

INCOME TAX AND SOCIAL SERVICES CONTRIBUTION ASSESSMENT.

No. 39 of 1962.

An Act relating to Income Tax.

[Assented to 28th May, 1962.]

BE 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 and Social Services Contribution Assessment Act 1962*. Short title
and citation.

(2.) The *Income Tax and Social Services Contribution Assessment Act 1936–1961** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Income Tax and Social Services Contribution Assessment Act 1936–1962*.

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

3. Section five of the Principal Act is amended by omitting the words— Parts.

“ Division 10.—Mining (Sections 122–124D).”
and inserting in their stead the words—

“ Division 10.—Mining (Sections 122–124DA).”

4. Section

* 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; and Nos. 17, 27 and 94, 1961.

Partial exemption of income from certain mining operations.

4. Section twenty-three A of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(3.) Where an assessment in relation to which this section applies is affected by the operation of sub-section (2.), or paragraph (b) or (c) of sub-section (3.), of section one hundred and twenty-four DA of this Act, the amount that is exempt from income tax under this section shall be calculated as if the assessment had not been so affected.”

Calculation of depreciation.

5. Section fifty-six of the Principal Act is amended by inserting in sub-section (3.), after the word “depreciation”, the words “or under section sixty-two AA of this Act”.

Special depreciation allowance to primary producers.

6. Section fifty-seven AA of the Principal Act is amended—

(a) by omitting from sub-paragraph (ii) of paragraph (a) of sub-section (3.) the words “One thousand nine hundred and sixty-two” and the words “One thousand nine hundred and sixty-three” and inserting in their stead the words “One thousand nine hundred and sixty-seven” and the words “One thousand nine hundred and sixty-eight” respectively; and

(b) by omitting from sub-paragraph (ii) of paragraph (b) of sub-section (3.) the words “One thousand nine hundred and sixty-two” and inserting in their stead the words “One thousand nine hundred and sixty-seven”.

7. After section sixty-two of the Principal Act the following section is inserted:—

Special deduction for investment in manufacturing plants.

“62AA.—(1.) In this section—

‘concentration’, in relation to a metal, means the separation of the metal from its ore by any process, but does not include crushing, grinding, breaking, screening or sizing in order to enable or facilitate the carrying out of any such process;

‘goods’ includes—

(a) liquids, gases and substances; and

(b) ships and aircraft;

‘manufactured goods’ includes goods manufactured for the purpose of use as parts or materials in the manufacture of other goods;

‘manufacturing plant’ means a unit of property in relation to which this section applies;

‘metal’ includes a compound of a metal;

‘new’

'new' means not having previously been either used by any person or acquired or held by any person for use by that person.

"(2.) Subject to the next succeeding sub-section, this section applies in relation to any property being plant or articles owned by the taxpayer that is for use by the taxpayer primarily and principally, and directly—

- (a) in any part of the operations by means of which—
 - (i) manufactured goods are derived from other goods (including other manufactured goods) by the taxpayer or by persons on whose behalf the taxpayer performs services involving the use of that property; or
 - (ii) manufactured goods manufactured by the taxpayer or by other persons are (otherwise than by packing, placing in containers or labelling) brought into or maintained in the form or condition in which they are sold or used by the taxpayer or those other persons, as the case may be;
- (b) in the packing, placing in containers or labelling of any goods in relation to which he has used any property in relation to which this section applies;
- (c) in the disposal of waste substances resulting from the use of any property in relation to which this section applies;
- (d) in the cleansing or sterilizing of bottles, vats or other containers used by the taxpayer—
 - (i) in the storage of goods in relation to which any property in relation to which this section applies is to be used; or
 - (ii) in the storage or marketing of goods in relation to which any property in relation to which this section applies has been used;
- (e) in the transportation, within premises in which any property in relation to which this section applies is used, of goods in relation to which that property is to be or has been used;
- (f) in the storage, within premises in which any property in relation to which this section applies is used or premises contiguous to such premises, of goods in relation to which that property is to be or has been used; or

(g) in

(g) in the assembly, maintenance, cleansing, sterilizing or repair of property of the taxpayer in relation to which this section applies.

