

SEVENTH SCHEDULE.

s. 6 (8.).

RATES OF TAX PAYABLE BY A COMPANY.

(a) Subject to the last preceding Schedule, for every pound of the taxable income of a company the rate of tax shall be twenty-four pence.

(b) Subject to the last preceding Schedule, for every pound of that portion of the taxable income of a company which has not been distributed as dividends on which the company is liable, pursuant to Part IIIA. of the *Income Tax Assessment Act 1936-1940*, to pay further tax, the rate of tax shall be twenty-four pence.

(c) For every pound of interest in respect of which a company is liable, pursuant to sub-section (1.) of section one hundred and twenty-five of the *Income Tax Assessment Act 1936-1940*, to pay income tax, the rate of tax shall be twenty-four pence.

WAR-TIME (COMPANY) TAX ASSESSMENT.

No. 90 of 1940

An Act relating to the Imposition, Assessment and Collection of a War-time Tax upon Companies.

[Assented to 17th December, 1940.]

[Date of commencement, 14th January, 1941.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *War-time (Company) Tax Assessment Act 1940*.

Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Liability to Taxation.

Part IV.—Percentage Standard.

Part V.—Capital.

Part VI.—Returns and Assessments.

Part VII.—Application of Income Tax Assessment Act.

Part VIII.—Miscellaneous.

Definitions.

3. In this Act, unless the contrary intention appears—

“accounting period” means—

(a) in the case of a company which in pursuance of the *Income Tax Assessment Act* has adopted or is deemed to have adopted an accounting period as its year of income for the purposes of that Act—the accounting period so adopted, or deemed to have been adopted, in lieu of the financial year next preceding the year of tax; or

(b) in any other case—the financial year next preceding the year of tax;

- “ Board of Referees ” means a Board of Referees constituted under this Act ;
- “ Board of Review ” means a Board of Review constituted under the Income Tax Assessment Act ;
- “ business ” includes any profession or trade carried on or carried out by a company and any transaction in the course of carrying on or carrying out any profit making undertaking or scheme by a company and the making of or dealing in investments ;
- “ capital employed ” means the capital of a company employed in Australia or in a Territory of the Commonwealth in gaining or producing the taxable profit ;
- “ company ” includes all bodies or associations corporate or unincorporate, but does not include partnerships ;
- “ holding company ” means a company which controls, or is in a position to control, any other company (which other company is in this definition referred to as “ the subsidiary company ”) either by virtue of its shareholdings in the subsidiary company or indirectly through another company, or by virtue of any agreement, express or implied, and which would be entitled to receive, either directly or indirectly, more than one-half of the profits earned by the subsidiary company during the accounting period if those profits were distributed ;
- “ income tax ” means the income tax imposed as such by any Act but does not include any tax assessed under the provisions of Part IIIA. of the Income Tax Assessment Act ;
- “ Income Tax Assessment Act ” means the *Income Tax Assessment Act 1936-1940* ;
- “ person ” includes a company ;
- “ subsidiary company ” means a company which a holding company controls or is in a position to control as specified in the definition of “ holding company ” ;
- “ taxable profit ” means the amount remaining after deducting from the taxable income of the accounting period as assessed under the Income Tax Assessment Act—
- (a) the income tax payable in respect of that taxable income ;
 - (b) so much of any dividend received by a company in respect of its shareholdings in any other company as is included in the taxable income of that first-mentioned company of the accounting period ; and
 - (c) in the case of the first accounting period of a company where that first accounting period is also the first year of income of the company under the Income Tax Assessment Act, any tax payable under the law of any State on the income derived by that company during that accounting period ;

- “ the Commissioner ” means the Commissioner of Taxation ;
 “ trading stock ” includes anything produced, manufactured, acquired or purchased for purposes of manufacture, sale or exchange, and also includes live stock, other than animals used as beasts of burden or working beasts by a company which is not a primary producer ;
 “ war-time (company) tax ” means the tax assessed under this Act ;
 “ year of tax ” means the financial year for which the war-time (company) tax is levied.

