Income Tax Assessment Amendment Act 1982

No. 29 of 1982

TABLE OF PROVISIONS

Section

Income Tax Assessment Amendment Act 1982

No. 29 of 1982

An Act to amend the law relating to income tax

[*Assented to 17 May 1982*]

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

Short title, &c.

1. (1) This Act may be cited as the *Income Tax Assessment Amendment Act* 1982.

(2) The *Income Tax Assessment Act* 1936[1] is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 25 shall be deemed to have come into operation on 24 June 1981.

Income of certain persons serving with an armed force under the control of the United Nations

3. (1) Section 23AB of the Principal Act is amended—

(a) by omitting from sub-section (7) "sub-section (8)" and substituting "sub-sections (8) and (9A) and sub-section 79B (4)";

(b) by omitting from sub-paragraph (7) (a) (ii) "25%" and substituting "50%"; and

(c) by omitting sub-section (9) and substituting the following sub-sections:

"(9) Where a rebate is allowable under sub-section (7) in the assessment of a taxpayer in respect of income of a year of income and, but for this sub-section, a rebate of a lesser amount would be allowable in that assessment under section 79A, a rebate under section 79A is not allowable in that assessment.

"(9A) Where a rebate is allowable under section 79A in the assessment of a taxpayer in respect of income of a year of income and, but for this sub-section, a rebate of the same or a lesser amount would be allowable in that assessment under sub-section (7), a rebate under sub-section (7) is not allowable in that assessment.

"(9B) Sub-section 79B (4) shall be disregarded in determining for the purposes of sub-sections (9) and (9A) of this section the amount of a rebate allowable to a taxpayer under sub-section (7) of this section or under section 79A.".

(2) Subject to the succeeding provisions of this section, the amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1981 and of all subsequent years of income.

(3) For the purposes of the application of section 23AB of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where the total period of United Nations service performed by a taxpayer during that year of income is more than one-half of that year of income but the period of that service after 31 October 1981 is not more than one-half of that year of income, the rebate allowable under sub-section (7) of that section but for sub-section (9A) of that section and sub-section 79B (4) of that Act as so amended in the assessment of the taxpayer in respect of income of that year of income is $216 increased by the amount (if any) calculated in accordance with the formula $\frac{ab}{366} + \frac{a(183 - b)}{732}$ where—

a is the sum of the rebates (if any) to which the taxpayer is entitled in respect of that year of income under sections 159J, 159K and 159L of the Principal Act or would be entitled in respect of that year of income under section 159J of that Act but for sub-section 159J (1A) of that Act; and

b is the number of whole days in the period of United Nations service performed by the taxpayer during that year of income and after 31 October 1981.

(4) For the purposes of the application of section 23AB of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where a taxpayer died while performing United Nations service before 1 November 1981 and during that year of income, the rebate allowable under sub-section (7) of that section in his assessment in respect of income of

that year of income is the rebate that would have been allowable to the taxpayer under sub-section 23AB (7) of the Principal Act if this Act had not been enacted.

Assessable income from certain short-term property transactions

4. (1) Section 26AAA of the Principal Act is amended—

(a) by omitting from paragraph (1) (f) "and" (last occurring);

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

"; (h) a reference to the net worth of a company, partnership or trust estate is a reference to the total value of the assets of the company, partnership or trust estate as reduced by the total liabilities of the company, partnership or trust estate;

"(j) a reference to a private company is a reference to a company other than a company the shares in which are listed for quotation in the official list of a stock exchange in Australia or elsewhere;

"(k) a reference to a private trust estate is a reference to a trust estate other than a unit trust the units in which are listed for quotation in the official list of a stock exchange in Australia or elsewhere or are ordinarily available for subscription or purchase by the public;

"(m) a reference to excepted property of a company, partnership or trust estate is a reference to—

(i) trading stock of the company, partnership or trustee;

(ii) property being plant or articles within the meaning of section 54 purchased for use by the company, partnership or trustee of the trust estate for the purpose of producing assessable income; or

(iii) property acquired by the company, partnership or trustee of the trust estate for the purpose of profit-making by sale or carrying on or carrying out any profit-making undertaking or scheme.";

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

"(2A) Where—

(a) a taxpayer has, whether before or after the commencement of this sub-section, sold property being—

(i) shares in a private company;

(ii) an interest in a partnership; or

(iii) an interest in a private trust estate;

(b) the taxpayer acquired the property, whether by purchase or otherwise, more than 12 months before the date (in this sub-section referred to as the 'date of sale') on which the taxpayer sold the property;

(c) immediately before the sale of the property by the taxpayer—

(i) in a case where the property sold by the taxpayer consisted of shares in a private company or an interest in a private trust estate, the assets of the company or trust estate, as the case may be, included property (in this sub-section referred to as the 'underlying property') that—

(A) was purchased by the company or trustee of the trust estate, as the case may be, after 10 September 1981 and within the period of 12 months immediately preceding the date of sale; and

(B) was not excepted property of the company or trust estate; or

(ii) the company, partnership or trustee of the trust estate, as the case may be, held an interest, through one or more interposed companies, partnerships or trusts, in property (in this sub-section also referred to as the 'underlying property') that—

(A) was purchased by another private company, partnership or trustee of a private trust estate after 10 September 1981 and within the period of 12 months immediately preceding the date of sale; and

(B) was not excepted property of the company, partnership or trust estate referred to in sub-sub-paragraph (A); and

(d) immediately before the sale of the property by the taxpayer, the value of—

(i) in a case to which sub-paragraph (c) (i) applies—the underlying property referred to in that sub-paragraph; or

(ii) in a case to which sub-paragraph (c) (ii) applies—the interest referred to in that sub-paragraph,

was not less than 75% of the net worth of the company, partnership or trust estate referred to in paragraph (a),

the assessable income of the taxpayer of the year of income in which the taxpayer sold the property shall include so much of the consideration received or receivable by the taxpayer in respect of the sale as, in the opinion of the Commissioner, may reasonably be attributed to the amount (if any) by which the value of the underlying property immediately before the sale exceeds the sum of—

(e) the consideration given or agreed to be given for the underlying property in respect of the purchase referred to in sub-sub-paragraph (c) (i) (A) or sub-sub-paragraph (c) (ii) (A), as the case may be; and

(f) so much (if any) of any other expenditure incurred in relation to the underlying property as, in the opinion of the Commissioner, is appropriate in the circumstances.

"(2B) For the purposes of the application of sub-section (2A) in relation to a sale of property (in this sub-section referred to as the 'relevant property') by a taxpayer, property (in this sub-section referred to as the 'underlying property') of a company or trust estate shall not be taken to be excepted property of the company or trust estate by virtue of sub-paragraph (1) (m) (i) or (iii) if the Commissioner is satisfied that the consideration received or receivable by the taxpayer in respect of the sale was substantially more than the consideration that would have been, or might reasonably be expected to have been, received or receivable by the taxpayer in respect of the sale if the taxpayer and the person who purchased the relevant property from the taxpayer had expected that the underlying property would be disposed of by the company or the trustee of the trust estate immediately after the sale of the relevant property by the taxpayer for a consideration equal to the market value of the underlying property at that time and that an amount would be included in the assessable income of the company or trust estate, by reason of the disposal, of the year of income in which the taxpayer sold the relevant property.";

(d) by inserting after sub-section (3) the following sub-section:

"(3A) Where a taxpayer has sold property in pursuance of an option or agreement, sub-section (2A) has effect as if the taxpayer had sold the property on the date on which the option was granted or the agreement was entered into.";

(e) by inserting in paragraph (4) (a) "or (2A)" after "sub-section (2)";

(f) by omitting sub-paragraphs (4) (c) (i) and (ii) and substituting the following sub-paragraphs:

"(i) in a case where sub-section (2) applies in relation to the sale of the property by the taxpayer and the sale is made before the expiration of the period of 12 months from the date on which the taxpayer purchased the property—at the time of the sale;

"(ii) in a case where sub-section (2) applies in relation to the sale of the property by the taxpayer and the sale is made, after the expiration of the period referred to in sub-paragraph (i), in pursuance of an option granted, or an agreement entered into, during that period—at the time when the option was granted or the agreement was entered into, as the case may be;

"(iii) in a case where sub-section (2A) applies in relation to the sale of the property by the taxpayer and sub-paragraph (iv) of this paragraph does not apply—at the time of the sale; or

"(iv) in a case where sub-section (2A) applies in relation to the sale of the property by the taxpayer and, by virtue of sub-section (3A), sub-section (2A) has effect as if the taxpayer had sold the property on the date on which an option was granted or an

agreement was entered into—at the time when the option was granted or the agreement was entered into, as the case may be,"; and

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

"(8) Where—

(a) a distribution of property (in this sub-section referred to as the 'distributed property') of a private company or private trust estate has been made to a taxpayer in his capacity as a shareholder in the company or a beneficiary of the trust estate, as the case requires, whether before or after the commencement of this sub-section and whether in the course of the winding up of the company or trust estate or otherwise;

(b) immediately before the distribution was made, the value of the property (in this sub-section referred to as the 'underlying property') of the company or trust estate that—

(i) was purchased by the company or trustee after 10 September 1981 and within the period of 12 months immediately preceding the date of distribution; and

(ii) was not excepted property of the company or the trust estate of the kind referred to in sub-paragraph (1) (m) (i) or (ii),

was not less than 75% of the net worth of the company or trust estate;

(c) the distributed property was or included property (in this sub-section referred to as the 'prescribed property') being the underlying property or a part of the underlying property; and

(d) the taxpayer would not, apart from this sub-section, be taken to have purchased the prescribed property,

then, for the purposes of this section—

(e) the taxpayer shall be deemed to have purchased the prescribed property—

(i) on the date or dates on which the prescribed property was purchased by the company or trustee of the trust estate; and

(ii) for an amount of consideration that the Commissioner considers appropriate, having regard to the amount of consideration given or agreed to be given by the company or the trustee in respect of the purchase of the prescribed property and to the nature and extent of the taxpayer's shareholding in the company or interest in the trust estate, as the case may be; and

(f) where the company or the trustee of the trust estate incurred expenditure in relation to the prescribed property in addition to the consideration given or agreed to be given in respect of the purchase, the taxpayer shall be deemed to have incurred

expenditure in relation to the prescribed property of an amount equal to so much of that expenditure by the company or trustee as the Commissioner considers reasonable having regard to the nature and extent of the taxpayer's shareholding or the taxpayer's interest in the trust estate, as the case may be.

