

INCOME TAX AND SOCIAL SERVICES  
CONTRIBUTION ASSESSMENT (No. 2).

No. 45 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* and by the *Income Tax and Social Services Contribution Assessment Act 1953*.

[Assented to 26th October, 1953.]

**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.—(1.) This Act may be cited as the *Income Tax and Social Services Contribution Assessment Act (No. 2) 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†* and by the *Income Tax and Social Services Contribution Assessment Act 1953‡*, is in this Act referred to as the Principal Act.

(3.) Section one of the *Income Tax and Social Services Contribution Assessment Act 1953* is amended by omitting sub-section (4.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936-1953*.

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

Parts. 3. Section five of the Principal Act is amended by inserting after the words—

“Division 16.—Averaging of Incomes.”

the words—

“Division 16A.—Abnormal Income of Authors and Inventors.”

4.—(1.) Section twenty-three A of the Principal Act is repealed and the following section inserted in its stead :—

Partial  
exemption of  
income from  
certain mining  
operations.

“23A.—(1.) Where a person carries on mining operations in Australia for the purpose of, or for purposes which include, the production of a prescribed metal or mineral, an amount equal to one-fifth of the amount remaining after deducting from so much of the assessable income of that person as is attributable to the production or is derived from the sale of the prescribed metal or mineral produced by those operations—

(a) all allowable deductions which relate to that income; and

(b) so much of any other allowable deduction as, in the opinion of the Commissioner, may appropriately be related to that income,

shall be exempt from income tax.

“(2.) For the purposes of the last preceding sub-section, any metal or mineral used in manufacture by the person who produced the metal or mineral shall be deemed to have been sold by that person in the year of income in which it is used in manufacture for an amount equal to the market value of the metal or mineral at the time it is used in manufacture, and his assessable income of that year of income shall be deemed to include that amount.

“(3.) This section shall not apply to an assessment in respect of income derived during a year of income subsequent to the year of income which commences on the first day of July, One thousand nine hundred and fifty-nine.”

\* 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.

‡ Act No. 28, 1953.

(2.) The provisions of section twenty-three A of the Principal Act, other than sub-section (8.), shall be deemed to apply to assessments in respect of income derived by companies (as well as to assessments in respect of income derived by persons other than companies) during the year of income which ended on the thirtieth day of June, One thousand nine hundred and fifty-three.

5. Section forty-four of the Principal Act is amended by omitting sub-section (3.). Dividends.

6. Section fifty-nine D of the Principal Act is amended by omitting from sub-section (1.) the words " section twenty-three A,". Expert advisers to assist Board of Referees.

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

(a) by omitting from sub-paragraph (x) 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 word and sub-paragraph :—

" ; and (xii) the Queen Elizabeth the Second Coronation Gift Fund ;".

8. Section eighty-two B of the Principal Act is amended—

(a) by omitting from the third column of the table set out in sub-section (2.) the figures "£104" (twice occurring) and inserting in their stead the figures "£130"; Deductions for dependants.

(b) by omitting from paragraph (b) of sub-section (3.) the word "and"; and

(c) by omitting paragraph (c) of sub-section (3.) and inserting in its stead the following paragraphs :—

" (c) where the dependant is the spouse or daughter-housekeeper of the taxpayer—by Two pounds for every One pound by which the separate net income derived by the dependant in the year of income exceeds Sixty-five pounds; and

(d) where the dependant is not the spouse or daughter-housekeeper of the taxpayer and whether or not a reduction is made in respect of the dependant under paragraph (a) or (b) of this sub-section—by Two pounds for every One pound by which the separate net income derived by the dependant in the year of income exceeds Fifty-two pounds."

9. Section eighty-two c of the Principal Act is amended by omitting from sub-sections (2.) and (4.) the words "One hundred and four pounds" and inserting in their stead the words "One hundred and thirty pounds". Parents of taxpayer.

10. Section eighty-two D of the Principal Act is amended by omitting from sub-sections (2.), (4.) and (5.) the words "One hundred and four pounds" and inserting in their stead the words "One hundred and thirty pounds". Housekeeper.

