

3. Section six of the *States Grants (Tax Reimbursement) Act* Aggregate grant. 1946-1947 is amended—

- (a) by omitting from sub-paragraph (i) of paragraph (b) the word “Forty” and inserting in its stead the word “Forty-five”;
- (b) by omitting from sub-paragraph (ii) of paragraph (b) the words “a percentage equal to half the percentage” and inserting in their stead the words “the percentage”; and
- (c) by omitting from sub-paragraph (ii) of paragraph (b) the word “forty-seven” and inserting in its stead the word “forty-six”.

## INCOME TAX ASSESSMENT.

### No. 44 of 1948.

#### An Act to amend the *Income Tax Assessment Act* 1936-1947.

[Assented to 24th November, 1948.]

[Date of commencement, 22nd December 1948.]

**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.—(1.) This Act may be cited as the *Income Tax Assessment Act* 1948. Short title and citation.

(2.) The *Income Tax Assessment Act* 1936-1947\* 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* 1936-1948.

2. Section six of the Principal Act is amended by omitting from sub-section (1.) the definition of “relative” and inserting in its stead the following definition :—

“ ‘relative’, in relation to any person, means any of the following, namely :—

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of that person or of his or her spouse ; and

\* 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 ; and Nos. 11 and 63, 1947.

(b) the spouse of that person or of any other person specified in paragraph (a) of this definition ;”.

Officers to observe secrecy.

3. Section sixteen of the Principal Act is amended—

(a) by omitting from paragraph (d) of sub-section (4.) the words “the Commissioner of Pensions or”;

(b) by omitting paragraphs (da) and (e) of sub-section (4.) and inserting in their stead the following paragraph:—

“(e) the Director-General of Social Services for the purpose of the administration of any law of the Commonwealth relating to pensions, allowances, endowments or benefits ;”;

(c) by omitting from paragraph (g) of sub-section (4.) the word “or” ; and

(d) by adding at the end of sub-section (4.) the following word and paragraph:—

“; or (i) the Universities Commission for the purpose of the administration of any law of the Commonwealth relating to financial assistance to students.”.

Exemptions.

4. Section twenty-three of the Principal Act is amended by omitting sub-paragraphs (i) and (ii) of paragraph (y) and inserting in their stead the following sub-paragraphs:—

“(i) in Australia by a non-resident ;

(ii) in Australia by a resident who, under the terms of an international convention or other international agreement by which Australia is bound, is to be exempt from income tax on his salary or emoluments derived from that organization ; or

(iii) out of Australia by a resident who is appointed for service with that organization out of Australia.”.

Credit in respect of tax paid abroad on ex-Australian dividends.

5. Section forty-five of the Principal Act is amended by omitting from sub-section (5.) all the words after the word “provisions” (second occurring) and inserting in their stead the words—

“of paragraphs (a), (b) and (c) of the definition of ‘distributable income’ in sub-section (1.), and of sub-section (3.), of section one hundred and three of this Act, or of paragraphs (a) and (b) of sub-section (1.), and of sub-section (5.), of section one hundred and sixty c of this Act, as the case requires, shall be reduced by the aggregate of the amounts so applied or paid”.

Rebate on dividends.

6. Section forty-six of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“(1.) Subject to this section, a shareholder, being a company which is a resident, shall be entitled to a rebate in its assessment of the amount obtained by applying to that part of the dividends included in its taxable income the average rate of tax payable by the company.

“(2.) For the purposes of the last preceding sub-section, the average rate of tax payable by a company for a year of tax shall be deemed to be the rate per pound ascertained by dividing by the amount of the taxable income derived by the company in the year of income the amount of income tax which would be payable by the company for the year of tax if—

- (a) the company was not entitled to any rebate of tax; and
- (b) the company was not liable to pay any tax—
  - (i) under Division 7 of Part III., or under Part IIIA., of this Act; or
  - (ii) imposed by any Act as a super-tax on part of the taxable income of a company.”.