"(9) For the purposes of sub-section (8), where—

(a) a distribution of property of a private company or private trust estate has been made to a taxpayer in his capacity as a shareholder in the company or a beneficiary of the trust estate;

(b) the taxpayer received the distribution in the capacity of a trustee of a trust estate; and

(c) a distribution of the property mentioned in paragraph (a) or a part of that property is made by the taxpayer to another taxpayer being a beneficiary of the trust estate referred to in paragraph (b),

a distribution of the property distributed as mentioned in paragraph (c) shall be deemed to have been made by the private company or private trust estate referred to in paragraph (a) to the other taxpayer in his capacity as a shareholder in that private company or a beneficiary of that private trust estate, as the case may be.

"(10) In calculating the net worth of a company, partnership or trust estate for the purpose of sub-section (2A) or (8), the Commissioner shall, if he is satisfied that liabilities were discharged or released or assets acquired for the purpose, or for purposes that included the purpose, of ensuring that that sub-section would not apply in relation to a taxpayer, disregard the discharge or release of those liabilities or the value of those assets, as the case may be.

"(11) Where—

(a) by reason that property referred to in sub-section (8) as the prescribed property was distributed to a taxpayer, the taxpayer is deemed to have purchased the prescribed property;

(b) but for this sub-section, an amount (in this sub-section referred to as the 'assessable amount') would be included in the assessable income of the taxpayer of a year of income under this section;

(c) that amount would not be included in that assessable income but for the application of sub-section (8) in relation to the taxpayer in relation to the prescribed property; and

(d) either of the following conditions is applicable:

(i) by reason of the distribution to the taxpayer of the prescribed property or of property including the prescribed property, an amount (in this sub-section referred to as the 'relevant amount') has been, or will be, included in the assessable income of the taxpayer of a year of income;

(ii) in the opinion of the Commissioner, the prescribed property, or part of the prescribed property, represents an amount (in this sub-section also referred to as the 'relevant amount') that—

(A) is or has been included in the assessable income of the taxpayer in pursuance of section 97; or

(B) is an amount in respect of which the trustee of a trust estate is or has been assessed and liable to pay tax in pursuance of section 98, 99 or 99A,

the assessable amount shall be reduced by the relevant amount.".

(2) In determining, for the purpose of the application of section 26AAA of the Principal Act as amended by this Act, whether property purchased by a company or the trustee of a trust estate after 10 September 1981 and on or before 24 March 1982 is, in relation to the company or trust estate, property that is referred to in sub-section (2A) of that section as the underlying property, sub-section (2B) of that section shall be disregarded.

(3) In determining, for the purpose of the application of section 26AAA of the Principal Act as amended by this Act, whether property purchased by a company or the trustee of a trust estate after 10 September 1981 and on or before 24 March 1982 is, in relation to the company or trust estate, property that is referred to in sub-section (8) of that section as the underlying property, sub-paragraph (b) (ii) of that sub-section shall be read as if "of the kind referred to in sub-paragraph (1) (m) (i) or (ii)" were omitted.

Divisible deductions

5. Section 50G of the Principal Act is amended by omitting from paragraph (1) (a) "or 57AJ" and substituting ", 57AJ or 57AK".

Deduction in respect of living-away-from-home allowance

6. (1) Section 51A of the Principal Act is amended by omitting ", except that it does not include any member of the Defence Force" from the definition of "employee" in sub-section (3).

(2) The amendment made by sub-section (1) applies in relation to allowances or benefits paid or granted on or after the date of commencement of this section.

Special depreciation on plant

7. Section 57AG of the Principal Act is amended by omitting from paragraph (2)(b) "or 57AJ" and substituting ", 57AJ or 57AK".

8. After section 57AJ of the Principal Act the following section is inserted:

Special depreciation on property used for basic iron or steel production

"57AK. (1) Subject to sub-sections (3) and (8), this section applies to a unit of property in relation to a taxpayer in relation to a year of income if—

(a) depreciation is allowable to the taxpayer under section 54 in respect of the unit of property in relation to the year of income;

(b) the unit of property—

(i) was acquired by the taxpayer under a contract entered into after 18 August 1981 and before 1 July 1991; or

(ii) was constructed by the taxpayer and commenced to be constructed after 18 August 1981 and before 1 July 1991;

(c) the unit of property was first used, or installed ready for use and held in reserve, before 1 July 1992; and

(d) the unit of property is—

(i) property that, during the relevant period in the year of income when it was owned by the taxpayer, was, primarily and principally, used, or installed ready for use and held in reserve for use, by a producer of basic iron or steel products, directly in basic iron or steel production or related activities; or

(ii) a wharf, or plant located on a wharf, being a wharf or plant that, during the relevant period in the year of income when it was owned by the taxpayer—

(A) was, primarily and principally, used or installed ready for use and held in reserve, by a producer of basic iron or steel products, directly in connection with basic iron or steel production or related activities; and

(B) was, at all times when it was used, or installed ready for use and held in reserve, in connection with that basic iron or steel production or those related activities, situated within premises on which that basic iron or steel production takes place or within premises contiguous to those premises.

"(2) A reference in paragraph (1) (d), in relation to property owned by a taxpayer during a year of income, to the relevant period in the year of income is a reference to the period in that year of income when—

(a) the property was owned by the taxpayer; and

(b) the property was used, or installed ready for use and held in reserve, for the purpose of producing assessable income.

"(3) This section does not apply in relation to a unit of property—

(a) that is a road vehicle, wherever or however used, of a kind ordinarily used for the transport of persons or the delivery of goods (including the delivery of goods of a particular kind); or

(b) that is used for the transport of persons or the delivery of goods between premises on which basic iron or steel production takes place.

"(4) Notwithstanding anything contained in sections 55, 56, 56A and 57, but subject to sub-sections 56 (2) and (3), the depreciation allowable under this Act in respect of a unit of property to which this section applies shall be ascertained in accordance with this section.

"(5) The depreciation allowable to a taxpayer under this Act in relation to a year of income in respect of a unit of property to which this section applies in relation to the year of income is—

(a) where, but for this section, the annual depreciation fixed under sub-section 55 (1), as increased by any amount that would, but for this section, be applicable under section 57AG, would be 20% or less—20% of the cost of the unit; and

(b) in any other case—33⅓% of the cost of the unit.

"(6) Sub-sections 56 (1A), (1B), (1C) and (4) apply for the purposes of this section in like manner as those sub-sections apply for the purposes of section 56.

"(7) Sub-sections 122N (2), 123E (2) and 124AN (2) apply in relation to a unit of property to which this section applies as if a reference in those sub-sections to section 56 included a reference to this section.

"(8) A taxpayer may elect, for the purpose of the calculation of depreciation allowable as a deduction to him under this Act, that this section shall not apply in relation to a unit of property to which this section would otherwise apply and, where an election is so made, this section does not apply in relation to that unit of property in relation to the taxpayer in relation to any year of income.

"(9) An election referred to in sub-section (8) in respect of a unit of property—

(a) shall be exercised by notice in writing to the Commissioner; and

(b) shall be lodged with the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the first year of income in which depreciation calculated in accordance with this section would, but for sub-section (8), be allowable to the taxpayer in respect of the unit of property, or before such later date as the Commissioner allows.

"(10) Where the Commissioner is satisfied that—

(a) on or before 18 August 1981 a taxpayer—

(i) entered into a contract or arrangement for the acquisition of a unit of property (in this sub-section referred to as the 'original unit'); or

(ii) commenced the construction of a unit of property (in this sub-section also referred to as the 'original unit');

(b) after that date—

(i) the taxpayer entered into a contract (whether with the same person or another person in a case to which sub-paragraph (a) (i) applies) for the acquisition (whether with or without the acquisition of other property) of the original unit or of another unit of property (in this sub-section referred to as the 'substituted unit') identical with, or having a purpose similar to that of, the original unit and intended by the taxpayer to be in lieu of the original unit; or

(ii) the taxpayer commenced the construction of a unit of property (in this sub-section also referred to as the 'substituted unit') identical with, or having a purpose similar to that of, the original unit and intended by the taxpayer to be in lieu of the original unit; and

(c) the taxpayer entered into the contract for the acquisition of the original unit or substituted unit, or commenced the construction of the substituted unit, for the purpose, or for purposes that included the purpose, of obtaining a deduction for depreciation ascertained in accordance with this section,

the Commissioner may refuse to allow a deduction for depreciation ascertained in accordance with this section—

(d) in a case to which sub-paragraph (b) (i) applies—in relation to the original unit or the substituted unit, as the case may be; or

(e) in a case to which sub-paragraph (b) (ii) applies—in relation to the substituted unit.

