

# Income Tax Assessment (No. 3)

No. 101 of 1969

An Act to amend the Law relating to Income Tax in relation to Drought Bonds.

[Assented to 27 September 1969]

**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:—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Income Tax Assessment Act (No. 3) 1969*.

(2.) The *Income Tax Assessment Act 1936–1968*,\* as amended by the *Income Tax Assessment Act 1969*† and by the *Income Tax Assessment Act (No. 2) 1969*,‡ is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Income Tax Assessment Act (No. 2) 1969* is amended by omitting sub-section (4.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act 1936–1969*.

Commence-  
ment.

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

Parts.

3. Section 5 of the Principal Act is amended by inserting after the words—

“ Division 16A.—Abnormal Income of Authors and Inventors (Sections 158B–158E).”

the words—

“ Division 16B.—Drought Bonds (Sections 159–159G).”

Limitation on  
certain  
deductions.

4. Section 79C of the Principal Act is amended by omitting the words “ under Division 10 or Division 10AA of this Part ” and inserting in their stead the words “ under Division 10, Division 10AA or Division 16B of this Part ”.

5. After Division 16A of Part III. of the Principal Act the following Division is inserted:—

“ Division 16B.—Drought Bonds.

\* 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; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; and Nos. 4, 60, 70, 87 and 148, 1968.

† Act No. 18, 1969.

‡ Act No. 93, 1969.

“ 159.—(1.) In this Division—

Interpretation.

‘ beef cattle ’ does not include dairy cattle;

‘ current parcel of stock ’, in relation to a person, means so much of an original parcel of stock issued to that person as has not become redeemable;

‘ gross farm receipts ’, in relation to a taxpayer in relation to a year of income, means—

(a) so much of the assessable income of the taxpayer of that year of income as was derived from the carrying on by him in Australia of a business of primary production, being a business of cultivating land or maintaining animals or poultry for the purpose of selling them or their bodily produce, including natural increase, other than amounts in respect of trading stock on hand or amounts derived by a person as a trustee of a trust estate; and

(b) if the taxpayer is a partner in a partnership (in addition to any amount included in his gross farm receipts by virtue of the last preceding paragraph by reason of the carrying on by him of a business otherwise than as a partner) the amount that bears the same proportion to an amount that would, in accordance with that paragraph, be the gross farm receipts of the partnership, in relation to that year of income, if the partnership were a taxpayer as the individual interest of the partner in the net income of the partnership, or in the partnership loss, in respect of that year of income bears to that net income or partnership loss, as the case may be;

‘ original parcel of stock ’, in relation to a person, means the whole of the stock issued to that person at the one time;

‘ receipts from sheep and beef cattle ’, in relation to a taxpayer in relation to a year of income, means so much of the gross farm receipts of the taxpayer in respect of that year of income as is attributable to the maintaining of sheep or beef cattle;

‘ stock ’ means stock issued under the name of Drought Bonds in pursuance of the *Loan (Drought Bonds) Act 1969*;

‘ the Registrar ’, in relation to any stock, means the Registrar of Stock in relation to the Registry at which the stock is inscribed under the *Commonwealth Inscribed Stock Act 1911–1966*, and includes a person for the time being performing the functions of the Registrar of Stock in relation to that Registry.

“ (2.) For the purposes of the definition of ‘ gross farm receipts ’ in the last preceding sub-section, the assessable income of a taxpayer of a year of income in relation to which any of the following provisions of this Act is applicable in relation to the taxpayer, namely, section twenty-six B,

section twenty-six BA, section thirty-six, section thirty-six AAA and section thirty-six AA, shall be taken to be the amount that would have been that assessable income if none of those provisions was so applicable.

“(3.) For the purposes of the next succeeding sub-section—

- (a) a deduction shall be deemed to have been allowed to a taxpayer in respect of a current parcel of stock held by him if a deduction or deductions allowed or allowable under this Division in an assessment or assessments under this Act in relation to him includes or include an amount or amounts in respect of the original parcel; and
- (b) the amount of the deduction shall be deemed to be that amount, or the sum of those amounts, as the case may be.

