

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT.

No. 43 of 1954.

An Act to amend the *Income Tax and Social Services Contribution Assessment Act 1936-1953*.

[Assented to 6th November, 1954.]

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 1954*. Short title and citation.

(2.) The *Income Tax and Social Services Contribution Assessment Act 1936-1953** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936-1954*.

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

* 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. 60, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; and Nos. 1, 28, 45 and 81, 1953.

Exemptions.

3. Section twenty-three of the Principal Act is amended by omitting paragraph (k) and inserting in its stead the following paragraphs :—

“(k) pensions and attendants’ allowances paid, and payments of a like nature made, under the *Repatriation Act 1920–1953* or under the *Seamen’s War Pensions and Allowances Act 1940–1953* ;

“(kaa) pensions and allowances paid, and payments made, by the Commonwealth or by the Government of the United Kingdom, being pensions, allowances or payments which, in the opinion of the Commissioner, are of a similar nature to pensions, allowances or payments specified in the last preceding paragraph ;

“(kab) wounds and disability pensions of the kinds specified in sub-section (2) of section three hundred and eighty of the Imperial Act known as the *Income Tax Act, 1952* ;”.

Certain items of assessable income.

4. Section twenty-six of the Principal Act is amended by omitting paragraph (c).

5.—(1.) After section twenty-six of the Principal Act the following section is inserted :—

Assessable income—annuities.

“26AA.—(1.) The assessable income of a taxpayer shall include the amount of any annuity, excluding, in the case of an annuity which has been purchased, that part of the amount of the annuity which represents the undeducted purchase price.

“(2.) Subject to the next succeeding sub-section, the amount to be excluded under the last preceding sub-section from the amount of an annuity derived by a taxpayer during a year of income—

(a) in the case of an annuity payable until the death of the taxpayer or for a term that will not end before his death— is an amount ascertained by dividing the undeducted purchase price of the annuity by the number of years in the complete expectation of life of the taxpayer, as ascertained by reference to the prescribed Life Tables, at the time when the annuity first commenced to be derived ; and

(b) in the case of an annuity payable for a term of years certain— is an amount ascertained by dividing the undeducted purchase price of the annuity by the number of years in the term.

“(3.) Where the amount of an annuity derived by the taxpayer during a year of income is more than, or less than, the amount payable for a whole year, the amount to be excluded from the amount so

derived is the amount which bears to the amount which, but for this sub-section, would be the amount to be so excluded the same proportion as the amount so derived bears to the amount payable for a whole year.

“(4.) For the purposes of this section, ‘the undeducted purchase price’, in relation to an annuity, means so much of the purchase price of the annuity paid by the taxpayer as has not been allowed and is not allowable as a deduction and in respect of which a rebate of income tax has not been allowed and is not allowable in assessments for income tax under this Act or any previous law of the Commonwealth.”.

(2.) Where an annuity purchased by a taxpayer commenced to be derived before the commencement of this Act, the taxpayer may, on or before the thirty-first day of July, One thousand nine hundred and fifty-five, or such later date as the Commissioner determines, elect, by notice in writing to the Commissioner, that paragraph (c) of section twenty-six of the Principal Act shall continue to apply to the annuity, and, if the taxpayer so elects, the amendments effected by section four of this Act and by this section do not apply in relation to an amount of the annuity derived in a year of income if, in the assessment for that year of income, a part of that amount would be excluded under that paragraph.

6. Section forty-four of the Principal Act is amended by inserting before paragraph (b) of sub-section (2.) the following paragraph:—

“(a) paid by a company wholly and exclusively out of the amount remaining after deducting from income derived by the company—

(i) which is exempt from income tax by reason of paragraph (p) of section twenty-three of this Act; or

(ii) which the company has received as dividends from another company, being dividends which, by reason of the last preceding sub-paragraph, are not included in the assessable income of the first-mentioned company,

all losses and outgoings incurred in gaining or producing that income which would have been allowable deductions if that income had been assessable income;”.

7. Section sixty-three of the Principal Act is amended by omitting from sub-section (2.) the words “is adjudicated bankrupt” and inserting in their stead the words “becomes a bankrupt”.

8. Section seventy-eight of the Principal Act is amended—

(a) by omitting from sub-paragraph (xi) of paragraph (a) of sub-section (1.) the word “and”; and

Gifts,
contributions,
allowances
and pensions.

(b) by adding at the end of that paragraph the following subparagraphs :—

“ (xiii) the Australian Elizabethan Theatre Trust ;

“ (xiv) the Australian Academy of Science ; and

“ (xv) a public fund established and maintained exclusively for providing money for the acquisition, construction or maintenance of a building used or to be used as a school or college by a government or public authority or by a society or association which is carried on otherwise than for the purposes of profit or gain to the individual members of that society or association ; ”.

**Losses of
previous years.**

9. Section eighty of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-section :—

“ (4.) Notwithstanding any other provision of this section, where, prior to the year of income, a taxpayer has become a bankrupt, or, not having become a bankrupt, has been released from any debts by the operation of the *Bankruptcy Act 1924* or that Act as amended, no loss incurred by him prior to the date on which he became a bankrupt or the date on which he was so released, as the case may be, shall be an allowable deduction.”.

10. After section eighty-eight A of the Principal Act the following section is inserted :—

Mining leases.

