

Provisional tax  
on estimated  
income.

- (a) the due date for the payment of the tax notified by that notice ; or
  - (b) the thirty-first day of March in that year of income or, in the case of an accounting period, the last day of the ninth month of that accounting period,
- whichever is the later, make an estimate of—

- (c) the amount of his taxable income for the whole of that year of income ;
- (d) the respective amounts of income from salary or wages, income from personal exertion not being income from salary or wages and income from property comprised in that estimated taxable income ; and
- (e) the amount of the deductions which have been and will be made from his salary or wages during that year of income in accordance with section two hundred and twenty-one c of this Act.

and furnish to the Commissioner a statement showing—

- (f) the amounts so estimated ; and
- (g) the amount of provisional tax payable in accordance with the next succeeding sub-section.

“ (2.) Where, in relation to a year of income, a taxpayer duly furnishes to the Commissioner a statement under the last preceding sub-section, the amount of provisional tax payable by the taxpayer in respect of the income of that year of income is, subject to sub-section (4.) of this section, an amount ascertained—

- (a) by calculating the amount of tax that would be payable in respect of the income of the year of income if that income were an amount equal to the estimated taxable income and consisted of the amounts of income from salary or wages, income from personal exertion not being income from salary or wages and income from property comprised in that estimated taxable income ; and
- (b) by deducting from the amount so calculated the estimated amount of deductions under section two hundred and twenty-one c of this Act as shown in the statement.

“(3.) Where provisional tax is payable in accordance with the last preceding sub-section, that provisional tax is, notwithstanding the provisions of the last preceding section, due and payable on the date which is the date not later than which a taxpayer is permitted to furnish a statement under sub-section (1.) of this section.

“(4.) Where the Commissioner has reason to believe that the taxable income which will be or has been derived by a taxpayer in a year of income is greater than the estimated taxable income, the Commissioner may—

- (a) estimate the respective amounts which, in his opinion, should have been the amounts estimated by the taxpayer in pursuance of sub-section (1.) of this section in respect of that year of income ;
- (b) calculate the amount of provisional tax that would be payable if the amount so estimated had been shown in a statement duly furnished by the taxpayer under sub-section (1.) of this section ; and
- (c) serve on the taxpayer notice in writing specifying the amount of provisional tax so calculated,

and the amount of provisional tax so specified is the amount of provisional tax payable by the taxpayer.

“(5.) The amount estimated by the Commissioner in accordance with the last preceding sub-section as the amount of the taxable income of the taxpayer shall not be greater than the taxable income of the taxpayer for the year last preceding the year of income and the amount so estimated by the Commissioner as the amount of income from salary or wages, income from personal exertion other than income from salary or wages or income from property shall not be greater than the amount of that income derived by the taxpayer in the year last preceding the year of income.

“(6.) A notice under sub-section (4.) of this section shall state the amount of any additional provisional tax that becomes payable by reason of the operation of that sub-section and shall specify a date as the due date for the payment of that additional provisional tax, being a date not less than fourteen days after the date of service of the notice, and the amount of additional provisional tax so stated is, notwithstanding the provisions of the last preceding section, due and payable on that date.”

Penalty where  
income under-  
estimated.

5. Section two hundred and twenty-one YDB of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-sections :—

“(1.) Where, in respect of a year of income, the estimated taxable income is less than four-fifths of the provisional income and is also less than four-fifths of the

taxable income, the taxpayer is liable to pay to the Commissioner, by way of penalty, an amount equal to one-tenth of—

- (a) the amount by which the amount of tax that would be payable in respect of a taxable income consisting of four-fifths of the taxpayer's taxable income from personal exertion and four-fifths of his taxable income from property exceeds the amount of provisional tax payable in respect of the estimated income ; or
- (b) the amount by which the amount of tax that would be payable in respect of a taxable income consisting of four-fifths of the taxpayer's taxable income from personal exertion for the year last preceding that year of income and four-fifths of his taxable income from property for the year last preceding that year of income exceeds the amount of provisional tax payable in respect of the estimated income,

whichever is the less.

“(1A.) In the application of the last preceding sub-section—

- (a) the reference in paragraph (a) to the amount of provisional tax payable in respect of the estimated income shall be read, in the case of a taxpayer whose income for the year of income includes salary or wages, as a reference to an amount equal to the sum of that provisional tax and an amount equal to four-fifths of the amount of the deductions made in accordance with section two hundred and twenty-one c of this Act from that salary or wages ; and
  - (b) the reference in paragraph (b) to the amount of provisional tax payable in respect of the estimated income shall be read, in the case of a taxpayer whose income for the year last preceding the year of income included salary or wages, as a reference to an amount equal to the sum of that provisional tax and an amount equal to four-fifths of the amount of the deductions made in accordance with section two hundred and twenty-one c of this Act from that salary or wages.” ; and
- (b) by omitting from sub-section (2.) the words “the last preceding sub-section” and inserting in their stead the words “sub-section (1.) of this section”.

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**Application of  
amendments.**

**6.** The Principal Act as amended by this Act applies in relation to statements furnished to the Commissioner under section two hundred and twenty-one YDA of the Principal Act before the commencement of this Act.

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