"(11) A reference in sub-section (10) to a unit of property shall be read as including a reference to a portion of a unit of property.

"(12) A reference in this section to the acquisition by a taxpayer of property shall be read as including a reference to the construction of the property for the taxpayer by another person or persons.

"(13) In this section—

'basic iron or steel production' means any part of the operations involved in the production of basic iron or steel products, other than—

(a) in a case where an iron-making furnace and a steel-making furnace are used in that production—operations that take place before the iron-making furnace is used in that production;

(b) in a case where an iron-making furnace is used in that production but a steel-making furnace is not used—operations that take place before the iron-making furnace is used in that production; and

(c) in a case where a steel-making furnace is used in that production but an iron-making furnace is not used—operations that take place before the steel-making furnace is used in that production;

'basic iron or steel products' means—

(a) goods that, if imported, would fall within item 73.01, 73.06, 73.07, 73.08, 73.09, 73.11 or 73.16 of Schedule 1 to the *Customs Tariff Act* 1966, as in force on 18 August 1981;

(b) goods that, if imported, would fall within item 73.10 of that Schedule, other than goods that, if imported, would fall within sub-item 73.10.1 of that Schedule;

(c) goods that, if imported, would fall within item 73.12 or 73.13 of that Schedule, being goods that are—

(i) hot-rolled; and

(ii) unworked or simply polished;

(d) low alloy or high carbon steel goods that, if imported, would fall within item 73.15 of that Schedule, being goods that are in a form mentioned in item 73.06, 73.07, 73.08, 73.09 or 73.11 of that Schedule;

(e) low alloy or high carbon steel goods that, if imported, would fall within item 73.15 of that Schedule (other than goods that, if imported, would fall within paragraph (a) of sub-item 73.15.2 of that Schedule), being goods that are in a form mentioned in item 73.10 of that Schedule;

(f) low alloy or high carbon steel goods that, if imported, would fall within item 73.15 of that Schedule, being goods that are in a form mentioned in item 73.12 or 73.13 of that Schedule and are—

(i) hot-rolled; and

(ii) unworked or simply polished; or

(g) goods, being sponge iron that, if imported, would fall within item 73.05 of that Schedule;

'goods' includes electric current, hydraulic power, steam, compressed air, a liquid, a gas or a substance;

'iron-making furnace' includes a direct reduction furnace or kiln;

'plant' means plant or articles within the meaning of section 54;

'related activities' means any of the following activities that are carried on by a producer of basic iron or steel products within premises in which the basic iron or steel production from which those products result takes place:

(a) the production, preparation or treatment of goods for use primarily and principally, and directly, in basic iron or steel production;

(b) the production or maintenance of plant, or components of plant, for use primarily and principally, and directly, in—

(i) basic iron or steel production; or

(ii) activities that are related activities by virtue of this paragraph or any of the other paragraphs of this definition;

(c) the trimming, cutting, packing, placing in containers, labelling, transport or storage of—

(i) basic iron or steel products;

(ii) goods referred to in paragraph (a) of this definition; or

(iii) plant, or components of plant, referred to in paragraph (b) of this definition;

(d) the disposal of waste substances resulting from basic iron or steel production or activities that are related activities by virtue of paragraph (a), (b), (c) or (e) of this definition;

(e) the training of apprentices in skills of a kind used in basic iron or steel production or in activities that are related activities by virtue of paragraph (a), (b), (c) or (d) of this definition.

"(14) In determining whether goods fall within the definition of "basic iron or steel products" in sub-section (13), no regard shall be had to any amendment of the *Customs Tariff Act* 1966 made by an Act that received or receives the Royal Assent after 18 August 1981.".

Gifts, calls on afforestation shares, pensions, etc.

9. (1) Section 78 of the Principal Act is amended—

(a) by inserting after sub-paragraph (1) (a) (lxv) the following sub-paragraphs:

"; (lxvi) the Royal Society for the Prevention of Cruelty to Animals New South Wales, the Royal Society for the Prevention of Cruelty to Animals (Victoria), the Royal Queensland Society for the Prevention of Cruelty, the Royal Society for the Prevention of Cruelty to Animals (South Australia) Incorporated, the Royal Society for the Prevention of Cruelty to Animals Western Australia (Incorporated), the R.S.P.C.A. (Tasmania) Incorporated, the Society for the Prevention of Cruelty to Animals (Northern Territory), the Royal Society for the Prevention of Cruelty to Animals (A.C.T.) Incorporated and the R.S.P.C.A. Australia Incorporated;

"(lxvii) the Help Poland Live Appeal conducted by the Australian National Committee for Relief to Poland, the Australian Red Cross Poland Appeal and the World Vision of Australia Poland Emergency Appeal,";

(b) by inserting in sub-section (6AD) "or (lxvii)" after "(lxv)";

(c) by omitting sub-section (6D) and substituting the following sub-sections:

"(6D) For the purposes of sub-section (6B), a person shall be taken to be an approved valuer in relation to a particular class of property at

a particular time if, and only if, at that time, there is in force under sub-section (6DA) an approval of the person as a valuer in relation to that class of property.

"(6DA) The Secretary to the Department of Home Affairs and Environment may, by instrument signed by him, approve a person as a valuer in relation to a particular class of property.

"(6DB) In deciding whether to approve a person as a valuer in relation to a particular class of property, the Secretary to the Department of Home Affairs and Environment shall have regard to—

(a) the qualifications, experience and knowledge of the person in relation to the valuation of property included in that class;

(b) the knowledge of the person of current market values of property included in that class;

(c) the standing of the person in the professional community; and

(d) any other matters that the Secretary considers relevant.";

(d) by omitting from paragraph (6E) (a) "paragraph (b) of this sub-section does not apply" and substituting "neither paragraph (aa) nor paragraph (b) of this sub-section applies";

(e) by omitting from sub-paragraph (6E) (a) (ii) "or";

(f) by inserting after paragraph (6E) (a) the following paragraph:

"(aa) in a case to which paragraph (b) does not apply and where the person who made the gift—

(i) acquired the property within the period of 12 months immediately preceding the making of the gift otherwise than as a result of—

(A) a will, a codicil or an order of a court that varied or modified the provisions of a will or codicil; or

(B) an intestacy or an order of a court that varied or modified the application, in relation to the estate of a deceased person, of the provisions of the law relating to the distribution of the estates of persons who died intestate; or

(ii) acquired the property for the purpose of making a gift of the property to, or subject to an agreement that the property would be gifted to—

(A) The Australiana Fund, a public library, a public museum or public art gallery in Australia or an institution in Australia consisting of a public library, public museum and public art gallery or of any 2 of them for inclusion in the collection, or any of the collections, maintained or being established by that Fund, authority or institution; or

(B) the Commonwealth for inclusion in the collection, or any of the collections, maintained or being established for the purposes of Artbank—

the amount (if any) paid for the property by the person who made the gift or the amount that, but for this paragraph and sub-section (6F), would be the value of the gift, whichever is the less; or "; and

(g) by omitting from sub-section (6G) "sub-section (6F)" and substituting "sub-sections (6E) and (6F)".

(2) The amendment made by paragraph (1) (a), in so far as it inserts sub-paragraph (lxvi) in paragraph 78 (1) (a) of the Principal Act, applies to gifts made after 5 February 1982.

(3) For the purposes of the application of sub-paragraph 78 (1) (a) (lxvi) of the Principal Act as amended by this Act, a gift made after 5 February 1982 and before 1 July 1982 to a branch established in Tasmania of the Royal Society for the Prevention of Cruelty to Animals shall be deemed to be made to a body specified in that sub-paragraph.

(4) The amendment made by paragraph (1) (c) applies in respect of valuations made after the expiration of 28 days after the commencement of this section.

(5) The amendments made by sub-section (1) (other than paragraphs (a), (b) and (c)) apply to gifts made after 14 October 1981.

