

INCOME TAX (ARRANGEMENTS WITH THE STATES) ACT 1978

No. 87 of 1978

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INCOME TAX (ARRANGEMENTS WITH THE STATES) ACT 1978

No. 87 of 1978

An Act relating to the assessment and collection by the Commonwealth on behalf of a State of personal income tax imposed by the State and the making of payments by a State to the Commonwealth in partial discharge of the liability of residents of that State in respect of Commonwealth personal income tax, and for related purposes.

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

PART I—PRELIMINARY

- Short title 1. This Act may be cited as the *Income Tax (Arrangements with the States) Act 1978*.¹
- Commence-
ment 2. This Act shall come into operation on the day on which it receives the Royal Assent.¹
- Interpret-
ation 3. (1) In this Act (except in provisions inserted by this Act in another Act), unless the contrary intention appears—
- “assessment”, in relation to a State income tax law, means the ascertainment of the tax payable by a person under that law;
- “Board of Review” means a Board referred to in Division 1 of Part V of the Income Tax Assessment Act;
- “employee” means a person who receives, or is entitled to receive, salary or wages, and includes—
- (a) a member of the Parliament of the Commonwealth or of a State;
 - (b) a person employed by the Commonwealth, by a State, by an authority of the Commonwealth or by an authority of a State; and
 - (c) a member of the Defence Force;
- “employer” means a person who pays, or is liable to pay, salary or wages, and includes—
- (a) in the case of an unincorporated body of persons other than a partnership—the manager or other principal officer of that body; and

(b) in the case of a partnership—each partner, and, in relation to a law of a State, includes that State and an authority of that State;

“Government loan interest” means interest derived from bonds, debentures, stock or other securities issued by the Government of the Commonwealth the prospectuses for which were issued before 1 July 1976;

“Income Tax Assessment Act” means the *Income Tax Assessment Act 1936*;

“provisional tax” has the same meaning as in Division 3 of Part VI of the Income Tax Assessment Act;

“salary or wages” has the same meaning as in Division 2 of Part VI of the Income Tax Assessment Act;

“special rebate” means a rebate declared by the Treasurer under section 5 of the *States (Personal Income Tax Sharing) Act 1976* to be a special rebate for the purposes of that Act;

“special surcharge” means any income tax specified in a declaration by the Treasurer under section 5 of the *States (Personal Income Tax Sharing) Act 1976* to the extent to which, or in the respect in which, it is declared to be a special surcharge for the purposes of that Act;

“tax instalment deductions” means deductions from salary or wages made, or required to be made, in pursuance of a provision of a State income tax law;

“the net income of a trust estate” has the same meaning as in Division 6 of Part III of the Income Tax Assessment Act.

(2) Where in this Act (except in provisions inserted by this Act in another Act) the expression “income tax law” is used in relation to a State or the expression “State income tax law” is used, the expression shall be taken to refer to—

(a) the provisions of the law of a State that provide for or in relation to either or both of the following matters:

(i) the imposition and assessment of a tax upon incomes;

(ii) the making of payments by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax;

(b) the provisions of the law of a State that provide for or in relation to the collection of a tax upon incomes, including a tax imposed by the law of another State or of an internal Territory; and

(c) the provisions of the law of a State that are referred to in sub-section 10 (8), section 13 and sub-section 15 (4).

(3) Where in this Act (except in provisions inserted by this Act in another Act) the expression “year of income” is used otherwise than in

relation to a taxpayer, the expression shall be taken to refer to a period of 12 months ending on 30 June.

(4) Subject to this section, words and expressions used in this Act (except in provisions inserted by this Act in another Act) that are defined by section 6 of the Income Tax Assessment Act have in this Act (except in such provisions), unless the contrary intention appears, the same respective meanings as those words and expressions have in the Income Tax Assessment Act.

PART II—REQUIREMENTS TO BE COMPLIED WITH BY STATE LAW

Division 1—Participating and Supporting States

Power of
Treasurer to
declare
States to be
participating
or
supporting
States

4. (1) Where the Treasurer is satisfied that a State income tax law contains provisions applicable in relation to a particular year of income that comply with the requirements set out in Divisions 2 and 3, he shall cause to be published in the *Gazette* a notice declaring that State to be a participating State for the purposes of this Act in relation to that year of income.

(2) If at any time after the publication in the *Gazette* of a notice under sub-section (1) in relation to a State in relation to a year of income the Treasurer becomes satisfied that the law of that State no longer contains provisions applicable in relation to that year of income that comply with the requirements referred to in that sub-section, he may cause to be published in the *Gazette* a notice revoking the first-mentioned notice.

(3) Subject to sub-section (4), a State shall be deemed at any relevant time to be a participating State for the purposes of this Act in relation to a particular year of income if, and only if, a notice under sub-section (1) in relation to that State in relation to that year of income is in force at that time.

(4) Notwithstanding sub-section (3), a State shall be deemed not to be a participating State for the purposes of this Act in relation to a particular year of income unless provisions of the State income tax law imposing a tax on incomes of residents of the State and declaring the rate of that tax, or providing for payments to the Commonwealth in partial discharge of the liability of residents of the State for income tax and specifying the rate by reference to which the payments are to be made, in relation to that year of income come into operation on or before 30 April next preceding the commencement of that year of income or come into operation on or before such later date (if any), not being later than 30 November in that year of income, as the Treasurer approves.

(5) Where the Treasurer is satisfied that the law of a State does not contain provisions applicable in relation to a particular year of income

that comply with the requirements set out in Division 2 but contains provisions that comply with the requirements set out in Division 3, he shall cause to be published in the *Gazette* a notice declaring that State to be a supporting State for the purposes of this Act in relation to that year of income.

(6) If at any time after the publication in the *Gazette* of a notice under sub-section (5) in relation to a State in relation to a year of income the Treasurer becomes satisfied that the law of that State no longer contains provisions that comply with the requirements set out in Division 3, he may cause to be published in the *Gazette* a notice revoking the first-mentioned notice.

(7) A State shall be deemed at any relevant time to be a supporting State for the purposes of this Act in relation to a particular year of income if at that time the State is not a participating State in relation to that year of income but a notice under sub-section (1) or (5) in relation to that State in relation to that year of income is in force at that time.

(8) Notwithstanding anything contained in the *Administrative Decisions (Judicial Review) Act 1977*, the Income Tax Assessment Act or any other law of the Commonwealth or any law of a State or Territory—

- (a) the validity of the making of an assessment or determination, the serving of a notice or the doing of any other act or thing by the Commissioner, a Second Commissioner, a Deputy Commissioner, a delegate of the Commissioner or a Board of Review under a State income tax law shall not be challenged or called in question, or made the subject of a declaration or a declaratory order by a Court, on the ground that that law does not contain provisions applicable in relation to the relevant year of income that comply with requirements of Divisions 2 and 3; and
- (b) the validity of the serving of a notice or the doing of any other act or thing by the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner under the law of a State shall not be challenged or called in question, or made the subject of a declaration or a declaratory order by a Court, on the ground that that law does not contain provisions applicable in relation to the relevant year of income that comply with requirements of Division 3.

Division 2—Requirements in relation to Participating States

5. The following provisions of this Division are requirements to be compiled with by a State income tax law if the State is to be declared to be a participating State as mentioned in sub-section 4 (1). Requirements

Adminis-
tration of
State
income tax
laws

6. The State income tax law shall, so far as practicable, confer on the Commissioner (including a person acting in the office of Commissioner), on a Second Commissioner (including a person acting in an office of Second Commissioner) and on a Deputy Commissioner (including a person acting in an office of Deputy Commissioner) all powers, functions and duties that are necessary for the assessment and collection of taxes imposed, or for the making of determinations, under that law and, in particular, confer on those persons powers, functions and duties in the like circumstances as those in which similar powers, functions and duties are conferred on those persons under the Income Tax Assessment Act and shall permit the delegation by the Commissioner to officers of the Australian Public Service of any powers, functions or duties so conferred on him other than the power of delegation.

Liability to
State income
tax

7. (1) The State income tax law shall provide—

- (a) that any tax that is or may be imposed under that law shall be imposed in respect of and only in respect of, and any payment by the State to the Commonwealth that is or may be made under that law in partial discharge of the liability of residents of the State for income tax shall be made by reference to and only by reference to—
- (i) the taxable income of the year of income of each natural person who is a resident of that State in respect of that year of income;
 - (ii) in the case of each person in the capacity of a trustee of a trust estate who is required to be assessed and liable to pay tax in pursuance of section 98 of the Income Tax Assessment Act in respect of a share of the net income of the trust estate of the year of income, being a share to which a beneficiary who is a resident of the State in respect of that year of income is presently entitled—that share of that net income;
 - (iii) in the case of each person in the capacity of a trustee of a trust estate who is required to be assessed and liable to pay tax in pursuance of section 99 or 99A of the Income Tax Assessment Act in respect of the whole or a part of the net income of the trust estate of the year of income, being a trust that resulted from the death of a person who, immediately before his death, was a resident of the State—that net income, or that part of that net income, as the case may be;
 - (iv) in the case of each person in the capacity of a trustee of a trust estate who is required to be assessed and liable to pay tax in pursuance of section 99 or 99A of the Income Tax Assessment Act in respect of the whole or a part of the net income of the trust estate of the year of income, being a trust—

