

STATES (PERSONAL INCOME TAX SHARING) ACT 1976

No. 122 of 1976

An Act to Entitle the States to Share in the Personal Income Tax Collections of the Commonwealth.

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

Short title. 1. This Act may be cited as the *States (Personal Income Tax Sharing) Act 1976*.¹

Commence- 2. This Act shall come into operation on the day on which it receives
ment. the Royal Assent.¹

Repeal. 3. (1) The following Acts are repealed:—

States Grants Act 1973;
States Grants Act 1974;
States Grants Act 1975.

(2) Subject to sub-section (3), a State is not, and shall be deemed not to have been, entitled to a grant under the *States Grants Act 1973* by virtue of the operation of that Act on and after 1 July 1976.

(3) A payment made to a State under the *States Grants Act 1973* on or after 1 July 1976 and before the commencement of this Act shall be deemed to be an advance made under section 11 of this Act in respect of the amount to which that State is entitled under this Act in respect of the year that commenced on that date.

Definitions. 4. (1) In this Act, unless the contrary intention appears—
“adjusted population figure”, in relation to a State in respect of a year, means—

- (a) in the case of Victoria, the estimated population of that State on 31 December in that year; and
- (b) in the case of any other State, the estimated population of the State on 31 December in that year multiplied by—
 - (i) in the case of New South Wales—1.02740;
 - (ii) in the case of Queensland—1.39085;
 - (iii) in the case of South Australia—1.52676;
 - (iv) in the case of Western Australia—1.66516; and
 - (v) in the case of Tasmania—2.00188;

- “ base figure ”, in relation to a year, means the amount determined by the Commissioner under section 6 in respect of the year;
- “ Commissioner ” means the Commissioner of Taxation;
- “ company ” has the same meaning as in the Income Tax Assessment Act;
- “ gross personal income tax collections ”, in relation to a year, means the total of—
- (a) amounts received by the Commissioner during the year by virtue of the operation of Division 2 and Division 3 of Part VI of the Income Tax Assessment Act; and
 - (b) other amounts received by the Commissioner during the year in respect of liability for personal income tax or amounts treated by the Commissioner (otherwise than by virtue of section 45 or 160AN, or Division 2 or 3 of Part VI, of the Income Tax Assessment Act) as having been so received;
- “ health insurance levy ” means the levy referred to in Part VIIB of the Income Tax Assessment Act;
- “ income tax ” means income tax as defined by sub-section 6 (1) of the Income Tax Assessment Act, and includes health insurance levy;
- “ Income Tax Assessment Act ” means the *Income Tax Assessment Act 1936*;
- “ net personal income tax collections ”, in relation to a year, means the gross personal income tax collections for the year less refunds of personal income tax made during the year;
- “ person ” does not include a company other than a company in the capacity of a trustee;
- “ personal income tax ” means income tax imposed on persons (including income tax imposed on a person in the capacity of a trustee), and includes additional tax payable under section 207 or 226 of the Income Tax Assessment Act in relation to a liability for, or otherwise in connexion with, income tax imposed on persons, and additional health insurance levy payable under section 251w of that Act, but does not include withholding tax;
- “ refund of personal income tax ”, in relation to a year, means—
- (a) a refund or payment made by the Commissioner during the year by virtue of section 45 or 160AN, or Division 2 or 3 or Part VI, of the Income Tax Assessment Act; or
 - (b) a refund made by the Commissioner during the year (otherwise than under either of those sections or under either of those Divisions) of the whole or part of an amount received by the Commissioner, whether in that year or a previous year, in payment of liability for personal income tax;

“ special rebate ” means a rebate declared by the Treasurer under section 5 to be a special rebate for the purposes of this Act;

“ special surcharge ” means any income tax specified in a declaration by the Treasurer under section 5 to the extent to which, or in the respect in which, it is declared to be a special surcharge for the purposes of this Act;

“ trustee ” includes trustee of a superannuation fund;

“ withholding tax ” means income tax payable in accordance with section 128B of the Income Tax Assessment Act, and includes tax payable in accordance with sub-section 128N (2) of that Act and additional tax payable under sub-section 128C (3) of that Act;

“ year ” means a financial year;

“ year to which this Act applies ” means the year commencing on 1 July 1976 and each subsequent year.

(2) A reference in the definition of “ refund of personal income tax ” in sub-section (1) to a refund or payment made by the Commissioner shall be read as including a reference to the application of an amount by the Commissioner in payment of a liability of a person or company other than a liability for personal income tax.

Declaration of special surcharges and special rebates.

