

Income Tax Assessment Act (No. 5) 1973

No. 165 of 1973

AN ACT

To amend the Law relating to Income Tax.

[Assented to 11 December 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Income Tax Assessment Act (No. 5)* 1973. Short title
and citation.

(2) The *Income Tax Assessment Act* 1936–1972,* as amended by the *Income Tax Assessment Act* 1973,† the *Income Tax Assessment Act (No. 2)* 1973,‡ the *Income Tax Assessment Act (No. 3)* 1973§ and the *Income Tax Assessment Act (No. 4)* 1973,|| is in this Act referred to as the Principal Act.

(3) Section 1 of the *Income Tax Assessment Act (No. 4)* 1973 is amended by omitting sub-section (4).

* 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 63, 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; Nos. 6, 54 and 93, 1971; and Nos. 5, 46, 47, 65 and 85, 1972.

† Act No. 51, 1973.

‡ Act No. 52, 1973.

§ Act No. 53, 1973.

|| Act No. 164, 1973.

(4) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act 1936-1973*.

Commencement.

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

Transactions involving shares held for 18 months or more.

3. Section 6D of the Principal Act is amended by inserting in paragraph (a) of sub-section (1), after the word "section", the words "and before 22 August 1973".

Exemptions.

4. (1) Section 23 of the Principal Act is amended by omitting paragraphs (k), (kaa), (kab) and (ka).

(2) Section 23 of the Principal Act is amended by omitting paragraph (p).

(3) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

(4) The amendment made by sub-section (2) has effect, and shall be deemed to have had effect, in relation to income derived after 21 August 1973 from the sale, transfer or assignment of rights to mine, other than income derived from a sale, transfer or assignment in pursuance of a contract made on or before that date.

5. (1) After section 23AC of the Principal Act the following section is inserted:—

Exemption of certain pensions.

"23AD. (1) In this section, unless the contrary intention appears—
'commencing day', in relation to a person who is a prescribed person, means—

(a) the day on which the person became a prescribed person or, if the person has become a prescribed person on more than one occasion, the day on which the person first became a prescribed person; or

(b) 1 July 1973,

whichever is the later;

'excepted payment' means a payment of an excepted pension made to or in respect of a prescribed person on or after the day that is the commencing day in relation to the person, other than—

(a) a payment of an excepted pension (not being a wife's pension) that was made to or in respect of a woman who had not attained the age of 60 years; or

(b) so much of a payment of an excepted pension as—

(i) was included in the payment by reason that the person or the spouse of the person paid rent, lodging, or board and lodging;

- (ii) in the case where the person or the spouse of the person had the custody, care and control of a child or children or the person had another person dependent on him for support—is determined by the Commissioner to have been attributable to the child or children or other dependent person; or
- (iii) constituted an instalment of pension that fell due on a pension pay-day on which the person was not a prescribed person;

‘excepted pension’ means a pension, allowance or benefit payable in accordance with—

- (a) paragraph (c) or (f) of section 4, Part III, IV, IVAAA, IVAA or VII, sub-section (1) of section 135D, sub-section (6) or (7) of section 135T or section 135U of the *Social Services Act* 1947–1973;
- (b) section 9 of the *Tuberculosis Act* 1948;
- (c) Division 5 of Part III of the *Repatriation Act* 1920–1973 (including that Division as applying by virtue of Division 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation (Special Overseas Service) Act* 1962–1973); or
- (d) Table A in Schedule 3 to the *Repatriation Act* 1920–1973 (including that Table as applying by virtue of the *Repatriation (Far East Strategic Reserve) Act* 1956–1973, the *Repatriation (Special Overseas Service) Act* 1962–1973 or the *Interim Forces Benefits Act* 1947–1973), to the extent that the pension concerned—
 - (i) is payable by reason that the pensioner is a parent of a deceased member of the Forces within the meaning of the Act concerned or of the relevant Part of that Act and is payable in circumstances constituting a prescribed case for the purposes of that Table; and
 - (ii) exceeds the amount that would be assessed if the requirement in that Table to have regard to the maximum rate of age pension under sub-section (1A) of section 28 of the *Social Services Act* 1947–1973 were disregarded;

‘pension pay-day’, in relation to a pension, allowance or benefit, means a day on which an instalment of that pension, allowance or benefit is payable;

‘prescribed person’ means—

- (a) a man who has attained the age of 65 years;
- (b) a woman who has attained the age of 60 years; or
- (c) a woman to or in respect of whom a wife’s pension is payable;

‘ wife’s pension ’ means—

- (a) a pension or benefit payable to or in respect of a woman under the *Social Services Act* 1947–1973 by reason that she is the wife, as defined by Part III of that Act, of a man who is in receipt of a pension or benefit under that Act, being a man who has attained the age of 65 years;
- (b) a pension payable to or in respect of a woman under section 85 of the *Repatriation Act* 1920–1973 (including that section as applying by virtue of Division 6, 7, 8 or 9 of Part III of that Act or by virtue of the *Repatriation (Special Overseas Service) Act* 1962–1973) by reason that she is the wife, as defined by section 83 of the *Repatriation Act* 1920–1973, of a member of the Forces within the meaning of the Act concerned or of the relevant Part of that Act, being a member who has attained the age of 65 years; or
- (c) an allowance payable to or in respect of a woman under section 9 of the *Tuberculosis Act* 1948 by reason that she is the wife, as defined by Part III of the *Social Services Act* 1947–1973, of a man who is a sufferer from tuberculosis, being a man who has attained the age of 65 years.

“(2) For the purposes of this section, if a wife’s pension ceases to be payable to or in respect of a woman by reason of the death of another person, that pension shall be deemed to have ceased to be so payable—

- (a) if that other person died on a pension pay-day—immediately before that pension pay-day; or
- (b) in any other case—immediately before the last pension pay-day before the date of the death of that other person.