7. Section fifty-one A of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “the rate or value of which exceeds Fifteen shillings per week”; and
- (b) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Deduction in  
respect of  
living-away-  
from-home  
allowances.

“(2.) The amount of the deduction allowable under this section shall be—

- (a) where the allowance is paid in money under the terms of any law or of any award, order or determination of an industrial tribunal, or of an industrial agreement—
  - (i) for a period in respect of which the rate of the allowance paid does not exceed Two pounds ten shillings per week—the amount of the allowance;
  - (ii) for a period in respect of which the rate of the allowance exceeds Two pounds ten shillings per week but does not exceed Three pounds five shillings per week—an amount calculated in respect of that period at the rate of Two pounds ten shillings per week; or
  - (iii) for a period in respect of which the rate of the allowance exceeds Three pounds five shillings per week—an amount calculated in respect of that period at a rate per week which the Commissioner considers reasonable in the circumstances, which rate shall not exceed the excess of the weekly rate of the allowance over Fifteen shillings;
- (b) where the allowance is granted, otherwise than in money, under the terms of any law or of any award, order or determination of an industrial tribunal, or of an industrial agreement, for

a period in respect of which the value of the allowance exceeds Fifteen shillings per week but does not exceed Two pounds ten shillings per week—an amount calculated by multiplying the amount by which the weekly value of the allowance exceeds Fifteen shillings by the number of weeks in that period ; and

- (c) in any other case—such amount, if any, in respect of each week for which the allowance is paid or granted, not exceeding the amount by which the weekly rate or value of the allowance exceeds Fifteen shillings, as the Commissioner considers reasonable in the circumstances.”.

**Gifts and contributions.**

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

- (a) by omitting from sub-paragraph (ix) of paragraph (a) of sub-section (1.) the word “ and ” ;  
 (b) by adding at the end of that paragraph the following sub-paragraph :—

“(xi) the United Nations Appeal for Children ; and ” ;  
 and

- (c) by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) For the purposes of this section—

- (a) the value of a gift of property other than money shall be the value of the property at the time of the making of the gift, or the amount paid by the company for the property, whichever is the less ; and

- (b) ‘ Australia ’ shall be deemed to include the Territory of New Guinea.”.

**9.**—(1.) Sections one hundred and three and one hundred and four of the Principal Act are repealed and the following sections inserted in their stead :—

**Interpretation.**

“ 103.—(1.) In this Act, unless the contrary intention appears—  
 ‘ distributable income ’ means the amount obtained by deducting from the taxable income of a company—

- (a) the tax payable under this Act (other than the tax payable under this Division) in respect of the income of the year of income ;

- (b) taxes which are paid in the year of income being—

- (i) tax paid under this Division in respect of income of a year of income prior to the year of income which commenced on the first day of July, One thousand nine hundred and forty-seven ;

- (ii) tax paid under section twenty-one of the previous Act or under Division 2 of Part III. of that Act ;
- (iii) taxes paid under any law of a State or of a Territory being part of the Commonwealth imposing a tax upon incomes ; or
- (iv) taxes paid in any country out of Australia in respect of income of the company which is or was assessable income under this Act or the previous Act,

less any refund received in the year of income of any tax specified in any of sub-paragraphs (i) to (iv) of this paragraph which has been deducted or is deductible for the purpose of ascertaining the distributable income of any year ;

- (c) any contribution paid in the year of income under the *Social Services Contribution Assessment Act* 1945, or that Act as amended, in respect of income of a year of income prior to the year of income which commenced on the first day of July, One thousand nine hundred and forty-seven, less any refund received in the year of income of contribution which has been deducted or is deductible for the purpose of ascertaining the distributable income of any year ; and
- (d) 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 ;

' nominee ' of any person, in relation to any shares, means a person who may be required to exercise his voting power arising from those shares at the direction of, or who holds those shares directly or indirectly on behalf of, or for the benefit of, that first-mentioned person ;

' private company ' means a company which, on the last day of the year of income, is a company of any one or more of the following descriptions :—

