

# INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT.

No. 65 of 1957.

An Act to amend the Law relating to Income Tax.

[Assented to 28th November, 1957.]

**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 and Social Services Contribution Assessment Act 1957*.

(2.) The *Income Tax and Social Services Contribution Assessment Act 1936–1956*,\* as amended by the *Salaries (Statutory Offices) Adjustment Act 1957*,† is in this Act referred to as the Principal Act.

(3.) The Second Schedule to the *Salaries (Statutory Offices) Adjustment Act 1957* is amended by omitting the words—

“ *Income Tax and Social Services Contribution Assessment Act 1936–1956*

*Income Tax and Social Services Contribution Assessment Act 1936–1957*”.

\* 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; and Nos. 25, 30 and 101, 1956.

† Act No. 39, 1957.

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(4.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936-1957.*

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

3. Section five of the Principal Act is amended by omitting the word and figures “ (Sections 121A-121B) ” and inserting in their stead the word and figures “ (Section 121A) ”. Parts.

4. Section six of the Principal Act is amended— Interpretation

(a) by inserting in sub-section (1.), before the definition of “ agent ”, the following definition:—

“ ‘ adopted child ’, in relation to a person, means a person adopted by the first-mentioned person—

(a) under the law of a State or Territory of the Commonwealth relating to the adoption of children; or

(b) under the law of any other place relating to the adoption of children, if the validity of the adoption would be recognized under the law of any State or Territory of the Commonwealth; ” ;

(b) by inserting in sub-section (1.), after the definition of “ business ”, the following definition:—

“ ‘ child ’, in relation to a person, includes an adopted child, a step-child or an ex-nuptial child of that person; ” ; and

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

“ ‘ daughter ’, in relation to a person, includes an adopted child, a step-child or an ex-nuptial child, being a female, of that person; ”.

5. Section seven of the Principal Act is amended—

(a) by inserting after sub-section (1.) the following sub-section:— Taxpayer resident in Territories.

“ (1A.) This Act does not apply to income derived by a resident of the Island of Nauru from sources within that Island. ” ; and

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- (b) by omitting from sub-section (2.) the words “ this section ” and inserting in their stead the words “ sub-section (1.) of this section or in the Island of Nauru ”.

Calculation of depreciation.

6. Section fifty-six of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) Subject to this section, the depreciation allowable under this Act in respect of a unit of property in relation to a year of income is—

- (a) one and one-half times the percentage fixed by or under the last preceding section, or under the previous Act, of the depreciated value of that unit at the beginning of the year of income; or  
(b) at the option of the taxpayer, to be exercised in accordance with the next succeeding section, the percentage fixed by or under the last preceding section, or under the previous Act, of the cost of that unit.”.

7. After section fifty-six of the Principal Act the following section is inserted:—

Exercise of option.

“ 56A.—(1.) The option referred to in sub-section (1.) of the last preceding section is exercisable by a taxpayer in relation to either—

- (a) all units of property in respect of which depreciation is or will be allowable to him in accordance with that section; or  
(b) such of those units of property as have been, or will be—  
(i) first used by him for the purpose of producing assessable income; or  
(ii) installed ready for use by him for that purpose, during the year of income in relation to which the option first applies or during a subsequent year.

“ (2.) Where an option exercised by the taxpayer under paragraph (b) of sub-section (1.) of section fifty-six of the *Income Tax Assessment Act* 1936, or that Act as amended by any Act or Acts passed before the commencement of this section, or under the corresponding provisions of the previous Act, was applicable in relation to the assessment of his income of the year of income that ended on the thirtieth day of June, One thousand nine hundred and fifty-seven, the taxpayer shall be deemed to have exercised an option in accordance with the last preceding sub-section in relation to all units of property in respect of which depreciation is or will be allowable to him in accordance with the last preceding section, and that option shall apply in the first instance in relation to the year of income next succeeding the year of income that ended on that date.

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“(3.) A taxpayer who is, by virtue of the last preceding sub-section, deemed to have exercised an option may, in accordance with the next succeeding sub-section, exercise a further option, in relation to either—

- (a) all units of property in respect of which depreciation is or will be allowable to him in accordance with the last preceding section; or
- (b) such of those units of property as have been, or will be—
  - (i) first used by him for the purpose of producing assessable income; or
  - (ii) installed ready for use by him for that purpose, during the year of income in relation to which the further option first applies or during a subsequent year,

that the depreciation allowable as a deduction in respect of each such unit of property shall be calculated in accordance with paragraph (a) of sub-section (1.) of the last preceding section and, where such a further option is so exercised, the depreciation shall be calculated accordingly.