Rebates for residents of isolated areas

10. (1) Section 79A of the Principal Act is amended—

(a) by inserting in sub-section (1) "(not being a company or a taxpayer in the capacity of a trustee)" after "a taxpayer";

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

"(2) Subject to sub-section 79B (4), the rebate allowable under this section in the assessment of a taxpayer in respect of income of the year of income is—

(a) where the taxpayer is a resident of the special area in Zone A in the year of income—$750 increased by 50% of the relevant rebate amount in relation to the taxpayer in relation to the year of income;

(b) where the taxpayer is a resident of the special area in Zone B in the year of income but has not resided or actually been in Zone A during any part of the year of income—$750 increased by 20% of the relevant rebate amount in relation to the taxpayer in relation to the year of income;

(c) where the taxpayer is a resident of Zone A and is also a resident of the special area in Zone B in the year of income but has not

resided or actually been in the special area in Zone A during any part of the year of income—

(i) $750 increased by 20% of the relevant rebate amount in relation to the taxpayer in relation to the year of income; or

(ii) $216 increased by 50% of the relevant rebate amount in relation to the taxpayer in relation to the year of income,

whichever is the greater;

(d) where the taxpayer is a resident of Zone A in the year of income but has not resided or actually been in the special area in Zone A or the special area in Zone B during any part of the year of income—$216 increased by 50% of the relevant rebate amount in relation to the taxpayer in relation to the year of income;

(e) where the taxpayer is a resident of Zone B in the year of income but has not resided or actually been in Zone A or the special area in Zone B during any part of the year of income—$36 increased by 20% of the relevant rebate amount in relation to the taxpayer in relation to the year of income; or

(f) in any other case—such amount as, in the opinion of the Commissioner, is reasonable in the circumstances, being an amount not greater than the amount of the rebate to which the taxpayer would have been entitled under this section if paragraph (a) had applied to him in respect of the year of income and not less than the amount of rebate to which he would have been so entitled if paragraph (e) had so applied to him."; and

(c) by omitting sub-section (4) and substituting the following sub-sections:

"(3B) For the purposes of this section, a taxpayer is a resident of a particular area, being the prescribed area, Zone A, Zone B, the special area in Zone A or the special area in Zone B (in this sub-section referred to as the 'relevant area') in a year of income if—

(a) the taxpayer resided in the relevant area in the year of income for a period of more than one-half of the year of income;

(b) the taxpayer was actually in the relevant area in the year of income for a period of more than one-half of the year of income;

(c) the taxpayer died during the year of income and at the date of his death resided in the relevant area;

(d) the following conditions are satisfied:

(i) the taxpayer resided, or actually was, in the relevant area in the year of income for a period of not more than one-half of the year of income;

(ii) the taxpayer resided, or actually was, in the relevant area in the next preceding year of income for a period of

not more than one-half of the next preceding year of income;

(iii) for the purposes of this section, the taxpayer was not a resident of the relevant area in the next preceding year of income; and

(iv) the sum of—

(A) the number of days in the period mentioned in sub-paragraph (i); and

(B) the number of days in the period mentioned in sub-paragraph (ii), other than days included in a period to which sub-section 23AB (8) or 79B (3) applied in relation to the taxpayer in relation to the next preceding year of income,

exceeds 182; or

(e) the following conditions are satisfied:

(i) the taxpayer resided in the relevant area in the year of income for a period of not more than one-half of the year of income, being a period that included the first day of the year of income;

(ii) the taxpayer resided in the relevant area, in a relevant preceding year of income, for a period of not more than one-half of that relevant preceding year of income;

(iii) for the purposes of this section, the taxpayer was not a resident of the relevant area in that relevant preceding year of income;

(iv) the sum of—

(A) the number of days in the period mentioned in sub-paragraph (i); and

(B) the number of days in the period mentioned in sub-paragraph (ii), other than days included in a period to which sub-section 23AB (8) or 79B (3) applied in relation to the taxpayer in relation to that relevant preceding year of income,

exceeds 182; and

(v) the taxpayer resided in the relevant area continuously from the commencement of the period mentioned in sub-paragraph (ii) until the end of the period mentioned in sub-paragraph (i).

"(3C) In sub-section (3B), a reference to a taxpayer residing, or actually being, in a particular area in a year of income for a period of more than, or not more than, one-half of the year of income is a reference to the taxpayer—

(a) residing, or actually being, in that area in the year of income for one period of more than, or not more than, as the case may be, one-half of the year of income; or

(b) residing, or actually being, in that area in the year of income for 2 or more periods the aggregate of the lengths of which is more than, or not more than, as the case may be, one-half of the year of income.

"(3D) For the purposes of this section—

(a) the special area within Zone A or Zone B is constituted by the points in that Zone that were not, as at 1 November 1981, situated at a distance of 250 kilometres or less by the shortest practicable surface route, from the centre point of the nearest urban centre (whether or not within that Zone) with a census population of not less than 2,500; and

(b) the distance, by the shortest practicable surface route, between a point in Zone A or Zone B and the centre point of an urban centre is—

(i) where there is only one location within that urban centre from which distances between the urban centre and other places are usually measured—the distance, by the shortest practicable surface route, between that point in Zone A or Zone B and that location; and

(ii) where there are 2 or more locations within that urban centre from which distances between parts of the urban centre and other places are usually measured—the distance, by the shortest practicable surface route, between that point in Zone A or Zone B and the one of those locations that is in the principal one of those parts.

"(3E) For the purposes of this section other than this sub-section, the Commissioner may, if he considers it appropriate having regard to all the circumstances, treat a point in Zone A or Zone B that is not in the special area in that Zone but is adjacent to or in close proximity to the special area in that Zone as being a point in the special area in that Zone.

"(4) In this section—

'census population', in relation to an urban centre, means the population of that urban centre specified in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1976, being the results published by the Australian Bureau of Statistics in the documents entitled 'Population and Dwellings in Local Government Areas and Urban Centres (Preliminary)';

'relevant preceding year of income', in relation to a year of income, means any of the next 4 preceding years of income other than the immediately preceding year of income;

'relevant rebate amount', in relation to a taxpayer in relation to a year of income, means the sum of the rebates (if any) to which the taxpayer is entitled in respect of the year of income under

sections 159J, 159K and 159L or would be entitled in respect of the year of income under section 159J but for sub-section 159J (1A);

'surface route' means a route other than an air route;

'the prescribed area' means the area comprised in Zone A and Zone B;

'urban centre' means an area that is described as an urban centre or bounded locality in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1976, being the results published by the Australian Bureau of Statistics in the documents entitled 'Population and Dwellings in Local Government Areas and Urban Centres (Preliminary)';

'Zone A' means the area described in Part I of Schedule 2;

'Zone B' means the area described in Part II of Schedule 2.".

(2) Subject to the succeeding provisions of this section, the amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1981 and of all subsequent years of income.

(3) For the purposes of the application of section 79A of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where a taxpayer has resided or actually been in the prescribed area for more than one-half of that year of income but has not resided or actually been in the prescribed area after 31 October 1981 for more than one-half of that year of income, the rebate to which the taxpayer is entitled under that section but for sub-sections 23AB (9) and 79B (4) of that Act as so amended in the assessment of the taxpayer in respect of income of that year of income is such amount as, in the opinion of the Commissioner, is reasonable in the circumstances, being an amount not greater than the amount of the rebate to which the taxpayer would, but for this sub-section, have been entitled under that section but for those sub-sections and not less than the amount of the rebate to which the taxpayer would have been entitled under section 79A of the Principal Act but for sub-sections 23AB (9) and 79B (4) of that Act if this Act had not been enacted.

(4) For the purposes of the application of section 79A of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where a taxpayer died before 1 November 1981 and during that year of income and resided in the prescribed area at the date of his death, the rebate to which the taxpayer is entitled under that section but for sub-sections 23AB (9) and 79B (4) of that Act as so amended in the assessment of the taxpayer in respect of income of that year of income is the amount of the rebate to which the taxpayer would have been entitled under section 79A of the Principal Act but for sub-sections 23AB (9) and 79B (4) of that Act if this Act had not been enacted.

(5) For the purposes of the application of paragraphs 79A (3B) (d) and (e) of the Principal Act as amended by this Act in relation to a taxpayer, any period before 1 January 1981 during which the taxpayer resided, or actually was, in the prescribed area shall be disregarded.

(6) For the purposes of the application of section 79A of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where a taxpayer is a resident of the prescribed area in that year of income by reason only of paragraph 79A (3B) (d) of that Act as so amended, the rebate to which the taxpayer is entitled under that section but for sub-sections 23AB (9) and 79B (4) of that Act as so amended in the assessment of the taxpayer in respect of income of that year of income is—

(a) where the taxpayer resided, or actually was, in the prescribed area in that year of income and after 31 October 1981—such amount as, in the opinion of the Commissioner, is reasonable in the circumstances, being an amount not greater than the amount of the rebate to which the taxpayer would, but for this sub-section, be entitled under that section but for those sub-sections and not less than the amount of the rebate to which the taxpayer would, but for this sub-section, be entitled under that section but for those sub-sections if the amendment made by paragraph (1) (b) of this section had not been made; and

(b) in any other case—an amount equal to the amount of the rebate to which the taxpayer would, but for this sub-section, be entitled under that section but for those sub-sections if the amendment made by paragraph (1) (b) of this section had not been made.

Rebates for members of Defence Force serving overseas

11. (1) Section 79B of the Principal Act is amended—

(a) by omitting from sub-section (2) "The rebate" and substituting "Subject to the succeeding provisions of this section, the rebate";

(b) by omitting from sub-paragraph (2) (a) (ii) "25%" and substituting "50%"; and

(c) by omitting sub-section (4) and substituting the following sub-sections:

"(4) The aggregate of the rebates allowable under this section and section 23AB or under this section and section 79A in the assessment of a taxpayer in respect of income of a year of income shall not exceed an amount equal to the sum of—

(a) $216; and

(b) an amount equal to 50% of the sum of the rebates (if any) to which the taxpayer is entitled in respect of the year of income under sections 159J, 159K and 159L or would be entitled in respect of the year of income under section 159J but for sub-section 159J (1A).