Extension of
Act to
Territories.

4. This Act shall extend to the Territories of Papua, Norfolk Island and New Guinea, but shall not apply to any profits derived from a business carried on in any of those Territories by a resident of any of those Territories.

PART II.—ADMINISTRATION.

Commissioner.

5.—(1.) For the purposes of this Act, there shall be a Commissioner of Taxation who shall have the general administration of this Act.

(2.) The person for the time being holding office as Commissioner of Taxation under the *Estate Duty Assessment Act 1914-1940* shall be the Commissioner of Taxation under this Act.

Second
Commissioner.

6.—(1.) For the purposes of this Act, there shall be a Second Commissioner of Taxation (in this Act referred to as “ the Second Commissioner ”).

(2.) Any person for the time being holding office as Second Commissioner of Taxation under the *Estate Duty Assessment Act 1914-1940* shall be the Second Commissioner under this Act.

Powers of
Second
Commissioner.

7.—(1.) Subject to this section, the Second Commissioner shall have and may exercise all the powers and functions of the Commissioner under this Act.

(2.) Where in this Act the exercise of any power or function by the Commissioner or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised by the Second Commissioner or that provision may operate (as the case may be) upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this section shall be deemed to confer upon the Second Commissioner any power or function of the Commissioner under sub-section (1.) of section five, or under section nine or eleven of this Act or to prevent the exercise of any power or function by the Commissioner under this Act, and the Commissioner shall have, in relation to any act of the Second Commissioner, the same power as if that act were done by himself.

Deputy
Commissioners.

8. For the purposes of this Act, there may be such Deputy Commissioners of Taxation as are required, who shall, subject to the control of the Commissioner, have such powers and functions as are prescribed, or as the Commissioner directs.

9.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand delegate to a Deputy Commissioner or other person all or any of his powers or functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

Delegation
by the
Commissioner.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation and the decision given upon any such review or alteration shall be deemed to be that of the Commissioner.

10. Any reference in this Act to the Commissioner shall be deemed to include—

Reference to
Commissioner.

- (a) in respect of matters as to which the Second Commissioner has exercised any power or function conferred upon him by this Act—a reference to the Second Commissioner; and
- (b) in respect of matters as to which a Deputy Commissioner has exercised any power or function conferred upon him by delegation under this Act—a reference to that Deputy Commissioner.

11.—(1.) The Commissioner shall furnish to the Treasurer annually for presentation to the Parliament, a report on the working of this Act.

Report by the
Commissioner.

(2.) In the report the Commissioner shall draw attention to any breaches or evasions of this Act which have come under his notice.

12.—(1.) For the purposes of this section, “officer” means a person who is or has been appointed or employed by the Commonwealth or by a State, and who by reason of that appointment or employment, or in the course of that employment, may acquire or has acquired information respecting the affairs of any other person, disclosed or obtained under the provisions of this Act.

Officers to
observe secrecy.

(2.) Subject to this section, an officer shall not either directly or indirectly, except in the performance of any duty as an officer, and either while he is, or after he ceases to be an officer, make a record of, or divulge or communicate to any person any such information so acquired by him.

(3.) An officer shall not be required to produce in Court any return, assessment or notice of assessment, or to divulge or communicate to any Court any matter or thing coming under his notice in the performance of his duties as an officer, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

(4.) Nothing in this section shall be deemed to prohibit the Commissioner, Second Commissioner, or a Deputy Commissioner, or any person thereto authorized by him, from communicating any information to a Board of Review or to a Board of Referees.

(5.) Any person to whom information is communicated under the last preceding sub-section, and any person or employee under his control shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities, under sub-sections (2.) and (3.) of this section, as if he were an officer.