“(4.) An option referred to in sub-section (1.) of this section, or a further option referred to in the last preceding sub-section—

- (a) shall be exercised by notice in writing to the Commissioner;
- (b) shall be expressed to apply in the first instance in relation to a year of income specified in the notice and shall have effect accordingly; and
- (c) shall be lodged with the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the year of income referred to in the last preceding paragraph or within such further time as the Commissioner allows.”.

8. Section fifty-seven of the Principal Act is amended by inserting after the word “option” the words “referred to in section fifty-six of this Act or the further option”.

Alteration of method of calculation.

9. Section fifty-seven AA of the Principal Act is amended by omitting from sub-section (1.) the word “three” and inserting in its stead the word “four”.

Special depreciation allowance to primary producers.

10. Section fifty-seven AB of the Principal Act is amended by inserting in sub-section (2.), after the word “fifty-six,” the word and letter “fifty-six A,”.

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

11. Section fifty-eight of the Principal Act is repealed.

Depreciation under Commonwealth and State Acts.

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Disposal, loss  
or destruction  
of depreciated  
property.

12. Section fifty-nine of the Principal Act is amended—
- (a) by inserting in sub-section (2A.), before the word “ loss ”, the word “ disposal,”;
  - (b) by inserting in paragraph (a) of sub-section (2A.), before the word “ lost ”, the words “ disposed of,”;
  - (c) by inserting in sub-section (2D.), before the word “ lost ” (wherever occurring), the words “ disposed of,”; and
  - (d) by inserting in sub-section (2D.), before the word “ loss ” (wherever occurring), the word “ disposal,”.

13. After section fifty-nine AA of the Principal Act the following section is inserted:—

Notional  
income where  
assessable  
income includes  
consideration  
receivable on  
disposal, loss  
or destruction  
of depreciated  
property.

“ 59AB.—(1.) This section applies to a taxpayer where—

- (a) assets of a business carried on by—
  - (i) the taxpayer;
  - (ii) a partnership in which the taxpayer is a partner; or
  - (iii) the trustee of a trust estate to a share of the net income of which the taxpayer (not being a person under a legal disability) is presently entitled,are disposed of, lost or destroyed and, in consequence of their disposal, loss or destruction, that business ceases to be so carried on;
- (b) those assets include units of property in respect of which depreciation has been allowed or is allowable under this Act or the previous Act; and
- (c) an amount (in this section referred to as ‘ the balancing charge’) is included in the assessable income of the year of income of the taxpayer, partnership or trust estate, as the case may be, under sub-section (2.) of section fifty-nine of this Act in consequence of the disposal, loss or destruction of those assets,

but does not apply where—

- (d) the taxpayer is a company, except where, in respect of the whole or a part of the balancing charge, it is assessable as a trustee;
- (e) the provisions of Division 16 of this Part are applied in the assessment of the taxpayer; or
- (f) the taxpayer has, in relation to that disposal, loss or destruction, made a request in pursuance of sub-section (2A.) or sub-section (2D.) of section fifty-nine of this Act.

“(2.) For the purposes of this section, a part of the assessable income of a taxpayer to whom this section applies shall be deemed to be abnormal income, and that part shall be ascertained as follows:—

- (a) where the assets disposed of, lost or destroyed were assets of a business carried on by a taxpayer otherwise than in partnership or as the trustee of a trust estate, the abnormal income is the amount of the balancing charge;
- (b) where the assets disposed of, lost or destroyed were assets of a business carried on by a partnership of which the taxpayer is a partner, the abnormal income is so much of the balancing charge as is included in the individual interest of the taxpayer in the net income of the partnership; and
- (c) where the assets disposed of, lost or destroyed were assets of a business carried on by the trustee of a trust estate, the abnormal income is—
  - (i) for the purposes of an assessment of the trustee under any of the provisions of Division 6 of this Part—so much of the balancing charge as is included in the amount of the net income of the trust estate to which the assessment relates; and
  - (ii) for the purposes of the assessment of a taxpayer who is a beneficiary in the trust estate—so much of the balancing charge as is included in the share of the net income of the trust estate to which he is presently entitled.

“(3.) A taxpayer to whom this section applies may, on or before the date of lodgment of his return of income in respect of the year of income or within such further time as the Commissioner allows, apply in writing to the Commissioner for the determination under this section of a notional income in respect of the year of income.

“(4.) Where a taxpayer makes an application to the Commissioner in accordance with the last preceding sub-section, the succeeding provisions of this section apply for the determination of a notional income for the purpose of any Act by which a rate of tax upon the taxable income of a taxpayer is fixed by reference to a notional income.

“(5.) Subject to sub-section (7.) of this section, where the taxable income of the taxpayer is greater than his abnormal

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income, the notional income is the amount ascertained by deducting from the taxable income an amount equal to two-thirds of the abnormal income.