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

- (a) an unrecouped deduction shall be deemed to exist in respect of any stock held by a taxpayer if a deduction has been allowed to him in respect of the current parcel of stock in which the stock is included and no stock included in the original parcel of stock has been redeemed, or part of the stock included in the original parcel has been redeemed and the amount of the deduction exceeds the sum of—
  - (i) any amount included, or required to be included, in the assessable income of the taxpayer of any year of income under section one hundred and fifty-nine B of this Act for the reason that any stock included in the original parcel has become redeemable; and
  - (ii) any amount in respect of which income tax has become payable under section one hundred and fifty-nine C of this Act for that reason; and
- (b) the amount of the unrecouped deduction that exists in respect of any stock (in this paragraph referred to as ‘the relevant stock’) shall be deemed to be—
  - (i) where the relevant stock is the whole of a current parcel of stock held by the taxpayer and that parcel is the whole of an original parcel of stock—the amount of the deduction allowed in respect of the parcel;
  - (ii) where the relevant stock is the whole of a current parcel of stock held by the taxpayer but part of the stock included in the original parcel in which the relevant stock was included has been redeemed—the amount of the excess referred to in the last preceding paragraph;
  - (iii) where the relevant stock is part only of a current parcel of stock held by the taxpayer and the amount of that parcel is equal to the amount of the unrecouped deduction that exists in respect of the whole of the stock included in that parcel—an amount equal to the amount of the relevant stock; and

- (iv) where the relevant stock is part only of a current parcel of stock held by the taxpayer and the amount of that parcel is greater than the amount of the unrecouped deduction that exists in respect of the whole of the stock included in that parcel—the amount, if any, that remains after deducting from the amount of the relevant stock the amount by which the amount of all the stock included in the current parcel exceeds the amount of the unrecouped deduction that exists in respect of that parcel.

“ 159A.—(1.) Deductions are allowable in accordance with this section in relation to the purchase of stock issued under the name of Drought Bonds in pursuance of the *Loan (Drought Bonds) Act 1969*. Deductions in respect of Drought Bonds.

“(2.) Subject to the succeeding provisions of this section, a deduction is allowable under this section to a taxpayer in respect of a year of income of the sum of—

- (a) the cost of the stock issued to the taxpayer otherwise than as a trustee in the period of twelve months ending two months after the end of that year of income; and
- (b) so much of the cost of the stock issued to the taxpayer otherwise than as a trustee before the commencement of that period as is not included in a deduction allowed or allowable in respect of an earlier year of income.

“(3.) The stock referred to in the last preceding sub-section does not include stock that became redeemable not later than the day next following the end of the period referred to in that sub-section, or that became redeemable after that day as a result of—

- (a) a request made under section nineteen or twenty of the *Loan (Drought Bonds) Act 1969* not later than the end of that period; or
- (b) a declaration made under section twenty-two of that Act in consequence of the holder of the stock having died, become bankrupt or, being a company, commencing to be wound up, not later than the end of that period.

“(4.) A deduction is not allowable under this section in relation to a year of income in respect of stock other than stock issued to the taxpayer as a result of a declaration under section twenty of the *Loan (Drought Bonds) Act 1969* unless the taxpayer has, in respect of that year of income, receipts from sheep and beef cattle that amount to not less than ninety per centum of the gross farm receipts of the taxpayer in respect of that year.

“(5.) The deduction allowable to a taxpayer under this section in respect of a year of income shall not exceed twenty per centum of the receipts from sheep and beef cattle of the taxpayer in respect of that year.

“(6.) The deduction allowable to a taxpayer under this section in respect of a year of income shall not exceed—

(a) Fifty thousand dollars; or

(b) if, at the end of two months after the end of that year of income, the taxpayer is the holder of any current parcel or parcels of stock in respect of which an unrecouped deduction exists or unrecouped deductions exist—the amount by which Fifty thousand dollars exceeds the unrecouped deduction, or the sum of the unrecouped deductions.