(6.) Any officer shall, if and when required by the Commissioner, Second Commissioner or a Deputy Commissioner to do so, make an oath or declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

Penalty: Two hundred and fifty pounds or imprisonment for twelve months.

PART III.—LIABILITY TO TAX.

War-time
(company) tax.

13. Subject to this Act, war-time (company) tax at rates declared by the Parliament shall be levied and paid for the financial year commencing on the first day of July, One thousand nine hundred and forty and for each financial year thereafter upon the amount by which the taxable profit derived by any company during the accounting period exceeds the percentage standard.

Companies
exempt from
tax.

14. This Act shall not apply to—

- (a) a private company as defined in section one hundred and three of the Income Tax Assessment Act ;
- (b) a co-operative company as defined in section one hundred and seventeen of the Income Tax Assessment Act ;
- (c) a life assurance company—
 - (i) the profits of which are divisible only among the policy holders ; or
 - (ii) the income of which of the accounting period is exempt from income tax by reason of section one hundred and sixteen of the Income Tax Assessment Act ;
- (d) a company (not being a company carrying on the business of financing time payments, instalments or hire purchase sales, or of providing cash orders) in which little or no capital is required, to the extent to which the Commissioner is satisfied that its profit arises from commissions, fees or charges for services rendered ; and
- (e) a company (not being a subsidiary company) the taxable profit of which for the accounting period does not exceed One thousand pounds.

15.—(1.) For the purpose of ascertaining the rate of tax applicable to a company which is a primary producer, the average taxable profit shall be the average of the taxable profits of the accounting period and—

Averaging in case of primary producers.

- (a) where the company has had four or more accounting periods immediately preceding that accounting period—of such of the four immediately preceding accounting periods as are accounting periods during which the company has derived assessable income within the meaning of the Income Tax Assessment Act, arrived at in the manner prescribed by this Act for the ascertainment of taxable profit; or
- (b) in any other case—of such of the immediately preceding accounting periods during which the company has derived assessable income within the meaning of the Income Tax Assessment Act, arrived at in the manner prescribed by this Act for the ascertainment of taxable profit.

(2.) For the purposes of this section—

“accounting periods” includes any periods prior to the first accounting period to which this Act applies treated as years of income for the purposes of the *Income Tax Assessment Act 1936* or that Act as amended from time to time; •

“primary producer” means a company the greater part of the capital of which is employed in the business of primary production; and

“primary production” has the same meaning as in the Income Tax Assessment Act.

16.—(1.) Where the taxable income of a company includes a net premium received in respect of a lease and the company elects to have the amount of the net premium spread over the term of the lease for the purpose of ascertaining the rate of tax applicable to the company, the taxable profit of the company for the purpose of ascertaining that rate of tax (to be known as the “deemed taxable profit”) shall be deemed to be an amount ascertained by deducting from the actual taxable profit the amount of the net premium and by adding to the result the amount ascertained by dividing the amount of the net premium by the number of years in the term of the lease.

Premium received in respect of lease.

(2.) For the purposes of this section, “net premium” and “term of the lease” shall have the same meaning as in section eighty-three of the Income Tax Assessment Act.

17.—(1.) A holding company may elect, in the manner and within the time prescribed, to have all its subsidiary companies treated as branches of the holding company and thereupon those subsidiary companies shall, for all the purposes of this Act, be treated as branches of the holding company and no separate assessment shall be made in respect of any of those subsidiary companies.

Holding companies.

(2.) Any election made under this section in respect of an accounting period shall also apply to every subsequent accounting period and shall not be revoked without the consent of the Commissioner.

(3.) Notwithstanding anything contained in the foregoing provisions of this section, if the holding company fails to pay the war-time (company) tax within the prescribed time (or within such further time as the Commissioner allows), the Commissioner may treat the election as void and proceed to make an assessment in respect of each of the subsidiary companies.

Deductions of super-tax.