- (A) that did not result from the death of a person; and
 - (B) the administration of which in relation to that year of income was wholly or mainly carried out in that State,
- that net income, or that part of that net income, as the case may be; and
- (v) in the case of each person in the capacity of a trustee of a trust estate who is required to be assessed and liable to pay tax in pursuance of section 102 of the Income Tax Assessment Act in respect of the whole or a part of the net income of the trust estate of the year of income, being a trust created by a person who is a resident of the State in respect of the year of income—that net income, or that part of that net income, as the case may be,
- and shall be so imposed at, or made by reference to, a rate per dollar that is a fixed proportion of the average rate of basic Commonwealth tax payable on that taxable income or on the whole or part of that net income of the trust estate, as the case may be, of that year of income;
- (b) that, for the purposes of the State income tax law, a person shall be deemed to be a resident of the State in respect of a year of income if, and only if, that person was a resident of Australia for the purposes of the Income Tax Assessment Act in respect of that year of income, otherwise than by virtue of the operation of sub-section 7A (2) of that Act, and—
 - (i) his sole or principal place of residence in Australia at the commencement of the last day of the year of income was in that State; or
 - (ii) in the case of a person who did not have a sole or principal place of residence in Australia at the commencement of the last day of the year of income—
 - (A) he was, at the commencement of the last day of the year of income, domiciled in that State; or
 - (B) he was not, at the commencement of the last day of the year of income, domiciled in Australia but, at the commencement of that day, he was, having regard to his personal affairs, and to his business affairs or his employment, more closely connected with that State than with any other State or any internal Territory;
 - (c) that, in applying the provision of the State income tax law referred to in paragraph (b), the last day of a year of income in relation to a person shall—
 - (i) where the person ceased, on one or more occasions during the year of income, to be a resident of Australia for

the purposes of the Income Tax Assessment Act—be taken to be the last day of the year of income that was a day during which he was a resident of Australia for the purposes of that Act; or

- (ii) where the person died during the year of income and, at the date of his death, was a resident of Australia for the purposes of that Act—be taken to be the day on which he died;
- (d) that, for the purposes of the State income tax law, a person who has died shall be taken to have been a resident of the State immediately before his death if he would, by virtue of the provisions of that law referred to in paragraph (b) and sub-paragraph (c) (ii), be taken to be a resident of the State in respect of the year of income in which he died;
- (e) that, for the purposes of the State income tax law, “basic Commonwealth tax”, in relation to a person other than a person in the capacity of a trustee of a trust estate, in relation to a year of income, means the amount of income tax (not being additional tax (if any) payable under section 207 or section 226 of the Income Tax Assessment Act, health insurance levy payable under Part VIIB of the Income Tax Assessment Act or special surcharge) that—
- (i) in a case to which sub-paragraph (ii) does not apply—is payable by that person under the Income Tax Assessment Act in respect of his taxable income of the year of income after the allowance of any rebates (other than a rebate of health insurance levy) but before the allowance of any credits to which he is entitled; or
 - (ii) in a case where that person derived Government loan interest in the year of income or in any year of income preceding the year of income—would be payable by that person under the Income Tax Assessment Act in respect of his taxable income of the year of income if he had not derived Government loan interest in the year of income or in any preceding year of income, after the allowance of any rebates (other than a rebate under section 160AB or a rebate of health insurance levy) but before the allowance of any credits to which he is entitled;
- (f) that, for the purposes of the State income tax law, “basic Commonwealth tax”, in relation to a person in the capacity of a trustee of a trust estate, in relation to a year of income, means the amount of income tax (not being additional tax (if any) payable under section 207 or section 226 of the Income Tax Assessment Act, health insurance levy payable under Part VIIB of the Income Tax Assessment Act or special surcharge) that—

- (i) in a case to which sub-paragraph (ii) does not apply—is payable by that person under the Income Tax Assessment Act in respect of the net income or the part of the net income, as the case may be, of the trust estate of the year of income after the allowance of any rebates (other than a rebate of health insurance levy) but before the allowance of any credits to which he is entitled; or
 - (ii) in a case where the trust estate derived Government loan interest in the year of income or in any year of income preceding the year of income—would be payable by that person under the Income Tax Assessment Act in respect of the net income or the part of the net income, as the case may be, of the trust estate of the year of income if the trust estate had not derived Government loan interest in the year of income or in any preceding year of income, after the allowance of any rebates (other than a rebate under section 160AB or a rebate of health insurance levy) but before the allowance of any credits to which he is entitled;
- (g) that, in calculating the basic Commonwealth tax as mentioned in paragraph (e)—
 - (i) a reference in that paragraph to a rebate shall, where in relation to the year of income a special surcharge is payable or a special rebate is allowable, be construed as a reference to the rebate (if any) to which the person would have been entitled if that special surcharge had not been payable, or that special rebate had not been allowable, as the case may be; and
 - (ii) a reference in that paragraph to a credit shall, in the case of a beneficiary who is under a legal disability, be construed as including a reference to any amount deducted, in accordance with sub-section 100 (2) of the Income Tax Assessment Act, from the income tax assessed in respect of that beneficiary;
- (h) that, in calculating the basic Commonwealth tax as mentioned in paragraph (f), a reference in that paragraph to a rebate shall, where in relation to the year of income a special surcharge is payable or a special rebate is allowable, be construed as a reference to the rebate (if any) to which the person would have been entitled if that special surcharge had not been payable, or that special rebate had not been allowable, as the case may be;
- (j) that, for the purposes of the State income tax law, the average rate of basic Commonwealth tax payable on a taxable income, or on the whole or part of the net income of a trust estate, is the amount per dollar ascertained by dividing the amount of that basic Commonwealth tax by the number of whole dollars in that

taxable income, or in, or in that part of, that net income, as the case may be; and

- (k) that, where the State makes any payment to the Commonwealth in partial discharge of the liability of residents of the State for income tax, the State will also make a payment to the Commonwealth of an amount agreed upon between the Treasurer and the Treasurer of the State to reimburse the Commonwealth the costs of administering the State income tax law.

(2) The provisions of a State income tax law shall not be taken not to comply with the requirements set out in sub-section (1) by reason only that that law does not provide for the making of a payment by the State to the Commonwealth in partial discharge of the liability of a person in the capacity of a trustee for income tax as mentioned in sub-paragraph (1)(a)(iv) in a case where the Commissioner is of the opinion that the administration of the trust was wholly or mainly carried out in that State for the purpose of obtaining the benefit of such a payment.

Assessments

8. The State income tax law—

- (a) shall, subject to paragraph (b), contain provisions relating to—
 - (i) the making by the Commissioner of assessments (including amended assessments) of tax payable under that law;
 - (ii) the making by the Commissioner of determinations (including amended determinations) in respect of—
 - (A) entitlements of persons to the benefit of payments made under that law by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax; and
 - (B) entitlements of persons to credits under the provisions of that law referred to in section 11;
 - (iii) the rights of persons to lodge objections with the Commissioner against their assessments or against determinations of the Commissioner, of a Second Commissioner or of a Deputy Commissioner, and to the determination of those objections;
 - (iv) the review by Boards of Review of assessments and determinations, and appeals to the Supreme Court of the State against assessments and determinations, after decisions are given on such objections; and
 - (v) the imposition of a tax of a similar nature to provisional tax,

that are, as far as practicable, in substantially the same terms as the corresponding provisions (if any) of the Income Tax Assessment Act;
- (b) shall not give a person the right to lodge an objection against—
 - (i) his assessment for a year of income; or

- (ii) any determination made by the Commissioner, a Second Commissioner or a Deputy Commissioner, in respect of any matter in respect of which the person is entitled to lodge such an objection under the Income Tax Assessment Act;
- (c) shall provide that, in any case where an assessment or determination made in pursuance of the Income Tax Assessment Act is amended, any consequential amendment of an assessment or determination made in pursuance of the State income tax law will be made as soon as is practicable notwithstanding the time that has elapsed since the original assessment or determination was made under that law;
- (d) shall provide for assessments, determinations, decisions and other actions taken by the Commissioner, a Second Commissioner or a Deputy Commissioner under that law to be final and binding subject to any review or appeal instituted after a decision is given on an objection;
- (e) shall provide an appropriate means of proving such assessments, determinations, decisions and other actions; and
- (f) shall provide that any review or appeal instituted under that law shall not, in the meantime, interfere with or affect an assessment under that law and that tax may be recovered on such an assessment as if no review or appeal were pending.

9. The State income tax law shall provide that a person who—

Penalty tax

- (a) is required to pay additional tax under section 226 of the Income Tax Assessment Act in respect of any year of income for which the person is required to pay tax under that State income tax law; or
- (b) is required to pay a penalty under section 221YDB of the Income Tax Assessment Act in respect of his income of the year of income and had been required to pay under that State income tax law in respect of the same year of income a tax of a similar nature to provisional tax,

will also be required to pay under that State income tax law additional tax or a penalty, as the case may be, equal to the further amount of additional tax or penalty that he would have been required to pay under the Income Tax Assessment Act if the tax imposed by that State income tax law or the tax of a similar nature to provisional tax payable in respect of the estimated taxable income under that law had been income tax or provisional tax, as the case may be, payable under the Income Tax Assessment Act.

10. (1) The State income tax law shall provide that, where income tax is imposed by that law in respect of a year of income—

Tax instalment deductions

- (a) every employer—

- (i) that is a company incorporated in the State; or
- (ii) who is a natural person and a resident of the State, and pays in that year of income salary or wages in respect of a week or a part of a week to an employee who is a resident of the State on the day when the salary or wages is or are paid;
- (b) the State or an authority of the State, when paying in that year of income salary or wages in respect of a week or a part of a week to an employee who is a resident of the State on the day when the salary or wages is or are paid; and
- (c) every other employer that—
 - (i) carries on business in the State and pays in that year of income salary or wages in respect of a week or a part of a week to an employee who is a resident of the State on the day when the salary or wages is or are paid;
 - (ii) pays in the State in that year of income salary or wages in respect of a week or a part of a week to an employee who is a resident of the State on the day when the salary or wages is or are paid; or
 - (iii) pays in that year of income salary or wages in respect of a week or a part of a week for work done wholly or partly in the State to an employee who is a resident of the State on the day when the salary or wages is or are paid,

shall make deductions from the salary or wages at the rate prescribed in relation to the State in relation to that year of income by regulations for the time being in force under the Income Tax Assessment Act and shall deal with the amounts deducted in the manner required by Division 2 of Part VI of the Income Tax Assessment Act.