"(4A) Where—

(a) but for sub-section (4) and this sub-section, a rebate would be allowable under this section and a rebate would be allowable

under section 79A in the assessment of a taxpayer in respect of income of a year of income; and

(b) the rebate allowable under section 79A exceeds an amount equal to the sum of—

(i) $216; and

(ii) an amount equal to 50% of the sum of the rebates (if any) to which the taxpayer is entitled in respect of the year of income under sections 159J, 159K and 159L or would be entitled in respect of the year of income under section 159J but for sub-section 159J (1A),

the taxpayer is not entitled to a rebate under this section in that assessment and sub-section (4) does not apply in relation to that assessment.".

(2) Subject to the succeeding provisions of this section, the amendments made by sub-section (1) apply to assessments in respect of income of the year of income that commenced on 1 July 1981 and of all subsequent years of income.

(3) For the purposes of the application of section 79B of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where the total period of service of a taxpayer at overseas localities during that year of income is more than one-half of that year of income but the period of that service after 31 October 1981 is not more than one-half of that year of income, the rebate to which the taxpayer is entitled under that section but for sub-sections (4) and (4A) of that section in the assessment of the taxpayer in respect of income of that year of income is $216 increased by the amount (if any) calculated in accordance with the formula $\frac{ab}{366} + \frac{a(183-b)}{732}$

where—

a is the sum of the rebates (if any) to which the taxpayer is entitled in respect of that year of income under section 159J, 159K and 159L of the Principal Act or would be entitled in respect of that year of income under section 159J of that Act but for sub-section 159J (1A) of that Act; and

b is the number of whole days in the period of service of the taxpayer at overseas localities during that year of income and after 31 October 1981.

(4) For the purposes of the application of section 79B of the Principal Act as amended by this Act in relation to the year of income that commenced on 1 July 1981, where a taxpayer died while serving as a member of the Defence Force at an overseas locality before 1 November 1981 and during that year of income, the rebate allowable to the taxpayer under that section but for sub-sections (4) and (4A) of that section in his assessment in respect of income of that year of income is the rebate that would have been allowable to the taxpayer under section 79B of the Principal Act but for sub-section (4) of that section if this Act had not been enacted.

12. (1) After section 95A of the Principal Act the following section is inserted:

Certain beneficiaries deemed not to be under legal disability

"95B. For the purposes of this Act, a beneficiary of a trust estate who is presently entitled to a share of the income of the trust estate in the capacity of a trustee of another trust estate shall, in respect of his present entitlement to that share, be deemed not to be under a legal disability.".

(2) Subject to sub-section (3), the amendment made by sub-section (1) applies to assessments in respect of income of the year of income commencing on 1 July 1982 and of all subsequent years of income.

(3) Where, on or after 24 March 1982, a person becomes a beneficiary of a trust estate in the capacity of a trustee of another trust estate, the amendment made by sub-section (1) applies to assessments in respect of the share of that person of income of the first-mentioned trust estate of the year of income that commenced on 1 July 1981 and of all subsequent years of income.

Beneficiary not under any legal disability

13. (1) Section 97 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

"(2) A reference in this section to income of a trust estate to which a beneficiary is presently entitled shall be read as not including a reference to income of a trust estate to which a beneficiary is deemed to be presently entitled by virtue of the operation of sub-section 95A (2) where the beneficiary—

(a) is a natural person;

(b) is not, in respect of that income, a beneficiary in the capacity of a trustee of another trust estate; and

(c) is not a beneficiary to whom sub-section 97A (1) or (1A) applies in relation to the year of income.".

(2) Subject to sub-section (3), the amendment made by sub-section (1) applies in relation to income of a trust estate of the year of income of the trust estate in which 28 August 1981 occurred and of all subsequent years of income.

(3) Where—

(a) but for this sub-section, an amount (in this sub-section referred to as the 'relevant amount') would be included in the assessable income of a beneficiary of a trust estate under section 97 of the *Income Tax Assessment Act* 1936 in respect of a share of the beneficiary of income of the trust estate of the year of income of the trust estate in which 28 August 1981 occurred; and

(b) but for the amendment made by sub-section (1) of this section—

(i) the relevant amount would not be included in the assessable income of the beneficiary under that section; or

(ii) a part (in this sub-section referred to as the 'prescribed part') of the relevant amount would not be included in the assessable income of the beneficiary under that section,

the relevant amount shall be reduced by—

(c) where sub-paragraph (b) (i) applies—so much of the relevant amount as bears to the relevant amount the same proportion as the number of whole days in the period commencing on the first day of that year of income and ending on 27 August 1981 bears to 365; and

(d) where sub-paragraph (b) (ii) applies—so much of the prescribed part as bears to the prescribed part the same proportion as the number of whole days in the period commencing on the first day of that year of income and ending on 27 August 1981 bears to 365.

Beneficiary under legal disability or having indefeasible vested interest

14. (1) Section 98 of the Principal Act is amended—

(a) by inserting after paragraph (2) (a) the following paragraph:

"(aa) is a natural person and is not, in respect of that share of the income of the trust estate, a beneficiary in the capacity of a trustee of another trust estate;"; and

(b) by omitting sub-sections (3) and (4).

(2) Subject to sub-section (3), the amendments made by sub-section (1) apply in relation to income of a trust estate of the year of income of the trust estate in which 28 August 1982 occurs and of all subsequent years of income.

(3) Where—

(a) but for this sub-section, the trustee of a trust estate would be liable, under sub-section 98 (2) of that Act, to be assessed and to pay tax in respect of a share of a beneficiary of the net income of the trust estate of the year of income of the trust estate in which 28 August 1981 occurred; and

(b) if the amendments made by sub-section (1) of this section were applicable in relation to that year of income, the trustee would not be liable under sub-section 98 (2) of that Act to be assessed and to pay tax in respect of that share,

the amount of that share in respect of which the trustee would, but for this sub-section, be liable to be assessed and to pay tax shall be reduced by so much of the amount of that share as bears to that amount the same proportion as the number of whole days in the period commencing on 28 August 1981 and ending on the last day of that year of income bears to 365.

Present entitlement arising from reimbursement agreement

15. (1) Section 100A of the Principal Act is amended by omitting paragraph (4) (a) and substituting the following paragraph:

"(a) in the application of this Division in relation to the trust estate in relation to the year of income, section 99A shall be read as if sub-sections (2), (3) and (3A) of that section were omitted; and".

(2) The amendment made by sub-section (1) applies in relation to income of a trust estate of the year of income of the trust estate in which 28 August 1982 occurs and of all subsequent years of income.

Employment income and business income

16. (1) Section 102AF of the Principal Act is amended by omitting from sub-section (3) ", not being employment income,".

(2) The amendment made by sub-section (1) applies in respect of income derived on or after 24 March 1982.

Trust income to which Division applies

17. (1) Section 102AG of the Principal Act is amended by inserting after sub-section (5) the following sub-section:

"(5A) In the application of paragraph 102AF (1) (b) for the purposes of the application of paragraph (2) (b) of this section in relation to a beneficiary of a trust estate, payments made for services rendered or to be rendered shall not be taken to be employment income unless the services are rendered or to be rendered by the beneficiary.".

(2) Subject to sub-section (3), the amendment made by sub-section (1) applies for the purpose of determining the extent (if any) to which Division 6AA of Part III of the *Income Tax Assessment Act* 1936 applies to a share of a beneficiary of the net income of a trust estate of the year of income of the trust estate in which 28 August 1981 occurred and of any subsequent year of income.

(3) Where an amount (in this sub-section referred to as the 'relevant amount') included in the assessable income of a trust estate of the year of income of the trust estate in which 28 August 1981 occurred would not, but for this sub-section, be excepted trust income, within the meaning of section 102AG of the *Income Tax Assessment Act* 1936, but would be excepted trust income within the meaning of that section but for the amendment made by sub-section (1) of this section, so much of the relevant amount as bears to the relevant amount the same proportion as the number of whole days in the period commencing on the first day of that year of income and ending on 27 August 1981 bears to 365 shall be deemed to be excepted trust income within the meaning of that section.

Diverted income and diverted trust income

18. (1) Section 121G of the Principal Act is amended—

(a) by omitting sub-sections (7) and (9); and

(b) by omitting from sub-section (10) "or (9)".

(2) The amendment made by sub-section (1) applies in relation to income of a trust estate of the year of income of the trust estate in which 28 August 1982 occurs and of all subsequent years of income.

19. (1) Division 13 of Part III of the Principal Act is repealed and the following Division is substituted:

"Division 13—International agreements and determination of source of certain income

Interpretation

"136AA. (1) In this Division, unless the contrary intention appears—

'acquire' includes—

(a) acquire by way of purchase, exchange, lease, hire or hire-purchase; and

(b) obtain, gain or receive;

'agreement' means any agreement, arrangement, transaction, understanding or scheme, whether formal or informal, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings;

'derive' includes gain or produce;

'expenditure' includes loss or outgoing;

'income' includes any amount that is, or may be, included in assessable income or taken into account in calculating an amount that is, or may be, included in assessable income;

'permanent establishment', in relation to a taxpayer, means—

(a) a place that is a permanent establishment of the taxpayer by virtue of the definition of 'permanent establishment' in section 6; or

(b) a place at which any property of the taxpayer is manufactured or processed for the taxpayer, whether by the taxpayer or another person;

'property' includes—

(a) a chose in action;

(b) any estate, interest, right or power, whether at law or in equity, in or over property;

(c) any right to receive income; and

(d) services;

'right to receive income' means a right of a person to have income that will or may be derived (whether from property or otherwise) paid to, or applied or accumulated for the benefit of, the person;

'services' includes any rights, benefits, privileges or facilities and, without limiting the generality of the foregoing, includes the rights, benefits, privileges or facilities that are, or are to be, provided, granted or conferred under—

(a) an agreement for or in relation to—

(i) the performance of work (including work of a professional nature);

(ii) the provision of, or the use or enjoyment of facilities for, amusement, entertainment, recreation or instruction;

(iii) the conferring of rights, benefits or privileges for which consideration is payable in the form of a royalty, tribute, levy or similar exaction; or

(iv) the carriage, storage or packaging of any property or the doing of any other act in relation to property;

(b) an agreement of insurance;

(c) an agreement between a banker and a customer of the banker entered into in the course of the carrying on by the banker of the business of banking; or

(d) an agreement for or in relation to the lending of moneys;

'supply' includes—

(a) supply by way of sale, exchange, lease, hire or hire-purchase; and

(b) provide, grant or confer;

'taxpayer' includes a partnership and a taxpayer in the capacity of a trustee.