“(3.) This section does not apply in relation to—

(a) plant or articles for use in mining or quarrying operations, but not including operations referred to in paragraph (a) or (b) of the next succeeding sub-section;

(b) road vehicles, wherever or however used, of the kinds ordinarily used for the transport of persons or the delivery of goods (including the delivery of goods of a particular kind);

(c) plant or articles for use by the taxpayer primarily and principally for the purposes of the manufacture of goods to be used as materials, parts or fittings in the construction by the taxpayer of roads, bridges, dams, buildings or other structures;

(d) cooking appliances or other plant or articles for use for or in connexion with the preparation of food or drink (whether for consumption on the premises where it is prepared or elsewhere) in, or in premises occupied in connexion with, hotels, boarding houses, catering establishments, kitchens, restaurants, cafés, milk bars, coffee shops, retail shops or establishments similar to any of those establishments;

(e) plant or articles of a kind ordinarily used for office work;

(f) containers, spools or other articles in or on which goods are to be delivered by the taxpayer;

(g) plant or articles for use in the production of electric current, hydraulic power, steam, compressed air or gases, being production for purposes other than—

(i) sale by the producer; or

(ii) use by the producer primarily and principally for the purposes of the use of other property in relation to which this section applies;

(h) blocks, bolsters, core boxes, dies, driers, flasks, gauges, jigs, lasts, matrixes, moulds, patterns, saggars, stereotypes, templets and tooling (including workholding fixtures, working heads and tool holders), and articles of a description, or having a use, similar to that of any of those articles; or

(i) hand

- (i) hand tools and other loose tools, including anvils, arbors, augers, bits, blow lamps, braces, brushes, buckets, buffers, callipers, chisels, chucks, clamps, countersinks, cramps, crow bars, cutters, dial indicators, die-stocks, dividers, drills, emery wheels, explosive tools, face-plates, files, forks, funnels, gimlets, grease guns, grindstones, hammers, jacks, knives, levels, mallets, mandrels, measuring equipment, micrometers, nail-pullers, needles, oil cans, oil guns, picks, pincers, planer-knives, planes, pliers, portable electric or pneumatic hand tools, protractors, punches, rasps, reamers, ropes, saw-sets, saws, scales, scissors, scrapers, screwing tools, scribes, shears, shovels, sieves, soldering irons, spanners, spokeshaves, spray guns, stapling machines, stencils, strainers, taps, tap holders, thimbles, tin snips, tongs, torches, tube benders, vee blocks, vices and wrenches, and articles of a description, or having a use, similar to that of any of those articles.

“(4.) Subject to the last preceding sub-section and without either extending or restricting, by implication, the operation of sub-section (2.) of this section, this section applies in relation to any property being plant or articles owned by the taxpayer that is for use by the taxpayer primarily and principally, and directly, in—

- (a) the concentration of a metal or the treatment or processing of a metal after its concentration, or, in the case of a metal not requiring concentration, the application to the metal of a treatment or process which, if the metal had required concentration, would not have been applied until after the concentration;
- (b) the refining of petroleum;
- (c) the scouring or carbonizing of wool;
- (d) the milling of timber;
- (e) the freezing of primary products;
- (f) the operations of printing, lithographing or engraving in the course of the carrying on of business as a publisher, printer, lithographer or engraver;
- (g) the curing of meat or fish;
- (h) the

- (h) the production of chilled or frozen meat;
- (i) the pasteurizing of milk;
- (j) the canning of foodstuffs; or
- (k) the production of electric current, hydraulic power, steam, compressed air or gases (other than natural gas).

“(5.) Subject to this section, where the taxpayer has incurred expenditure of a capital nature on new manufacturing plant for use by him in Australia for the purpose of producing assessable income, there shall be allowed as a deduction from his assessable income of the first year of income during which that manufacturing plant is either used, as manufacturing plant, for the purpose of producing assessable income or installed ready for use, as manufacturing plant, for that purpose and held in reserve an amount equal to one-fifth of that expenditure.