“(3) The following payments are exempt from income tax:—

- (a) payments (other than excepted payments) of pensions and attendants’ allowances, and payments (other than excepted payments) of a like nature, made under the *Repatriation Act* 1920–1973, the *Repatriation (Far East Strategic Reserve) Act* 1956–1973, the *Repatriation (Special Overseas Service) Act* 1962–1973 or the *Seamen’s War Pensions and Allowances Act* 1940–1973;
- (b) payments of pensions and allowances, and other payments, made by the Government of Australia or the Government of the United Kingdom of Great Britain and Northern Ireland, being payments that, in the opinion of the Commissioner, are of a similar nature to payments (other than excepted payments) referred to in paragraph (a);
- (c) payments of wounds and disability pensions of the kinds specified in sub-section (2) of section 365 of the Imperial Act known as the *Income and Corporation Taxes Act* 1970, other than payments

that, in the opinion of the Commissioner, are of a similar nature to excepted payments; and

(d) payments (other than excepted payments) by way of—

- (i) pension, allowance, endowment or benefit under the *Social Services Act 1947–1973*;
- (ii) allowance under the *Tuberculosis Act 1948*; and
- (iii) domiciliary nursing care benefit under Division 5B of Part V of the *National Health Act 1953–1973*.”

(2) Section 23AD of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

6. After section 26 of the Principal Act the following section is inserted:—

“ 26AAA. (1) For the purposes of this section—

- (a) a reference to property generally or to a particular kind of property includes a reference to an estate or interest in property or in that kind of property, as the case may be;
- (b) a reference to an agreement or option includes a reference to an agreement or option that is not enforceable by legal proceedings whether or not it was intended to be so enforceable;
- (c) an arrangement or understanding, whether formal or informal and whether express or implied, shall be deemed to be an agreement;
- (d) the acquisition of a share by way of a subscription of capital, with or without the payment of any other consideration, shall be deemed to be the purchase of that share;
- (e) the issue by a company to a person of shares in the company as, or as part of, the consideration for the sale of property by the person to the company shall be deemed to constitute the purchase by the person of the shares so issued;
- (f) if property is transferred from a person or persons to another person or other persons in exchange for other property or without consideration, the transfer shall be deemed to constitute the sale of the property by the first-mentioned person or persons and the purchase of the property by the second-mentioned person or persons; and
- (g) if land is sold to or purchased by a person in pursuance of a contract, the date on which the contract was made shall be deemed to have been the date on which the land was so sold or purchased.

Assessable
income from
property
purchased
and sold
within 12
months.

“ (2) Where—

- (a) a taxpayer has purchased property after 21 August 1973 and before the commencement of this section or purchases property after the commencement of this section; and

- (b) the taxpayer has, whether before or after the commencement of this section, sold the property or an interest in the property before the expiration of the period of 12 months from the date on which he purchased the property,

then, subject to this section, the assessable income of the taxpayer includes any profit arising from the sale of the property or interest.

“(3) If—

- (a) a taxpayer sells property or an interest in property after the expiration of the period of 12 months from the date on which he purchased the property; and
- (b) the sale is made in pursuance of an option granted, or an agreement entered into, during that period,

sub-section (2) has effect as if the sale had been made before the expiration of that period.

“(4) Where—

- (a) sub-section (2) applies in relation to the sale of any property by a taxpayer;
- (b) the Commissioner is satisfied that, having regard to any connexion between the taxpayer and the person to whom the property is so sold or any other relevant circumstances, the taxpayer and the other person were not dealing with each other at arm's length; and
- (c) there was no consideration for the sale or the consideration for the sale was greater or less than the amount (in this sub-section referred to as the ‘relevant amount’) that, in the opinion of the Commissioner, was the value of the property—
 - (i) in the case of a sale made before the expiration of the period of 12 months from the date on which the taxpayer purchased the property—at the time of the sale; or
 - (ii) in the case of a sale made after the expiration of that period in pursuance of an option granted, or an agreement entered into, during that period—at the time when the option was granted or the agreement was entered into, as the case may be,

then, for the purposes of this section, the property shall be deemed to have been sold by the taxpayer, and purchased by the person to whom it is so sold, for a consideration equal to the relevant amount.

“(5) Sub-section (2) does not apply in relation to a sale by a taxpayer of property if—

- (a) the property was included in the assets of a business carried on by the taxpayer and, as a result of the sale, an amount will be

included in the assessable income of the taxpayer of the year of income under a provision of this Act other than this section;

- (b) section 54 applied in relation to the property and, as a result of the sale, section 59 applies in relation to the property; or
- (c) the property consists of—
 - (i) an estate or interest in land on which is situated a dwelling, or in a flat or home unit, used by the taxpayer after the date on which he purchased the property as his sole or principal residence; or
 - (ii) a share in a company that entitles the holder of the share to a right of occupancy in relation to a flat or home unit used by the taxpayer after that date as his sole or principal residence,

and the sale took place as a result of a change in the place of employment or place of business of the taxpayer.

“(6) Where part only of any land referred to in sub-paragraph (i) of paragraph (c) of sub-section (5) was occupied by a dwelling that was used by the taxpayer as his sole or principal residence after the date referred to in that sub-paragraph, then sub-section (5) operates to exclude from the application of sub-section (2) only so much of any profit arising from the sale of property consisting of an estate or interest in that land as may appropriately be related to that part of the land.

“(7) Where—

- (a) a taxpayer has purchased or purchases property being shares in a company; and
- (b) before the expiration of 12 months from the date on which the taxpayer purchased the shares, the company issued other shares (in this sub-section referred to as the ‘bonus shares’) to the taxpayer in satisfaction of a dividend (including a dividend debited against an amount standing to the credit of a share premium account) payable to the taxpayer in respect of the first-mentioned shares,

the taxpayer shall be deemed, for the purposes of this section, to have purchased the bonus shares at the time when, and as part of the transaction by which, he purchased the shares in respect of which the dividend was payable.”.

7. (1) Section 31A of the Principal Act is repealed.

(2) Where, by reason of the repeal of section 31A of the Principal Act, the value of any prescribed trading stock owned by a taxpayer that is to be taken into account at the end of the year of income that commenced on 1 July 1973 exceeds the value at which that trading stock

Value of
trading
stock of
winemaker.

would have been so taken into account if that section had not been repealed—

- (a) the value of that trading stock that is to be taken into account at the end of that year of income shall be reduced by four-fifths of the excess;
- (b) the value of any prescribed trading stock owned by the taxpayer that is to be taken into account at the end of the year of income that commences on 1 July 1974 shall be reduced by three-fifths of the excess or by the value of that trading stock, whichever is the less;
- (c) the value of any prescribed trading stock owned by the taxpayer that is to be taken into account at the end of the year of income that commences on 1 July 1975 shall be reduced by two-fifths of the excess or by the value of that trading stock, whichever is the less; and
- (d) the value of any prescribed trading stock owned by the taxpayer that is to be taken into account at the end of the year of income that commences on 1 July 1976 shall be reduced by one-fifth of the excess or by the value of that trading stock, whichever is the less.