5. The Treasurer may, by notice published in the *Gazette*—

(a) declare that any income tax specified in the notice is, to such extent or in such respect as is so specified, a special surcharge for the purposes of this Act; or

(b) declare that a rebate specified in the notice, being a rebate to which taxpayers are entitled in assessments under the Income Tax Assessment Act, is a special rebate for the purposes of this Act,

and may, at any time, by notice published in the *Gazette*, revoke such a declaration with effect from such date as is specified in the notice.

Base figure.

6. The Commissioner shall, within 1 month after the end of a year to which this Act applies, determine, for the purposes of this Act and of the *Local Government (Personal Income Tax Sharing) Act 1976*, the amount that, in his opinion, would have been the amount of the net personal income tax collections for the year if health insurance levy and special surcharges (if any) had not been imposed and special rebates (if any) had not been provided for, and shall inform the Treasurer of that amount and the Treasurer shall, as soon as is practicable after being so informed, inform the Premier of each State of that amount.

State entitlements.

7. Each State is entitled to the payment, in respect of each year to which this Act applies, by way of financial assistance, of an amount that

bears to 33.6 per centum of the base figure for the year the same proportion as the adjusted population figure of the State for the year bears to the total of the adjusted population figures of all States for that year.

8. (1) Where the amount to which a State is entitled under section 7 in respect of a year is less than the amount of the minimum entitlement of the State in respect of the year, the State is entitled to the payment, in respect of the year, by way of financial assistance, in addition to its entitlement under section 7, of an amount equal to the difference between those amounts.

Minimum
entitlement
of States.

(2) In this section—

“ minimum entitlement ”, in relation to a State, means—

(a) in respect of the year that commenced on 1 July 1976—

- (i) the total amount payable to the State during the year that commenced on 1 July 1975 under sections 6 and 7 of the *States Grants Act 1973*; or
- (ii) the amount that, in relation to the State in respect of the year, is the notional amount of assistance under the repealed Act,

whichever is the greater;

(b) in respect of a year (in this paragraph referred to as the “ relevant year ”) subsequent to the year that commenced on 1 July 1976, but not subsequent to the year commencing on 1 July 1979—

- (i) the total amount to which the State is entitled in respect of the year immediately preceding the relevant year under section 7 of this Act and sub-section (1) of this section; or
- (ii) the amount that, in relation to the State in respect of the relevant year, is the notional amount of assistance under the repealed Act.

whichever is the greater; and

(c) in respect of a year (in this paragraph referred to as the “ relevant year ”) subsequent to the year commencing on 1 July 1979—the total amount to which the State is entitled in respect of the year immediately preceding the relevant year under section 7 of this Act and sub-section (1) of this section;

“ notional amount of assistance under the repealed Act ”, in relation to a State in respect of a year, means the amount that, if the *States Grants Act 1973* had continued in force and grants had continued to be made under that Act, would have been payable to the State during the year under section 6 of that Act.

(3) Notwithstanding the repeal of the *States Grants Act 1973*, section 10 of that Act shall continue to have effect for the purpose of ascertaining the amount that would have been payable to a State during a year under section 6 of that Act if that Act had continued in force.

Determi-
nation of
population
of a State.

9. (1) For the purposes of this Act, the estimated population of a State on 31 December in a year shall be the population of the State on that date as determined by the Australian Statistician under this section.

(2) The determination by the Australian Statistician under this section of the estimated population of a State on 31 December in a year shall be made after that date and before 7 August next following that date.

(3) The Australian Statistician, in making a determination under this section of the estimated population of a State, shall, where practicable, consult with the official Statistician of the State and shall have regard to the latest statistics in relation to population available to the Australian Statistician on the day on which the determination is made.

Determi-
nations to be
presumed to
be correct.

10. A determination made by the Commissioner under section 6, or a determination made by the Australian Statistician under section 9, shall, for the purposes of this Act, be conclusively presumed to be correct.

Advance
payments.

11. The Treasurer may make advances to a State of portions of the amount or amounts to which it appears to him the State will be entitled under this Act in respect of a year.

Appropri-
ation.

12. Payments under this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Review of
Act.

13. (1) The Government of the Commonwealth shall, before 30 June 1981, consult with the Governments of the States with a view to determining whether any change is desirable in the provisions of this Act and submitting to the Parliament legislation to give effect to any changes that the Government of the Commonwealth considers to be desirable as a result of the consultation.

(2) If there has occurred, or there is proposed to be, a substantial change in the financial arrangements between the Government of the Commonwealth and the Governments of a State or States, the Government of the Commonwealth may review the provisions of this Act in consultation with the Governments of the States with a view to submitting to the Parliament legislation to give effect to any changes that the Government of the Commonwealth considers to be desirable as a result of the review.

1976

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No. 122

NOTE

1. Act No. 122, 1976; assented to 24 November 1976.