“(6.) Where any manufacturing plant in relation to which a taxpayer is entitled to a deduction under the last preceding subsection in respect of a year of income has, at any time during that year, been used for the purpose of producing exempt income or installed ready for use for that purpose and held in reserve, only such part of the deduction otherwise allowable under that subsection in relation to that plant as in the opinion of the Commissioner is proper shall be an allowable deduction.

“(7.) Subject to the next succeeding sub-section, a deduction is not allowable under this section in relation to a unit of property owned by a taxpayer unless—

- (a) in the case of a unit purchased by the taxpayer—it was first received or taken into the premises of the taxpayer at which it has been used, or installed ready for use, on or after the seventh day of February, One thousand nine hundred and sixty-two;
- (b) in the case of a unit manufactured or constructed by the taxpayer—the manufacture or construction commenced on or after the seventh day of February, One thousand nine hundred and sixty-two; or
- (c) in the case of a unit constructed for the taxpayer by another person or persons on the premises of the taxpayer—the contract or contracts for the construction of the unit was or were entered into on or after the seventh day of February, One thousand nine hundred and sixty-two.

“(8.) For

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

- (a) a unit of property shall be taken to have been purchased by the taxpayer from another person if it has been manufactured by that other person to the order of the taxpayer (otherwise than by construction on the premises of the taxpayer);
- (b) a unit of property supplied to the taxpayer by another person under a contract made before the seventh day of February, One thousand nine hundred and sixty-two, shall not be taken to be included in paragraph (a) of that sub-section if, under that contract, it was to be supplied for the purpose of becoming an integral part of a unit of property which that other person had, by the same contract or by another contract made before that date, agreed to construct on the premises of the taxpayer;

(c) where—

- (i) at the seventh day of February, One thousand nine hundred and sixty-two, a unit of property, being new manufacturing plant, was under construction by the taxpayer at the premises of the taxpayer; and
- (ii) on or after that date goods purchased by the taxpayer have been received or taken into those premises (not having been on those premises before that date) and have been incorporated in that unit of property;

that unit of property shall, to the extent only that it includes those goods, be deemed to be covered by paragraph (a) of that sub-section; and

- (d) where a unit of property has been constructed for the taxpayer on the premises of the taxpayer by another person or persons partly under a contract or contracts made before the seventh day of February, One thousand nine hundred and sixty-two, in respect of a portion or portions of the construction and partly under a contract or contracts made on or after that date in respect of the remainder of the construction, that unit of property, to the extent that it is attributable to the work performed and materials supplied under the contract or contracts made on or after that date, shall be deemed to be covered by paragraph (c) of that sub-section.

“(9.) Where

“(9.) Where the Commissioner is satisfied that—

- (a) a contract was entered into by a taxpayer before the seventh day of February, One thousand nine hundred and sixty-two, for the construction by another person of, or of a portion of, a unit of property for the taxpayer on the premises of the taxpayer;
- (b) on or after that date and before the construction of that unit, or portion of a unit, of property was completed (whether or not it had been commenced) the taxpayer has entered into a contract for the construction for the taxpayer (whether by the same or by another person and whether with or without other property) of a unit, or portion of a unit, of property (in this sub-section referred to as ‘the substituted unit’), being identical with, or having a purpose similar to that of, the unit, or portion of a unit, of property to which the earlier contract related and intended by the taxpayer to be in lieu of that unit, or portion of a unit, of property; and
- (c) the taxpayer entered into the later contract for the purpose of obtaining a deduction under this section or a greater deduction under this section than the deduction to which he would otherwise have been entitled,

the Commissioner may refuse to allow a deduction under this section in relation to the expenditure of the taxpayer on the substituted unit, or may allow such a deduction in respect of such part only of that expenditure as he thinks fit.