18. From the war-time (company) tax otherwise payable by a company in respect of the taxable profit of any accounting period, there shall be deducted—

(a) the amount of that tax ; or

(b) the amount of any tax imposed by any Act, imposing a tax upon incomes, as a super-tax on any part of the taxable income derived by that company during that accounting period, after deducting therefrom the amount of any rebate allowed or allowable under sub-section (2A.) of section forty-six of the Income Tax Assessment Act,

whichever is the lesser amount.

PART IV.—PERCENTAGE STANDARD.

Percentage standard.

19. The percentage standard shall be an amount equal to the statutory percentage of the capital employed, or deemed to be employed, during the accounting period or, where the taxable profit is ascertained by reference to a period of less than twelve months, an amount which bears the same proportion to the statutory percentage of such capital as that lesser period bears to twelve months.

Statutory percentage.

20. Subject to this Act the statutory percentage shall be eight per centum.

Increase in statutory percentage.

21.—(1.) If a Board of Referees is satisfied that, owing to some unavoidable condition associated with any class of business, it is just that a greater statutory percentage than that specified in the last preceding section should be prescribed, regulations made under this Act may, in respect of that class of business, prescribe such greater statutory percentage as the Board, after inquiry, recommends.

(2.) In calculating the percentage standard of a company which carries on a class of business in respect of which a greater statutory percentage has been prescribed under the last preceding sub-section—

(a) where the Commissioner is of the opinion that the whole of the capital employed by that company is employed in carrying on that class of business—the greater statutory percentage so prescribed shall be applied to the whole of that capital ; or

- (b) where the Commissioner is of the opinion that a part only of the capital employed by that company is employed in carrying on that class of business—the greater statutory percentage so prescribed shall be applied to that part of the capital and the statutory percentage prescribed by the last preceding section shall be applied to the remainder of the capital.

22.—(1.) For the purposes of this Act there shall be such Board or Boards of Referees as the Governor-General appoints.

Board of Referees.

(2.) A Board of Referees shall be constituted by three persons appointed by the Governor-General on such terms and conditions as are prescribed.

(3.) A Board of Referees shall have such powers relating to the taking of evidence, the summoning of witnesses and the production of documents as are prescribed.

(4.) A Board of Referees shall inquire into and report to the Minister on every class of business referred to it by the Commissioner as to whether there is some unavoidable condition associated with that class of business which makes it just that a greater statutory percentage than that prescribed by section twenty of this Act should be prescribed and, if so, shall include in the report a recommendation as to the statutory percentage which, in the opinion of the Board, is just.

(5.) Any company which carries on a particular class of business, or any organization representing companies carrying on such a class of business, may submit to the Commissioner a statement in writing claiming that some unavoidable condition associated with that class of business makes it just that a greater statutory percentage than that prescribed by section twenty of this Act should be prescribed and the Commissioner shall refer the claim to a Board of Referees.

23.—(1.) Any company which carries on a particular class of business may submit to the Commissioner a statement in writing claiming that, owing to unavoidable circumstances associated with the conduct of the business of that company, the taxable profit of the company has been rendered abnormally large by the inclusion of profit which has relation to a period greater than the accounting period and that a greater statutory percentage should therefore be applied to the company than that which is applied to other companies carrying on that class of business.

Increase in statutory percentage in particular cases.

(2.) The Commissioner shall refer any such claim to a Board of Referees.

(3.) The Board may determine whether it is just that in respect of the accounting period in which the taxable profit is claimed to be abnormally large, a greater statutory percentage than that applicable to other companies should be applied to the company making the claim and, if so, the greater statutory percentage which the Board thinks just.

(4.) Where the Board of Referees so determines, the greater statutory percentage which the Board thinks just shall, in lieu of the statutory percentage prescribed by or under this Act, be the statutory percentage to be applied to the capital employed by the company during the accounting period in which the taxable profit is abnormally large.

PART V.—CAPITAL.

Ascertainment
of capital.