- (a) a company all of the issued shares of which are held by not more than twenty persons ;
- (b) a company in which the major portion of the voting power is capable of being exercised by one person or by persons not more than seven in number ; and
- (c) a company the voting power in which is, to the extent of not less than seventy-five per centum, capable (having regard to the operation of paragraph (d) of the next succeeding sub-section) of being exercised by one person or by persons not more than seven in number,

but is not a company in which the public are substantially interested or a subsidiary of a public company ;

' the prescribed period ' means—

- (a) in relation to a company which is a resident—the period commencing on the first day of the year of income and ending six months after the close of that year ; and
- (b) in relation to a company which is a non-resident—the period commencing on the first day of the year of income and ending nine months after the close of that year ;

' undistributed amount ' means—

- (a) the amount by which the dividends paid and the dividends deemed to have been paid, within the prescribed period, by a private company out of its taxable income of the year of income fall short of a sufficient distribution ; or
- (b) where no dividends have been so paid or deemed to have been so paid, the amount which would have been a sufficient distribution.

“(2.) For the purposes of this Division—

- (a) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) have, in the course of the year of income, been quoted in the official list of a stock exchange, unless shares carrying seventy-five per centum or more of the voting power in the company are, at the end of the year of income, beneficially held by, or held directly or indirectly on behalf of or for the benefit of, twenty or less persons ;
- (b) a company shall be deemed to be a subsidiary of a public company if, by reason of the beneficial ownership of the shares, the control of the company is in the hands of one or more companies none of which is a private company ;
- (c) shares of a company shall be deemed to be held indirectly on behalf of or for the benefit of a person (not being a company, trustee or partnership) if, in the event of the payment of a dividend on those shares, that person would, otherwise than as a shareholder of the company, receive the whole or any part of that dividend if there were successive distributions of the relative parts of that dividend to and by each of any companies, trustees or partnerships interposed between the company paying the dividend and that person ;
- (d) in the application of paragraph (c) of the definition of ' private company ' in the last preceding sub-section, a person (whether or not he holds shares in the company concerned)

and his relatives and (in relation to any shares in respect of which they are such nominees) his nominees, or nominees of any of his relatives, shall be deemed to be one person ;

(e) a private company shall be deemed to have made a sufficient distribution of its income of the year of income if, within the prescribed period, it has paid in dividends out of the taxable income of that year an amount not less than the aggregate of—

- (i) seventy per centum of so much of the distributable income (reduced by so much of the amount of any dividends received from other private companies as is included in the distributable income) as does not exceed Two thousand pounds ;
- (ii) seventy-five per centum of so much of the distributable income, as so reduced, as exceeds Two thousand pounds and does not exceed Four thousand pounds ;
- (iii) eighty per centum of so much of the distributable income, as so reduced, as exceeds Four thousand pounds and does not exceed Six thousand pounds ;
- (iv) eighty-five per centum of so much of the distributable income, as so reduced, as exceeds Six thousand pounds and does not exceed Eight thousand pounds ;
- (v) ninety per centum of so much of the distributable income, as so reduced, as exceeds Eight thousand pounds ; and
- (vi) so much of the amount of any dividends received from other private companies as is included in the distributable income ;

(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 sub-section (2.) of section forty-four of this Act, to the extent of the amount of any dividend paid wholly and exclusively out of those profits or that income ; and

(g) in the case of a private company carrying on the business of insurance in Australia—

- (i) the taxable income shall be deemed to be the amount which would be the taxable income if section one hundred and forty-eight of this Act did not apply to the company ; and
- (ii) there shall be included in the distributable income, in addition to the amount ascertained in accordance with sub-section (1.) of this section, any amount which has been received by the private company in the year of income, directly or indirectly, as a reimbursement of, or otherwise for or in respect of, any tax or contribution which has been deducted, or is deductible, in ascertaining the distributable income of any year of income, under paragraph (a), (b) or (c) of the definition of 'distributable income' in the last preceding sub-section or under sub-section (3.) of this section.

