



Taxation Laws Amendment Act (No. 3) 1989

Act No. 107 of 1989 as amended

This compilation was prepared on 6 September 2010
taking into account amendments up to Act No. 75 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989 - LONG TITLE

An Act to amend the law relating to taxation

PART 1 - PRELIMINARY

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 1

Short title [see Note 1]

1. This Act may be cited as the Taxation Laws Amendment Act (No. 3) 1989.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 2

Commencement [see Note 1]

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Part 6 shall be taken to have commenced immediately after the Taxation Laws Amendment Act (No. 4) 1988 received the Royal Assent.

PART 2 - AMENDMENT OF THE ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) ACT 1977

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 3

Principal Act

3. In this Part, "Principal Act" means the Administrative Decisions (Judicial Review) Act 1977.*1*

1 No. 59, 1977, as amended. For previous amendments, see No. 66, 1978; No. 111, 1980; Nos. 111, 115, 122, 137, 140 and 153, 1982; Nos. 62 and 144, 1983; Nos. 76, 159 and 164, 1984; Nos. 4, 47 and 65, 1985; Nos. 41, 76, 102, 112 and 153, 1986; Nos. 62, 76 and 000, 1987; Nos. 5 and 63, 1988; and No. 14, 1989.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 4

Schedule 1

4. Schedule 1 to the Principal Act is amended by inserting after paragraph (e) the following paragraph:

"(f) decisions of the Commissioner of Taxation under subsection 3E (1) of the Taxation Administration Act 1953;"

PART 3 - AMENDMENT OF THE FRINGE BENEFITS TAX ASSESSMENT ACT 1986

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 5

Principal Act

5. In this Part, "Principal Act" means the Fringe Benefits Tax Assessment Act 1986.*2*

2 No. 39, 1986, as amended. For previous amendments, see Nos. 48 and 112, 1986; Nos. 23 and 145, 1987; No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 6, 78, 95, 97 and 153, 1988; and Nos. 2, 17 and 97, 1989.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 6
Remote area housing

6. Section 142 of the Principal Act is amended by omitting from subsection (4) "(1) (ac)" and substituting "(2) (ac)".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 7
Application of amendment

7. (1) Subject to this section, the amendment made by this Part applies to assessments of the fringe benefits taxable amount of an employer of the transitional year of tax and of each subsequent year of tax.

(2) The amendment made by this Part does not apply to instalments of tax in respect of the transitional year of tax.

PART 4 - AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 8
Principal Act

8. In this Part, "Principal Act" means the Income Tax Assessment Act 1936.*3*

3 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, 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; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987) No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 8, 11, 59, 75, 78, 80, 87, 95, 97, 127 and 153, 1988; and Nos. 2, 11, 56, 70, 73 and 97, 1989.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 9

Exemptions

9. Section 23 of the Principal Act is amended by omitting paragraph (1) and substituting the following paragraph:

"(1) periodic payments (in this paragraph called 'maintenance payments') in the nature of maintenance made by, or attributable to payments made by, a person (in this paragraph called the 'maintenance payer'), where:

(i) the maintenance payments are made:

(A) to a person who is or has been a spouse, within the meaning of subsection 27A (1), of the maintenance payer;

(B) to or for the benefit of a person who is or has been a child of the maintenance payer; or

(C) to or for the benefit of a person who is or has been a child of another person at a time when that other person is or was a spouse, within the meaning of subsection 27A (1), of the maintenance payer; and

(ii) the maintenance payer has not, for the purpose of making the maintenance payments or the payments to which they are attributable, as the case may be, divested himself or herself of any income producing assets or diverted from himself or herself income upon which he or she would otherwise have been liable to tax;".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 10

Redemption of Special Bonds redeemable at a premium

10. Section 23E of the Principal Act is amended by inserting in paragraph (2) (b) ", disregarding section 26BB and subsection 160ZB (6)," after "would".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 11

11. After section 26BA of the Principal Act the following section is inserted:

Assessability of gain on disposal or redemption of traditional securities

"26BB. (1) In this section:

'acquire', in relation to a security, means acquire, on issue, purchase, transfer, assignment or otherwise, the security or the right to receive payment of the amount or amounts payable under the security;

'dispose', in relation to a security, means sell, transfer, assign or dispose of in any way the security or the right to receive payment of the amount or amounts payable under the security;

'eligible return' has the same meaning as in Division 16E;

'periodic interest' has the same meaning as in Division 16E;

'security' has the same meaning as in Division 16E;

'traditional security', in relation to a taxpayer, means a security held by the taxpayer that:

(a) is or was acquired by the taxpayer after 10 May 1989;

(b) either:

(i) does not have an eligible return; or

(ii) has an eligible return, where:

(A) the precise amount of the eligible return is able to be ascertained at the time of issue of the security; and

(B) that amount is not greater than 11/2% of the amount calculated in accordance with the formula:

Payments X Term

where:

Payments is the amount of the payment or of the sum of the payments (excluding any periodic interest) liable to be made under the security when held by any person; and

Term is the number (including any fraction) of years in the term of the security;

(c) is not a prescribed security within the meaning of section 26C; and

(d) is not trading stock of the taxpayer.