“(10.) A deduction under this section is not allowable in respect of expenditure on manufacturing plant where—

- (a) depreciation in respect of the plant has been allowed or is allowable in accordance with section fifty-seven AA or fifty-seven AB of this Act;
- (b) a deduction in respect of the expenditure has been allowed or is allowable under section one hundred and twenty-two A of this Act; or
- (c) the expenditure has been, or is proposed to be, met out of moneys in respect of which a deduction has been allowed or is allowable under section one hundred and twenty-two B of this Act, if the plant is plant of a kind referred to in that section and the expenditure has been incurred in the year of income next succeeding the year of income in respect of which the deduction under that section has been allowed or is allowable.

“(11.) Subject

“(11.) Subject to the last preceding sub-section but notwithstanding the provisions of section eighty-two or section one hundred and twenty-four c of this Act, the deduction allowable under this section in respect of expenditure on a unit of property is allowable in addition to any deduction that is allowable in respect of that unit of property under any other provision of this Act.

“(12.) Where expenditure on new manufacturing plant has been incurred by a taxpayer and the taxpayer has been recouped or is entitled to be recouped for the whole or a part of that expenditure by any Government, authority or person, the expenditure in respect of which a deduction is allowable under this section shall not include the amount for which the taxpayer has been, or is entitled to be, so recouped unless that amount is or will be included in the taxpayer’s assessable income.”.

8. After section seventy-seven A of the Principal Act the following section is inserted:—

“ 77AA.—(1.) In this section—

‘ Australia ’ includes the Territory of Papua and New Guinea;

‘ mining company ’ means a company that carries on, or as to which the Commissioner is satisfied that it proposes to carry on, as its principal business mining or prospecting operations in Australia for prescribed minerals;

‘ mining or prospecting outgoings ’, in relation to a mining company, means outgoings of the company in, or for the purposes of enabling the company to engage in, mining or prospecting in Australia for prescribed minerals, and includes all expenditure by the company of a kind referred to in sub-section (1.) of section one hundred and twenty-two, or in section one hundred and twenty-three AA, of this Act in or in connexion with mining or prospecting in Australia for prescribed minerals;

‘ moneys paid on shares ’, in relation to a company, means moneys paid to the company in respect of shares in the company by the owners of the shares, including owners who are beneficial owners only, but does not include—

(a) moneys paid to the company before the thirteenth day of April, One thousand nine hundred and sixty-two;

(b) moneys

Moneys paid on shares for the purposes of certain mining or prospecting.

No. 39. *Income Tax and Social Services Contribution Assessment.* 1962.

(b) moneys paid to the company in respect of a share the beneficial owner, or any one of the beneficial owners, of which was not a resident at the time of payment; or

(c) moneys paid to the company on application for shares and applied by the company towards the paid-up value of a share the beneficial owner, or any one of the beneficial owners, of which, on the allotment of the share, was not a resident;

‘prescribed minerals’ means minerals other than gold, uranium and oil;

‘resident’ includes a resident of the Territory of Papua and New Guinea.

“(2.) Where a payment made in respect of a share in a company (whether on application for or allotment of the share, to meet calls or otherwise) is not applied by the company towards the paid-up value of the share, the payment shall, for the purposes of this section, be deemed not to have been made in respect of the share.

“(3.) Subject to this section, a mining company may, for the purposes of the next succeeding sub-section and section one hundred and twenty-four DA of this Act, before the expiration of one month after the end of a year of income of the company in which the company has received moneys paid on shares or within such further time as the Commissioner allows, lodge with the Commissioner a declaration in writing signed by the public officer of the company that the company has expended, or proposes to expend, such of those moneys as are specified in the declaration upon mining or prospecting outgoings.

“(4.) The amount of any moneys paid on shares paid by a person in a year of income of that person to a company and included in moneys specified in a declaration lodged by the company under the last preceding sub-section shall, subject to this section, be an allowable deduction from the assessable income derived by that person in that year of income.