“(3.) Subject to sub-section (5.) of this section, a private company—

- (a) which was incorporated prior to the first day of July, One thousand nine hundred and forty-seven ; and
- (b) which has not made, and has not been deemed to have made, an election under sub-section (3.) of section one hundred and three of the *Income Tax Assessment Act 1936-1947* for the purpose of ascertaining the distributable income of the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-seven,

may elect that, for the purpose of ascertaining the distributable income of the year in respect of which the election is made, in lieu of the deduction from the taxable income of the tax payable under this Act (other than the tax payable under this Division) in respect of the income of the year of income, there shall be deducted any tax paid under this Act (other than tax paid under this Division) in the year of income less any refund received in the year of income of any tax paid under this Act (other than tax paid under this Division) which has been deducted or is deductible for the purpose of ascertaining the distributable income of any year.

“(4.) An election in pursuance of the last preceding sub-section shall be made in writing, signed by the public officer of the company, and notified to the Commissioner—

- (a) in the case of an election in respect of the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-eight—on or before the thirty-first day of December, One thousand nine hundred and forty-eight ; or

(b) in the case of an election in respect of any subsequent year of income—on or before the date of lodgment of the return of income of that year of income, or within such further time as the Commissioner allows.

“(5.) Where a company does not make an election which it is entitled to make under sub-section (3.) of this section in respect of a year of income, the company shall not be entitled to make such an election in respect of any subsequent year of income.

“104. Where a private company has not, before the expiration of the prescribed period, made a sufficient distribution of its income of the year of income, the Commissioner may, subject to section one hundred and five B of this Act, assess the aggregate additional amount of tax which would have been payable by its shareholders if the company had, on the last day of the year of income, paid the undistributed amount as a dividend to the shareholders who would have been entitled to receive it, and the company shall be liable to pay the tax so assessed.” Assessment of additional tax.

(2.) Notwithstanding the amendment effected by this section, and the provisions of section twenty-two of this Act, a company shall be deemed not to have been a private company within the meaning of the definition of “private company” in section one hundred and three, or for the purposes of any other provision, of the Principal Act, as amended by this Act, at any time during the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-eight, if, in relation to that year of income, the company would have been deemed to be a company in which the public were substantially interested within the meaning of paragraph (a) of sub-section (2.) of section one hundred and three of the Principal Act, if this Act had not been passed.

10. Section one hundred and five of the Principal Act is amended— Interposition of companies, trustees and partnerships.

(a) by inserting in sub-section (1.), after the word “also”, the words “, subject to section one hundred and five B of this Act”; and

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) If any company so interposed between the private company and that person is not a resident of Australia, then—

(a) the part of the undistributed amount which would have been distributed by the interposed company if successive distributions had been made shall be deemed to be the amount remaining after deducting from the part of the undistributed amount which would have been distributed to that company the amounts payable by the private company in respect of that part as tax under this Division and as

contribution under the *Social Services Contribution Assessment Act 1945*, or that Act as amended ;

- (b) if the Commissioner is unable to ascertain the identity of that person, or the part of the amount which he would have received, the Commissioner may assess the additional amount of tax, if any, which would have been payable if the company so interposed had only one shareholder and that shareholder was a resident of Australia, and the private company shall be liable to pay the tax so assessed ; and
- (c) if the Commissioner is able to ascertain the identity of that person and the part of the amount which he would have received, additional tax under this section shall not be assessed in respect of that part unless that person is a resident of Australia or derives income from sources in, or holds property in, Australia.”

**11.** After section one hundred and five of the Principal Act the following sections are inserted :—

Further  
additional tax.