- (2) The State income tax law shall provide that, where at a particular time an employee receives from an employer salary or wages—
- (a) the employee shall be deemed to receive from that employer at that time the same amount in salary or wages as he is taken to receive at that time from that employer for the purposes of section 221C of the Income Tax Assessment Act;
 - (b) if the employee receives the salary or wages (including amounts that he is deemed to receive) otherwise than in respect of a period of time—he shall be deemed to receive the salary or wages from that employer in respect of the same period of time as the period of time for which he is deemed to be entitled to receive the salary or wages from that employer for the purposes of that section; and
 - (c) if the employee receives the salary or wages (including amounts that he is deemed to receive) in respect of a period of time in excess of one week—he shall be deemed to receive from that employer in respect of each week or part of a week in that period

the same amount in salary or wages as he is deemed to be entitled to receive from that employer in respect of that week or part of a week for the purposes of that section.

(3) The State income tax law shall, in relation to each year of income in respect of which income tax is imposed by that law, provide that every employee who, on a day when he is a resident of the State, is paid by a prescribed employer salary or wages from which that employer is not required by that law to make tax instalment deductions shall pay to the Commissioner, within 28 days after that day, an amount equal to the tax instalment deductions that that employer would have been required to make from the salary or wages if that employer had been a natural person and a resident of the State on the day on which the salary or wages is or are paid.

(4) The State income tax law shall, in relation to each year of income in respect of which income tax is imposed by that law, provide that where—

- (a) an employee who is paid an amount of salary or wages would, but for the provisions contained in that law in accordance with this sub-section, be required to pay an amount to the Commissioner in respect of the salary or wages under the provisions of that law referred to in sub-section (3); and
- (b) the employer who paid that amount of salary or wages to the employee deducts from that amount of salary or wages the amount of the tax instalment deductions that the employer would have been required to make from that amount of salary or wages if the employer had been a natural person and a resident of the State on the day on which the salary or wages is or are paid,

the employee is released from his liability to make that payment.

(5) The State income tax law shall provide that, for the purposes of the application of a provision of that law referred to in sub-section (1) to an employer who makes a payment of salary or wages to an employee—

- (a) the employee shall be deemed to be a resident of the State on the day on which the payment is made if the last notice given by the employee to that employer in pursuance of section 221EB of the Income Tax Assessment Act before that day stated that the employee was resident in the State; and
- (b) if the employer is a natural person, he shall be deemed to be a resident of the State on that day if at the commencement of that day his sole or principal place of residence in Australia is in the State.

(6) The State income tax law shall provide that, for the purposes of the application of a provision of that law referred to in sub-section (3) to an employee, the employee shall be deemed to be a resident of the State

on a particular day if the last notice given by the employee to the employer in pursuance of section 221EB of the Income Tax Assessment Act before that day stated that the employee was resident in the State.

(7) For the purposes of this section, an employer who makes a payment of salary or wages to an employee is a prescribed employer if—

- (a) at the time when the payment is made the employer is a State that is a participating State or a supporting State in relation to the year of income in which the payment is made;
- (b) the employer is an authority of such a State;
- (c) the employer is a company incorporated in such a State;
- (d) the employer is a natural person whose sole or principal place of residence in Australia on the day on which the salary or wages was or were paid was in such a State;
- (e) the employer carried on business in such a State on that day;
- (f) the salary or wages was or were paid in such a State; or
- (g) the salary or wages was or were paid for work done wholly or partly in such a State.

(8) The State income tax law shall contain—

- (a) a provision assigning to the Commonwealth the right to receive payments of, and to recover, any amounts that an employer deducts, or is required to deduct, from salary or wages of an employee in accordance with the provision of that law referred to in sub-section (1); and
- (b) a provision assigning to the Commonwealth the right to receive payments of, and to recover, any amounts that an employee is required to pay to the Commissioner in accordance with the provision of that law referred to in sub-section (3).

Credits

11. (1) The State income tax law shall provide that, where—

- (a) tax is imposed under that law in respect of income of a person of a year of income; and
- (b) the person has paid tax (in this section referred to as “foreign tax”) under the law of a country outside Australia, or under the laws of two or more such countries, in respect of income, or part of the income, referred to in paragraph (a) that was derived from a source or sources in the country concerned,

the person will be entitled to a credit in respect of—

- (c) if the person is entitled under the income tax law of the Commonwealth to a credit in respect of part of the foreign tax, being a credit calculated by reference to the total foreign tax—so much of the foreign tax as has not been allowed or is not allowable as a credit under the income tax law of the Commonwealth by reason that the foreign tax exceeded the income tax payable in respect of the income or part of the income concerned; or

- (d) if the person is entitled to a credit under the income tax law of the Commonwealth in respect of part of the foreign tax, being a credit calculated by reference to the foreign tax paid in respect of a particular class or classes of income—so much of that part of the foreign tax as has not been allowed or is not allowable as a credit under the income tax law of the Commonwealth by reason that that part of the foreign tax exceeded the income tax payable in respect of the class or classes of income concerned.

(2) The State income tax law may provide that a credit to which a person is entitled under that law in respect of an amount of foreign tax paid in respect of income of a year of income is not to exceed the amount of the tax payable under that law in respect of that year of income that is attributable to income in respect of which the foreign tax was imposed.

(3) A reference in this section to the income tax law of the Commonwealth shall be construed as a reference to the *Income Tax (International Agreements) Act 1953* and the *Income Tax Assessment Act*.

12. (1) The State income tax law shall provide that—

Appeals

- (a) if a person has requested the Commissioner under the *Income Tax Assessment Act* to treat an objection by him against an assessment (in this paragraph referred to as the “Commonwealth assessment”) under that Act in respect of income of a year of income as an appeal and to forward it to the Supreme Court of the State—
 - (i) the person is not entitled to request the Commissioner under the State income tax law to refer to a Board of Review a decision on an objection lodged by the person against an assessment or determination under that law in respect of income of the same year of income, being an assessment or determination notice of which was served on the person at the same time as notice of the Commonwealth assessment was served on him; and
 - (ii) the person is not entitled to request the Commissioner to treat an objection against such an assessment or determination under the State income tax law as is mentioned in sub-paragraph (i) as an appeal and to forward it to the Supreme Court of the State if the hearing of the appeal in respect of the Commonwealth assessment has commenced;
- (b) if a person has requested the Commissioner under the *Income Tax Assessment Act*—
 - (i) to treat an objection by him against an assessment (in this paragraph referred to as the “Commonwealth assessment”) under that Act in respect of income of a year of income as an appeal and to forward it to the Supreme Court of another State or of a Territory; or

- (ii) to refer to a Board of Review a decision by the Commissioner on an assessment (in this paragraph also referred to as the “Commonwealth assessment”) under that Act in respect of income of a year of income,

the person is not entitled to request the Commissioner to treat as an appeal an objection by him against an assessment or determination under the State income tax law in respect of income of the same year of income, being an assessment or determination notice of which was served at the same time as notice of the Commonwealth assessment was served on him;

- (c) if an appeal has been instituted by a person in the Supreme Court of another State or of a Territory from a decision of a Board of Review on an assessment of the person under the Income Tax Assessment Act in respect of income of a year of income, no appeal to the Supreme Court of the first-mentioned State may be instituted from a decision of a Board of Review on an assessment or determination under the State income tax law in respect of income of the person of the same year of income, being an assessment or determination notice of which was served on the person at the same time as notice of the assessment under the Income Tax Assessment Act was served on him; and
- (d) if at the request of a person other than the Commissioner a question of law arising before a Board of Review on a reference to the Board from a decision of the Commissioner on an objection lodged by the person against an assessment under the Income Tax Assessment Act in respect of income of a year of income is referred to a Court, and the Court to which the question is referred is, with the agreement of that person, the Supreme Court of another State or of a Territory, no reference at the request of that person to the Supreme Court of the first-mentioned State may be made of a question of law arising before a Board of Review on a reference to the Board from a decision of the Commissioner on an objection lodged by the person against an assessment or determination under the State income tax law in respect of income of the same year of income, being an assessment or determination notice of which was served on the person at the same time as notice of the assessment under the Income Tax Assessment Act was served on him.

(2) In this section, “determination” means a determination in respect of the entitlement of a person to the benefit of a payment made by a State to the Commonwealth in partial discharge of the liability of residents of the State for income tax.

13. The State income tax law shall contain a provision assigning to the Commonwealth the right of the State to receive payments of, and to recover, any tax in respect of which an assessment is made under that law, any tax of a similar nature to provisional tax notice of which has been given under that law and any additional tax (or tax of a similar nature to additional tax) or penalty that a person is liable to pay to the Commissioner under a provision of that law.

Assignment
of right to
receive and
recover
amounts of
tax

Division 3—Requirements in relation to Participating States and Supporting States

14. The provisions of section 15 are requirements to be complied with by the law of a State if the State is to be declared to be a participating State as mentioned in sub-section 4 (1) or is to be declared to be a supporting State as mentioned in sub-section 4 (5).