(3) Where sub-section (2) applies for the purpose of ascertaining the value of any prescribed trading stock at the end of a year of income, the value so ascertained shall be deemed, for the purposes of section 29 of the *Income Tax Assessment Act 1936-1973*, to have been ascertained under that Act.

(4) In this section, “prescribed trading stock”, in relation to a taxpayer, means trading stock owned by the taxpayer to which section 31A of the Principal Act would have applied if that section had not been repealed.

(5) The repeal effected by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

Dividends.

8. (1) Section 44 of the Principal Act is amended—

- (a) by omitting sub-sections (2), (2A), (2B) and (2C) and substituting the following sub-section:—

“(2) Subject to the succeeding provisions of this section, the assessable income of a shareholder shall not include dividends paid by a company wholly and exclusively out of profits (not being profits that are included in the assessable income of the company by reason of section 26AAA) arising from the sale or re-valuation of assets not acquired for the purpose of re-sale at a profit or from the issue at a premium of any instrument that is a

convertible note for the purposes of Division 3A (not being a convertible note in relation to which sub-section (1) of section 82s has effect or has at any time had effect) if the dividends paid from such profits are satisfied by the issue of shares (other than redeemable shares) of the company declaring the dividends.”;

(b) by omitting from sub-section (2D) the words “ of paragraph (ca) ”; and

(c) by omitting sub-sections (3) and (6).

(2) The amendments made by sub-section (1) apply in relation to dividends paid on or after 22 August 1973 other than dividends declared before that date.

(3) Where the directors of a company shares in which were listed for quotation in the official list of a stock exchange in Australia or elsewhere recommended before 22 August 1973 the payment of a dividend on any of those shares and a dividend was declared by that company on or after that date in respect of those last-mentioned shares in accordance with the recommendation, that dividend shall be deemed, for the purposes of sub-section (2), to have been declared before that date.

9. (1) Section 46 of the Principal Act is amended by omitting from sub-section (9) the words “ subject to section 116A ” and substituting the words “ subject to sections 116AA and 116A ”. Rebate on dividends.

(2) Section 46 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(10) A company that is a resident of Australia by reason only of the operation of sub-section (2) of section 7 is not entitled to a rebate under this section in its assessment in respect of dividends derived by the company on or after 26 October 1973.”.

(3) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

10. Section 46A of the Principal Act is amended by adding at the end thereof the following sub-section:— Rebate on dividends paid as part of dividend stripping operation.

“(17) A company that is a resident of Australia by reason only of the operation of sub-section (2) of section 7 is not entitled to a rebate under this section in its assessment in respect of dividends derived by the company on or after 26 October 1973.”.

11. Section 57AA of the Principal Act is amended by adding at the end thereof the following sub-sections:— Special depreciation allowance to primary producers.

“(9) This section does not apply in relation to a unit of property if—

(a) the cost of the unit consists wholly of excepted expenditure; or

- (b) a change occurred after 21 August 1973 in the ownership of the unit.

“(10) Where this section applies in relation to a unit of property the cost of which includes excepted expenditure—

- (a) the excepted expenditure shall not be included in the cost of the unit for the purposes of this section;
- (b) depreciation shall be allowed in respect of the unit in accordance with the provisions of this Subdivision other than this section in addition to depreciation in accordance with this section; and
- (c) for the purpose of the allowance of depreciation in accordance with those provisions, the cost of the unit shall be deemed not to include any part of that cost that is included in the cost of the unit for the purposes of this section.

“(11) In this section, ‘excepted expenditure’ means expenditure incurred after 21 August 1973 but does not include expenditure incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.”.

Depreciation
on property
used for
primary
production
in the
Northern
Territory.

12. Section 57AB of the Principal Act is amended by adding at the end thereof the following sub-sections:—

- “(8) This section does not apply in relation to a unit of property if—
- (a) the cost of the unit consists wholly of excepted expenditure; or
 - (b) a change occurred after 21 August 1973 in the ownership of the unit.

“(9) Where this section applies in relation to a unit of property the cost of which includes excepted expenditure—

- (a) the excepted expenditure shall not be included in the cost of the unit for the purposes of this section;
- (b) depreciation shall be allowed in respect of the unit in accordance with the provisions of this Subdivision other than this section in addition to depreciation in accordance with this section; and
- (c) for the purpose of the allowance of depreciation in accordance with those provisions, the cost of the unit shall be deemed not to include any part of that cost that is included in the cost of the unit for the purposes of this section.

“(10) In this section, ‘excepted expenditure’ means expenditure incurred after 21 August 1973 but does not include expenditure incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.”.

13. Section 62AA of the Principal Act is amended by adding at the end thereof the following sub-sections:—

Special deduction for investment in manufacturing plant.

“(14) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 21 August 1973 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.

“(15) A deduction is not allowable under this section in respect of any expenditure incurred by a taxpayer after 30 June 1975.”.

14. Section 62AB of the Principal Act is amended by adding at the end thereof the following sub-section:—

Special deduction for investment in plant used in primary production.

“(10) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 21 August 1973 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.”.

15. (1) Section 72 of the Principal Act is amended by inserting after sub-section (1A) the following sub-sections:—

Rates and taxes.

“(1B) A deduction is not allowable under this section in respect of an amount paid by a taxpayer unless—

- (a) the amount is paid in respect of land that is, or premises that are, used by the taxpayer during the year of income for the purpose of gaining or producing income or carrying on a business for the purpose of gaining or producing income; or
- (b) the amount is paid in respect of a dwelling, flat or home unit that is used by the taxpayer during the year of income as his sole or principal residence.

“(1C) If an amount referred to in paragraph (a) of sub-section (1B) is paid in respect of land that is, or premises that are, used by the taxpayer during the year of income partly for the purpose of gaining or producing income and partly for another purpose, so much only of that amount is allowable as a deduction by virtue of that paragraph as, in the opinion of the Commissioner, is reasonable in the circumstances.

“(1D) The amount allowable as a deduction, or the sum of the amounts allowable as deductions, to a taxpayer under this section in respect of any one year of income by reason that a dwelling, flat or home unit was used by the taxpayer during that year of income as his sole or principal residence shall not exceed \$300.