“ 105A.—(1.) Where, for the purposes of section one hundred and four or one hundred and five of this Act, the supposed receipt of income by the same person is to be taken into account in the assessment of more than one company for the same year of tax—

- (a) the Commissioner may, subject to the next succeeding section, ascertain the amount of tax, additional to the tax payable by that person, which would have been payable by that person if he had received in the year of income of that person immediately preceding his year of income relative to that year of tax additional assessable income from property equal to the aggregate of the amounts so supposed to have been received in relation to those companies ;
- (b) each of those companies shall be liable to pay, as further tax under this Division, a part, ascertained in accordance with the next succeeding sub-section, of the amount of the difference between the sum so ascertained and the aggregate of the amounts of tax payable for that year of tax under sections one hundred and four and one hundred and five of this Act by those companies in respect of the supposed receipt of amounts by that person ; and
- (c) the Commissioner may assess the tax payable by each company accordingly.

“(2.) The part of the amount of the difference which each company shall be so liable to pay shall be the sum which bears to the whole of the amount the same proportion as the amount supposed to have been received by that person in relation to that company bears to the total of the amounts supposed to have been received by that person in relation to all the companies.

“105B.—(1.) The provisions of this section shall apply for the purpose of the assessment of the tax payable by a company under sections one hundred and four, one hundred and five and one hundred and five A of this Act. <sup>Calculation of tax.</sup>

“(2.) Each shareholder and each other person on whose behalf or for whose benefit shares of a private company are held shall (in ascertaining both the tax to be treated as payable by him in respect of his actual income and the tax which would be payable by him if the supposed distribution or receipt had taken place) be deemed to be a taxpayer whose income is derived wholly from property and who is not entitled in his assessment to any of the rebates of tax provided for by sections one hundred and sixty and one hundred and sixty AA of this Act.

“(3.) In the case of a private company which has adopted under this Act an accounting period being the twelve months ending on a date later than the thirtieth day of June immediately preceding the year of tax, the provisions of this Division shall apply as if any reference to a distribution by that company on the last day of a year of income were a reference to a distribution by that company on the thirtieth day of June immediately preceding the year of tax relative to that year of income.

“(4.) In ascertaining, for the purposes of the assessment of the tax payable by a company under this Division in respect of a year of income, the additional amount of tax which would have been payable, upon a distribution of any amount, by a person who has adopted under this Act an accounting period ending on a date earlier than the thirtieth day of June of the year of tax, that person shall be deemed to have received that amount on the last day of the accounting period which ended in that year of income of the company.

“(5.) Where there is more than one class of shareholders of the company, then, for the purpose only of determining which shareholders would have been entitled to receive the undistributed amount—

- (a) dividends paid within the prescribed period shall be deemed to have been paid before the last day of the year of income; and
- (b) dividends which have, for the purposes of this Division or of Division 2 of Part III. of the previous Act or of section twenty-one of that Act, been supposed to have been paid shall be deemed to have actually been paid.”

**12.** Section one hundred and six of the Principal Act is repealed and the following section inserted in its stead :—

Excess  
distributions  
of previous  
years.

“ 106.—(1.) Where, before the expiration of the prescribed period in relation to a year of income, the total amount of dividends paid by a private company out of its taxable income of the period of four years next preceding the year of income exceeds the aggregate of the smallest amounts which would have been a sufficient distribution in respect of each of those years, the excess shall, for the purpose of calculating the undistributed amount, be deemed to be a dividend paid within the prescribed period out of the taxable income of the year of income.

“ (2.) For the purposes of calculating the excess—

- (a) any part of the company's taxable income of the period of four years next preceding the year of income upon which it has paid or is liable to pay tax under this Division shall be deemed to be a dividend paid by the company before the expiration of the prescribed period ; and
- (b) any dividend or part of a dividend paid out of that part of the company's taxable income shall be deemed not to be a dividend.

“ (3.) Where the period from the date of incorporation of a company to the commencement of the year of income is less than four years, this section shall apply as though sub-sections (1.) and (2.) of this section referred to that lesser period in lieu of the period of four years next preceding the year of income.”

**13.** Section one hundred and seven of the Principal Act is repealed and the following section inserted in its stead :—

Rebates.