“(5.) If, at any time, the Commissioner is not satisfied that any moneys specified in a declaration lodged by a company under sub-section (3.) of this section have been or will be expended by the company in accordance with the declaration, the Commissioner may inform the company, by notice in writing given for the purposes of this sub-section, that he is not so satisfied and, upon the company being so informed, the amount of any deduction

allowable

allowable under the last preceding sub-section by virtue of the declaration shall be reduced by an amount which bears to the amount of the deduction before being so reduced the same proportion as the amount of the moneys as to which the Commissioner is not so satisfied bears to the amount of the moneys specified in the declaration.

“(6.) If—

(a) a company has lodged a declaration with the Commissioner under this section; and

(b) the manner in which moneys specified in the declaration have been dealt with by the company cannot be readily ascertained from the records of the company,

the Commissioner may, having regard to all the circumstances of the case, determine the manner in which, for the purposes of this section and section one hundred and twenty-four DA of this Act, those moneys shall be regarded as having been dealt with by the company and those moneys shall, for those purposes, be deemed to have been so dealt with by the company.

“(7.) Sub-section (1.) of section eighty-two of this Act does not prevent a deduction from being allowable in respect of an amount both under this section and under paragraph (b) of sub-section (1.) of section seventy-eight of this Act, but where a deduction is allowable under this section in respect of any moneys to which a deduction allowable under paragraph (b) of sub-section (1.) of section seventy-eight of this Act is, in whole or in part, attributable, the amount of the deduction allowable under this section shall be reduced by one-third.

“(8.) Where moneys specified in a declaration lodged by a company under this section include moneys that the company is not entitled to specify in the declaration, the declaration is not invalid in relation to the moneys that the company is entitled to specify by reason only that the declaration also specifies the other moneys.

“(9.) A company is not entitled to lodge a declaration under this section in respect of moneys received by the company after the thirtieth day of June, One thousand nine hundred and sixty-four.”.

9.—(1.) Section seventy-eight of the Principal Act is amended—

Gifts, calls on
mining shares,
pensions, &c.

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

“(xxxviii) the Australian National Committee for the Freedom from Hunger Campaign;”;

and

(b) by

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

“(3.) A gift to the authority specified in subparagraph (xi) or (xxxviii) of paragraph (a) of sub-section (1.) of this section is not an allowable deduction under this section unless the gift was made before the first day of July, One thousand nine hundred and sixty-three.”.

(2.) The application of the amendment made by paragraph (a) of the last preceding sub-section extends to gifts made before the commencement of this Act.

10. After section one hundred and twenty-four D of the Principal Act the following section is inserted in Division 10 of Part III.:—

Reduction of
certain
allowable
deductions.

“124DA.—(1.) In this section—

‘ mining company ’ has the same meaning as in section seventy-seven AA of this Act;

‘ net declared capital ’, in relation to a mining company, means the sum, ascertained as at the end of the year of income, of the amounts of moneys received by the mining company prior to or during the year of income as moneys paid on shares and specified in a declaration or declarations duly lodged with the Commissioner by the company in pursuance of section seventy-seven AA of this Act and of any amount required to be added to the net declared capital in pursuance of sub-section (6.) of this section, less the sum of—

(a) any amounts that have been applied by the Commissioner in accordance with the next succeeding sub-section in the assessment of the income of the company of any prior year of income; and

(b) any amounts by which the amount that would otherwise be the net declared capital is required to be reduced in pursuance of paragraph (c) or (d) of sub-section (3.) of this section;

‘ prescribed deduction ’, in relation to a mining company, means—

(a) a deduction allowed or allowable, in an assessment of the income of the company, under any provision of this Division other than this section or section one hundred and twenty-three A; or

(b) in

1962. *Income Tax and Social Services Contribution* No. 39.
Assessment.

- (b) in the case of a company that has made an election in pursuance of section one hundred and twenty-three of this Act, a deduction allowed or allowable under section fifty-four or fifty-nine of this Act in respect of plant specified in the election.

