

thousand seven hundred and fiftieth of one penny where the excess is One pound, and shall increase uniformly with each increase of One pound in the taxable value by One eighteen thousand seven hundred and fiftieth of one penny.

For every pound of taxable value in excess of £80,000 the rate of tax shall be Tenpence.

The rate of tax for so much of the taxable value as exceeds £5,000 and does not exceed £80,000 may be calculated from the following formula :—

R = rate of tax in pence per pound.

E = excess of taxable value over £5,000 in pounds.

$$R = \left\{ 2 + \frac{E}{18,750} \right\} \text{ pence.}''$$

**Commencement.** 3. The amendments effected by this Act shall apply to all assessments for the financial year beginning on the first day of July, One thousand nine hundred and forty, and for each financial year thereafter.

## INCOME TAX ASSESSMENT.

### No. 17 of 1940.

## An Act to amend the *Income Tax Assessment Act* 1936-1939.

[Assented to 27th May, 1940.]

[Date of commencement, 24th June, 1940.]

**B**E it enacted by the King'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* 1940.

(2.) The *Income Tax Assessment Act* 1936-1939\* 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 Assessment Act* 1936-1940.

**Parts.**

2. Section five of the Principal Act is amended by inserting before the words "PART IV." the words "PART IIIA.—FURTHER TAX ON UNDISTRIBUTED INCOME OF COMPANY."

**Exemptions.**

3.—(1.) Section twenty-three of the Principal Act is amended by adding at the end thereof the following paragraph :—

“(s) in the case of any person enlisted in or appointed to the Naval, Military or Air Forces of the Commonwealth or any part of the King's dominions or of any Ally of Great Britain for service outside Australia during the present

war between His Majesty the King and Germany—the pay and allowances earned by him as a member of those Forces during the period commencing on the Third day of September, One thousand nine hundred and thirty-nine or on the date of his enlistment or appointment (whichever is the later date) and terminating on the date of his discharge or the termination of his appointment :

Provided that this paragraph shall not apply to any pay or allowances so earned during the year of income by a member of the Forces who does not at any time during the period commencing on the Third day of September, One thousand nine hundred and thirty-nine and terminating one year after the close of that year of income—

- (i) in the case of a member of the Naval Forces of the Commonwealth—serve in a sea-going ship ; or
- (ii) in the case of a member of the Military or Air Forces of the Commonwealth—embark for service outside Australia.”

(2.) The amendment effected by the last preceding sub-section shall continue in force until twelve months after the date of the issue of a proclamation that the war between His Majesty the King and Germany has ceased, and no longer.

**4.** Section forty-four of the Principal Act is amended—

- (a) by omitting from paragraph (b) of sub-section (2.) the word “ or ” (last occurring) ; and
- (b) by inserting after paragraph (c) of sub-section (2.) the following word and paragraph :—

“ ; or (d) paid by a company wholly and exclusively out of the amount remaining after deducting from income (not being income in respect of which the company has paid or is liable to pay tax under this Act)—

- (i) which the company has derived from the carrying on by it of mining operations in Australia or in the Territory of New Guinea for the purpose of obtaining petroleum ; or
- (ii) which the company has received as dividends from another company and which dividends are, by reason of the last preceding sub-paragraph, not included in the assessable income of the first-mentioned company, and out of which dividends are paid wholly and exclusively by the first-mentioned company,

all outgoings (other than outgoings of a capital nature) incurred in gaining or producing that income.”.

Dividends.

Rebate on  
dividends.

5. Section forty-six of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

“(2.) For the purposes of the last preceding sub-section the rate of tax payable by companies shall not include any further tax imposed on that portion of the taxable income of a company which has not been distributed as dividends.”.

Gifts and  
contributions.

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

(a) by omitting from sub-paragraph (vi) of paragraph (a) the word “and”; and

(b) by adding at the end of paragraph (a) the following sub-paragraphs:—

“(viii) a public institution or public fund established and maintained for the comfort, recreation or welfare of members of the Naval, Military or Air Forces of the Commonwealth; and

(ix) the Commonwealth, when made for purposes of defence.”.

Statutory  
exemption.

7. Section eighty-one of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “Two pounds” and inserting in their stead the words “One pound”.

Definitions

8. Section one hundred and three of the Principal Act is amended—

(a) by inserting in paragraph (a) of the definition of “distributable income” in sub-section (1.), after the word “Act” (first occurring), the words “, or under any Act passed by the Parliament imposing a war-time tax upon companies”;

(b) by inserting in paragraph (a) of the definition of “distributable income” in sub-section (1.), after the word “Act” (second occurring), the words “less any refund received in the year of income of any tax to which this paragraph refers”;

(c) by omitting from paragraph (e) of sub-section (2.) the word “nine” and inserting in its stead the word “six”;

(d) by omitting from paragraph (e) of sub-section (2.) the words “two-thirds” (wherever occurring) and inserting in their stead the words “three-fourths”; and

(e) by adding after paragraph (e) of sub-section (2.) the following paragraph:—

“(f) where dividends are paid either wholly or in part out of the net profits of a company of the year of income and those profits are partly liable to and partly exempt from income tax under this Act the amount of dividends paid out of the taxable income of that year shall be deemed to be the amount which bears the same proportion to the total amount of dividends paid out of those profits as that portion of the net profits of the year of income which is liable to income tax under this Act bears to the total net profits of the company of the year of income:

Provided that this paragraph shall not apply to the profits or income specified in paragraph (b), (c) or (d) of sub-section (2.) of section forty-four of this Act where a dividend is paid wholly and exclusively from the profits or income so specified.”.