“(7.) In the application of sub-section (5.) of this section, so much of a deduction allowable apart from that sub-section as represents the whole or part of the cost of stock issued to the taxpayer as a result of a declaration under section twenty of the *Loan (Drought Bonds) Act 1969* shall not be taken into account.

“(8.) Where a deduction calculated in accordance with the preceding provisions of this section would be less than Fifty dollars, no deduction is allowable.

“(9.) Where a deduction calculated in accordance with the preceding provisions of this section would be not less than Fifty dollars but would not be One hundred dollars or a multiple of One hundred dollars, the deduction allowable is One hundred dollars plus One hundred dollars for each complete One hundred dollars by which the deduction, as so calculated, would exceed Fifty dollars.

“(10.) The deduction allowable to a taxpayer under this section in respect of a year of income shall not exceed an amount equal to the number of complete hundreds of dollars in the amount remaining after deducting from the assessable income all other allowable deductions.

“(11.) In the application of this section in a case where, by reason of sub-section (5.), (6.) or (10.) of this section, a deduction otherwise allowable in relation to stock that was included in two or more original parcels of stock cannot be allowed in full, amounts in respect of stock that was included in those parcels shall be included in the deduction in the order in which the parcels were purchased until the maximum deduction allowable is reached.

“(12.) Notwithstanding the last preceding sub-section, where a deduction otherwise allowable in respect of stock that was included in two or more original parcels of stock is reduced by reason of sub-section (5.) of this section and any of that stock is stock referred to in sub-section (7.) of this section, an amount in respect of that last-mentioned stock shall be included in the deduction before an amount in respect of any other stock.

Where stock redeemed in consequence of drought, fire or flood.

“159B.—(1.) This section applies in relation to stock that becomes redeemable in consequence of a request under section nineteen of the *Loan (Drought Bonds) Act 1969* on a ground specified in paragraph (a) or (b) of sub-section (2.) of that section, being stock in respect of which an unrecouped deduction exists immediately before the stock so becomes redeemable.

“(2.) There shall be included in the assessable income of the person who purchased stock in relation to which this section applies of the year of income in which the stock becomes redeemable an amount equal to the amount that was the unrecouped deduction in relation to the stock immediately before it became redeemable.

“(3.) Where the person who purchased stock in relation to which this section applies has died before the stock becomes redeemable, section one hundred and one A of this Act applies as if the trustee of the estate of the deceased person had received, in the year of income in which the stock becomes redeemable, the amount that, under the last preceding sub-section, would have been assessable income in the hands of the deceased person if he had not died.

“159C.—(1.) This section has effect only so long as the *Income Tax (Drought Bonds) Act 1969* is in force.

Other  
redemptions—  
liability of  
holder to pay  
income tax  
equal to  
tax saved.

“(2.) Subject to this section, where stock in respect of which an unrecouped deduction exists becomes redeemable otherwise than in consequence of a request referred to in the last preceding section, income tax in accordance with this section becomes payable, in respect of the amount of the unrecouped deduction, by the person who purchased the stock or, if that person is dead or is an undischarged bankrupt, by the trustee of his estate.

“(3.) The income tax payable in respect of an amount in accordance with the last preceding sub-section is such proportion of the tax saved by reason of the purchase of the original parcel of stock in which the stock that has become redeemable was included as bears to that tax saved the same proportion as the amount in respect of which the tax is payable bears to the amount that was, or the sum of the amounts that were, included in a deduction or deductions under this Division in respect of that original parcel of stock.