Require-
ments

15. (1) The law of the State shall contain a provision that, where—

Tax
instalment
deductions

- (a) an employer pays salary or wages to an employee;
- (b) any one or more of the following provisions is or are applicable:
 - (i) the employer is the State or an authority of the State;
 - (ii) the employer is a company incorporated in the State;
 - (iii) the employer is a natural person whose sole or principal place of residence in Australia on the day on which the salary or wages was or were paid was in the State;
 - (iv) the employer carried on business in the State on that day;
 - (v) the salary or wages was or were paid in the State;
 - (vi) the salary or wages was or were paid for work done wholly or partly in the State; and
- (c) the employee is required by provisions of the law of another State referred to in sub-section 10 (3) or provisions of the law of an internal Territory corresponding with the provisions referred to in that sub-section to pay to the Commissioner the amount (in this sub-section referred to as the “relevant amount”) of the tax instalment deductions that the employer would have been required by the law of that other State or the law of that Territory to make from the salary or wages if the employer had been a natural person and a resident of that other State or of that Territory, as the case may be, on that day,

the employer shall, subject to the provisions contained in the law of the first-mentioned State in accordance with sub-section (3) of this section, deduct from the salary or wages an amount equal to the relevant amount and shall deal with the amount so deducted in the manner required by Division 2 of Part VI of the Income Tax Assessment Act.

(2) The State income tax law shall contain a provision that, for the purposes of the application of the provision contained in that law in accordance with sub-section (1), an employer shall treat an employee to whom the employer pays salary or wages as being required by provisions of the law of another State referred to in sub-section 10 (3) or by provisions of the law of an internal Territory corresponding with the provisions referred to in sub-section 10 (3) to pay to the Commissioner the amount of the tax instalment deductions that the employer would have been required to make from the salary or wages by the law of that other State or the law of that Territory if the employer had been a natural person and a resident of that other State or of that Territory, as the case may be, on that day, if the last notice given by the employee to the employer in pursuance of section 22 IEB of the Income Tax Assessment Act before the day on which the salary or wages was or were paid stated that the employee was resident in that other State or in that Territory, as the case may be, and—

- (a) if the notice stated that the employee was resident in that other State—that other State is a participating State in relation to the year of income in which the salary or wages was or were paid and the law of that other State imposed a tax on the income of residents of that State of that year of income; or
- (b) if the notice stated that the employee was resident in that Territory—the law of that Territory imposed a tax on the income of residents of that Territory of the year of income in which the salary or wages was or were paid.

(3) The law of the State shall contain a provision that an employer is not required by the provision of that law referred to in sub-section (1) to deduct an amount from the salary or wages payable to an employee in respect of tax imposed by the law of another State or of an internal Territory if the employer—

- (a) is required by section 78 of this Act or by the law of that other State or of that internal Territory to make a deduction from that salary or those wages in respect of that tax; or
- (b) not being required to make a deduction from that salary or those wages as mentioned in paragraph (a), makes a deduction from that salary or those wages in respect of that tax in purported pursuance of a provision of the law of a State or internal Territory other than the State or internal Territory by the law of which that tax is imposed.

(4) The law of the State shall contain a provision assigning to the Commonwealth the right to receive payments of, and to recover, any amounts that an employer deducts, or is required to deduct, from salary or wages of an employee in accordance with the provision of that law referred to in sub-section (1).

PART III—AMENDMENTS OF INCOME TAX ASSESSMENT
ACT

16. The *Income Tax Assessment Act 1936*² is in this Part referred to as the Principal Act. Citation

17. Section 6 of the Principal Act is amended by inserting in sub-section (1), before the definition of “superannuation benefits”, the following definition: Interpretation

“ ‘State income tax law’ means the following provisions of the law of a State that is a participating State for the purposes of the *Income Tax (Arrangements with the States) Act 1978* in relation to the relevant year of income:

- (a) the provisions of that law that provide for or in relation to either or both of the following matters:
 - (i) the imposition and assessment of a tax upon incomes;
 - (ii) the making of payments by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax;
- (b) the provisions of that law that provide for or in relation to the collection of a tax upon incomes, including a tax imposed by the law of another State or of an internal Territory; and
- (c) the provisions of that law that are referred to in sub-section (8) of section 10, section 13 and sub-section (4) of section 15 of the *Income Tax (Arrangements with the States) Act 1978*;”.

18. Section 15 of the Principal Act is repealed.

Governor-General may make arrangements with Governor of State

19. Section 16 of the Principal Act is amended—

Officers to observe secrecy

- (a) by adding at the end of sub-section (3) “or for the purpose of carrying into effect the provisions of a State income tax law or provisions of the law of a State referred to in section 15 of the *Income Tax (Arrangements with the States) Act 1978* or the provisions of section 78 of the *Income Tax (Arrangements with the States) Act 1978*”;
- (b) by omitting paragraph (a) of sub-section (4) and substituting the following paragraph:
 - “(a) any person performing, in pursuance of any appointment or employment by the Commonwealth, any duty arising under any Act administered by the Commissioner

of Taxation, under the *Income Tax (Arrangements with the States) Act 1978*, under any State income tax law or under provisions of the law of a State referred to in section 15 of the *Income Tax (Arrangements with the States) Act 1978*, for the purpose of enabling that person to carry out any such duty;”;

- (c) by omitting from paragraph (b) of sub-section (4) “any State Act administered by the Commissioner of Income Tax of any State” and substituting “any State income tax law”;
- (d) by omitting from paragraph (c) of sub-section (4) “the Commissioner of Income Tax for any State, or”;
- (e) by adding at the end of sub-section (5A) “or to any Minister of the Crown of a State”.

Interpretation

20. Section 160AE of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) For the purposes of the application in relation to a taxpayer of the definition of ‘average rate of Australian tax’ in sub-section (1), the amount of income tax referred to in that definition shall, in the case of a taxpayer who is entitled under a State income tax law to the benefit of a payment made by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax in respect of the year of income, be taken to be the amount that would be the amount of that tax for the purposes of that definition apart from this sub-section reduced by so much of the amount of the payment as has been or is to be applied in pursuance of section 203 in partial discharge of the liability of the taxpayer for income tax in respect of the year of income.”.

Determination of claims for credits

21. Section 160AI of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) A notice of determination referred to in sub-section (3) may, in addition to specifying amounts relevant to the determination, specify—

- (a) amounts relevant to a determination of a credit under a State income tax law; and
- (b) amounts being in each case the sum of—
 - (i) an amount relevant to the determination; and
 - (ii) an amount relevant to a determination of a credit under a State income tax law.”.

Amendments of determinations

22. Section 160AK of the Principal Act is amended by adding at the end of sub-sections (2) and (3) “or an adjustment in respect of an entitlement to the benefit of a payment made by a State to the Commonwealth in partial discharge of the liability of residents of that State in respect of income tax in respect of income of the year of income”.

Application of credits

23. Section 160AN of the Principal Act is amended by adding at the end of sub-section (2) “or under or by virtue of a State income tax law”.

24. Section 160AO of the Principal Act is amended by adding at the end thereof the following sub-section: Maximum credits

“(3) The reference in sub-section (2) to the amount of Australian tax that, before the allowance of a credit or credits, is payable by a person in respect of his taxable income of a year of income shall, in the case of a person who is entitled under a law of a State to the benefit of a payment made by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax in respect of that year of income, be construed as a reference to that amount of Australian tax reduced by so much of the amount of the payment as has been or is to be applied in pursuance of section 203 in partial discharge of the liability of that person for income tax in respect of that year of income.”

25. After section 160AO of the Principal Act the following section is inserted in Division 19 of Part III:

“160AP. (1) Where under a provision of a State income tax law referred to in section 11 of the *Income Tax (Arrangements with the States) Act 1978* a person is entitled to a credit (in this section referred to as a ‘State credit’), the amount of the credit is a debt due and payable to that person by the Commissioner on behalf of the Commonwealth. State credits

“(2) The Commissioner may apply the whole or part of the State credit in total or partial discharge of any liability to the Commonwealth of the person entitled to the credit arising under or by virtue of this Act or under or by virtue of any other Act or any State income tax law of which the Commissioner has the general administration.

“(3) The fact that an appeal to a Court under a State income tax law, or a reference to a Board of Review for the purposes of a State income tax law, is pending in respect of a determination under that law of the entitlement of a person to the benefit of a State credit in respect of income tax payable under that law in respect of income of the year of income, or the fact that an appeal to a Court or a reference to a Board of Review is pending in respect of an assessment or determination under this Act, shall not in the meantime interfere with or affect the operation of sub-section (1) or (2) and any amount due and payable to the Commonwealth by a person in respect of any liability arising under or by virtue of this Act or under or by virtue of any other Act or any State income tax law of which the Commissioner has the general administration may be recovered as if such an appeal or reference were not pending.

“(4) An amount payable by the Commissioner in pursuance of this section is payable out of the Consolidated Revenue Fund, which, to the necessary extent, is appropriated accordingly.

“(5) Where, by reason of any one or more of the following:

- (a) an amendment of an assessment;
- (b) an amendment of a determination;

(c) an amendment of an assessment under a State income tax law;
or

(d) an amendment of a determination under a State income tax law,

the amount applied or paid by the Commissioner as a State credit to which a person is entitled exceeds the amount of the State credit to which that person is entitled, the Commissioner may recover the amount of the excess as if it were Australian tax due and payable by that person.”

Annual
returns

26. Section 161 of the Principal Act is amended by inserting in sub-section (1) “, and also setting forth such information (if any), being information that it is necessary for the Commissioner to obtain for the purposes of the administration or operation of a State income tax law, as is prescribed” after “claimed by him”.

Special
returns

27. Section 163 of the Principal Act is amended by adding at the end thereof “or of any State income tax law”.

28. Section 172 of the Principal Act is repealed and the following section substituted:

Refund of
amounts
overpaid

“172. Where, by reason of any amendment, the taxpayer’s liability to tax or the taxpayer’s liability to income tax under a State income tax law, or both, is or are reduced, the Commissioner shall refund any amount overpaid.”.

Notice of
assessment

29. Section 174 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) A notice of assessment referred to in sub-section (1) may, in addition to specifying amounts relevant to the assessment, specify—

(a) amounts relevant to an assessment or determination under a State income tax law; and

(b) amounts being in each case the sum of—

(i) an amount or amounts relevant to the assessment; and

(ii) an amount or amounts relevant to an assessment or determination under a State income tax law.”.