“(1E) Where, in a year of income, two or more taxpayers pay amounts for rates or land tax, or amounts in respect of, or of a share of, an amount of rates or land tax, in respect of the same dwelling, flat or home unit, being a dwelling, flat or home unit used concurrently by them during that year of income as their sole or principal residence, the deductions to

which those taxpayers are entitled under this section in respect of those amounts in respect of that year of income are such respective amounts, not exceeding in the aggregate \$300, as, in the opinion of the Commissioner, are reasonable in the circumstances.

“(1F) For the purposes of sub-sections (1B) and (1E), an amount paid in respect of a parcel of land on which a dwelling is situated shall be deemed to be an amount paid in respect of the dwelling.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

Certain
expenditure
on land used
for primary
production.

16. Section 75 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(3) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 21 August 1973 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.”.

17. (1) After section 75 of the Principal Act the following section is inserted:—

Deduction of
certain
expenditure
on land used
for primary
production.

“75A. (1) This section applies to expenditure incurred by a taxpayer who carries on a business of primary production on any land in Australia or Papua New Guinea, being expenditure incurred in—

- (a) the eradication or extermination of animal or vegetable pests from the land;
- (b) the destruction and removal of timber, scrub or undergrowth indigenous to the land;
- (c) the destruction of weed or plant growth detrimental to the land;
- (d) the preparation of the land for agriculture;
- (e) ploughing and grassing the land for grazing purposes;
- (f) the draining of swamp or low-lying lands where that operation improves the agricultural or grazing value of the land;
- (g) preventing or combating soil erosion or flooding on the land; or
- (h) conserving or conveying water for use in carrying on primary production on the land.

“(2) This section does not apply to expenditure incurred by a taxpayer where—

- (a) a deduction has been allowed, or is allowable, in respect of the expenditure under any other provision of this Act from the assessable income of the taxpayer or of any other person of any year of income; or
- (b) the taxpayer has been recouped, or is entitled to be recouped, in respect of the expenditure by Australia, by a State, by the Administration of a Territory, by an authority constituted by or under a

law of Australia or of a State or Territory or by any other person and the amount recouped or to be recouped is not and will not be included in assessable income of the taxpayer of any year of income.

“(3) Where a taxpayer incurs expenditure to which this section applies, an amount equal to one-tenth of that expenditure is, subject to sub-section (4), an allowable deduction in the assessment of the taxpayer in respect of income of the year of income in which the expenditure is incurred and in respect of each of the nine succeeding years of income.

“(4) A deduction in respect of expenditure incurred by a taxpayer in relation to land is not allowable under this section in the assessment of the taxpayer in respect of income of a year of income unless the taxpayer carried on a business of primary production on that land in that year of income or derived in that year of income assessable income from that land by reason of his having granted a lease of that land to a person who carried on a business of primary production on that land in that year of income.

“(5) This section does not apply in relation to the calculation of the net income of a partnership, or a partnership loss, in accordance with section 90, but, where a partnership has incurred expenditure to which this section would apply if the partnership were a taxpayer, then, for the purposes of the application of sub-section (3) in respect of a partner in the partnership, that partner shall be deemed to have incurred—

- (a) so much of the amount of that expenditure as the partners have agreed is to be borne by that partner; or
- (b) if the partners have not agreed as to the part of that amount that is to be borne by that partner—so much of that amount as bears to that amount the same proportion as the individual interest of the partner in the net income of the partnership of the year of income in which the relevant expenditure was incurred bears to that net income or, as the case requires, as the individual interest of the partner in the partnership loss for that year of income bears to that partnership loss.”.

(2) Section 75A of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

18. Section 76 of the Principal Act is amended by adding at the end thereof the following sub-section:—

Expenditure
on fences.

“(3) A deduction is not allowable under this section in respect of expenditure incurred by a taxpayer after 21 August 1973 unless the expenditure was incurred in pursuance of a contract made on or before that date, being a contract under which goods were to be acquired by, or work was to be performed for, the taxpayer.”.

Gifts.

19. Section 78 of the Principal Act is amended—

- (a) by omitting sub-paragraph (vii) of paragraph (a) of sub-section (1) and substituting the following sub-paragraph:—
 - “(vii) a public fund established and maintained for providing money for the construction or maintenance of a public memorial relating to the war that commenced on 4 August 1914 or to the war that commenced on 3 September 1939, being a fund that was established on or before 21 August 1973;”;
- (b) by omitting from paragraph (a) of sub-section (5) the words “Prime Minister, or by a person authorized in writing by him to act for the purposes of that sub-paragraph,” and substituting the words “Minister for Education”;
- (c) by omitting from paragraph (b) of sub-section (5) the words “Prime Minister, or a person authorized in writing by him to act for the purposes of that sub-paragraph,” and substituting the words “Minister for Education”; and
- (d) by adding at the end of the section the following sub-section:—
 - “(6) A gift to a fund of a kind referred to in sub-paragraph (vii) of paragraph (a) of sub-section (1) is not an allowable deduction by virtue of that sub-paragraph unless the gift was made before 1 July 1974.”.

Losses of
previous
years.

20. (1) Section 80 of the Principal Act is amended by omitting from sub-section (3A) the words “paragraph (ca) of”.

(2) The amendment made by sub-section (1) applies in relation to dividends paid on or after 22 August 1973 other than dividends declared before that date.

(3) Where the directors of a company shares in which were listed for quotation in the official list of a stock exchange in Australia or elsewhere recommended before 22 August 1973 the payment of a dividend on any of those shares and a dividend was declared by that company on or after that date in respect of those last-mentioned shares in accordance with the recommendation, that dividend shall be deemed, for the purposes of sub-section (2), to have been declared before that date.

Private
companies.

21. (1) Section 103A of the Principal Act is amended by inserting after sub-section (5) the following sub-section:—

“(5A) The Commissioner may, in pursuance of sub-section (5), form an opinion that it is reasonable that a company should be treated as a public company for the purposes of sub-section (1) in relation to a year of income notwithstanding that—

- (a) if the Commissioner did not form such an opinion, the company would not, or might not, be liable to pay additional tax in accordance with section 104; or
- (b) the forming of such an opinion by the Commissioner would impose on the company a liability to pay a greater amount of income tax than the company would otherwise be liable to pay.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1972 and in respect of income of all subsequent years of income.