“(2.) In the assessment of the income of a mining company—

- (a) that has at any time lodged a declaration or declarations under section seventy-seven AA of this Act;
(b) in respect of which there is, as at the end of the year of income, an amount of net declared capital; and
(c) which is, apart from this section, entitled in respect of the year of income to any prescribed deductions,

the Commissioner shall apply the whole or a part of the amount of the net declared capital as at the end of the year of income in reduction of those prescribed deductions in accordance with the following provisions:—

- (d) where the total of the prescribed deductions exceeds the net declared capital, he shall apply the whole of the amount of the net declared capital in reduction of the prescribed deductions by that amount; and
(e) where the total of the prescribed deductions does not exceed the net declared capital—he shall apply so much of the amount of the net declared capital as is equal to the total of the prescribed deductions in reduction of the prescribed deductions to nil.

“(3.) Where, during a year of income of a mining company, the Commissioner has given a notice to the company under sub-section (5.) of section seventy-seven AA of this Act, the following provisions shall apply:—

- (a) where the last preceding sub-section applies or has applied in relation to the assessment of the income of the company of the year of income in which the notice was given or of any prior year of income, the Commissioner shall ascertain the sum of the amounts by which prescribed deductions are to be, or have been, reduced, under that sub-section, in any such assessment;
(b) where the amount in respect of which the notice has been given does not exceed the amount ascertained under the last preceding paragraph, the former amount shall be an allowable deduction in the assessment of the income of the year of income in which the notice was given;

(c) where

No. 39. *Income Tax and Social Services Contribution* 1962.
Assessment.

(c) where the amount in respect of which the notice has been given exceeds the amount ascertained under paragraph (a) of this sub-section—

(i) the latter amount shall be an allowable deduction in the assessment of the income of the company of the year of income in which the notice has been given; and

(ii) the amount that would, but for this paragraph, be the amount of the net declared capital as at the end of any subsequent year of income shall be reduced by an amount equal to the excess; and

(d) where paragraph (a) of this sub-section is not applicable, the amount that would, but for this paragraph, be the amount of the net declared capital as at the end of any year of income subsequent to that in which the notice was given shall be reduced by the amount in respect of which the notice has been given.

“(4.) Where a deduction allowable under section one hundred and twenty-two B of this Act, by reason of an election under that section, from the assessable income of a mining company of a year of income has been reduced in accordance with sub-section (2.) of this section, any amount that would otherwise be included in the assessable income of the company of the next succeeding year of income under sub-section (3.) of that section shall be reduced by an amount equal to the amount by which the deduction under that section has been reduced.

“(5.) For the purposes of the last preceding sub-section, where prescribed deductions that include a deduction under section one hundred and twenty-two B of this Act have been reduced in accordance with sub-section (2.) of this section, the deduction under that section shall be taken not to have been reduced except to the extent to which the total amount of the reduction of those prescribed deductions exceeds the other prescribed deductions.

“(6.) Where a reduction of the assessable income of a company of a year of income has been made under sub-section (4.) of this section, there shall be added to the amount that would, but for this sub-section, be the net declared capital of the company as at the end of that year of income or any subsequent year of income an amount equal to the amount of the reduction.

“(7.) Notwithstanding that, in the assessment⁷ of the income of a mining company, any prescribed deductions have been reduced in pursuance of sub-section (2.) of this section, those prescribed deductions shall, for the purposes of the provisions

of

1962. *Income Tax and Social Services Contribution* No. 39.
Assessment.

of this Division other than this section and for the purposes of sections fifty-nine, sixty and sixty-two of this Act, be deemed to have been allowed in full.”.

11. Section one hundred and seventy of the Principal Act is amended by inserting in sub-section (10.), after the words “section seventy-seven A”, the words “, sub-section (5.) of section seventy-seven AA ”.

**Amendment
of assessments.**

12. Sections two hundred and ten, two hundred and eleven, two hundred and twelve and two hundred and twelve A of the Principal Act are repealed.

**Repeal of
certain
provisions
relating to
persons leaving
Australia.**