Application
for appeal or
review

30. Section 187 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(2) If a taxpayer has requested the Commissioner under a State income tax law to treat an objection by him against an assessment or determination under that law in respect of income of a year of income as an appeal and to forward it to the Supreme Court of that State—

(a) the taxpayer is not entitled to request the Commissioner under sub-section (1) to refer to a Board of Review a decision mentioned in that sub-section on an objection lodged by the taxpayer against an assessment under this Act in respect of income of the same year of income, being an assessment notice of which

was served on the taxpayer at the same time as notice of the assessment or determination under the State income tax law was served on him; and

- (b) if the taxpayer requests the Commissioner to treat his objection against such an assessment under this Act as is mentioned in paragraph (a) as an appeal, he is not entitled to request the Commissioner to forward it to a Supreme Court other than the Supreme Court of that State.

“(3) If a taxpayer has requested the Commissioner under a State income tax law to refer to a Board of Review a decision by the Commissioner on an objection lodged by the taxpayer against an assessment or determination under that law in respect of income of a year of income, the taxpayer is not entitled to request the Commissioner to treat as an appeal an objection lodged by the taxpayer against an assessment under this Act in respect of income of the same year of income, being an assessment notice of which was served on the taxpayer at the same time as notice of the assessment or determination made under the State income tax law was served on him.

“(4) In this section, ‘determination’ means a determination in respect of the entitlement of a person to the benefit of a payment made by a State to the Commonwealth in partial discharge of the liability of residents of the State for income tax.”.

31. Section 196 of the Principal Act is amended by inserting after sub-section (2) the following sub-sections:

Appeal or
reference to
Supreme
Court

“(2A) If an appeal has been instituted in the Supreme Court of a State from a decision of a Board of Review on an assessment or determination under a State income tax law in respect of income of a taxpayer of a year of income, an appeal from a decision of a Board of Review on an assessment of the taxpayer under this Act in respect of income of that year of income, being an assessment notice of which was served on the taxpayer at the same time as notice of the assessment or determination under the State income tax law was served on him, shall not be instituted under sub-section (1) in a Supreme Court other than the Supreme Court of that State.

“(2B) If a question of law arising before a Board of Review on a reference to the Board from a decision of the Commissioner on an objection lodged by a taxpayer against an assessment or determination under a State income tax law in respect of income of a year of income is referred to the Supreme Court of the State, a question of law arising before a Board of Review on a reference to the Board from a decision of the Commissioner on an objection lodged by the taxpayer against an assessment under this Act in respect of income of the same year of income, being an assessment notice of which was served on the taxpayer at the same time as notice of the assessment or determination under the State income tax

law was served on him, shall not be referred under sub-section (2) to a Supreme Court other than the Supreme Court of that State.

“(2C) In this section, ‘determination’ means a determination in respect of the entitlement of a person to the benefit of a payment made by a State to the Commonwealth in partial discharge of the liability of residents of the State for income tax.”.

32. Before section 204 of the Principal Act the following section is inserted in Division 1 of Part VI:

Payments by States to be applied in partial discharge of liability for income tax

“203. (1) Where a State that is a participating State in relation to a year of income for the purposes of the *Income Tax (Arrangements with the States) Act* 1978 makes, in accordance with the State income tax law, a payment to the Commonwealth in partial discharge of the liability of residents of the State for income tax in respect of income of a year of income, the Commissioner shall apply so much of the amount of the payment as is applicable under that law in relation to a taxpayer for whose benefit the law operates in partial discharge of the liability of the taxpayer for income tax in respect of income of that year of income.

“(2) The fact that an appeal to a Court under a State income tax law, or a reference to a Board of Review for the purposes of a State income tax law, is pending in respect of a determination under that law of the entitlement of a taxpayer to the benefit of a payment made by the State to the Commonwealth in partial discharge of the liability of residents of that State in respect of income tax in respect of income of the year of income, or the fact that an appeal to a Court or a reference to a Board of Review is pending in respect of an assessment under this Act, shall not in the meantime interfere with or affect the operation of sub-section (1) and income tax may be recovered on the assessment in respect of income of that year of income as if such an appeal or reference were not pending.”.

33. After section 204 of the Principal Act the following section is inserted:

Application of certain provisions to State tax

“204A. A reference in section 205, 206, 207, 209 or 214 to tax, or to income tax (other than a reference to additional tax) includes a reference to tax assessed, and to additional tax (or tax of a similar nature to additional tax) payable, under a State income tax law and, except in section 205, also includes a reference to a tax of a similar nature to provisional tax notified under such a law.”.

34. After section 208 of the Principal Act the following sections are inserted:

Recovery of assigned debts

“208A. Where a State income tax law makes provision in accordance with section 13 of the *Income Tax (Arrangements with the States) Act* 1978 assigning to the Commonwealth the right to receive

payment of, or to recover, an amount, the amount is, by force of this section, a debt due to the Commonwealth and payable to the Commissioner in the manner and the place prescribed.

“208B. (1) In this section, ‘debt to which this section applies’ means a debt owing to the Commonwealth under section 208 or 208A.

Application of payment in partial discharge of debts

“(2) Where—

- (a) two or more debts to which this section applies are owing by a person;
- (b) an amount is paid to or credited by the Commissioner, or an amount is paid to and an amount is credited by the Commissioner, in respect of all or any of the debts; and
- (c) the total amount of the debts exceeds the amount so paid or credited or the sum of the amounts so paid and credited, as the case may be,

the Commissioner may, notwithstanding any directions given to him by or on behalf of the person by whom the debts are owed, apply the payment or the credit, or the payment and the credit, in partial discharge of the total amount of the debts and recover the amount by which the total amount of the debts exceeds the amount of the payment or credit, or the sum of the amount of the payment and the amount of the credit, as the case may be, without allocating the payment or the credit, or the payment and the credit, towards the discharge of any particular debt or debts.”.

35. Section 216 of the Principal Act is amended—

- (a) by adding at the end of paragraph (b) “(including an assessment under a State income tax law) or for the purpose of a determination in respect of the entitlement of the taxpayer to the benefit of a payment made by a State to the Commonwealth in partial discharge of the liability of residents of the State for income tax”; and
- (b) by inserting in paragraph (d) “(including tax under a State income tax law)” after “tax”.

When tax not paid during lifetime

36. Section 217 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “and recovery of tax from” and substituting “of tax against”; and
- (b) by adding at the end thereof the following sub-section:

Provision for payment of tax by trustees of deceased person

“(4) Where tax is assessed in respect of a deceased person in accordance with sub-section (1) or (3) or tax under a State income tax law is assessed in respect of a deceased person in accordance with a provision of that law corresponding with sub-section (1) or (3), the Commissioner has the same powers and remedies for the recovery of the tax so assessed under this Act or the State income tax law from the trustees of that person’s estate

as he would have had against that person if that person were alive.”.

Com-
missioner
may collect
tax from
person
owing
money to
taxpayer

37. Section 218 of the Principal Act is amended by omitting from sub-section (6) the definition of “tax” and substituting the following definition:

“ ‘tax’ includes—

- (a) tax assessed, and a tax of a similar nature to provisional tax notified, under a State income tax law; and
- (b) any judgment debt and costs in respect of income tax (including tax referred to in paragraph (a));”.

Where no
admin-
istration

38. Section 220 of the Principal Act is amended by inserting in sub-section (5) “(including tax assessed under a provision of a State income tax law corresponding with this section)” after “assessed”.

Interpret-
ation

39. Section 221A of the Principal Act is amended—

- (a) by inserting “(including deductions made under a State income tax law and deductions made under section 78 of the *Income Tax (Arrangements with the States) Act 1978*)” after “deductions” in the definitions of “group certificate” and “tax stamp certificate”;

- (b) by inserting, after the definition of “salary or wages”, the following definition:

“ ‘State income tax law’ includes any provisions of the law of a State, being a State that is a supporting State for the purposes of the *Income Tax (Arrangements with the States) Act 1978* in relation to the relevant year of income, relating to—

- (a) the making of deductions from salary or wages of employees in respect of a tax on income of those employees imposed by a law of another State or of an internal Territory; or
- (b) the assigning to the Commonwealth of the right to receive payments of, and to recover, amounts deducted or required to be deducted from salary or wages of employees in respect of such a tax;”;

- (c) by omitting the definition of “tax payable by the employee” and substituting the following definition:

“ ‘tax payable by the employee’ means income tax (including tax under a State income tax law) that is or may become due and payable by an employee under an assessment (including an assessment under a State income tax law) made or to be made on a return that he has furnished, or has been or may be required to furnish, or under an

assessment (including an assessment under a State income tax law) made or to be made in default of any such return;”.

40. Section 221C of the Principal Act is amended—

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

“(1AA) Where a State income tax law provides for the making of a payment to the Commonwealth in partial discharge of the liability for income tax for a year of income of persons who are residents of the State, the regulations may prescribe rates of deductions to be made by employers from payments of salary or wages that any such persons receive or are entitled to receive in respect of a week or part of a week in that year of income that are lower than the rates of deductions prescribed under sub-section (1) in relation to other employees.”; and

- (b) by omitting from sub-section (1A) “the last preceding sub-section” and substituting “sub-section (1) or (1AA)”.

Deductions
by employer
from salary
or wages

41. After section 221E of the Principal Act the following sections are inserted:

“221EA. Where a State income tax law imposes a tax for a year of income on persons who are residents of the State, the regulations may, for the purpose of enabling the collection by instalments from any such persons who are employees of income tax payable under that law, prescribe rates of deductions to be made by employers from payments of salary or wages that those employees receive or are entitled to receive in respect of a week or part of a week in that year of income.