"(2) The definition of 'taxpayer' in sub-section (1) shall not be taken to affect in any way the interpretation of that expression where it is used in this Act other than this Division.

"(3) In this Division, unless the contrary intention appears—

(a) a reference to the supply or acquisition of property includes a reference to agreeing to supply or acquire property;

(b) a reference to consideration includes a reference to property supplied or acquired as consideration and a reference to the amount of any such consideration is a reference to the value of the property;

(c) a reference to the arm's length consideration in respect of the supply of property is a reference to the consideration that might reasonably be expected to have been received or receivable as consideration in respect of the supply if the property had been supplied under an agreement between independent parties dealing at arm's length with each other in relation to the supply;

(d) a reference to the arm's length consideration in respect of the acquisition of property is a reference to the consideration that might reasonably be expected to have been given or agreed to be given in respect of the acquisition if the property had been acquired under an agreement between independent parties dealing at arm's length with each other in relation to the acquisition; and

(e) a reference to the supply or acquisition of property under an agreement includes a reference to the supply or acquisition of property in connection with an agreement.

Operation of Division

"136AB. (1) Nothing in the provisions of this Act other than this Division shall be taken to limit the operation of this Division.

"(2) In the application of this Division, the operation of section 31C shall be disregarded.

International agreements

"136AC. For the purposes of this Division, an agreement is an international agreement if—

(a) a non-resident supplied or acquired property under the agreement otherwise than in connection with a business carried on in Australia by the non-resident at or through a permanent establishment of the non-resident in Australia; or

(b) a resident carrying on a business outside Australia supplied or acquired property under the agreement, being property supplied or acquired in connection with that business.

Arm's length consideration deemed to be received or given

"136AD. (1) Where—

(a) a taxpayer has supplied property under an international agreement;

(b) the Commissioner, having regard to any connection between any 2 or more of the parties to the agreement or to any other relevant circumstances, is satisfied that the parties to the agreement, or any 2 or more of those parties, were not dealing at arm's length with each other in relation to the supply;

(c) consideration was received or receivable by the taxpayer in respect of the supply but the amount of that consideration was less than the arm's length consideration in respect of the supply; and

(d) the Commissioner determines that this sub-section should apply in relation to the taxpayer in relation to the supply,

then, for all purposes of the application of this Act in relation to the taxpayer, consideration equal to the arm's length consideration in respect of the supply shall be deemed to be the consideration received or receivable by the taxpayer in respect of the supply.

"(2) Where—

(a) a taxpayer has supplied property under an international agreement;

(b) the Commissioner, having regard to any connection between any 2 or more of the parties to the agreement or to any other relevant circumstances, is satisfied that the parties to the agreement, or any 2 or more of those parties, were not dealing at arm's length with each other in relation to the supply;

(c) no consideration was received or receivable by the taxpayer in respect of the supply; and

(d) the Commissioner determines that this sub-section should apply in relation to the taxpayer in relation to the supply,

then, for all purposes of the application of this Act in relation to the taxpayer, consideration equal to the arm's length consideration in respect of the supply shall be deemed to have been received and receivable by the taxpayer in respect of the supply at the time when the property was supplied or, as the case requires, any of the property was first supplied, or at such later time or times as the Commissioner considers appropriate.

"(3) Where—

(a) a taxpayer has acquired property under an international agreement;

(b) the Commissioner, having regard to any connection between any 2 or more of the parties to the agreement or to any other relevant circumstances, is satisfied that the parties to the agreement, or any 2 or more of those parties, were not dealing at arm's length with each other in relation to the acquisition;

(c) the taxpayer gave or agreed to give consideration in respect of the acquisition and the amount of that consideration exceeded the arm's length consideration in respect of the acquisition; and

(d) the Commissioner determines that this sub-section should apply in relation to the taxpayer in relation to the acquisition,

then, for all purposes of the application of this Act in relation to the taxpayer, consideration equal to the arm's length consideration in respect of the acquisition shall be deemed to be the consideration given or agreed to be given by the taxpayer in respect of the acquisition.

"(4) For the purposes of this section, where, for any reason (including an insufficiency of information available to the Commissioner), it is not possible or not practicable for the Commissioner to ascertain the arm's length consideration in respect of the supply or acquisition of property, the arm's length consideration in respect of the supply or acquisition shall be deemed to be such amount as the Commissioner determines.

Determination of source of income, &c.

"136AE. (1) Where—

(a) by the application of section 136AD in relation to a taxpayer other than a partnership or trustee, the arm's length consideration in respect of the supply or acquisition of property by the taxpayer is deemed to have been received or receivable or received and receivable, or to have been given or agreed to be given, as the case may be; and

(b) a question arises whether, and if so, as to the extent to which—

(i) any income, being that consideration, is derived by the taxpayer from sources in Australia or sources out of Australia;

(ii) any income in the calculation of which that consideration is taken into account is derived by the taxpayer from sources in Australia or sources out of Australia; or

(iii) that consideration is expenditure incurred by the taxpayer in deriving income from sources in Australia or sources out of Australia,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or from such sources and in such proportions, as the Commissioner determines.

"(2) Where—

(a) by the application of section 136AD in relation to a taxpayer being a partnership, the arm's length consideration in respect of the supply or acquisition of property by the taxpayer is deemed to have been received or receivable or received and receivable, or to have been given or agreed to be given, as the case may be; and

(b) in determining the net income, exempt income or partnership loss of the taxpayer or the extent to which the individual interest of a partner in the net income, exempt income or partnership loss of the taxpayer is attributable to sources in Australia, a question arises whether, and if so, as to the extent to which—

(i) any income, being that consideration, is derived by the taxpayer from sources in Australia or sources out of Australia;

(ii) any income in the calculation of which that consideration is taken into account is derived by the taxpayer from sources in Australia or sources out of Australia; or

(iii) that consideration is expenditure incurred by the taxpayer in deriving income from sources in Australia or sources out of Australia,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or from such sources and in such proportions, as the Commissioner determines.

"(3) Where—

(a) by the application of section 136AD in relation to a taxpayer being the trustee of a trust estate, the arm's length consideration in respect of the supply or acquisition of property by the taxpayer is deemed to have been received or receivable or received and receivable, or to have been given or agreed to be given, as the case may be; and

(b) in determining the net income or exempt income of the trust estate or the extent to which the share of a beneficiary of the net income or exempt income of the trust estate is attributable to sources in Australia, a question arises whether, and if so, as to the extent to which—

(i) any income, being that consideration, is derived by the taxpayer from sources in Australia or sources out of Australia;

(ii) any income in the calculation of which that consideration is taken into account is derived by the taxpayer from sources in Australia or sources out of Australia; or

(iii) that consideration is expenditure incurred by the taxpayer in deriving income from sources in Australia or sources out of Australia,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or from such sources and in such proportions, as the Commissioner determines.

"(4) Where—

(a) a taxpayer other than a partnership or trustee is a resident and carries on a business in a country other than Australia at or through a permanent establishment of the taxpayer in that other country or is a non-resident and carries on a business in Australia at or through a permanent establishment of the taxpayer in Australia;

(b) a question arises whether, and if so, as to the extent to which—

(i) any income derived by the taxpayer is derived from sources in Australia or sources out of Australia; or

(ii) any expenditure incurred by the taxpayer is incurred in deriving income from sources in Australia or sources out of Australia;

(c) none of the preceding provisions of this section applies in relation to the determination of that question;

(d) that question, if determined on the basis of the return furnished by the taxpayer, would have a tax result more favourable to the taxpayer than the result that would occur if that question were determined in accordance with this sub-section; and

(e) in the opinion of the Commissioner, the derivation of the income or the incurring of the expenditure is attributable, in whole or in part, to activities carried on by the taxpayer at or through the permanent establishment,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or from such sources and in such proportions, as the Commissioner determines.