"(2) Where a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed, the amount of any gain on the disposal or redemption shall be included in the assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.

"(3) Where the Commissioner, having regard to any connection between the parties to the transaction by which the taxpayer disposed of the traditional security or by which it was redeemed, or by which the taxpayer acquired the traditional security, is satisfied that the parties were not dealing with each other at arm's length in relation to the transaction, then, for the purposes of determining under subsection (2) the amount of any gain on the disposal or redemption, the consideration for the transaction shall be taken to be:

(a) the amount that might reasonably be expected for the transaction if the parties were independent parties dealing at arm's length with each other; or

(b) where, for any reason it is not possible or practicable for the Commissioner to ascertain that amount—such amount as the Commissioner determines."

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 12

Payments to associated persons and relatives

12. Section 65 of the Principal Act is amended by omitting from subsection (2) "his wife or of any member of his family" and substituting "the taxpayer's spouse, within the meaning of subsection 27A (1), or of any member of the taxpayer's family".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 13

13. After section 70A of the Principal Act, the following section is inserted:

Deduction for loss on disposal or redemption of traditional securities

"70B. (1) Expressions used in this section that are also used in section 26BB have the same meanings in this section as in section 26BB.

"(2) Where a taxpayer disposes of a traditional security or a traditional security of a taxpayer is redeemed, the amount of any loss on the disposal or redemption is allowable as a deduction from the assessable income of the taxpayer of the year of income in which the disposal or redemption takes place.

"(3) Where the Commissioner, having regard to any connection between the parties to the transaction by which the taxpayer disposed of the traditional security or by which it was redeemed, or by which the taxpayer acquired the traditional security, is satisfied that the parties were not dealing with each other at arm's length in relation to the transaction, then, for the purposes of determining under subsection (2) the amount of any loss on the disposal or redemption, the consideration for the transaction shall be taken to be:

(a) the amount that might reasonably be expected for the transaction if the

parties were independent parties dealing at arm's length with each other; or
(b) where, for any reason it is not possible or practicable for the Commissioner to ascertain that amount—such amount as the Commissioner determines.".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 14
Gifts, pensions etc.

14. Section 78 of the Principal Act is amended:
(a) by omitting subparagraph (1) (a) (xlviii) and substituting the following subparagraph:
" (xlviii) The Sir Robert Menzies Memorial Foundation Limited;";
(b) by inserting after subparagraph (1) (a) (xcii) the following subparagraphs:
" (xciii) the Australian Ireland Fund;
" (xciv) a public fund established and maintained exclusively for the relief of persons affected by earthquakes in the Armenian Soviet Socialist Republic;";
(c) by inserting after subsection (6AH) the following subsection:
" (6AI) A gift to a fund to which subparagraph (1) (a) (xciv) applies is not an allowable deduction unless the gift was or is made on or after 8 December 1988 and before 1 July 1989.".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 15
Persons to whom Division applies

15. Section 102AC of the Principal Act is amended:
(a) by omitting from subparagraph (2) (c) (i) "handicapped child's" and substituting "child disability";
(b) by omitting sub-subparagraph (2) (d) (i) (A) and substituting the following sub-subparagraph:
" (A) a disabled child within the meaning of Part XII of the Social Security Act 1947; or".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 16
Rebate in respect of certain pensions

16. Section 160AAA of the Principal Act is amended by omitting from subparagraphs (2) (e) (i) and (ii) "\$6,184" and "\$260" and substituting "\$6,192" and "\$262" respectively.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989
- SECT 17
Tax-sparing

17. Section 160AFF of the Principal Act is amended by omitting from subsection (4) "1 July 1987" (last occurring) and substituting "the first day of the year of income commencing on 1 July 1987".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 18

Exemption of certain gains and losses

18. Section 160ZB of the Principal Act is amended by adding at the end the following subsection:

"(6) A capital gain shall not be taken to have accrued to a taxpayer, and a capital loss shall not be taken to have been incurred by a taxpayer, as a result of the disposal of a traditional security, within the meaning of section 26BB, where the security was acquired by the taxpayer after 10 May 1989."