22. Section 103AA of the Principal Act is amended—

Prescribed
dividends.

(a) by omitting paragraph (a) of sub-section (1) and substituting the following paragraph:—

“(a) was derived on or after 20 July 1972 and before 26 October 1973 by a company that—

- (i) was a resident of Papua New Guinea and was not a resident of Australia; and
- (ii) was a private company in relation to the year of income of that company in which the dividend was derived,

or was derived on or after 26 October 1973 by a company that—

- (iii) was not a resident of Australia; and
- (iv) was a private company in relation to the year of income of that company in which the dividend was derived; and ”;

(b) by omitting paragraph (a) of sub-section (2) and substituting the following paragraph:—

“(a) was derived on or after 20 July 1972 and before 26 October 1973 by a company that—

- (i) was a resident of Papua New Guinea and was not a resident of Australia; and
- (ii) was a private company in relation to the year of income of that company in which the dividend was derived,

or was derived on or after 26 October 1973 by a company that—

- (iii) was not a resident of Australia; and
- (iv) was a private company in relation to the year of income of that company in which the dividend was derived; and ”;

(c) by omitting from paragraph (d) of sub-section (4) the word “ and ” (last occurring);

(d) by inserting after paragraph (d) of sub-section (4) the following paragraph:—

“(da) so much of any part of the relevant dividend that is not required to be disregarded by virtue of paragraph (a), (b), (c) or (d) as the Commissioner is satisfied has been, or will be, applied in payment of tax payable under any law in force in Australia or another country in respect of—

- (i) the relevant dividend; or

- (ii) so much of any dividend paid by the company that derived the relevant dividend or by any other company as may appropriately be related to the relevant dividend; and ”; and

(e) by adding at the end thereof the following sub-section:—

“ (9) In paragraph (a) of sub-section (1) and paragraph (a) of sub-section (2), the expression ‘ resident of Australia ’ has the meaning that that expression would have if sub-section (2) of section 7 had not been enacted.”.

23. (1) Section 105B of the Principal Act is repealed and the following section substituted:—

Retention
allowance.

“ 105B. The retention allowance of a private company in respect of its distributable income of a year of income is the aggregate of—

- (a) 50 per centum of the reduced distributable income; and
(b) 10 per centum of so much of any income of the company (other than dividends received from other private companies) derived from property as is included in the distributable income.”.

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income that commenced on 1 July 1972 and in respect of income of all subsequent years of income.

Deductions
in relation
to calculated
liabilities.

24. (1) Section 115 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the figure “ 3 ” (wherever that figure occurs in a formula) and substituting the figure “ 2 ”; and
(b) by omitting from paragraph (c) of that sub-section the formula $\frac{9ab}{400c}$ and substituting the formula $\frac{3ab}{200c}$.

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

25. (1) After section 116 of the Principal Act the following section is inserted:—

Reduction
in amounts
of dividends
to be taken
into account
for purposes
of section 46.

“ 116AA. (1) Where a deduction is allowable from the assessable income of a life assurance company of the year of income under section 113 or 115 or deductions are allowable from the assessable income of a life assurance company of the year of income under both of those sections, then, for the purpose of ascertaining the amount of a rebate to which the company is entitled under sub-section (2) of section 46, or that might be allowed to the company under sub-section (3) of that section, in its assessment in respect of income of the year of income—

- (a) the amount (in this section referred to as the ‘ primary amount ’) to which the average rate of tax payable by the company would, but for this section, be applied under sub-section (2) of section 46

shall be reduced by so much of the amount ascertained under whichever of the following sub-paragraphs is applicable as does not exceed the primary amount:—

- (i) if a deduction is allowable only under section 113—the amount by which that deduction would have been reduced if dividends (other than dividends paid by a company that is a co-operative company within the meaning of Division 9) that were included in the assessable income of the company of the year of income had not been so included but had continued to be included in the total income of the company of the year of income;
 - (ii) if a deduction is allowable only under section 115—the amount by which that deduction would have been reduced if the value, as at the end of the year of income, of the assets included in the insurance funds of the company, being assets from which the company derives assessable income, had been reduced by so much of that value as relates to shares included in those assets (other than shares in a company that is a co-operative company within the meaning of Division 9) but there was no reduction in the value, as at the end of the year of income, of all the assets included in the insurance funds of the company;
 - (iii) if deductions are allowable under both sections 113 and 115—an amount equal to the sum of the amount that would have been ascertained under sub-paragraph (i) if that sub-paragraph had been applicable and the amount that would have been ascertained under sub-paragraph (ii) if that sub-paragraph had been applicable; and
- (b) the amount (in this section referred to as the ‘secondary amount’) to which the average rate of tax payable by the company might, but for this section, be applied under sub-section (3) of section 46 shall be reduced by so much of the amount ascertained under whichever of sub-paragraphs (i), (ii) and (iii) of paragraph (a) is applicable (excluding any part of that amount that has been applied in reduction of the primary amount under paragraph (a)) as does not exceed the secondary amount.

“(2) The amount ascertained in accordance with sub-paragraph (i) or (ii) of paragraph (a) of sub-section (1) shall, for the purposes of that sub-section, be deemed to be reduced by so much of the amount of the deduction referred to in that sub-paragraph as is taken into account, in pursuance of paragraph (a) of sub-section (9) of section 46A, in calculating the amount of a rebate allowable to the company under that section.

“(3) For the purposes of the application of this section in relation to a year of income (in this sub-section referred to as the ‘relevant year of income’), where—

- (a) a life assurance company has entered into an agreement, scheme or arrangement, or has done, or caused any other person to do,

any act or thing, for the purpose, or for purposes that included the purpose, or having the effect, of reducing the income from dividends that would otherwise be derived by the company in a year of income preceding the relevant year of income and, as a result of that agreement, scheme or arrangement or the doing of that act or thing, the income from dividends derived by the company in that preceding year of income was, in the opinion of the Commissioner, abnormally low having regard to all the circumstances; and

(b) the amount ascertained in accordance with sub-paragraph (i), (ii) or (iii), as the case may be, of paragraph (a) of sub-section (1) in that preceding year of income exceeded—

(i) the amount that constituted the primary amount in relation to the company in relation to that preceding year of income; or

(ii) if there was an amount that constituted the secondary amount in relation to the company in relation to that preceding year of income—the sum of the amounts that respectively constituted the primary amount and the secondary amount in relation to the company in relation to that preceding year of income,

so much of the excess as has not been applied in pursuance of this section in reducing the amount that constituted the primary amount or the amount that constituted the secondary amount in relation to the company in relation to a year of income that succeeded that preceding year of income but preceded the relevant year of income shall be applied in reduction successively of the amounts to which the amounts that constituted the primary amount and the secondary amount in relation to the company in relation to the relevant year of income are reduced under paragraph (a) or (b) of sub-section (1).