24.—(1.) Subject to section twenty-five of this Act, the capital employed in any accounting period shall, for the purposes of this Act, be ascertained by adding the following amounts, namely:—

- (a) the capital paid up in money or by other valuable consideration, averaged over the accounting period ;
- (b) accumulated profits, averaged over the accounting period, including amounts standing to the credit of the Profit and Loss Account at the commencement of the accounting period but not including any profit of the accounting period ;
- (c) any reserve, averaged over the accounting period, which has been created out of premiums received on the issue of shares ;
- (d) the amount by which the value prescribed by sub-section (2.), (3.) or (4.) of this section as the value of any asset to which that sub-section applies exceeds the value of that asset as appearing in the accounts of the company at the commencement of the accounting period or, if no such value appears in the accounts of the company at the commencement of the accounting period, the amount prescribed by that sub-section ; and
- (e) in the case of a life assurance company, the excess (if any) of reserves for liabilities over the amount ascertained as the “calculated liabilities” for the purposes of section one hundred and fourteen of the Income Tax Assessment Act,

and deducting therefrom—

- (i) the amount by which the value of any asset to which sub-section (2.), (3.) or (4.) of this section applies as appearing in the accounts of the company at the commencement of the accounting period exceeds the value of that asset prescribed by that sub-section ;
- (ii) any capital, averaged over the accounting period, the income (if any) from which is not or would not be taken into account in assessing the income of the accounting period under the Income Tax Assessment Act ; and
- (iii) any capital, averaged over the accounting period, invested in shareholdings in any other company.

(2.) For the purposes of the last preceding sub-section, the value of any of the following assets shall be—

- (a) where the asset is trading stock—the value at which that trading stock is taken into account at the commencement of the accounting period for the purpose of ascertaining the taxable income by reference to which the taxable profit is ascertained ;
- (b) where the asset is one in respect of which depreciation has been allowed or is allowable under the Income Tax Assessment Act—the depreciated value of such asset (as determined for income tax purposes) as at the commencement of the accounting period ;
- (c) where the asset is land, premises or machinery in respect of which the company has paid any premium and of which it is, in the accounting period, the lessee—the amount remaining after deducting from the premium so paid the total of the amounts of deductions allowed to the company in respect of the premium in assessments for income tax purposes under the Income Tax Assessment Act and any previous law of the Commonwealth for the financial years prior to the year of tax ;
- (d) where the asset is one in respect of which depreciation is not allowable under the Income Tax Assessment Act (not being land, premises or machinery in respect of which the company has paid a premium and of which it is, in the accounting period, the lessee) and which was purchased by the company—the cost of such asset ; and
- (e) where the asset is—
 - (i) goodwill ;
 - (ii) a right in or under any copyright, letters patent, design, trade mark, trade name or secret process ;
or
 - (iii) any other prescribed asset to which the foregoing provisions of this sub-section do not apply,
which has not been purchased by the company—nil.

(3.) Where since the first day of July, One thousand nine hundred and thirty-eight, assets have been transferred to a company in which the shares are wholly or mainly held by or on behalf of the previous owner of the assets, the value of those assets shall, for the purposes of sub-section (1.) of this section, be—

- (a) in respect of those assets on which depreciation has been allowed or is allowable to the company under the Income Tax Assessment Act—the depreciated value of the assets (as determined for income tax purposes) as at the commencement of the accounting period ; or

(b) in respect of all other assets—the value at which the assets would have been taken into account in determining the capital employed by the previous owner if the assets had not been transferred and the previous owner had been a company liable to be assessed under this Act.

(4.) Where assets of a company are transferred to another company and the shares in each company are held by or on behalf of substantially the same shareholders, the value of the assets transferred shall, for the purposes of sub-section (1.) of this section, be the value at which those assets would have been taken into account in determining the capital of the previous owner if the assets had not been transferred.