“ 107.—(1.) A person shall be entitled to a rebate of the amount by which his income tax is increased by the inclusion in his assessable income of—

- (a) dividends paid to him by a company ; or
- (b) amounts in respect of dividends paid by a company to any company, trustee or partnership interposed between that person and the company paying the dividends, where the dividends are paid wholly and exclusively out of one or more of the following amounts :—
  - (c) an amount in respect of which, under section twenty-one of the previous Act or under Division 2 of Part III. of that Act, the company paying the dividend has paid or is liable to pay tax ;
  - (d) the undistributed amount of any year of income prior to the year of income which commenced on the first day of July, One thousand nine hundred and forty-seven ; and
  - (e) the amount remaining after deducting from the undistributed amount of any year of income subsequent to the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-seven, the aggregate of the amount of tax payable under this Division and

the amount of contribution payable under the *Social Services Contribution Assessment Act 1945*, or that Act as amended, in respect of that undistributed amount.

“(2.) Where a dividend is paid either wholly or in part out of an amount specified in paragraph (e) of sub-section (1.) of this section, a person in whose assessable income that dividend, or an amount in respect of that dividend, is included shall not be entitled to the rebate provided by that sub-section unless—

- (a) the shares in respect of which the dividend is paid; and
- (b) any shares in an interposed company the payment of a dividend on which has resulted directly or indirectly in the inclusion of the amount in that person’s assessable income,

are shares in respect of which a distribution was supposed to be made for purposes of the assessment of the tax or contribution referred to in that paragraph.”

**14.** Section one hundred and sixty of the Principal Act is amended—

Concessional rebates.

- (a) by omitting from paragraph (e) of sub-section (2.) the word “Twenty” and inserting in its stead the word “Thirty”;
- (b) by inserting in paragraph (g) of sub-section (2.), after the word “Australia” (wherever occurring), the words “or the Territory of New Guinea”;
- (c) by omitting from sub-paragraph (ix) of paragraph (g) of sub-section (2.) the word “and”;
- (d) by adding at the end of paragraph (g) of sub-section (2.) the following sub-paragraph:—  
“(xi) the United Nations Appeal for Children; and”;  
and
- (e) by adding at the end thereof the following sub-section:—  
“(6.) Notwithstanding anything contained in this section, no rebate of tax shall be allowed in respect of any amount paid as contribution under the *Social Services Contribution Act 1945*, or that Act as amended.”

**15.** Section one hundred and sixty ABA of the Principal Act is repealed and the following section inserted in its stead:—

“160ABA.—(1.) Where a taxpayer derives income as director’s fees, salary or wages (in this section referred to as ‘the remuneration’) during a visit to Australia during which he acts as a director, manager or other administrative officer of, or is employed as a consultant, technician or operative in, a manufacturing, mercantile or mining business or a business of primary production, and the remuneration is not exempt under sub-paragraph (vii) of paragraph (c) of section twenty-three of this Act, that person shall, subject to this section, be entitled to a rebate in his assessment.

Rebate of tax payable by visiting industrial experts.

“(2.) The rebate shall be allowed—

- (a) in respect of the remuneration derived during the first year of the visit; and

(b) in respect of the remuneration derived during any of the second, third and fourth years of the visit if the Secondary Industries Commission of the Department of Post-war Reconstruction certifies, and the Treasurer is satisfied, that the retention of the taxpayer's services in Australia during the relevant year will assist, or has assisted, in the development of Australian industry.

“(3.) The rebate to which the taxpayer shall be entitled under sub-section (1.) of this section shall be an amount equal to the excess (if any) of the amount by which the income tax under this Act which would, but for this section, be payable by him in respect of his income of the year of income is increased by the inclusion of the remuneration in his assessable income over the amount of income tax which he is liable to pay in respect of the remuneration in the country in which he is ordinarily resident, or which he would be liable to pay in respect thereof in that country if it were earned by him in that country.

“(4.) In this section, ‘income tax under this Act’ includes any social services contribution payable under the *Social Services Contribution Assessment Act 1945-1947*.”

Application of  
tax credit.