“(4) Nothing in this section affects the operation of section 113 and nothing in section 50 affects the operation of this section.”.

(2) Section 116AA of the Principal Act as amended by this Act applies to assessments in respect of income of the year of income that commenced on 1 July 1973 and in respect of income of all subsequent years of income.

Residual
capital
expenditure.

26. (1) Section 122c of the Principal Act is amended by omitting sub-section (3).

(2) The amendment made by sub-section (1) has effect, and shall be deemed to have had effect, in relation to income derived after 21 August 1973 from the sale, transfer or assignment of rights to mine, other than income derived from a sale, transfer or assignment in pursuance of a contract made on or before that date.

27. (1) Section 122J of the Principal Act is amended by omitting sub-section (5). Exploration and prospecting expenditure.

(2) The amendment made by sub-section (1) has effect, and shall be deemed to have had effect, in relation to income derived after 21 August 1973 from the sale, transfer or assignment of rights to mine, other than income derived from a sale, transfer or assignment in pursuance of a contract made on or before that date.

28. (1) Section 128A of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “ non-resident ”; Interpretation.

(b) by inserting after sub-section (1) the following sub-section:—

“ (1A) The expression ‘ non-resident ’ has, in this Division, the meaning that that expression would have if sub-section (2) of section 7 had not been enacted, and nothing in that sub-section affects any liability of a person to pay tax in accordance with this Division.”; and

(c) by omitting from sub-section (4) the words “ In sections ” and substituting the words “ In sections 103AA.”.

(2) The amendments made by sub-section (1) apply in respect of income derived after 25 October 1973.

29. Section 160AC of the Principal Act is amended—

(a) by omitting from paragraph (d) of the definition of “ export market development expenditure ” in sub-section (1) the word “ or ” (last occurring); Rebate for export market development expenditure.

(b) by adding at the end of that definition the following word and paragraph:—

“ ; or (f) outgoings incurred after 10 September 1973 in promoting the sale of meat unless the outgoings were incurred under a contract entered into on or before that date; ”; and

(c) by inserting in sub-section (1), after the definition of “ know-how ”, the following definition:—

“ ‘ meat ’ means fresh, chilled or frozen flesh or edible offal of bovine animals, sheep, goats or pigs, other than flesh or offal that has been canned, cooked or cured; ”.

30. After section 221 of the Principal Act the following Division is inserted:—

“ Division 1A—Collection by Instalments of Tax on Companies

“ 221AA. (1) In this Division, ‘ income tax ’ or ‘ tax ’ does not include income tax that a company is liable to pay in the capacity of a trustee. Interpretation.

“(2) In sections 206, 207, 208, 209, 214, 218, 254, 255, 258 and 259, but not in any other section of this Act, ‘income tax’ or ‘tax’ includes an instalment of tax payable in accordance with this Division.

“(3) In sections 208, 209, 214, 218, 254, 255, 258 and 259, but not in any other section of this Act, ‘income tax’ or ‘tax’ includes additional tax payable in accordance with sub-section (3) of section 221AG.

“(4) The ascertainment of the amount of any notional tax, or the amount of any instalment of tax, in accordance with this Division shall not be deemed to be an assessment within the meaning of any of the provisions of this Act.

“(5) All amounts of instalments of tax shall be calculated to the nearest dollar.

Companies
to which
Division
applies.

“221AB. This Division applies to a company that, in the year of income or in the year immediately preceding the year of income, had a taxable income in respect of which it is, or was, liable to pay income tax.

Liability to
pay instal-
ments of
tax.

“221AC. (1) Subject to sub-section (2), for the purpose of securing generally the more expeditious collection of income tax payable by companies, a company is liable to pay during the relevant year of tax an instalment of tax in accordance with this Division in respect of income of the year of income that ended on 30 June 1973 and in respect of income of each subsequent year of income.

“(2) Instalments of tax are not payable in respect of the income of a year of income unless an Act declaring the rates of income tax payable for the financial year for which income tax is imposed upon taxable incomes of companies of that year of income, or an Act declaring the rates of income tax payable for the financial year next preceding that financial year, provides that instalments of tax are payable in respect of income of the year of income in accordance with the provisions of this Division.

Amount of
notional tax.

“221AD. (1) Subject to sub-sections (2) and (3), the notional tax of a company in respect of a year of income is an amount equal to the income tax assessed in respect of the taxable income of the company of the year next preceding the year of income.

“(2) Subject to sub-section (3), where—

- (a) the rates of income tax payable by companies for a financial year are different from the rates declared by the Parliament for the next succeeding financial year; and
- (b) provision is made by the regulations for varying the amount of notional tax of companies in respect of the year of income to the income of which the last-mentioned rates apply,

then, on and after such date as is prescribed, the notional tax of the company in respect of that year of income is the amount ascertained in accordance with sub-section (1) as varied in accordance with the provision so made by the regulations.

“(3) Where an assessment has been made of the amount of income tax payable by a company in respect of its taxable income of the year of income, then, on and after the date shown on the notice of that assessment served on the company as being the date of issue of that notice, the notional tax of the company in respect of the year of income is an amount equal to the amount of income tax so payable.

“221AE. (1) Subject to sub-section (2), the amount payable by a company as an instalment of tax in respect of its income of a year of income is an amount equal to one-quarter of the amount that, on the date shown on a notice served on the company in accordance with section 221AF as being the date of issue of that notice, is the notional tax of the company in respect of that year of income.

Amount of
instalment
of tax.

“(2) The Commissioner may, having regard to the purpose for which this Division was enacted and to particular circumstances that exist in relation to a company, determine that the amount that, but for this sub-section, would be payable by the company as an instalment of tax in respect of its income of a year of income shall be reduced or that an instalment of tax is not payable by the company in respect of its income of a year of income.