Rates of
deductions in
respect of
State income
tax

“221EB. For the purposes of sub-section (1AA) of section 221C and section 221EA, the regulations may require every person who is an employee to give to his employer, at such times as are prescribed, a notice in writing stating where he is resident (as defined by the regulations) at the time when the notice is given.”.

Employee to
furnish
statement as
to place of
residence

42. Section 221F of the Principal Act is amended—

- (a) by inserting in sub-section (5) “(including deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*)” after “deductions” (wherever occurring); and
- (b) by inserting in sub-section (9) “(including tax under a State income tax law)” after “tax”.

Group
employers

43. Section 221G of the Principal Act is amended by adding at the end thereof the following sub-section:

“(7) In this section, ‘deduction’ includes a deduction under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*.”.

Employers
other than
group
employers

Application
of
deductions in
payment of
tax

44. Section 221H of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(8) In this section, ‘deductions’ includes deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*.

“(9) For the purposes of this section, the amount of tax payable by an employee in respect of a year of income shall, if the Commissioner is required by section 203 to apply an amount of a payment by a State in partial discharge of the liability of the employee for tax in respect of income of that year of income, be taken to be the amount of tax payable by the employee reduced by the amount that the Commissioner is so required to apply in partial discharge of the liability of the employee for that tax.”.

Use of tax
stamps by
persons
other than
employees

45. Section 221K of the Principal Act is amended—

(a) by inserting in paragraphs (a) and (b) of sub-section (2) “(including tax payable under a State income tax law)” after “tax payable by the taxpayer”; and

(b) by inserting after sub-section (2) the following sub-section:

“(2A) Where an amount of tax is payable by a taxpayer but the Commissioner is required by section 203 to apply an amount (in this sub-section referred to as the ‘applied amount’) of a payment by a State to the Commonwealth in partial discharge of the liability of the taxpayer for tax in respect of income of a year of income, the amount of tax payable by the taxpayer shall, for the purposes of this section, be deemed to be reduced by the applied amount.”.

Recovery of
amounts not
deducted

46. Section 221N of the Principal Act is amended by omitting from sub-section (1) “any deductions” and substituting “some or all of the deductions that he is required to make from salary or wages paid to an employee (including deductions that he is required to make under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*)”.

Employer
not
accounting
for
deductions

47. Section 221P of the Principal Act is amended by inserting in sub-section (1) “, for the purposes of the corresponding provisions of a State income tax law or for the purposes of section 78 of the *Income Tax (Arrangements with the States) Act 1978*” after “of this Division”.

Employer
failing to
issue group
certificate or
deliver tax
stamps sheet

48. Section 221Q of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In this section, ‘deductions’ includes deductions made under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*.”.

49. Section 221R of the Principal Act is amended—

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

“(1A) Where—

- (a) two or more debts in pursuance of sub-section (1) are owing by a person;
- (b) an amount is paid to the Commissioner in respect of all or any of the debts; and
- (c) the total amount of the debts exceeds the amount of the payment,

the Commissioner may, notwithstanding any direction given to him by or on behalf of the person by whom the debts are owed, apply the payment in partial discharge of the total amount of the debts and recover the amount by which the total amount of the debts exceeds the amount of the payment without allocating the payment towards the discharge of any particular debt or debts.”; and

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

“(3) A reference in this section to an amount payable to the Commissioner under the provisions of this Division shall be read as including a reference to—

- (a) an amount the right to receive or to recover which has been assigned to the Commonwealth under the provisions of a law of a State referred to in paragraph (a) of sub-section (8) of section 10 or sub-section (4) of section 15 of the *Income Tax (Arrangements with the States) Act 1978*; and
- (b) an amount payable to the Commissioner under section 78 of the *Income Tax (Arrangements with the States) Act 1978*.”.

Recovery of amounts by Commissioner

50. Section 221S of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) In this section, ‘deductions’ includes deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*.”.

Arrangements with authorities of other countries

51. After section 221T of the Principal Act the following section is inserted:

“221TA. If the Commissioner receives from an employee an amount that the employee is required to pay to the Commissioner under a provision of a State income tax law referred to in sub-section (3) of section 10 of the *Income Tax (Arrangements with the States) Act 1978*, the Commissioner shall apply the provisions of section 221H as if the amount were a deduction from the salary or wages of the employee made under that law and a group certificate in respect of the deduction had been received by him.”.

Application by Commissioner of amounts received from employees

- Payments to and from Consolidated Revenue Fund** **52.** Section 221U of the Principal Act is amended by inserting after “Division” (first occurring) “(including moneys the right to receive or to recover which has been assigned to the Commonwealth by a State income tax law)”.
- Offences** **53.** Section 221V of the Principal Act is amended by inserting in paragraphs (a) and (c) “(including a deduction under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*)” after “deduction”.
- Interpretation** **54.** Section 221YA of the Principal Act is amended—
- (a) by adding at the end of sub-section (1) the following definition:
- “State income tax law’ includes any provisions of the law of a State, being a State that is a supporting State for the purposes of the *Income Tax (Arrangements with the States) Act 1978* in relation to the relevant year of income, relating to—
- (a) the making of deductions from salary or wages of employees in respect of a tax on income of those employees imposed by a law of another State or of an internal Territory; or
- (b) the assigning to the Commonwealth of the right to receive payments of, and to recover, amounts deducted or required to be deducted from salary or wages of employees in respect of such a tax;”;
- (b) by adding at the end thereof the following sub-section:
- “(6) Where a notice of assessment or other notice served by the Commissioner notifies or specifies an amount being the total of an amount of provisional tax payable by the taxpayer and an amount of tax of a similar nature to provisional tax payable by the taxpayer under a State income tax law, the notice shall be deemed, for the purposes of this Division, to notify or specify, as the case may be, each of the amounts making up that total.”.
- Amount of provisional tax** **55.** Section 221YC of the Principal Act is amended—
- (a) by omitting from sub-section (1A) “the last preceding sub-section” and substituting “sub-section (1), as reduced by such amount (if any) as is prescribed under section 221YDBA,”; and
- (b) by inserting in sub-section (2) “(before any reduction is made in that provisional tax under section 221YDBA)” after “applicable”.
- When provisional tax payable** **56.** Section 221YD of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In this section, ‘provisional tax’ includes any tax of a similar nature to provisional tax that is payable under a State income tax law.”

57. Section 221YDA of the Principal Act is amended—

Provisional
tax on
estimated
income

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

“(d) the respective amounts included in that estimated taxable income that represent—

(i) salary or wages;

(ii) if the Commissioner requires the taxpayer to make an estimate of interest to which this sub-paragraph applies—interest derived from bonds, debentures, stock or other securities issued by the Government of the Commonwealth the prospectuses for which were issued before 1 July 1976; and

(iii) income other than salary or wages;”;

(b) by inserting in paragraph (e) of sub-section (1) “, a State income tax law or section 78 of the *Income Tax (Arrangements with the States) Act 1978*” after “in accordance with section 221C”;

(c) by omitting from sub-section (1) the words and paragraphs after the word “Commissioner” and substituting “a statement showing the amounts so estimated”;

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

“(1A) Where a taxpayer furnishes to the Commissioner a statement under sub-section (1), he shall, if so required by the Commissioner, also furnish to the Commissioner a statement setting out such information as the Commissioner requires for the purposes of the operation of a State income tax law.”;

(e) by omitting from sub-section (2) “the last preceding sub-section” and substituting “sub-section (1) and any statement required to be furnished by the taxpayer to the Commissioner under sub-section (1A)”;

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

“(b) by deducting from the amount so calculated so much of the estimated amount of deductions referred to in paragraph (e) of sub-section (1) as shown in the statement as is estimated by the Commissioner to represent deductions that have been and will be made in accordance with section 221C.”;

- (g) by omitting sub-section (3) and substituting the following sub-section:

“(3) Where provisional tax is payable in accordance with sub-section (2) or a tax of a similar nature to provisional tax is payable in accordance with the corresponding provision of a State income tax law, that provisional tax or tax of a similar nature to provisional tax is, notwithstanding the provisions of section 221YD, due and payable on the date that is the date not later than which a taxpayer is permitted to furnish a statement under sub-section (1).”; and

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

“(7) A notice under sub-section (4) may also state the amount of any tax of a similar nature to provisional tax and any additional tax of a similar nature to provisional tax that becomes payable by reason of the operation of a provision of a State income tax law that corresponds with sub-section (4) and shall specify a date as the due date for the payment of that additional tax that is the same date as the date specified in the notice for the payment of additional provisional tax, and the amount of additional tax under the State income tax law so stated is, notwithstanding the provisions of section 221YD, due and payable on that date.”.

Penalty
where
income
under-
estimated

58. Section 221YDB of the Principal Act is amended—

- (a) by inserting in paragraphs (a) and (b) of sub-section (1A) “, a State income tax law or section 78 of the *Income Tax (Arrangements with the States) Act 1978*” after “in accordance with section 221C”;
- (b) by omitting “and” at the end of paragraph (a) of sub-section (1A);
- (c) by adding at the end of sub-section (1A) the following paragraphs:
- “(c) the reference in paragraph (a) of sub-section (1) to the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income shall, if the Commissioner is required by section 203 to apply part of a payment made by a State to the Commonwealth in partial discharge of the liability of that taxpayer for income tax in respect of income of the year of income, be taken to be the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income reduced by the amount that the Commissioner would have been so required to apply in partial discharge of the liability of the taxpayer for that income tax if the taxpayer’s taxable income of the year of income had been equal to four-fifths of his taxable income of the year of income and had

included Government loan interest equal to four-fifths of the amount (if any) of the Government loan interest included in his taxable income of the year of income; and

“(d) the reference in paragraph (b) of sub-section (1) to the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income for the year last preceding the year of income shall, if the Commissioner is required by section 203 to apply part of a payment made by a State to the Commonwealth in partial discharge of the liability of that taxpayer for income tax in respect of income of the year of income, be taken to be the amount of tax that would be payable in respect of a taxable income equal to four-fifths of the taxpayer’s taxable income for that last preceding year reduced by the amount that the Commissioner would have been so required to apply in partial discharge of the liability of the taxpayer for that income tax if the taxpayer’s taxable income of the year of income had been equal to four-fifths of his taxable income for that last preceding year and had included Government loan interest equal to four-fifths of the amount (if any) of Government loan interest included in his taxable income for that last preceding year.”;

(d) by inserting after sub-section (1A) the following sub-section:

“(1B) For the purposes of sub-section (1A), ‘Government loan interest’ means interest derived from bonds, debentures, stock or other securities issued by the Government of the Commonwealth the prospectuses for which were issued before 1 July 1976.”; and

(e) by inserting in sub-section (2) “or under a corresponding provision of a State income tax law” after “under sub-section (1)”.