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 19

Exemption of principal residence

19. Section 160ZZQ of the Principal Act is amended:

(a) by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

"(a) in the case of a dwelling other than a flat or home unit:

(i) a legal or equitable estate or interest in the land on which the dwelling is erected; or

(ii) a licence or right to occupy the dwelling; or

(b) in the case of a flat or home unit:

(i) a legal or equitable estate or interest in a stratum unit in relation to the flat or home unit;

(ii) a licence or right to occupy the flat or home unit; or

(iii) a share in a company that owns a legal or equitable estate or interest in the land on which the building containing the flat or home unit is erected, being a share that entitles the holder to a right of occupancy of the flat or home unit.";

(b) by omitting subsection (5) and substituting the following subsections:

"(5) Where:

(a) after 19 September 1985, a taxpayer acquired a legal or equitable estate or interest (other than a life interest) in land;

(b) no dwelling was erected on the land at the time when the taxpayer acquired that estate or interest;

(c) a dwelling was erected on the land by the taxpayer after that time;

(d) the dwelling became the sole or principal residence of the taxpayer for the purposes of this Part as soon as practicable after the dwelling was erected and continued to be the sole or principal residence of the taxpayer for the purposes of this Part for not less than 12 months; and

(e) the taxpayer makes an election in accordance with subsection (5A) that this subsection apply in relation to the dwelling;

the following provisions have effect:

(f) the period during which the dwelling was the sole or principal residence of the taxpayer for the purposes of this Part includes:

(i) the period on and from the date on which the taxpayer acquired the estate or interest to and including the date on which the dwelling was erected (other than any part of that period during which the taxpayer was the dependent child of another taxpayer); or

(ii) the period of 4 years immediately before the dwelling became the sole or principal residence of the taxpayer (other than any part of that period during which the taxpayer was the dependent child of another taxpayer);

whichever period (in this subsection called the 'construction period')

is the shorter period;

(g) no other dwelling shall be treated as the sole or principal residence of the taxpayer during the construction period.

"(5A) An election for the purposes of subsection (5) shall be lodged with the Commissioner on or before the date of lodgment of the taxpayer's return of income of the later of the following years of income:

(a) the year of income in which the dwelling first became the sole or principal residence of the taxpayer for the purposes of this Part;

(b) the year of income in which this subsection commenced;
or within such further period as the Commissioner allows."

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 20

Application of amendments

20. (1) In this section, "amended Act" means the Principal Act as amended by this Act.

(2) The amendment made by section 9 applies in relation to income derived on or after 1 July 1988.

(3) The amendment made by section 12 applies to expenditure incurred, and payments becoming due, on or after the day on which that section commences.

(4) Subparagraph 78 (1) (a) (xlvi) of the amended Act applies to gifts made on or after 15 January 1988.

(5) Subparagraph 78 (1) (a) (xciii) of the amended Act applies to gifts made on or after 10 May 1989.

(6) The amendment made by paragraph 15 (b) applies to assessments in respect of income of the year of income commencing on 1 July 1987 and of all subsequent years of income.

(7) The amendments made by section 16 apply to assessments in respect of income of the year of income commencing on 1 July 1988 and of all subsequent years of income.

(8) The amendments made by section 19 apply to assessments in respect of income of the year of income in which 20= September 1985 occurred and of all subsequent years of income.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 21

Transitional-handicapped children

21. Notwithstanding subsection 102AC (2) of the Principal Act as amended by this Act, a person (in this section called the "minor") shall be taken to have been an excepted person in relation to the year of income commencing on 1 July 1987 or the year of income commencing on 1 July 1988 for the purposes of Division 6AA of Part III of that Act if the Commissioner:

(a) has received a certificate issued before 1 July 1989 by a legally qualified medical practitioner certifying, or purporting to certify, that the minor is a handicapped child, or a severely handicapped child, for the purposes of the Social Security Act 1947 or a specified Part of that Act; and

(b) is satisfied that, on the last day of that year of income, the minor was a handicapped child, or a severely handicapped child, within the meaning of Part XII of the Social Security Act 1947 as in force immediately before 15 November 1987.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 22

Transitional-CGT principal residence exemption

22. Notwithstanding the amendments made by section 19, where:

(a) a dwelling owned by a taxpayer was disposed of before 22 November 1988; and

(b) but for those amendments, a capital loss would have been incurred by the taxpayer for the purposes of Part IIIA of the Principal Act in respect of the disposal;

Part IIIA of the Principal Act as amended by this Act applies in relation to the disposal as if those amendments had not been made.