"(5) Where—

(a) a taxpayer—

(i) is a partnership and carries on a business in a country other than Australia at or through a permanent establishment of the taxpayer in that other country; or

(ii) carries on a business in Australia at or through a permanent establishment of the taxpayer in Australia and is a partnership in which any of the partners is a non-resident;

(b) in determining the net income, exempt income or partnership loss of the taxpayer or the extent to which the individual interest of a partner in the net income, exempt income or partnership loss of the taxpayer is attributable to sources in Australia, a question arises whether, and if so, as to the extent to which—

(i) any income derived by the taxpayer is derived from sources in Australia or sources out of Australia; or

(ii) any expenditure incurred by the taxpayer is incurred in deriving income from sources in Australia or sources out of Australia;

(c) none of the preceding provisions of this section applies in relation to the determination of that question;

(d) that question, if determined on the basis of the return furnished by the taxpayer, would have a tax result more favourable to a taxpayer than the result that would occur if that question were determined in accordance with this sub-section; and

(e) in the opinion of the Commissioner, the derivation of the income or the incurring of the expenditure is attributable, in whole or in part, to activities carried on by the taxpayer at or through the permanent establishment,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or from such sources and in such proportions, as the Commissioner determines.

"(6) Where—

(a) a taxpayer—

(i) is the trustee of a trust estate and carries on a business in a country other than Australia at or through a permanent establishment of the taxpayer in that other country; or

(ii) carries on a business in Australia at or through a permanent establishment of the taxpayer in Australia and is the trustee of a trust estate of which any of the beneficiaries is a non-resident;

(b) in determining the net income or exempt income of the trust estate or the extent to which the share of a beneficiary of the net income or exempt income of the trust estate is attributable to sources in Australia, a question arises whether, and if so, as to the extent to which—

(i) any income derived by the taxpayer is derived from sources in Australia or sources out of Australia; or

(ii) any expenditure incurred by the taxpayer is incurred in deriving income from sources in Australia or sources out of Australia;

(c) none of the preceding provisions of this section applies in relation to the determination of that question;

(d) that question, if determined on the basis of the return furnished by the taxpayer, would have a tax result more favourable to a taxpayer than the result that would occur if that question were determined in accordance with this sub-section; and

(e) in the opinion of the Commissioner, the derivation of the income or the incurring of the expenditure is attributable, in whole or in part, to activities carried on by the taxpayer at or through the permanent establishment,

the income or expenditure shall be deemed, for all purposes of this Act, to have been derived or to have been incurred in deriving income, as the case may be, from such source, or such sources and in such proportions, as the Commissioner determines.

"(7) In the application of the preceding provisions of this section in determining the source or sources of any income derived by a taxpayer or the extent to which expenditure incurred by the taxpayer was incurred in deriving income from a particular source or sources, the Commissioner shall have regard to—

(a) the nature and extent of any relevant business carried on by the taxpayer and the place or places at which the business is carried on;

(b) if any relevant business carried on by the taxpayer is carried on at or through a permanent establishment—the circumstances that would have, or might reasonably be expected to have, existed if the permanent establishment were a distinct and separate entity dealing at arm's length with the taxpayer and other persons; and

(c) such other matters as the Commissioner considers relevant.

"(8) A reference in this section to expenditure incurred by a taxpayer in deriving income includes a reference to expenditure incurred by the taxpayer in carrying on a business for the purpose of deriving income.

"(9) In determining for the purposes of this section whether a question of the kind specified in paragraph (1) (b), (2) (b), (3) (b), (4) (b), (5) (b) or (6) (b) arises, Subdivision C of Division 2 shall be disregarded.

Consequential adjustments to assessable income and allowable deductions

"136AF. (1) Where, by reason of the application of section 136AD in relation to the supply or acquisition of property by a taxpayer, an amount is included in the assessable income of the taxpayer of a year of income or a deduction is not allowable or is not, in part, allowable, to the taxpayer in respect of a year of income, the Commissioner may, in relation to any taxpayer (in this sub-section referred to as the 'relevant taxpayer')—

(a) if, in the opinion of the Commissioner—

(i) there has been included, or would but for this sub-section be included, in the assessable income of the relevant taxpayer of a year of income an amount that would not have been included or would not be included, as the case may be, in the assessable income of the relevant taxpayer of that year of income if the

property had been supplied or acquired, as the case may be, under an agreement between independent parties dealing at arm's length with each other in relation to the supply or acquisition; and

(ii) it is fair and reasonable that that amount or a part of that amount should not be included in the assessable income of the relevant taxpayer of that year of income,

determine that that amount or that part of that amount, as the case may be, should not have been included or shall not be included, as the case may be, in the assessable income of the relevant taxpayer of that year of income; and

(b) if, in the opinion of the Commissioner—

(i) an amount would have been allowed or would be allowable to the relevant taxpayer as a deduction in relation to a year of income if the property had been supplied or acquired, as the case may be, under an agreement between independent parties dealing at arm's length with each other in relation to the supply or acquisition, being an amount that was not allowed or would not, but for this sub-section, be allowable, as the case may be, as a deduction to the relevant taxpayer in relation to that year of income; and

(ii) it is fair and reasonable that that amount or a part of that amount should be allowable as a deduction to the relevant taxpayer in relation to that year of income,

determine that that amount or that part of that amount, as the case may be, should have been allowed or shall be allowable, as the case may be, as a deduction to the relevant taxpayer in relation to that year of income,

and the Commissioner shall take such action as he considers necessary to give effect to any such determination.

"(2) Where the Commissioner makes a determination under sub-section (1) by virtue of which an amount is allowed as a deduction to a taxpayer in relation to a year of income, that amount shall be deemed to be so allowed as a deduction by virtue of such provision of this Act as the Commissioner determines.

"(3) Where—

(a) by reason of the application of section 136AD in relation to the supply or acquisition of property by a taxpayer, an amount is included in the assessable income of the taxpayer of a year of income or a deduction is not allowable or is not, in part, allowable, to the taxpayer in respect of a year of income;

(b) in the opinion of the Commissioner, an amount of withholding tax has become payable and has been paid in respect of interest paid to a taxpayer (in this sub-section referred to as the 'relevant taxpayer'), being withholding tax that would not have become payable if the

property had been supplied or acquired by the first-mentioned taxpayer under an agreement between independent parties dealing at arm's length with each other in relation to the supply or acquisition; and

(c) in the opinion of the Commissioner, it is fair and reasonable that that amount of withholding tax or part of that amount of withholding tax should not have become payable by the relevant taxpayer,

the Commissioner may determine that that amount of withholding tax or that part of that amount of withholding tax, as the case may be, should not have become payable by the relevant taxpayer and the Commissioner shall take such action as he considers necessary to give effect to any such determination.

"(4) Where, at any time, a taxpayer considers that the Commissioner ought to make a determination under sub-section (1) or (3) in relation to the taxpayer, the taxpayer may post to or lodge with the Commissioner a request in writing for the making by the Commissioner of a determination under the sub-section concerned.

"(5) The Commissioner shall consider the request and serve on the taxpayer, by post or otherwise, a written notice of his decision on the request.

"(6) If the taxpayer is dissatisfied with the Commisioner's decision on the request, the taxpayer may, within 60 days after service on the taxpayer of notice of the decision of the Commissioner, post to or lodge with the Commissioner an objection in writing against the decision stating fully and in detail the grounds on which the taxpayer relies.

"(7) The provisions of Division 2 of Part V (other than section 185) apply in relation to an objection made under sub-section (6) in like manner as those provisions apply in relation to an objection against an assessment.

Modified application of Subdivision C of Division 2

"136AG. Where—

(a) by the application of section 136AD in relation to a taxpayer, the arm's length consideration in respect of the supply or acquisition of property by the taxpayer is deemed to have been received or receivable or received and receivable, or to have been given or agreed to be given, as the case may be; or

(b) section 136AE has been applied in relation to any income derived by a taxpayer or any expenditure incurred by a taxpayer,

that consideration, income or expenditure, as the case may be, shall not be taken into account in the application of Subdivision C of Division 2 in relation to the taxpayer or, where the taxpayer is a partnership or the trustee of a trust estate, in relation to a partner in the partnership or a beneficiary of the trust estate, as the case may be.".

(2) The repeal effected by sub-section (1) applies to assessments in respect of income of the year of income in which 28 May 1982 occurs and of all subsequent years of income.

(3) Subject to sub-section (4), Division 13 of Part III of the *Income Tax Assessment Act* 1936 inserted by sub-section (1) applies to assessments in respect of income of the year of income in which 28 May 1981 occurred and of all subsequent years of income.

(4) Where—

(a) but for this sub-section, Division 13 of Part III of the *Income Tax Assessment Act* 1936 inserted by sub-section (1) would have the effect that—

(i) an amount would be included in the assessable income of a taxpayer of the year of income in which 28 May 1981 occurred that would not be included in that assessable income but for that Division and Part IVA of the *Income Tax Assessment Act* 1936; or

(ii) a deduction that, but for that Division and Part IVA of the *Income Tax Assessment Act* 1936, would be allowable to a taxpayer in respect of the year of income in which 28 May 1981 occurred would not be allowable or would not, in part, be allowable to the taxpayer in respect of that year of income; and

(b) in the opinion of the Commissioner the amount that would be so included in that assessable income, or the deduction or the part of the deduction that would not be allowable, may appropriately be related to a period or time before 28 May 1981,

that Division does not operate so as to include that amount in that assessable income or to affect that deduction, as the case may be.

(5) Where the tax payable by a taxpayer in respect of the year of income in which 28 May 1981 occurred is determined by the Commissioner under section 136 of the *Income Tax Assessment Act* 1936, Division 13 of Part III of that Act inserted by sub-section (1) of this section does not apply in relation to the taxpayer in relation to that year of income.