59. After section 221YDB of the Principal Act the following section is inserted:

“221YDBA. Where a State income tax law provides for the making of a payment to the Commonwealth in partial discharge of the liability for income tax for a year of income of persons who are residents of the State, the provisional tax that would, but for sub-sections (1A) and (1B) of section 221YC, be payable by a person who is a resident of the State (as defined by the regulations) in respect of income of that year of income in accordance with the preceding provisions of this Division shall be reduced to such extent as is prescribed.”.

Reduction of provisional tax in certain circumstances

Provisional
tax to be
credited
against other
tax

60. Section 221YE of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In this section—

‘income tax’ includes income tax payable under a State income tax law;

‘provisional tax’ includes any tax of a similar nature to provisional tax that is payable under a State income tax law.’”.

Alteration of
notice of
provisional
tax

61. Section 221YG of the Principal Act is amended—

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

“(1A) A notice under sub-section (1) may also set out information in respect of tax of a similar nature to provisional tax that the Commissioner is required to notify to the taxpayer by reason of the operation of a provision of a State income tax law.”;

(b) by omitting from sub-section (2) “the last preceding sub-section” and substituting “sub-section (1)”; and

(c) by adding at the end of the section the following sub-section:

“(3) In sub-section (2)—

‘income tax’ includes income tax payable under a State income tax law;

‘provisional tax’ includes any tax of a similar nature to provisional tax that is payable under a State income tax law.’”.

Additional
tax in certain
cases

62. Section 226 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) For the purposes of this section—

(a) the amount (in this paragraph referred to as the ‘relevant amount’) of the tax assessable to a taxpayer or of the tax properly payable by a taxpayer shall, if the Commissioner is required by section 203 to apply part of a payment made by a State to the Commonwealth in partial discharge of the liability of the taxpayer for income tax in respect of income of the year of income, be taken to be the relevant amount reduced by the amount that the Commissioner is so required to apply in partial discharge of the liability of the taxpayer for that income tax; and

(b) the amount (in this paragraph referred to as the ‘relevant amount’) of the tax that would be payable by a taxpayer if it were assessed upon the basis of the return furnished by him shall, if the Commissioner is required by section 203 to apply part of a payment made by a State to the Commonwealth in partial discharge of the liability of the taxpayer for income tax in respect of income of the year of income, be taken to be the relevant amount reduced by the amount (if any) that the

Commissioner would have been required by section 203 to apply in partial discharge of the liability of the taxpayer for income tax in respect of income of the year of income if income tax had been assessed, and the amount that the Commissioner is required by section 203 so to apply had been determined, upon the basis of the return furnished by the taxpayer.”.

63. Section 227 of the Principal Act is amended by inserting after sub-section (1) the following sub-section: False returns
or statements

“(1A) For the purposes of the penalty in sub-section (1), the amount of tax that would have been avoided by a person if the return or answer referred to in that sub-section had been accepted as correct shall—

- (a) if tax is payable under a State income tax law by the person in respect of income of the year of income—be taken to include the amount of tax payable under that law that would have been avoided by the person if that return or answer, as the case may be, had been accepted as correct; or
- (b) if a payment is made by a State to the Commonwealth in partial discharge of the liability of residents of the State for tax in respect of income of the year of income, be taken to be the difference between—
 - (i) the amount of tax properly payable by the person on his income of the year of income less the amount (if any) that the Commissioner is required by section 203 to apply in partial discharge of the liability of the person for income tax in respect of income of the year of income; and
 - (ii) the amount of tax (if any) that would have been payable by the person on his income of the year of income if that return or answer had been accepted as correct less the amount (if any) that the Commissioner would have been required by section 203 to apply in partial discharge of the liability of the person for income tax in respect of income of the year of income if that return or answer had been accepted as correct.”.

64. Section 230 of the Principal Act is amended by adding at the end thereof the following sub-section: Understating
income

“(3) For the purposes of the penalty in sub-section (1), the amount of tax that would have been avoided by a person if the statement in the return referred to in that sub-section had been accepted as correct shall—

- (a) if tax is payable under a State income tax law by the person in respect of income of the year of income—be taken to include the amount of tax payable under that law that would have been avoided by the person if that statement had been accepted as correct; or

(b) if a payment is made by a State to the Commonwealth in partial discharge of the liability of residents of the State for tax in respect of income of the year of income, be taken to be the difference between—

(i) the amount of tax properly payable by the person on his income of the year of income less the amount (if any) that the Commissioner is required by section 203 to apply in partial discharge of the liability of the person for income tax in respect of income of the year of income; and

(ii) the amount of tax (if any) that would have been payable by the person on his income of the year of income if that statement had been accepted as correct less the amount (if any) that the Commissioner would have been required by section 203 to apply in partial discharge of the liability of the person for income tax in respect of income of the year of income if that statement had been accepted as correct.”

Penalties not to relieve from tax

65. Section 251 of the Principal Act is amended by inserting “(or for liability to pay income tax under a State income tax law)” after “tax”.

Agents and trustees

66. Section 254 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In this section, ‘tax’ includes income tax, and tax of a similar nature to provisional tax, under a State income tax law.”

Recovery of tax paid on behalf of another person

67. Section 258 of the Principal Act is amended by inserting “(including income tax, and tax of a similar nature to provisional tax, under State income tax law)” after “tax”.

Contribution from joint taxpayers

68. Section 259 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) In this section, ‘tax’ includes tax, and tax of a similar nature to provisional tax, under a State income tax law.”

Release of taxpayers from liability in cases of hardship

69. Section 265 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(12) In this section, ‘tax’ includes income tax under a State income tax law.”

Release of liability of members of Defence Force on death

70. Section 265A of the Principal Act is amended—

(a) by omitting from sub-paragraph (ii) of paragraph (b) of sub-section (1) “or those years”;

(b) by inserting in sub-section (5) “, in pursuance of corresponding provisions of a State income tax law, in pursuance of provisions of the law of a State referred to in section 15 of the *Income Tax*

(Arrangements with the States) Act 1978 or in pursuance of section 78 of that Act” after “of Part VI”; and

(c) by adding at the end thereof the following sub-sections:

“(6) Where a payment is made by a State to the Commonwealth in partial discharge of the liability of residents of the State for tax in respect of income of the year of income—

- (a) the reference in sub-section (1) (other than the reference in sub-paragraph (ii) of paragraph (b)) to income tax shall be construed as a reference to the income tax payable by the trustee as reduced by the amount that the Commissioner is required by section 203 to apply in partial discharge of the liability of the trustee for income tax in respect of income of the year of income; and
- (b) the reference in sub-paragraph (ii) of paragraph (b) of sub-section (1) to the amount by which the income tax payable in respect of the income of the year of income has been increased by the inclusion of such pay and allowances in the assessable income of that year shall be construed as a reference to that amount as reduced by the difference between—
 - (i) the amount that the Commissioner is required by section 203 to apply in partial discharge of the liability of the trustee for income tax in respect of income of the year of income; and
 - (ii) the amount that the Commissioner would have been required by section 203 to apply in partial discharge of the liability of the trustee for income tax in respect of income of the year of income if that assessable income of the year of income had not included such pay and allowances.

“(7) A reference in this section to income tax shall, if tax is payable under a State income tax law by the trustee in respect of income of the year of income, be construed as including a reference to tax under the State income tax law.”.

71. Section 265B of the Principal Act is repealed.

Treatment of
amounts
received by
Com-
missioner

PART IV—AMENDMENTS OF OTHER ACTS

Amendment
of Com-
monwealth
Inscribed
Stock Act

72. Section 52B of the *Commonwealth Inscribed Stock Act 1911*³ is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) If—

- (a) a person derives interest from Stock, from Treasury Bonds or from other securities prescribed for the purposes of section 51A; and
- (b) the prospectus relating to the loan on which the interest is payable stated that the interest would not be liable to income tax under any law of a State,

the interest so derived is not liable to income tax under any law of a State.”.

Repeal of
Common-
wealth
Salaries Act

73. The *Commonwealth Salaries Act 1907*⁴ is repealed.

Amendments
of the States
(Personal
Income Tax
Sharing) Act

74. (1) Section 4 of the *States (Personal Income Tax Sharing) Act 1976*⁵ is amended—

- (a) by omitting paragraph (b) of the definition of “gross personal income tax collections” in sub-section (1) and substituting the following paragraph:

“(b) other amounts received by the Commissioner during the year in respect of liability for personal income tax or in respect of liability for tax (including additional tax, tax of a similar nature to additional tax, penalties, and tax of a similar nature to provisional tax) under a State income tax law, or amounts treated by the Commissioner (otherwise than by virtue of section 45, 160AN or 160AP, or Division 2 or 3 of Part VI, of the Income Tax Assessment Act) as having been so received;”;

- (b) by omitting from paragraph (a) of the definition of “refund of personal income tax” in sub-section (1) “section 45 or 160AN” and substituting “section 45, 160AN or 160AP”;
- (c) by omitting paragraph (b) of the definition of “refund of personal income tax” in sub-section (1) and substituting the following paragraph:

“(b) a refund made by the Commissioner during the year (otherwise than under any of those sections or 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 or for tax (including additional tax, tax of a similar nature to additional tax, or a penalty) under a State income tax law;”;

- (d) by inserting after the definition of “special surcharge” in sub-section (1) the following definition:

“‘State income tax law’ has the meaning given to that expression in sub-section 6 (1) of the Income Tax Assessment Act;” and

- (e) by omitting from sub-section (2) “other than a liability for personal income tax” and substituting:

other than—

- (a) a liability for personal income tax; or
 (b) a liability for, or otherwise in connexion with, tax under a State income tax law.”