“(6.) Subject to the next succeeding sub-section, where the taxable income of the taxpayer is not greater than his abnormal income, the notional income is an amount equal to one-third of the taxable income.

“(7.) Where section eighty-six or section one hundred and fifty-eight D of this Act, or both of those sections, applies or apply in respect of the taxpayer, the notional income is, in lieu of the notional income determined in accordance with that section or those sections—

(a) where the notional income determined in accordance with that section or those sections is greater than the abnormal income of the taxpayer—the amount ascertained by deducting from the notional income so determined an amount equal to two-thirds of the abnormal income; or

(b) where the notional income determined in accordance with that section or those sections is not greater than the abnormal income of the taxpayer—an amount equal to one-third of the notional income so determined.”.

Repeal of sections 59A to 59E.

14. Sections fifty-nine A, fifty-nine B, fifty-nine C, fifty-nine D and fifty-nine E of the Principal Act are repealed.

Acquisition of depreciated property.

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

“(1A.) For the purposes of the last preceding sub-section, an amount that would, but for sub-section (2A.) or (2D.) of section fifty-nine of this Act, be included in the assessable income of the person selling the property shall be deemed to have been so included.”.

Expenditure on scientific research.

16. Section seventy-three A of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-section:—

“(5.) Notwithstanding anything contained in section fifty-five of this Act, the annual depreciation per centum in respect of plant used by the taxpayer for the purposes of scientific research only, being plant in respect of which depreciation is allowable under section fifty-four of this Act, shall be deemed to have been fixed under section fifty-five of this Act as thirty-three and one-third.”.

Gifts, contributions, allowances and pensions.

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

(a) by omitting from sub-paragraph (xxiv) of paragraph (a) of sub-section (1.) the word “and”; and

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(b) by adding at the end of paragraph (a) of sub-section (1.) the following sub-paragraphs:—

“(xxvi) the National Trust of Australia (New South Wales), the National Trust of Australia (Victoria) and the National Trust of South Australia;

“(xxvii) a public library, public museum or public art gallery, or an institution consisting of a public library, public museum and public art gallery or of any two of them;

“(xxviii) the Sydney Opera House Appeal Fund;

“(xxix) the Sidney Myer Music Bowl Trust;

“(xxx) the Industrial Design Council of Australia.”.

18.—(1.) Section eighty-two B 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. Class.	Second column. Dependant.	Third column. Amount of deduction.
1	Spouse of the taxpayer .. .. .	£143
2	Daughter-housekeeper .. .. .	£143
3	Child less than sixteen years of age .. .. .	In respect of one such child—£91 In respect of each other such child—£65
4	Student child .. .. .	£91
5	Invalid relative .. .. .	£91

(2.) Section eighty-two B of the Principal Act is amended by omitting from the definition of “invalid relative” in sub-section (5.) the word “step-child.”.

19. Section eighty-two c of the Principal Act is amended—

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

Parents of taxpayer and his spouse.

“(1.) Where, during the year of income, a taxpayer contributes to the maintenance of any person or persons (being a resident or residents) who, or each of whom, is a parent of the taxpayer or of his spouse, he is entitled to a deduction in accordance with this section in respect of that person, or each of those persons, as the case may be.”;



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- (b) by omitting from sub-sections (2.) and (4.) the words “One hundred and thirty pounds” and inserting in their stead the words “One hundred and forty-three pounds”; and
- (c) by inserting in paragraph (c) of sub-section (4.), after the word “contributing”, the words “or of the spouse or spouses of one or more of those persons”.

Housekeeper.

20. Section eighty-two D of the Principal Act is amended—
- (a) by omitting from paragraph (a) of sub-section (1.) the words “or step-child”; and
  - (b) by omitting from sub-sections (2.), (4.) and (5.) the words “One hundred and thirty pounds” and inserting in their stead the words “One hundred and forty-three pounds”.

Dispensaries to be deemed to be non-profit companies.

21. Section one hundred and twenty-one B of the Principal Act is repealed.

Amendment of assessments.

22. Section one hundred and seventy of the Principal Act is amended by omitting from sub-section (10.) the words “, sub-section (2D.) of section fifty-nine, or section fifty-nine A or fifty-nine B” and inserting in their stead the words “or sub-section (2D.) of section fifty-nine”.

Application of amendments.

- 23.—(1.) The amendments made by section five of 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 fifty-six, and in respect of income of all subsequent years.

(2.) Except as provided by the next succeeding sub-section, the amendments made by section four and sections six to twenty-two (inclusive) of 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 fifty-seven, and in respect of income of all subsequent years.

(3.) The amendments made by section four of this Act, to the extent that they affect section one hundred and two of the Principal Act, apply to assessments in respect of income of the year of income that commences on the first day of July, One thousand nine hundred and fifty-eight, and in respect of income of all subsequent years.