“(4.) For the purposes of this section but subject to the succeeding provisions of this section, the tax saved by reason of the purchase of an original parcel of stock shall be ascertained as follows:—

(a) in respect of each year of income in respect of which there has been allowed to the person who purchased that parcel a deduction under this Division that included an amount in respect of that parcel, there shall be ascertained—

(i) the amount by which the tax, other than tax under Division 7 of this Part, payable by that person was less than it would have been if the deductions allowed in the assessment of that person in respect of that year of income had been reduced by the amount of the deduction under this Division; or

- (ii) if no such tax was payable by that person—the amount of tax, other than tax under Division 7 of this Part, that would have been payable by that person if he had had (in addition to his actual taxable income, if any) taxable income equal to the amount of the deduction under this Division;
- (b) there shall be further ascertained, in respect of each such year of income, the amount that bears to the amount ascertained under the last preceding paragraph the same proportion as the amount that was included in the deduction under this Division in respect of the parcel bears to the whole amount of that deduction; and
- (c) the tax saved by reason of the purchase of the parcel shall be taken to be the amount, or the sum of the amounts, ascertained under the last preceding paragraph.

“(5.) Where—

- (a) an amount in respect of an original parcel of stock has been included in a deduction under this Division in the assessment of a taxpayer in respect of a year of income;
- (b) any stock that was included in that parcel has become redeemable in circumstances in which income tax has become payable under this section; and
- (c) after the stock has become so redeemable, the assessment is amended,

the amount of the tax saved by reason of the purchase of the original parcel of stock shall be deemed not to be affected by the amendment, but the tax otherwise payable under the amended assessment shall be increased or decreased by the amount by which the income tax payable under this section by reason of the stock having become redeemable would have been greater or less if the amendment of the assessment had been made before the stock became redeemable.

“(6.) A reference in the provisions of this Act other than this Division and sections one hundred and seventy-two, two hundred and nine, two hundred and fourteen, two hundred and fifteen and two hundred and eighteen to income tax or tax shall be read as not including a reference to income tax payable in accordance with this section.

Determination  
and collection  
of tax in  
respect of tax  
saving.

“159D.—(1.) An amount of income tax that has become payable in accordance with the last preceding section is not due for payment until the Commissioner has determined the amount in accordance with this section.

“(2.) Stock that has become redeemable otherwise than in consequence of a request referred to in section one hundred and fifty-nine B of this Act shall not be redeemed before the Registrar has received a notice in respect of the stock in accordance with the next succeeding sub-section.

“(3.) As soon as practicable after any stock to which the last preceding sub-section applies has become redeemable, the Commissioner shall—

- (a) determine an amount to be the amount of income tax payable by a person under the last preceding section by reason of the stock having become redeemable, and serve a notice containing particulars of the determination by post or otherwise on that person and on the Registrar; or
- (b) determine that income tax under the last preceding section is not payable by reason of the stock having become redeemable, and serve a notice of the determination by post or otherwise upon the Registrar.

“(4.) Where notice of a determination under paragraph (a) of the last preceding sub-section in relation to any stock (not being a determination as amended after the stock has been redeemed) is served on the Registrar, the Treasurer shall cause to be paid to the Commissioner, out of the Drought Bonds Trust Account, an amount equal to the amount specified in the notice as the amount of income tax that has been determined to be payable and, where an amount is so paid to the Commissioner—

- (a) the amount shall be deemed to be an amount paid to the Commissioner, in respect of the income tax payable under the last preceding section by reason of the stock having become redeemable, by the person liable to pay that income tax; and
- (b) the Commonwealth is, to the extent of the amount of the payment, discharged from its liability to repay the amount of the stock.

“(5.) The last preceding sub-section has effect notwithstanding any law of the Commonwealth or of a State or Territory of the Commonwealth (including a law relating to bankruptcy or the winding-up of companies) or any legal or equitable right or interest in or in relation to the drought stock that has been acquired by any person.

“(6.) The production of a document being a notice under sub-section (3.) of this section, or of a document certified under the hand of the Commissioner, a Second Commissioner or a Deputy Commissioner to be a copy of such a notice, shall be conclusive evidence of the due making of the determination referred to in the document and (except in proceedings on appeal against the determination) that all particulars of the determination as contained in the document, including the amount of any income tax determined to be payable, are correct.

“159E.—(1.) Subject to this section, the Commissioner may at any time amend a determination in such manner as he thinks necessary. Amendment of determinations.