**Medical  
expenses.****11.** Section eighty-two F of the Principal Act is amended—

- (a) by omitting from sub-section (2.) the words “ One hundred pounds ” and inserting in their stead the words “ One hundred and fifty pounds ” ; and
- (b) by omitting from paragraph (b) of the definition of “ medical expenses ” in sub-section (3.) the words “ Twenty pounds ” and inserting in their stead the words “ Thirty pounds ” .

**12.** Section eighty-two J of the Principal Act is repealed and the following section inserted in its stead :—**Education  
expenses.**

“ 82J.—(1.) Amounts paid by the taxpayer in the year of income in respect of expenses necessarily incurred by him for or in connexion with the full-time education, at a school, college or university or from a tutor, of a person who is less than twenty-one years of age and—

- (a) is a child of the taxpayer ; or
- (b) is a person in respect of whom the taxpayer is entitled to a deduction under section eighty-two B of this Act,

shall be allowable deductions.

“ (2.) The deductions allowable under this section, in respect of any one year of income, in relation to the education of any one person shall not exceed Seventy-five pounds.”

**Retention  
allowance.****13.** Section one hundred and five B of the Principal Act is amended—

- (a) by omitting from paragraph (d) the word “ and ” ; and
- (b) by adding at the end thereof the following word and paragraph :—

“ ; and (f) ten per centum of so much of any income of the company (other than dividends received from other private companies) derived from property as is included in the distributable income.”

**Exemption of  
certain  
dividends.****14.** Section one hundred and seven of the Principal Act is amended by omitting from sub-section (1.) the word “ fifty-eight ” and inserting in its stead the word “ sixty-three ” .**15.** After Division 16 of Part III. of the Principal Act the following Division is inserted :—

“ Division 16A.—Abnormal Income of Authors and Inventors.

**Application of  
Division.**

“ 158B.—(1.) Subject to the next succeeding sub-section, this Division applies to a taxpayer who is the author of a literary, dramatic, musical or artistic work or the inventor of an invention.

“ (2.) This Division does not apply—

- (a) where the taxpayer is a company, except where, in respect of abnormal income, it is assessable as a trustee ; or
- (b) where the provisions of Division 16 of this Part are applied in the assessment of the taxpayer.

“ 158c.—(1.) For the purposes of this Division, the abnormal income of a taxpayer to whom this Division applies is so much of the assessable income of the taxpayer of the year of income as consists of—

Abnormal  
income.

- (a) lump sum earnings of the taxpayer ; and
- (b) that part, if any, of the aggregate of the recurrent earnings of the taxpayer derived during the year of income which exceeds—
  - (i) one-third of the aggregate of the recurrent earnings of the taxpayer included in his assessable income of each of the three years of income last preceding the year of income ; or
  - (ii) Five hundred pounds, whichever is the greater.

“ (2.) In this section—

‘ lump sum earnings ’ means an amount received in a lump sum by the taxpayer—

(a) as consideration—

- (i) for the assignment in whole or in part, of, or for the grant of an interest by licence in, the copyright in a literary, dramatic, musical or artistic work of which the taxpayer is the author or the patent for an invention of which the taxpayer is the inventor ; or
- (ii) for an assignment by virtue of which the assignee has the right to make an application for a patent for an invention of which the taxpayer is the inventor ;

(b) as an advance on account of royalties in respect of such a copyright or patent, not being an advance that is subject to a condition as to repayment ; or

(c) as a prize in respect of such a work or invention ;

‘ recurrent earnings ’ means an amount (other than lump sum earnings or remuneration for the employment of, or for services rendered by, the taxpayer) received, by way of royalties or otherwise, by the taxpayer in respect of, or in respect of the copyright in, a literary, dramatic, musical or artistic work of which the taxpayer is the author or in respect of, or in respect of the patent for, an invention of which the taxpayer is the inventor.

“ 158d.—(1.) Where the assessable income derived during the year of income by a taxpayer to whom this Division applies includes abnormal income, he may, on or before the date of lodgment of his return of income in respect of the year of income or on or before such later date as the Commissioner determines, apply in writing to the Commissioner for the determination under this Division of a notional income in respect of the year of income.

Determination  
of notional  
income.

“(2.) Where a taxpayer makes an application to the Commissioner in accordance with the last preceding sub-section, the succeeding sub-sections of this section apply for the determination of a notional income for the purpose of any Act whereby a rate of tax upon the taxable income of a taxpayer is fixed by reference to a notional income.