“ 88B.—(1.) Where a mining lease is granted, or a lease of land other than a mining lease is granted for mining purposes, and an election is not made under sub-section (5.) of this section in respect of the grant—

(a) sections eighty-four and eighty-six, and sub-section (1.) of section eighty-eight, of this Act shall not apply in relation to a premium received or paid for or in connexion with the grant of the lease ;

(b) section eighty-five of this Act shall not apply—

(i) in relation to the disposal by the lessor to the lessee of goodwill or a licence in respect of a business carried on upon the leased land ; or

(ii) in relation to an assignment or surrender of the lease by the lessee or the disposal by the lessee of goodwill or a licence in respect of a business carried on upon the leased land ;

(c) section eighty-seven, and sub-section (2.) of section eighty-eight, of this Act shall not apply in relation to improvements made upon the leased land by the lessee wholly or partly for the purpose of mining operations carried on by him upon the land ; and

- (d) if the lease is a sub-lease for or in connexion with which a premium is payable—section eighty-five A of this Act shall not apply in relation to the sub-lease and the amount, if any, which, but for this paragraph, would, in a year of income during the whole or a part of which the sub-lease is in force, be allowed under section eighty-eight of this Act as a deduction from the assessable income of the person who granted the sub-lease shall be reduced by an amount which bears to that first-mentioned amount the same proportion as the number of days during which the sub-lease is in force in that year bears to the number of days in that year.

“(2.) Where a mining lease is assigned, or a lease of land other than a mining lease is assigned for mining purposes, and an election is not made under sub-section (5.) of this section in respect of the assignment—

- (a) sections eighty-four and eighty-six, and sub-section (1.) of section eighty-eight, of this Act shall not apply in relation to a premium received or paid for or in connexion with the assignment of the lease ;
- (b) section eighty-five of this Act shall not apply—
- (i) in relation to the assignment of the lease by the assignor or the disposal by the assignor to the assignee of goodwill or a licence in respect of a business carried on upon the leased land ; or
 - (ii) in relation to an assignment or surrender of the lease by the assignee or the disposal by the assignee of goodwill or a licence in respect of a business carried on upon the leased land ; and
- (c) section eighty-seven, and sub-section (2.) of section eighty-eight, of this Act shall not apply in relation to improvements made upon the leased land by the assignee wholly or partly for the purpose of mining operations carried on by him upon the land.

“(3.) Where a mining lease is surrendered, or a lease of land other than a mining lease is surrendered for mining purposes, and an election is not made under sub-section (5.) of this section in respect of the surrender—

- (a) sections eighty-four and eighty-six, and sub-section (1.) of section eighty-eight, of this Act shall not apply in relation to a premium received or paid for or in connexion with the surrender of the lease ; and
- (b) section eighty-five of this Act shall not apply in relation to the surrender of the lease or the disposal by the person who surrenders the lease, to the person to whom the surrender is made, of goodwill or a licence in respect of a business carried on upon the leased land.

“(4.) For the purpose of this section, a lease shall be deemed not to have been granted, assigned or surrendered for mining purposes unless there appears, in a document signed by the parties before or at the time the grant, assignment or surrender was made, or before such later time as the Commissioner determines, a statement to the effect that the purpose of the grant, assignment or surrender is to enable the person to whom the grant, assignment or surrender is made to carry on mining operations upon the land.

“(5.) The parties to the grant, assignment or surrender of a lease may, by notice in writing signed by the parties and lodged with the Commissioner on or before the thirty-first day of August next succeeding the end of the financial year in which the lease was granted, assigned or surrendered or on or before such later date as the Commissioner determines, elect that this section shall not apply in relation to the grant, assignment or surrender.

“(6.) Where the Commonwealth or a State, or a person or authority acting for or on behalf of the Commonwealth or a State, is a party to the grant, assignment or surrender of a lease, an election made by the other party or parties to the grant, assignment or surrender has effect for the purposes of the last preceding sub-section as if it were made by all the parties.

“(7.) In this section—

‘land’ means land in Australia or the Territory of New Guinea ;
 ‘mining lease’ means a lease of land granted under a law of a State or Territory of the Commonwealth relating to mining ;
 ‘mining operations’ includes prospecting for a metal or mineral.”.

When tax payable .

11. Section two hundred and four of the Principal Act is amended by adding at the end thereof the words “, or, if no date is so specified, on the thirtieth day after the service of the notice”.

Payment of tax to have priority over all other taxes

12. Section two hundred and twenty-one of the Principal Act is amended by omitting from sub-paragraph (i) of paragraph (b) of sub-section (1.) the words “the date of the order of sequestration” and inserting in their stead the words “the date on which he became a bankrupt”.

Application of amendments.

13.—(1.) Subject to the next succeeding sub-section, the amendments effected by sections three, four, five and eight 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 fifty-four, and in respect of income of all subsequent years.

(2.) Sub-paragraph (xiii) of paragraph (a) of sub-section (1.) of section seventy-eight of the Principal Act as amended by this Act applies in relation to gifts made in the year of income that commenced on the first day of July, One thousand nine hundred and fifty-three, and in all subsequent years.

(3.) The amendment effected by section six of this Act applies in respect of dividends paid after the commencement of this Act.

(4.) The amendment effected by section ten of this Act applies in respect of a grant, assignment or surrender of a lease made after the commencement of this Act.

(5.) The amendment effected by section eleven of this Act applies, and shall be deemed to have applied, to income tax in respect of which a notice of assessment is or has been served on or after the first day of July, One thousand nine hundred and fifty-three.