“(3) The particular circumstances to which regard may be had under sub-section (2) in relation to a company include the operation, in relation to the company in relation to the year of income or the year immediately preceding the year of income, of section 45 or Division 18 of Part III or of the *Income Tax (International Agreements) Act 1953-1973*.

“(4) If, on the date on which income tax becomes due and payable in respect of the taxable income of a company of a year of income, the whole or a part of an amount payable as an instalment of tax in respect of the income of the company of that year of income has not been paid—

- (a) if no part of the income tax in respect of the taxable income of the company of the year of income has been paid—so much, if any, of the amount of the unpaid instalment as exceeds the amount of that income tax ceases, on that date, to be payable;
- (b) if part only of the income tax in respect of the taxable income of the company of the year of income has been paid—so much, if any, of the amount of the unpaid instalment or of the unpaid part of the instalment, as the case may be, as exceeds the amount of that income tax that has not been paid ceases, on that date, to be payable; or
- (c) if the whole of the income tax in respect of the taxable income of the company of the year of income has been paid—the amount of the unpaid instalment or of the unpaid part of the instalment, as the case may be, ceases, on that date, to be payable.

When
instalment
of tax
payable.

“ 221AF. (1) The Commissioner may, during a year of tax, cause a notice in writing to be served on a company specifying—

- (a) the amount payable by the company as the instalment of tax in respect of its income of the year of income; and
- (b) the date on which that amount is due and payable.

“(2) The date to be specified in a notice under sub-section (1) as the date on which an amount is due and payable by a company as the instalment of tax in respect of income of the company of a year of income shall be a date that is—

- (a) not earlier than 30 days after the date of service of the notice; and
- (b) not earlier than 31 December in the year of tax.

Estimated
income tax.

“ 221AG. (1) A company that has been served with a notice under sub-section (1) of section 221AF may, not later than the date on which the amount of the instalment of tax specified in that notice is due and payable, make an estimate of the amount of income tax, if any, that will be payable by the company in respect of its taxable income of the year of income to which the instalment of tax relates and furnish to the Commissioner a statement in writing showing—

- (a) the amount so estimated (in this section referred to as the ‘estimated income tax’);
- (b) the basis on which the estimate has been made; and
- (c) the amount, if any, that would, under sub-section (1) of section 221AE, have been payable by the company as that instalment (in this section and in section 221AH referred to as the ‘adjusted instalment of tax’) if, on the date referred to in that sub-section, the notional tax of the company in respect of that year of income had been an amount equal to the estimated income tax.

“(2) Where a company duly furnishes to the Commissioner, in relation to an instalment of tax, a statement under sub-section (1), the amount payable by the company as that instalment is, subject to sub-section (4), an amount equal to the adjusted instalment of tax.

“(3) If, in a case to which sub-section (4) does not apply, the amount of income tax payable by the company in respect of its taxable income of the year of income exceeds the estimated income tax, then, when that amount of income tax becomes due and payable, additional tax, in respect of the period that commenced on the day immediately following the day on which the amount of the instalment of tax specified in the notice referred to in sub-section (1) was due and payable and ended on the day on which the income tax payable by the company in respect of its taxable income of the year of income was due and payable, is due and payable by the company at the rate of 10 per centum per annum on the amount by which—

- (a) the amount payable as the instalment of tax as specified in the notice referred to in sub-section (1); or

- (b) the amount that, under sub-section (1) of section 221AE, would have been payable as the instalment of tax if, on the date referred to in that sub-section, the notional tax of the company in respect of the year of income had been an amount equal to the amount of income tax so payable by the company,

whichever is the less, exceeds the adjusted instalment of tax, but the Commissioner may, in a particular case, for reasons that he thinks sufficient, remit that additional tax or any part of that additional tax.

“(4) Where, having regard to information in returns of income lodged by the company and any other information in his possession, the Commissioner has reason to believe that the amount of income tax that will be payable by the company in respect of its taxable income of the year of income is greater than the estimated income tax—

- (a) the Commissioner may estimate the amount that, in his opinion, should have been the amount estimated by the company in pursuance of sub-section (1) in respect of that year of income; and
- (b) the amount payable by the company as the instalment of tax in respect of its income of that year of income is—
 - (i) an amount determined under section 221AE on the basis that, on the date referred to in sub-section (1) of that section, the notional tax of the company in respect of that year of income was an amount equal to the amount of income tax so estimated by the Commissioner; or
 - (ii) the amount of the instalment of tax as specified in the notice referred to in sub-section (1) of this section,

whichever is the less.

“(5) A reference in this section to the amount of income tax that is or will be payable by a company in respect of its taxable income of a year of income shall be read as a reference to the amount of the income tax that is or will be so payable after deducting any credits to which the company is or will be entitled under section 45 or Division 18 of Part III or under the *Income Tax (International Agreements) Act 1953–1973*.

“221AH. (1) Where—

- (a) a notice has been served on a company under sub-section (1) of section 221AF specifying the amount payable by the company as an instalment of tax in respect of its income of the year of income; and
- (b) by reason of—
 - (i) the making of a determination by the Commissioner under sub-section (2) of section 221AE; or

Notice of
alteration
of amount of
instalment.

- (ii) the operation of sub-section (4) of section 221AF or sub-section (2) of section 221AG,

the amount payable as the instalment has been reduced or the instalment is not payable,

the Commissioner shall cause to be served on the company a further notice in writing specifying the reduced amount as the amount payable as the instalment or stating that the instalment is not payable, as the case may be, and, if the further notice so specifies a reduced amount, the reduced amount is payable, or shall be deemed to have been payable, as the case may be, on the date specified in the first-mentioned notice.

“(2) Where, by reason of the operation of sub-section (4) of section 221AG, the amount payable by a company as the instalment of tax is greater than the adjusted instalment of tax, the notice served on the company under sub-section (1) of this section continues to have effect but the Commissioner shall cause to be served on the company a further notice in writing specifying—

- (a) the amount of the increase in the instalment of tax that became payable by reason of sub-section (4) of section 221AG; and
- (b) a date as the due date for payment of that amount, being a date not less than 14 days after the date of service of the last-mentioned notice,

and the amount of the increase in the instalment of tax so specified is, notwithstanding the provisions of section 221AF, due and payable on the date so specified.

Application
of payments
of instal-
ments of
tax.