(2) Section 6 of the *States (Personal Income Tax Sharing) Act 1976* is amended by omitting “and special rebates (if any) had not been provided for” and substituting “, special rebates (if any) had not been provided for and, if the law of a State imposed a tax upon incomes of its residents of that year or any previous year or had provided for a payment to the Commonwealth in partial discharge of the liability of its residents for income tax in respect of income of that year or any previous year, that law had not imposed that tax or provided for that payment”.

75. Section 15 of the *Income Tax (International Agreements) Act 1953*⁶ is amended by inserting after sub-section (1) the following sub-section:

Amendments
of Income
Tax
(International
Agreements)
Act

“(1A) For the purposes of the application in relation to a person of the definition of ‘the average rate of Australian tax’ in sub-section (1), the amount of income tax referred to in that definition shall, in the case of a person who is entitled under a law of a State to the benefit of a payment made by the State to the Commonwealth in partial discharge of the liability of residents of the State for income tax in respect of the year of income, be taken to be the amount that would be the amount of that tax for the purposes of that definition apart from this sub-section reduced by so much of the amount of the payment as has been or is to be applied in pursuance of section 203 of the Assessment Act in partial discharge of the liability of that person for income tax in respect of that year of income.”

PART V—MISCELLANEOUS

76. (1) The Commissioner, a Second Commissioner, a Deputy Commissioner, a delegate of the Commissioner or a Board of Review is authorized to exercise powers and perform functions conferred on him or it under the income tax law of a State that is a participating State in relation to the relevant year of income.

Authority to
perform
functions
under State
law

(2) The Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner is authorized to exercise

powers and perform functions conferred on him under the law of a State that is a supporting State in relation to the relevant year of income, being powers and functions in relation to the provisions of that law referred to in section 15 of this Act.

Report by
Com-
missioner in
relation to
State tax

77. (1) The Treasurer may direct the Commissioner to furnish to him, for transmission to the appropriate Minister of the Crown of a State that is a participating State in relation to a year of income, a report, in relation to that year of income, on the working of this Act in relation to the State income tax law and, where such a direction is given, the Commissioner shall furnish the report as soon as practicable after the end of that year of income.

(2) Except to the extent that he is required to do so by a direction given by the Treasurer under sub-section (1) or for the purpose of complying with section 14 of the Income Tax Assessment Act, neither the Commissioner nor any other person referred to in section 6 of this Act shall be required to furnish any information on the working of a State income tax law or on the working of this Act in relation to a State income tax law.

Tax
instalment
deductions
by certain
employers

78. (1) Where—

- (a) an employer pays salary or wages to an employee;
- (b) any one or more of the following sub-paragraphs is or are applicable:
 - (i) the employer is the Commonwealth or an authority of the Commonwealth or is the Administration of a Territory;
 - (ii) the employer is a company incorporated in a Territory;
 - (iii) the employer is a natural person whose sole or principal place of residence in Australia and the Territories on the day on which the salary or wages was or were paid was in a Territory;
 - (iv) the employer carried on business in a Territory on that day;
 - (v) the salary or wages was or were paid in a Territory;
 - (vi) the salary or wages was or were paid for work done wholly or partly in a Territory; and
- (c) the employee is required by provisions of the law of a State referred to in sub-section 10 (3) to pay to the Commissioner the amount (in this sub-section referred to as the “relevant amount”) of the tax instalment deductions that the employer would have been required by the law of that State to make from the salary or wages if the employer had been a natural person and a resident of that State on the day on which the salary or wages was or were paid,

the employer shall deduct from the salary or wages an amount equal to the relevant amount and shall deal with the amount so deducted in the manner required by Division 2 of Part VI of the Income Tax Assessment Act.

Penalty : \$40.

(2) For the purposes of the application of sub-section (1), an employer shall treat an employee to whom the employer pays salary or wages as being required by provisions of the law of a State referred to in sub-section 10 (3) to pay to the Commissioner the amount of the tax instalment deductions that the employer would have been required to make from the salary or wages by the law of that State if the employer had been a natural person and a resident of that State on the day on which the salary or wages was or were paid, if—

- (a) the last notice given by the employee to the employer in pursuance of section 22 IEB of the Income Tax Assessment Act before the day on which the salary or wages was or were paid stated that the employee was resident in that State; and
- (b) at the time when the payment is made that State is a participating State in relation to the year of income in which the salary or wages was or were paid and the law of that State imposed a tax on the income of residents of that State of that year of income.

(3) Where an employer, in purported compliance with a requirement of Division 2 of Part VI of the Income Tax Assessment Act or a requirement of sub-section (1) of this section, or both, makes a deduction or deductions from salary or wages that he pays to an employee and the amount of the deduction, or the sum of the amounts of the deductions, is less than the sum of the amount of the deduction that he is required to make from the salary or wages under that Division and the amount of the deduction that he is required to make from the salary or wages under sub-section (1) of this section, then—

- (a) if the amount of the deduction, or the sum of the amounts of the deductions, made by the employer did not exceed the amount that he was required to deduct under that Division—the employer shall be deemed not to have deducted any amount under this section from the salary or wages; or
- (b) in any other case—the employer shall be deemed to have deducted under this section from the salary or wages the amount by which the amount of the deduction, or the sum of the amounts of the deductions, made by him exceeds the amount that he was required to deduct under that Division.

79. (1) This section applies in respect of a participating State in relation to each financial year in respect of which a tax is imposed by the law of the State on incomes of residents of the State and in relation to each subsequent year. Payments to States

(2) The Commissioner shall, whenever requested to do so by the Treasurer in relation to a period, being a financial year in relation to which this section applies in respect of a participating State, or being a part of such a financial year, calculate the net collections, in relation to that period, of income tax imposed by the law of that State.

(3) For the purposes of sub-section (2), the net collections, in relation to a period, of income tax imposed by the law of a State shall be taken to be the difference between—

- (a) the amount that would, in his opinion, be the net personal income tax collections for that period within the meaning of the *States (Personal Income Tax Sharing) Act 1976* if—
 - (i) that period were a year to which that Act applied; and
 - (ii) where the law of another State provided for the making of payments by that other State to the Commonwealth in partial discharge of the liability of residents of that other State for income tax in respect of the financial year in which that period occurred or any previous financial year—the law of that other State had not provided for the making of those payments; and
- (b) the amount that would, in his opinion, have been the amount referred to in paragraph (a) if the law of the State had not imposed a tax on the incomes of residents of the State of the financial year in which that period occurred or any previous financial year.

(4) Where the Commissioner calculates under sub-section (2) the net collections, in relation to a period, of income tax imposed by the law of a State, there is payable to the State the amount so calculated after deducting an amount agreed upon between the Treasurer and the Treasurer of the State, being a deduction made to reimburse the Commonwealth the costs of administering the State income tax law.

(5) In the case of a financial year in relation to which this section applies in respect of a participating State other than New South Wales or Victoria, the Commonwealth Grants Commission shall assess an amount to be paid to the State by way of equalization assistance, being an amount estimated by that Commission to be the amount that would bring the per capita yield from the income tax imposed by the law of that State in respect of that financial year up to the amount which, if the laws of New South Wales and Victoria imposed taxes on incomes of residents of those States in respect of that financial year at the rate at which tax was imposed by the law of the first-mentioned State, would be the average per capita yield from those taxes.

(6) The Treasurer may make advances to a State of portions of any amount or amounts to which it appears to him the State will be entitled under this section in respect of a financial year.

(7) Payments (including advances) under this section shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

80. The receipt by the Commissioner of moneys paid to or recovered Audit by him in pursuance of, or in pursuance of an assignment made by, a State income tax law or the provisions of the law of a State referred to in sub-section 15 (4) or in pursuance of section 78, and the payment of any moneys to a State under section 79, are subject to audit by the Auditor-General for the Commonwealth and are not subject to audit by any person on behalf of a State.

NOTES

1. Act No. 87, 1978; assented to 22 June 1978.
2. Act No. 27, 1936, as amended. For previous amendments *see* Act 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; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 60, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; and Nos. 57, 126 and 127, 1977.
3. Act No. 20, 1911, as amended. For previous amendments *see* Act No. 40, 1912; No. 16, 1913; No. 26, 1915; Nos. 6 and 7, 1918; No. 2, 1927; No. 25, 1932; No. 5, 1933; No. 25, 1940; No. 58, 1943; No. 26, 1945; No. 21, 1946; No. 18, 1963; No. 93, 1966; and No. 216, 1973.
4. Act No. 7, 1907, as amended. For previous amendments *see* Act No. 216, 1973.
5. Act No. 122, 1976, as amended. For previous amendments *see* Act No. 85, 1978.
6. Act No. 82, 1953, as amended. For previous amendments *see* Act No. 25, 1958; No. 88, 1959; Nos. 19 and 29, 1960; No. 71, 1963; No. 112, 1964; No. 105, 1965; No. 17, 1966; Nos. 39 and 86, 1967; No. 3, 1968; No. 24, 1969; No. 48, 1972; No. 11, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 129, 1974; No. 119, 1975; Nos. 52, 55 and 143, 1976; and No. 134, 1977.