9. Section one hundred and four of the Principal Act is amended by omitting the word “ nine ” (wherever occurring) and inserting in its stead the word “ six ”.

Assessment of additional tax.

10. Section one hundred and twenty-three A of the Principal Act is amended—

(a) by inserting before the definition of “ petroleum ” the following definitions :—

Deduction of unrecouped capital expenditure of prospecting or mining for petroleum.

“ ‘ net assessable income ’ means the amount remaining after deducting from the assessable income derived by the taxpayer from the sale of petroleum and its products all outgoings (other than outgoings of a capital nature) incurred in gaining or producing that assessable income and any taxes paid in respect of that assessable income ;

“ ‘ net exempt income ’ means the amount remaining after deducting from the exempt income derived by the taxpayer from the sale out of Australia of petroleum and its products all outgoings (other than outgoings of a capital nature) incurred in gaining or producing that exempt income and any taxes paid in respect of that exempt income ; ” ;  
and

(b) by omitting from the definition of “ unrecouped capital expenditure ” all the words after the words “ treatment of that petroleum ” and inserting in their stead the words “ the total of the net assessable income derived by the taxpayer prior to the year of income (except income in respect of which the taxpayer has paid or is liable to pay tax under this Act) and the net exempt income derived prior to and during the year of income.”.

11. After Part III. of the Principal Act the following Part is inserted :—

“PART IIIA.—FURTHER TAX ON UNDISTRIBUTED INCOME OF COMPANY.

“ 160A. For the purposes of this Part a company shall not include a private company.

Interpretation.

“ 160B. Further tax at the rate declared by the Parliament shall be levied and paid on that portion of the taxable income of a company which has not been distributed as dividends.

Further tax on undistributed income of a company.

Undistributed  
income of  
company.

“ 160c.—(1.) For the purpose of the further tax imposed on that portion of the taxable income of a company which has not been distributed as dividends, that portion shall be ascertained—

(a) by deducting from the taxable income of the company—

(i) all taxes which, in the year of income, are paid under this or the previous Act, or under any Act passed by the Parliament imposing a war-time tax upon companies, or paid in any country out of Australia in respect of income of the company which is taxable under this or the previous Act less any refund received in the year of income of any tax to which this sub-paragraph refers; and

(ii) the net loss, except to the extent to which it is a loss of a capital nature, incurred by the company in the year of income in carrying on its business out of Australia:

Provided that the deduction specified in this sub-paragraph shall not be made in the case of a company the taxable income of which is assessed under Division 12, 13, 14 or 15 of Part III. of this Act; and

(b) by deducting from the amount remaining after making the deductions specified in paragraph (a) of this sub-section—

(i) an amount equal to twenty-five per centum of the amount so remaining; and

(ii) the amount of dividends paid out of the taxable income of the year of income before the expiration of six months after the close of that year.

“(2.) Notwithstanding anything contained in the last preceding sub-section, where any amount is an allowable deduction under this Act for the purpose of ascertaining the taxable income of the company, that amount shall not be deducted from the taxable income as provided in that sub-section for the purpose of ascertaining the portion of the taxable income of the company which has not been distributed as dividends.

“(3.) Where the annual accounting period of a non-resident company adopted for the purpose of the presentation of its profit and loss account to its shareholders differs from the year of income of that company for the purposes of this Act, the Commissioner may, for the purpose of ascertaining the amounts to be deducted from the taxable income of the company in accordance with paragraph (a) and sub-paragraph (ii) of paragraph (b) of sub-section (1.) of this section (but not for the purpose of ascertaining the taxable income) treat that annual accounting period as being identical with the year of income which, in his opinion, is most appropriate.

“(4.) Where dividends are paid either wholly or in part out of the net profits of a company of the year of income and those profits are partly liable to and partly exempt from income tax under this Act the amount of dividends paid out of the taxable income of that year shall, for the purposes of this Part, be deemed to be the amount which bears the same proportion to the total amount of dividends paid out of those profits as that portion of the net profits of the year of income which is liable to income tax under this Act bears to the total net profits of the company of the year of income :

Provided that this sub-section shall not apply to the profits or income specified in paragraph (b), (c) or (d) of sub-section (2.) of section forty-four of this Act where a dividend is paid wholly and exclusively from the profits or income so specified.

“160D. The Commissioner shall make an assessment of that portion of the taxable income of a company which has not been distributed as dividends and of the further tax payable thereon.”

Assessments of  
tax on  
undistributed  
dividends.

12. Section two hundred and four of the Principal Act is amended by inserting after sub-section (1.) the following sub-section :—

When tax  
payable.

“(1A.) Notwithstanding anything contained in the last preceding sub-section, where any income tax is assessed under the provisions of Division 7 of Part III. or of Part IIIA. of this Act that tax shall be due and payable by the person liable to pay the tax thirty days after the service of a notice of assessment.”

13.—(1.) The amendments effected by this Act, other than that effected by section twelve of this Act, shall apply to all assessments for the financial year beginning on the first day of July, One thousand nine hundred and forty, and all subsequent years.

Application  
of Act.

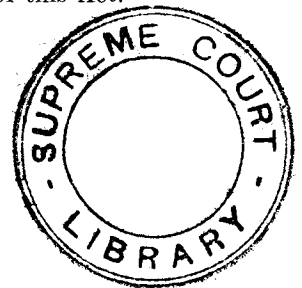
(2.) The amendment effected by section twelve of this Act shall apply to all assessments made after the commencement of this Act.

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## INCOME TAX.

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No. 18 of 1940.



An Act to impose a Tax upon Incomes.

[Assented to 27th May, 1940.]

**B**E it enacted by the King'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 1940.*

Short title.