(5.) Where for the purposes of this section it is necessary to determine the purchase price of any asset and any contract of sale in respect of that and other assets does not indicate what portion of the purchase price is attributable to that asset, the Commissioner may determine what portion of the total purchase price should, for the purposes of this section, be attributed to that asset.

(6.) Where the amount of capital employed by a company (not being a subsidiary company) during the accounting period is less than Twelve thousand five hundred pounds, or where a company fails to supply any information required by the Commissioner for the ascertainment of its capital employed, the amount of Twelve thousand five hundred pounds shall, subject to section twenty-five of this Act, be deemed to be the amount of capital employed for all the purposes of this Act.

Increase by
Board of
Referees of
capital
employed.

25.—(1.) Any company may apply to the Commissioner for an increase in the capital employed by it as ascertained under this Act, on the ground—

- (a) that the amount so ascertained does not represent the true capital employed by it in the business carried on by it ; or
- (b) that the company requires little or no capital in the conduct of its business and its profits are mainly due to the personal skill, ability or enterprise of its shareholders.

(2.) The Commissioner shall refer any such application to a Board of Referees.

(3.) The Board of Referees may determine such greater amount as it thinks just to be the capital employed or deemed to be employed by the company or may refuse the application.

(4.) Where the Board of Referees so determines, the greater amount shall be treated as the capital employed by the company for all the purposes of this Act.

(5.) For the purposes of this section, a Board of Referees shall have all the powers prescribed under sub-section (3.) of section twenty-two of this Act.

26. Where a company carrying on as its principal business the business of insurance in Australia reinsures the whole or part of any risk with a person carrying on a similar business but not in Australia, and any premiums paid or credited in respect of that reinsurance are not, by reason of section one hundred and forty-eight of the Income Tax Assessment Act, allowable deductions to the company for the purposes of that Act in respect of any accounting period, there shall, for all the purposes of this Act, be added to the capital employed by that company in that accounting period, as determined in accordance with section twenty-four or twenty-five of this Act, an amount which bears the same proportion to that capital as the sum of those premiums bears to the amount remaining after deducting the sum of those premiums from the total premiums (other than life assurance premiums) included in the assessable income of the company of that accounting period for the purposes of the Income Tax Assessment Act.

Company reinsuring with non-resident.

PART VI.—RETURNS AND ASSESSMENTS.

27. Every company carrying on a business to which this Act applies shall, if required by the Commissioner, either by notice in writing given to that company or by notice published in the *Gazette*, furnish to the Commissioner in the prescribed manner, within the time specified in the notice, or within such extended time as the Commissioner may allow, a return setting forth a full and complete statement of the capital employed during the accounting period and such other information as the Commissioner may specify in the notice.

Companies to furnish returns.

28. Whether the Commissioner has required returns to be furnished in pursuance of the last preceding section or not, he may treat returns furnished by the company for the purposes of the Income Tax Assessment Act as returns furnished by the company for the purposes of this Act and those returns shall thereupon be deemed to be returns furnished for the purposes of this Act.

Use of income tax returns.

29. Any person, whether a taxpayer or not, shall, if required by the Commissioner, make such returns or fuller or other returns as the Commissioner requires for the purposes of this Act.

Further returns.

30. From the returns, and from any other information in his possession, or from any one or more of these sources, the Commissioner shall make an assessment of the amount of the taxable profit of any company and of the tax payable thereon.

Assessments.

31. The fact that any question has been referred to a Board of Referees in pursuance of this Act shall not delay the making of any assessment or the collection of any tax.

Reference to Board of Referees not to delay assessments.

32. War-time (company) tax when it becomes due and payable shall be a debt due to the King on behalf of the Commonwealth, and payable to the Commissioner in the manner and at the place prescribed.

Tax a debt due to the King.

Amendment of
assessments.

33. Notwithstanding any lapse of time, the Commissioner may amend any assessment by making such alterations therein as may be necessary to give effect to any regulation made under this Act or to any determination of the Board of Referees.

PART VII.—APPLICATION OF INCOME TAX ASSESSMENT ACT.