“(3.) Subject to sub-section (5.) of this section, where the taxable income of the taxpayer is greater than his abnormal income, the notional income is the amount ascertained by deducting from the taxable income an amount equal to two-thirds of the abnormal income.

“(4.) Subject to the next succeeding sub-section, where the taxable income of the taxpayer is not greater than his abnormal income, the notional income is an amount equal to one-third of the taxable income.

“(5.) Where section eighty-six of this Act applies in respect of the taxpayer, the notional income is, in lieu of the notional income determined in accordance with that section—

(a) where the notional income determined in accordance with that section is greater than the abnormal income of the taxpayer—the amount ascertained by deducting from the notional income so determined an amount equal to two-thirds of the abnormal income ; or

(b) where the notional income determined in accordance with that section is not greater than the abnormal income of the taxpayer—an amount equal to one-third of the notional income so determined.

Joint authors  
and inventors.

“158E. A reference in this Division to the author of a literary, dramatic, musical or artistic work or to the inventor of an invention includes a reference to one of two or more joint authors of such a work or to one of two or more joint inventors of an invention, as the case may be.”

Amendment of  
assessments.

16. Section one hundred and seventy of the Principal Act is amended by omitting from sub-section (10.) the words “section twenty-three A.”

Additional  
amendments.

17.—(1.) The Principal Act is amended as set out in the Schedule to this Act.

(2.) The amendment of section two hundred and twenty-one of the Principal Act effected by the last preceding sub-section does not apply to the ascertainment of the amount of provisional tax payable by a taxpayer in respect of the income of the year of income which commenced on the first day of July, One thousand nine hundred and fifty-three.

Application of  
amendments.

18.—(1.) The amendments effected by sections seven and thirteen 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-two, and in respect of income of all subsequent years.

(2.) The amendments effected by sections four and six, by sections eight to twelve (inclusive), and by sections fifteen and sixteen, of this Act, and the repeal of section ninety-five A of the Principal Act and the amendments of sections one hundred and twenty-six and one hundred and sixty of the Principal Act effected by section seventeen 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-three, and (subject to sub-section (3.) of section twenty-three A of the Principal Act as amended by this Act) in respect of income of all subsequent years.

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## THE SCHEDULE.

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## Section 17.

### ADDITIONAL AMENDMENTS OF PROVISIONS OF THE PRINCIPAL ACT REFERRING TO INCOME FROM PERSONAL EXERTION OR INCOME FROM PROPERTY.

Provisions amended.	Amendments.
Section 95A ..	Repeal.
Section 103 ..	Omit from the definition of "the reduced distributable income" in sub-section (1.) "income that would, if the company were an individual, be".
Section 126 ..	Omit from sub-section (1.) "from property".
Section 160 ..	At the end of sub-paragraph (iii) of paragraph (b) of sub-section (3.), insert "and".
Section 221Y0 ..	Omit paragraph (c) of sub-section (3.).
Section 221YDA ..	Omit from paragraph (b) of sub-section (1.) "and had consisted of income from personal exertion and income from property in such proportions as the Commissioner determines".
Section 221YDA ..	Omit paragraph (d) of sub-section (1.), insert— “(d) the respective amounts of salary or wages and income other than salary or wages comprised in the estimated taxable income; and”.
Section 221YDA ..	Omit paragraph (a) of sub-section (2.), insert— “(a) by calculating the amount of tax that would be payable in respect of the income of the year of income if the taxable income of that year were an amount equal to the estimated taxable income and consisted of the amounts of salary or wages and of income other than salary or wages comprised in that estimated taxable income; and”.
Section 221YDA ..	Omit sub-section (5.), insert— “(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 salary or wages or income other than salary or wages shall not be greater than the amount of the salary or wages or the income other than salary or wages, as the case may be, derived by the taxpayer in the year last preceding the year of income.”.

THE SCHEDULE—*continued.*

Provisions amended.	Amendments.
Section 221YDB ..	Omit paragraphs (a) and (b) of sub-section (1.), insert— “ (a) the amount by which the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income exceeds the amount of provisional tax payable in respect of the estimated taxable income ; or (b) the amount by which the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income for the year last preceding that year of income exceeds the amount of provisional tax payable in respect of the estimated taxable income.”.