“221AJ. (1) Where—

- (a) a company has been served, in accordance with sub-section (1) of section 221AF, with a notice specifying an amount payable as an instalment of tax in respect of its income of a year of income;
- (b) the company has been served, in accordance with sub-section (1) of section 221AH, with a further notice specifying a reduced amount as the amount of the instalment; and
- (c) the company has paid, in respect of the instalment, an amount exceeding—
 - (i) in a case to which sub-paragraph (ii) does not apply—the reduced amount; or
 - (ii) if the company has been served in accordance with sub-section (2) of section 221AH with a further notice specifying an amount of an increase in that instalment—the sum of the reduced amount and the amount of the increase,

the Commissioner shall credit the amount of the excess in payment successively of—

- (d) any income tax due and payable by the company in respect of its taxable income of that year of income; and

- (e) any other income tax or any withholding tax payable by the company whether or not that income tax or withholding tax is due for payment,

and is liable to refund to the company so much of the excess as is not so credited.

“(2) Where a company has paid the whole or a part of an instalment of tax in respect of its income of a year of income and—

- (a) an assessment has been made of the amount of income tax payable by the company in respect of its taxable income of that year of income; or
- (b) the Commissioner is satisfied that no income tax will be payable by the company in respect of its taxable income, if any, of that year of income,

the Commissioner shall credit the amount (in this sub-section referred to as the ‘residual amount’) remaining after deducting from the amount so paid by the company any part of the amount so paid that has been, or is required to be, credited or refunded in accordance with sub-section (1) in payment successively of—

- (c) any income tax payable by the company in respect of that taxable income whether or not that income tax is due for payment; and
- (d) any other income tax or any withholding tax payable by the company whether or not that income tax or withholding tax is due for payment,

and is liable to refund to the company so much of the residual amount as is not so credited.

“221AJ. (1) The production of a notice specifying an amount payable by a company as an instalment of tax, or of a document under the hand of the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of such a notice, is *prima facie* evidence that the amount of the instalment and all particulars relating to the instalment are correct.

Notice of instalment of tax to be *prima facie* evidence.

“(2) In this section, a reference to an instalment of tax includes a reference to an increase in an instalment of tax.”.

31. The heading to Division 2 of Part VI of the Principal Act is repealed and the following heading substituted:—

“Division 2—Collection by Instalments of Tax on Persons other than Companies”.

32. (1) Section 221A of the Principal Act is amended—

- (a) by omitting from paragraph (d) of the definition of “salary or wages” in sub-section (1) the word “or” (last occurring); and

Inter-pretation.

- (b) by inserting after paragraph (e) of that definition the following word and paragraph:—

“ ; or (f) by way of compensation or of sickness or accident pay in respect of incapacity for work, being payments calculated at a weekly or other periodical rate, but not including payments made under a policy of insurance to the owner of the policy,”.

(2) The amendments made by sub-section (1) apply in relation to payments made after the end of the month in which this Act receives the Royal Assent.

Inter-
pretation.

33. Section 221YK of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definitions of “Australia” and “non-resident”; and
(b) by inserting after sub-section (1) the following sub-section:—

“(1A) In this Division, the expression ‘non-resident’ has the meaning that that expression would have if sub-section (2) of section 7 had not been enacted.”.

Calculation
of pro-
visional
tax in
relation to
certain
aged persons
for year
of income
that com-
menced on
1 July 1973.

34. (1) Subject to this section, for the purposes of the application to a taxpayer, being an aged person, of sub-section 221YC (1) of the *Income Tax Assessment Act 1936–1973* in ascertaining the amount of provisional tax payable by the taxpayer in respect of the income of the year of income that commenced on 1 July 1973—

- (a) if paragraph (a) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph shall be taken to be an amount equal to the income tax that would have been assessed in respect of his taxable income of the year next preceding that year of income if section 8 of the *Income Tax Act 1972* had not been enacted; and
(b) if paragraph (b) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph shall be taken to be an amount equal to the income tax that would have been assessed in respect of his taxable income of the year next preceding that year of income if—
(i) his taxable income of that next preceding year had been equal to his provisional income; and
(ii) section 8 of the *Income Tax Act 1972* had not been enacted.

(2) A reference in sub-section (1) to an aged person is a reference to a man who had attained the age of 65 years, or a woman who had attained the age of 60 years, before 1 July 1973.

(3) If a taxpayer who is a prescribed person within the meaning of section 23AD of the Principal Act as amended by this Act or will become such a person during the year of income that commenced on 1 July 1973 furnishes to the Commissioner a notice in writing requesting the Commissioner to treat the amount of provisional tax payable by the taxpayer in respect of the income of that year of income as an amount specified in the notice, being an amount that is greater than the amount that, but for this sub-section, would be the amount of that provisional tax, the amount of that provisional tax is so much of the amount specified in the notice as the Commissioner considers appropriate.

35. For the purpose of ascertaining the amount of provisional tax payable by a taxpayer in accordance with Division 3 of Part VI of the Principal Act as amended by this Act in respect of the income of the year of income commencing on 1 July 1974, being a taxpayer who, before 26 October 1973, derived income (in this section referred to as "non-resident dividend or interest income") upon which withholding tax was not payable under the Principal Act but upon which withholding tax would have been payable under the Principal Act as amended by this Act if that income had been derived on or after the last-mentioned date—

Calculation of provisional tax of certain non-residents for year of income commencing on 1 July 1974.

- (a) a reference in that Division to assessable income shall, in relation to the taxpayer, be read as not including a reference to non-resident dividend or interest income;
- (b) the taxable income of the taxpayer for the year of income that commenced on 1 July 1973 shall be deemed to be the amount that would have been his taxable income for that year of income if his assessable income of that year of income had not included non-resident dividend or interest income; and
- (c) the income tax assessed in respect of the taxable income of the taxpayer for the year of income that commenced on 1 July 1973 shall be deemed to be the amount that would have been the amount of that income tax if his assessable income of that year of income had not included non-resident dividend or interest income.

36. Section 128D of the Principal Act as amended by this Act does not apply in relation to income derived before the commencement of this Act by a person who is a non-resident within the meaning of Division 11A of Part III of that Act as so amended and is a resident of Papua New Guinea unless the Commissioner is satisfied that any withholding tax payable upon that income under the Principal Act as so amended has been, or will be, paid.

Exclusion of income from assessable income not to apply in certain cases.