16. Section one hundred and sixty AR of the Principal Act is amended by omitting from paragraph (a) of sub-section (4.) all the words after the word “provisions” and inserting in their stead the words—

“of paragraphs (a), (b) and (c) of the definition of ‘distributable income’ in sub-section (1.), and of sub-section (3.), of section one hundred and three of this Act, or of paragraphs (a) and (b) of sub-section (1.), and of sub-section (5.), of section one hundred and sixty C of this Act, as the case requires, shall be reduced by the aggregate of the amounts so applied or paid; and”.

Interpretation.

17. Section one hundred and sixty A of the Principal Act is amended by omitting paragraph (b) and inserting in its stead the following paragraph:—

“(b) in the case of a company carrying on the business of insurance in Australia, the taxable income shall be deemed to be the aggregate of the following amounts:—

- (i) the amount which would be the taxable income if section one hundred and forty-eight of this Act did not apply to the company; and
- (ii) any amount which has been received by the company in the year of income, directly or indirectly, as a reimbursement of, or otherwise for or in respect of, any tax which has been deducted or is deductible for the purpose of ascertaining, under this Part, that portion of the taxable income of any year which has not been distributed as dividends.”.

18. Section one hundred and sixty c of the Principal Act is amended—

Undistributed  
income of  
company.

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

“(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 by deducting from the taxable income of the company—

- (a) the tax payable under this Act (other than the further tax payable under this Part) in respect of the income of the year of income ;
- (b) taxes which are paid in the year of income being—
  - (i) tax paid under this Part ;
  - (ii) taxes paid under any law of a State or of a Territory being part of the Commonwealth imposing a tax upon incomes ; or
  - (iii) taxes paid in any country out of Australia in respect of income of the company which is or was assessable under this Act or the previous Act,

less any refund received in the year of income of any tax specified in sub-paragraph (i), (ii) or (iii) of this paragraph which has been deducted or is deductible for the purpose of ascertaining that portion of the taxable income of any year which has not been distributed as dividends ;

- (c) 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 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 ;

- (d) 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 or, if the company is a non-resident, before the expiration of nine months after the close of that year ; and
- (e) in the case of a life assurance company, the amount of mutual income remaining after deducting therefrom that portion of any taxes deducted from the taxable income in accordance with paragraph (a) or (b) of this

sub-section or sub-section (5.) of this section which, in the opinion of the Commissioner, is attributable to mutual income.”;

- (b) by omitting from sub-section (1A.) the letters “(iv)” and inserting in their stead the letter “(e)”;
- (c) by omitting sub-sections (5.), (6.), (7.) and (8.) and inserting in their stead the following sub-sections:—

“(5.) Subject to sub-section (7.) of this section, a company—

- (a) which was incorporated prior to the first day of July, One thousand nine hundred and forty-seven; and
- (b) which has not made, and has not been deemed to have made, an election under sub-section (5.) of section one hundred and sixty c of the *Income Tax Assessment Act 1936-1947* for the purpose of ascertaining that portion of the taxable income derived by the company during the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-seven, which has not been distributed as dividends,

may elect that, for the purpose of ascertaining that portion of its taxable income of the year of income in respect of which the election is made which has not been distributed as dividends, in lieu of the deduction from the taxable income of the tax payable under this Act (other than the further tax payable under this Part) in respect of the income of the year of income, there shall be deducted any tax paid in the year of income under this Act (other than further tax paid under this Part) and any tax paid under any Act imposing a war-time tax upon companies, less any refund received in the year of income of any tax—

(c) paid under this Act (other than further tax paid under this Part); or

(d) paid under any Act imposing a war-time tax upon companies,

which has been deducted or is deductible for the purpose of ascertaining that portion of the taxable income derived by the company during any year which has not been distributed as dividends.