(6) Where the Commissioner has made an assessment in respect of income of a taxpayer of the year of income in which 28 May 1981 occurred and Division 13 of Part III of the *Income Tax Assessment Act* 1936 inserted by sub-section (1) of this section was applied in making that assessment, the Commissioner is not empowered under section 136 of that Act to determine the tax payable by the taxpayer in respect of that year of income.

Medical expenses

20. (1) Section 159P of the Principal Act is amended by adding at the end thereof the following sub-sections:

"(5) For the purposes of paragraph (a) of the definition of 'medical expenses' in sub-section (4), a payment made to an employer (not being a public or private hospital) of a person (in this sub-section referred to as the 'relevant person') who is a legally qualified medical practitioner, nurse or chemist in respect of the provision of services or treatment, or the supply of goods, by the relevant person shall be taken to be a payment made to the

relevant person in respect of the provision of those services or that treatment or in respect of the supply of those goods.

"(6) For the purposes of paragraph (b) of the definition of 'medical expenses' in sub-section (4), a payment made to an employer of a legally qualified dentist in respect of the provision of dental services or treatment, or the supply, alteration or repair of artificial teeth, by the dentist shall be taken to be a payment made to the dentist in respect of the provision of those services or that treatment or in respect of the supply, alteration or repair of those artificial teeth.

"(7) For the purposes of paragraph (c) of the definition of 'medical expenses' in sub-section (4), a payment made to an employer of a person registered under a law of a State or Territory as a dental mechanic in respect of charges lawfully made by the employer in respect of the supply, alteration or repair of artificial teeth by the dental mechanic shall be taken to be a payment made to the dental mechanic in respect of charges lawfully made by the dental mechanic for the supply, alteration or repair of those artificial teeth.

"(8) A reference in sub-section (5), (6) or (7) to an employer of a legally qualified medical practitioner, nurse or chemist, a legally qualified dentist or a person registered under a law of a State or Territory as a dental mechanic shall be read as including a reference to a person with whom the medical practitioner, nurse, chemist, dentist or dental mechanic has entered into a contract for services.".

(2) The amendment made by sub-section (1) applies in respect of payments made on or after 1 July 1981.

Amendment of assessments

21. (1) Section 170 of the Principal Act is amended—

(a) by inserting after sub-section (9A) the following sub-sections:

"(9B) Subject to sub-section (9C), nothing in this section prevents the amendment, at any time, of an assessment for the purpose of giving effect to a prescribed provision or a relevant provision.

"(9C) Sub-section (9B) does not authorize the Commissioner, for the purpose of giving effect to a prescribed provision or a relevant provision, to amend an assessment made in relation to a taxpayer in relation to a year of income where—

(a) in a case where the purpose of the amendment is to give effect to the prescribed provision in relation to the supply or acquisition of property—the prescribed provision has been previously applied, in relation to that supply or acquisition, in making or amending an assessment in relation to the taxpayer in relation to the year of income; or

(b) in any other case—the prescribed provision or the relevant provision, as the case may be, has been previously applied, in relation to the same subject matter, in making or amending an

assessment in relation to the taxpayer in relation to the year of income.";

(b) by inserting in sub-section (10) ", section 136AF" after "Division 10BA of Part III"; and

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

"(14) In this section—

'double taxation agreement' means an agreement within the meaning of the *Income Tax (International Agreements) Act* 1953;

'prescribed provision' means section 136AD or 136AE;

'relevant provision' means paragraph (3) of Article 5 or paragraph (1) of Article 7 of the United Kingdom agreement or a provision of any other double taxation agreement that corresponds with either of those paragraphs;

'the United Kingdom agreement' has the same meaning as in the *Income Tax (International Agreements) Act* 1953.".

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income in which 28 May 1981 occurred and in respect of income of all subsequent years of income.

Powers of Board

22. (1) Section 193 of the Principal Act is amended—

(a) by omitting from sub-section (2) "The Board" and substituting "Subject to sub-section (3), the Board";

(b) by omitting from sub-section (2) "section 226" and substituting "sub-section 226 (1), (2) or (2A)"; and

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

"(3) Nothing in sub-section (2) affects the power of the Board to review decisions of the Commissioner relating to the remission of additional tax imposed by sub-section 226 (2B) or (2D).".

(2) The amendments made by sub-section (1) apply to assessments in respect of income of the year of income in which 28 May 1981 occurred and in respect of income of all subsequent years of income.

Additional tax in certain cases

23. (1) Section 226 of the Principal Act is amended by inserting after sub-section (2A) the following sub-sections:

"(2B) Where—

(a) for the purposes of making an assessment, the Commissioner has calculated the tax that, but for this section, is assessable to a taxpayer in relation to a year of income;

(b) the application of a prescribed provision or prescribed provisions was taken into account in calculating the tax assessable to the taxpayer; and

(c) if, in calculating the tax assessable to the taxpayer in relation to the year of income, no application of a prescribed provision or prescribed provisions was taken into account and the particulars contained in the return of the taxpayer were accepted as correct in so far as those particulars were relevant to the operation of the prescribed provisions—

(i) no tax would have been assessable to the taxpayer in relation to the year of income; or

(ii) there would but for this section have been assessable to the taxpayer in relation to the year of income an amount of tax that is less than the amount of tax referred to in paragraph (a),

the taxpayer is liable to pay as additional tax in relation to the year of income an amount calculated, in respect of the period commencing on the last day allowed for furnishing the return of income for the year of income and ending on the day on which the assessment is made, at the rate of 10% per annum of—

(d) in a case to which sub-paragraph (c) (i) applies—the amount of the tax referred to in paragraph (a); or

(e) in a case to which sub-paragraph (c) (ii) applies—the amount by which the amount of tax referred to in paragraph (a) exceeds the amount of tax that would, but for this section, have been assessable to the taxpayer in relation to the year of income if, in calculating that tax, no application of a prescribed provision or prescribed provisions was taken into account and the particulars contained in the return of the taxpayer had been accepted as correct in so far as those particulars were relevant to the operation of the prescribed provisions.

"(2C) Where—

(a) for the purpose of making an assessment, the Commissioner has calculated the tax that, but for this sub-section, is assessable to a taxpayer in relation to a year of income; and

(b) in calculating the tax assessable to the taxpayer, a prescribed provision was not applied in a particular case by reason of the *Income Tax (International Agreements) Act* 1953,

the Commissioner shall determine the following amounts:

(c) the amount (if any) of additional tax that, but for sub-section (2D), the taxpayer would have been liable to pay in relation to the year of income under sub-section (2B) but for the *Income Tax (International Agreements) Act* 1953;

(d) the amount (if any) of additional tax that the taxpayer would have been liable to pay in relation to the year of income under sub-section (2B) if that sub-section were applied on the basis that a reference in that sub-section to the application of a prescribed provision included a reference to the application of a provision of the *Income Tax*

(International Agreements) Act 1953 by reason of the application of which a prescribed provision was not applied in a particular case.

"(2D) Where the Commissioner has determined an amount or amounts under sub-section (2C) in relation to a taxpayer in relation to a year of income, the taxpayer is liable to pay, as additional tax in relation to that year of income, that amount or the lesser of those amounts, as the case may be, and, where the taxpayer is liable to pay additional tax under this sub-section in relation to the year of income, the taxpayer is not liable to pay additional tax under sub-section (2B) in relation to that year of income.

"(2E) In sub-sections (2B) and (2C), 'prescribed provision' means section 136AD or 136AE.

"(2F) In the application of sub-sections (2B) and (2C), the possibility that section 31C, Subdivision C of Division 2 or Part IVA would have applied in a particular case in which it did not apply shall be disregarded.".

(2) The amendment made by sub-section (1) applies to assessments in respect of income of the year of income in which 28 May 1981 occurred and of all subsequent years of income.

(3) Where—

(a) the tax payable by a taxpayer in respect of the year of income in which 28 May 1981 occurred is determined by the Commissioner under section 136 of the *Income Tax Assessment Act* 1936 or would, in the opinion of the Commissioner, have been determined under that section but for the *Income Tax (International Agreements) Act* 1953; and

(b) if the tax payable by the taxpayer in respect of that year of income had been determined under the provisions of that first-mentioned Act other than that section and without regard to the *Income Tax (International Agreements) Act* 1953, an amount of additional tax would have been payable by the taxpayer under sub-section 226 (2B) of that first-mentioned Act,

the taxpayer is liable to pay that amount as additional tax in relation to that year of income.

(4) For the purposes of the *Income Tax Assessment Act* 1936, additional tax payable by virtue of sub-section (3) shall be deemed to have been imposed by sub-section 226 (2B) of that Act.

Amendment of assessments

24. Nothing in section 170 of the *Income Tax Assessment Act* 1936 prevents the amendment of an assessment made before the commencement of this section for the purpose of giving effect to an amendment made by this Act other than section 19.

Amendment of the *Income Tax Laws Amendment Act* 1981

25. The Schedule to the *Income Tax Laws Amendment Act* 1981[2] is amended—

(a) by omitting from the matter set out opposite to the reference to the definition of "moneys paid on shares" in sub-section 77D (1) "28 August, 1969" and substituting "28th August, 1969"; and

(b) by omitting "Sub-section 83AAG (2)" and substituting "Sub-section 82AAG (2)".

NOTES

1. No. 27, 1936, as amended. For previous amendments, see 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; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; and Nos. 61, 108, 109, 110, 111, 154 and 175, 1981.

2. No. 108, 1981.