“(2.) The Commissioner shall make all such amendments to a determination as are necessary to give effect to the decision on an objection, appeal or review in accordance with this Division.

“(3.) Except in pursuance of the last preceding sub-section, an amendment of a determination increasing the amount determined to be payable shall not be made except to correct an error in calculation or a mistake of fact, and shall not be made more than three years after the making of the determination.

“(4.) An amended determination shall, for the purposes of this Division, be deemed to be a determination.

Reviews and  
appeals.

“159F. The provisions of Division 2 of Part V. apply to and in relation to determinations in like manner as they apply to and in relation to assessments and, for the purposes of those provisions as so applying—

- (a) a reference in those provisions to an assessment shall be read as a reference to a determination; and
- (b) a reference in that Division to a taxpayer shall be read as a reference to a person liable to pay the income tax referred to in a determination.

Special  
provisions  
relating to  
private  
companies.

“159G.—(1.) Where stock (in this section referred to as ‘the redeemable stock’) becomes redeemable in circumstances in which income tax becomes payable under section one hundred and fifty-nine c of this Act and the holder of the stock is a company which, for the purposes of Division 7 of this Part, is a private company in relation to the year of income in which the redeemable stock becomes redeemable and was a private company in relation to a year or years of income in respect of which there has or have been allowed a deduction or deductions under this Division which included the whole or a part of the cost of the original parcel of stock in which the redeemable stock was included, the amount that would, but for this section, be a sufficient distribution in relation to the year of income in which the redeemable stock becomes redeemable shall be increased by an amount ascertained in accordance with paragraph (b) of the next succeeding sub-section.

“(2.) For the purposes of the last preceding sub-section—

- (a) there shall be ascertained, in respect of the year, or each of the years, in which the deduction or deductions under this Division was or were allowed—
  - (i) if the deduction under this Division in respect of the year concerned did not include the whole or a part of the cost of more than one original parcel of stock—the amount by which the amount would otherwise have been a sufficient distribution in respect of that year was reduced by reason of the deduction under this Division; or
  - (ii) if the deduction under this Division in respect of the year concerned included the whole or a part of the cost of more than one original parcel of stock—the amount that bears to the amount by which the amount that would otherwise

have been a sufficient distribution in respect of that year was reduced by reason of that deduction the same proportion as the amount included in that deduction in respect of the original parcel of stock in which the redeemable stock was included bears to the whole amount of that deduction; and

- (b) there shall be further ascertained the amount that bears to the amount, or to the sum of the amounts, ascertained under the last preceding paragraph the same proportion as the unrecouped deduction in respect of the redeemable stock immediately before it became redeemable bears to the total of the amounts that have been included in deductions under this Division in respect of the original parcel of stock in which the redeemable stock was included.

“(3.) In this section, ‘ a sufficient distribution ’, in relation to a year of income of a company, means the amount required to be paid by the company in dividends (other than special fund dividends) during the prescribed period in order that the company be deemed to have made a sufficient distribution in relation to that year of income for the purposes of Division 7 of this Part.”.

6.—(1.) In the application of section one hundred and fifty-nine A of the Principal Act, as amended by this Act, in relation to the year of income that ended on the thirtieth day of June, One thousand nine hundred and sixty-nine, stock purchased on or before the thirty-first day of December, One thousand nine hundred and sixty-nine, shall, if the taxpayer so elects, be treated as having been purchased in the period of twelve months that ended two months after the end of the year of income that ended on the thirtieth day of June, One thousand nine hundred and sixty-nine.

Transitional provision.

(2.) An election in pursuance of this section shall be made in writing and lodged with the Commissioner not later than the thirty-first day of January, One thousand nine hundred and seventy, or within such further time as the Commissioner allows.

(3.) Notwithstanding anything contained in section one hundred and seventy of the Principal Act, as amended by this Act, the Commissioner may at any time amend an assessment in order to give effect to subsection (1.) of this section.

7. The amendments made by 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 sixty-eight, and in respect of income of all subsequent years of income.

Application of amendments.