Application of
Income Tax
Assessment Act.

34.—(1.) The following sections, Division and Parts of the Income Tax Assessment Act, namely, section one hundred and sixty-four, sections one hundred and sixty-seven to one hundred and seventy (both sections inclusive), sections one hundred and seventy-two to one hundred and seventy-seven (both sections inclusive), Division 2 of Part V., sections two hundred and four (other than sub-section (1A.)), two hundred and five, two hundred and six, two hundred and seven, two hundred and nine, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen, two hundred and eighteen and two hundred and nineteen, Part VII. (other than section two hundred and twenty-eight), and sections two hundred and fifty-two, two hundred and fifty-four, two hundred and fifty-five, two hundred and fifty-seven, two hundred and fifty-eight, two hundred and fifty-nine, two hundred and sixty, two hundred and sixty-three, two hundred and sixty-four and two hundred and sixty-five shall, *mutatis mutandis*, apply, with such modifications and adaptations as are prescribed, to the imposition, assessment and collection of the tax chargeable under this Act in like manner as they apply to the imposition, assessment and collection of the tax chargeable under that Act, but for the purposes of this Act the applied Act shall be read as if the word “profit” were substituted for the word “income” (wherever that word occurs) excepting where the word “income” precedes the word “tax” in which case it shall be read as “war-time (company)” and as if—

- (a) in section one hundred and sixty-seven the reference to the last preceding section of the applied Act were a reference to section thirty of this Act ;
- (b) in section one hundred and sixty-eight the words “accounting period” were substituted for the word “year” (wherever it occurs) in sub-section (1.) and for the words “year of income” occurring in sub-section (2.) ;
- (c) in section one hundred and seventy the words “accounting period” were substituted for the word “year” (wherever that word occurs) ;
- (d) in sections two hundred and fifteen and two hundred and nineteen the words “company not resident in Australia” were substituted for the word “non-resident” (wherever that word occurs) ;
- (e) from sub-section (1.) of section two hundred and fifty-two the words “if it has not appointed a public officer before the commencement of this Act” and sub-section (2.) of that section were omitted ;

(f) in section two hundred and fifty-five the words "company not resident in Australia" were substituted for the word "non-resident" (wherever that word occurs) and as if in sub-section (1.) of that section the word "which" were substituted for the word "who" (wherever that word occurs); and

(g) in sub-section (1.) of section two hundred and sixty-five, after the word "hardship", there were inserted the words ", or that owing to the total amount of Commonwealth and State taxes payable in respect of the income or profit of an accounting period the exaction of the full amount of tax will entail serious hardship".

(2.) Any reference in this Act to "this Act" shall be construed as including a reference to the provisions of the Income Tax Assessment Act applied by this section.

PART VIII.—MISCELLANEOUS.

35. Where a company which has paid or is liable to pay tax under this Act pays a dividend or dividends on any class or classes of its preference capital out of the taxable profit of the accounting period and the amount of the dividend or dividends paid in respect of any class exceeds an amount ascertained by applying the statutory percentage to the preference capital of that class paid up in money or other valuable consideration, the company may, notwithstanding anything contained in its memorandum or articles of association, or any other document or agreement, deduct from the dividends payable to the holders of preference shares of that class—

Dividends payable to preference shareholders.

(a) that proportion of the tax paid or payable by the company which the excess bears to the amount remaining after deducting from the taxable profit the percentage standard; or

(b) the amount of tax so paid or payable,

whichever is the lesser amount.

36.—(1.) The Commonwealth may arrange with any State for the collection by State officers of the whole or part of the war-time (company) tax payable in that State under this Act.

Arrangement with State for collection of tax.

(2.) The agreement relating to any such arrangement may make provision for any other matters necessary or convenient to be provided for carrying out the arrangement.

37. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act, and for prescribing penalties not less than One pound or more than Twenty pounds for any breach of the regulations.

Regulations.