“(6.) An election in pursuance of the last preceding sub-section shall be made in writing, signed by the public officer of the company, and notified to the Commissioner—

- (a) in the case of an election in respect of the year of income which ended on the thirtieth day of

June, One thousand nine hundred and forty-eight—on or before the thirty-first day of December, One thousand nine hundred and forty-eight; or

- (b) in the case of an election in respect of any subsequent year of income—on or before the date of lodgment of the return of income of that year of income,

or within such further time as the Commissioner allows.

“(7.) Where a company does not make an election which it is entitled to make under sub-section (5.) of this section in respect of a year of income, the company shall not be entitled to make such an election in respect of any subsequent year of income.”

**19.** Section one hundred and sixty k of the Principal Act is amended—

Ascertainment  
of Australian  
tax on  
dividend.

- (a) by omitting paragraph (a) of sub-section (2.) and inserting in its stead the following paragraph:—

“(a) the amount ascertained by applying to the amount of the dividend the average rate of tax payable by the company, ascertained in accordance with the provisions of sub-section (2.) of section forty-six of this Act;”;

- (b) by omitting from sub-paragraph (i) of paragraph (c) of sub-section (2.) the reference “paragraphs (i) and (ii)” and inserting in its stead the reference “paragraphs (a), (b) and (c)”;

- (c) by omitting from sub-paragraph (ii) of paragraph (c) of sub-section (2.) the reference “paragraph (ii)” and inserting in its stead the reference “paragraph (d)”.

**20.** Section one hundred and sixty q of the Principal Act is amended by omitting from sub-section (4.) all the words after the word “provisions” (second occurring) and inserting in their stead the words—

Application  
of credit.

“of paragraphs (a), (b) and (c) of the definition of ‘distributable income’ in sub-section (1.), and of sub-section (3.), of section one hundred and three of this Act, or of paragraphs (a) and (b) of sub-section (1.), and of sub-section (5.), of section one hundred and sixty c of this Act, as the case requires, shall be reduced by the aggregate of the amounts so applied or paid”.

**21.** Section two hundred and twenty-one c of the Principal Act is amended by omitting sub-section (6.) and inserting in its stead the following sub-section:—

Deductions by  
employer from  
salary or  
wages.

“(6.) Notwithstanding anything contained in this section, where an employee receives from his employer, in respect of a week or part thereof, a living-away-from-home allowance as defined in sub-section

(3.) of section fifty-one A of this Act, the amount which shall be taken into account for the purpose of computing the amount of the deduction under this section shall be—

- (a) where the rate of the allowance does not exceed Three pounds five shillings per week and the allowance is received in money under the terms of any law or of any award, order or determination of an industrial tribunal, or of an industrial agreement—so much of that allowance as exceeds Two pounds ten shillings; and
- (b) in any other case—
  - (i) where the allowance is received in respect of a week—  
an amount of Fifteen shillings; or
  - (ii) where the allowance is received in respect of a part of a week—an amount calculated for that part of a week at the rate of Fifteen shillings per week.”.

Application of amendments.

**22.**—(1.) The amendments effected by section two, sections four to thirteen (inclusive), paragraphs (a) and (b) of section fourteen, and sections fifteen to twenty-one (inclusive), of this Act shall apply to all assessments for the financial year which commenced on the first day of July, One thousand nine hundred and forty-eight, and all subsequent years.

(2.) The amendments effected by paragraphs (c) and (d) of section fourteen of this Act shall apply to all assessments of income of the year of income which ended on the thirtieth day of June, One thousand nine hundred and forty-eight, and in respect of income of all subsequent years.

(3.) The amendment effected by paragraph (e) of section fourteen of this Act shall apply, and shall be deemed to have applied, to all assessments for the financial year which commenced on the first day of July, One thousand nine hundred and forty-five, and all subsequent years.

## INCOME TAX.

### No. 45 of 1948.

#### An Act to impose a Tax upon Incomes.

[Assented to 24th November, 1948.]

[Date of commencement, 22nd December, 1948.]

**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.

1. This Act may be cited as the *Income Tax Act 1948*.

Incorporation.

2. The *Income Tax Assessment Act 1936-1948* shall be incorporated and read as one with this Act.