

# Income Tax Assessment (No. 5)

No. 85 of 1972

An Act to amend the Law relating to Income Tax in respect of Concessional Deductions and Provisional Tax.

[Assented to 4 October 1972]

**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 Assessment Act* (No. 5) 1972. Short title and citation.

(2.) The *Income Tax Assessment Act* 1936–1971,\* as amended by the *Income Tax Assessment Act* 1972,† by the *Income Tax Assessment Act* (No. 2) 1972,‡ by the *Income Tax Assessment Act* (No. 3) 1972§ and by the *Income Tax Assessment Act* (No. 4) 1972,¶ is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Income Tax Assessment Act* (No. 4) 1972 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* 1936–1972.

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

3. Section 82B of the Principal Act is amended by omitting the table in sub-section (2.) and inserting in its stead the following table:— Deductions for dependants.

| First Column | Second Column                                   | Third Column  |
|--------------|---|---|
| Class        | Dependant                                       | Amounts of Deduction  |
| 1            | Spouse of the taxpayer .. .. .                  | \$364.00  |
| 2            | Daughter-housekeeper .. .. .                    | \$364.00  |
| 3            | Child less than sixteen years of age .. .. .    | In respect of one such child—<br>\$260.00<br>In respect of each other such child—\$208.00 |
| 4            | Student .. .. .                                 | \$260.00  |
| 5            | Invalid relative .. .. .                        | \$260.00  |
| 6            | Parent of the taxpayer or of his spouse .. .. . | \$364.00  |

\* 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; Nos. 4, 60, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; and Nos. 6, 54 and 93, 1971.  
 † Act No. 5, 1972.  
 ‡ Act No. 46, 1972.  
 § Act No. 47, 1972.  
 ¶ Act No. 65, 1972.

Housekeeper.

4. Section 82D of the Principal Act is amended by omitting from subsections (2.), (4.) and (5.) the words " Three hundred and twelve dollars " and inserting in their stead the words " Three hundred and sixty-four dollars ".

5. After section 82J of the Principal Act the following section is inserted:—

Expenses of self-education.

" 82JAA.—(1.) Where—

- (a) the taxpayer has, in the year of income, paid expenses of self-education;
- (b) no payment of any scholarship benefits (other than a payment that was capable of being claimed in an earlier year of income or a payment that has been, or is to be, taken into account in calculating the amount of a deduction allowed or allowable to any person under section eighty-two J of this Act in respect of the year of income) was capable of being claimed, in the year of income, by the taxpayer or by any other person in respect of the taxpayer; and
- (c) the taxpayer did not receive, and was not entitled to receive, in the year of income, any payment (other than a payment the amount of which has been, or will be, included in the assessable income of the taxpayer of any year of income) from his employer or from any other person in respect of expenses of self-education paid by the taxpayer in the year of income that commenced on the first day of July, One thousand nine hundred and seventy-two, or in a later year of income,

the total amount of those first-mentioned expenses of self-education is an allowable deduction.

" (2.) Where the taxpayer has, in the year of income, paid expenses of self-education and—

- (a) a payment of scholarship benefits (other than a payment that was capable of being claimed in an earlier year of income or a payment that has been, or is to be, taken into account in calculating the amount of a deduction allowed or allowable to any person under section eighty-two J of this Act in respect of the year of income) was capable of being claimed, or two or more such payments were capable of being claimed, in the year of income by the taxpayer or by any other person in respect of the taxpayer; or
- (b) the taxpayer received, or was entitled to receive, in the year of income, a payment or payments (other than a payment the amount of which has been, or will be, included in the assessable income of the taxpayer of any year of income) from his employer or from any other person in respect of expenses of self-education

paid by the taxpayer in the year of income that commenced on the first day of July, One thousand nine hundred and seventy-two, or in a later year of income,

the amount, if any, by which the total amount of those first-mentioned expenses of self-education exceeds the amount of the payment referred to in paragraph (a) or paragraph (b) of this sub-section, or the sum of the amounts of any payments referred to in either or both of those paragraphs, as the case may be, is an allowable deduction.

“(3.) The deduction allowable to the taxpayer under this section in respect of the year of income shall not be greater than the amount, if any, remaining after deducting from Four hundred dollars any amount allowed or allowable as a deduction, or the sum of any amounts allowed or allowable as deductions, under section eighty-two J of this Act to any person in respect of the year of income in relation to the education of the taxpayer.

“(4.) Where—

- (a) a deduction is allowed or allowable to a person under section eighty-two J of this Act in respect of the year of income by reason that that person has paid education expenses (as defined by that section) in respect of the taxpayer;
- (b) a payment of scholarship benefits (other than a payment that was capable of being claimed in an earlier year of income) was capable of being claimed, or two or more such payments were capable of being claimed, in the year of income, by any person in respect of the taxpayer; and
- (c) the amount of the payment, or the sum of the amounts of the payments, as the case may be, exceeds the total amount of those education expenses,

so much of the amount of the payment or of the sum of the amounts of the payments as is equal to the excess shall be deemed, for the purposes of this section, not to have been, or not to be, taken into account in calculating the amount of the deduction referred to in paragraph (a) of this sub-section.

“(5.) In this section—

- ‘expenses of self-education’ means expenses necessarily incurred by the taxpayer for fees, books and equipment in connexion with a prescribed course of education but does not include expenses in respect of which a deduction has been allowed or is allowable to the taxpayer in respect of any year of income under any other provision of this Act;
- ‘prescribed course of education’ means a course of education provided by a school, college, university or other place of education and undertaken by the taxpayer for the purpose of gaining qualifications for use in the carrying on of a profession, business or trade or in the course of any employment;

‘ scholarship benefits ’ has the same meaning as in section eighty-two J of this Act.”.

Amounts paid by trustee after death of a taxpayer.

6. Section 82K of the Principal Act is amended by omitting the words “ or section eighty-two JA of this Act ” and inserting in their stead the words “, section eighty-two JAA or section eighty-two JA of this Act ”.

Amount of provisional tax.

7. Section 221YC of the Principal Act is amended by omitting from sub-section (4.) the words “ Four hundred and sixteen ” (wherever occurring) and inserting in their stead the words “ One thousand and forty ”.

Provisional tax for year of income commencing 1 July 1972.

8. In the application to a taxpayer of sub-section (1.) of section 221YC of the *Income Tax Assessment Act 1936–1972* for the purpose of ascertaining the amount of provisional tax payable by the taxpayer in respect of income of the year of income that commenced on the first day of July, One thousand nine hundred and seventy-two—

- (a) if paragraph (a) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of income of that year of income by virtue of that paragraph is an amount equal to the income tax that would have been assessed, in accordance with the *Income Tax Act 1972*, in respect of his taxable income of the year next preceding that year of income if the *Income Tax Act 1972* had applied to the assessment of income tax in respect of his taxable income of that next preceding year; and
- (b) if paragraph (b) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of income of that year of income by virtue of that paragraph is an amount equal to the income tax that would have been assessed, in accordance with the *Income Tax Act 1972*, in respect of his taxable income of that next preceding year if—
  - (i) his taxable income of that next preceding year had been equal to his provisional income; and
  - (ii) the *Income Tax Act 1972* had applied to the assessment of income tax in respect of his taxable income of that next preceding year.

Application of amendments.

9. 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 seventy-two, and in respect of income of all subsequent years of income.