PART 5 - AMENDMENT OF THE TAXATION ADMINISTRATION ACT 1953

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 24

Principal Act

24. In this Part, "Principal Act" means the Taxation Administration Act 1953.*4*

4 No. 1, 1953, as amended. For previous amendments, see Nos. 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37, 1976; Nos. 19 and 59, 1979; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); Nos. 4, 47, 104, 123 and 168, 1985; Nos. 41, 46, 48, 112, 144 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); Nos. 120 and 145, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); and Nos. 95 and 97, 1988.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 25

Interpretation

25. Section 2 of the Principal Act is amended by inserting the following definitions:

" 'authorised law enforcement agency officer' means:

(a) the head of a law enforcement agency; or

(b) an officer of a law enforcement agency authorised in writing by the head of the agency to perform the functions of an authorised law enforcement agency officer under this Act;

'head', in relation to a law enforcement agency, means:

(a) in the case of the Australian Federal Police-the Commissioner of that police force;

(b) in the case of a police force of a State or the Northern Territory-the commanding officer of the police force;

(c) in the case of the Office of the Director of Public Prosecutions-the

Director of Public Prosecutions;

(d) in the case of the National Crime Authority-the Chairman of that Authority;

(e) in the case of the National Companies and Securities Commission-the Chairman of that Commission;

(f) in the case of the Corporate Affairs Commission of a State-the Commissioner for Corporate Affairs of that State;

(g) in the case of the Corporate Affairs Commission of the Northern Territory-the Commissioner for Corporate Affairs for the Northern Territory; and (h) in the case of the Corporate Affairs Commission for the Australian Capital Territory-the Commissioner appointed under the Corporate Affairs Commission Ordinance 1980 of that Territory;

'law enforcement agency' means:

- (a) the Australian Federal Police;
- (b) the police force of a State or of the Northern Territory;
- (c) the Office of the Director of Public Prosecutions;
- (d) the National Crime Authority;
- (e) the National Companies and Securities Commission; or
- (f) a Corporate Affairs Commission established under a law of a State, of the Northern Territory or of the Australian Capital Territory;"

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 26

Annual report

26. Section 3B of the Principal Act is amended:

(a) by omitting from subsection (1) all the words after "working of this" and substituting "Act.";

(b) by inserting after subsection (1) the following subsection:

"(1AA) A report under subsection (1) in relation to a year ending on 30 June shall:

- (a) include information concerning:
 - (i) any breaches or evasions of Part IV; and
 - (ii) any breaches of undertakings given for the purposes of subsection 14C (2);

of which the Commissioner has notice; and

(b) set out, in relation to each general category of offence and in relation to each law enforcement agency:

(i) the number of occasions (if any) during the year on which the Commissioner was requested by, or on behalf of, the head of the agency to disclose information under subsection 3E (1) to authorised law enforcement agency officers representing the agency; and

(ii) the number of occasions (if any) during the year on which information was disclosed under subsection 3E (1) to authorised law enforcement agency officers representing the agency.".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 27

Secrecy

27. Section 3C of the Principal Act is amended by adding at the end the following subsection:

"(8) A reference in this section to a document or information acquired by a person does not include a reference to a document or information acquired by the person under a provision of this Part (other than this section) that authorises the disclosure of information.".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 28

28. After section 3D of the Principal Act the following sections are inserted in Part IA:

Provision of taxation information to other law enforcement agencies

"3E. (1) Notwithstanding any taxation secrecy provision, the Commissioner may disclose information acquired by the Commissioner under the provisions of a tax law to an authorised law enforcement agency officer if the Commissioner is satisfied that the information is relevant to:

(a) establishing whether a serious offence has been, or is being, committed; or

(b) the making, or proposed or possible making, of a proceeds of crime order.

"(2) Where information is communicated to an authorised law enforcement agency officer under subsection (1):

(a) the officer shall not divulge or communicate the information to another person, or make a record of the information, except for the purposes of, or in connection with:

(i) the investigation of a serious offence; or

(ii) an investigation relating to the making, or proposed or possible making, of a proceeds of crime order; and

(b) a person to whom information has been communicated in accordance with paragraph (a) or this paragraph shall not divulge or communicate the information to another person, or make a record of the information, except for the purposes of, or in connection with, that investigation.

"(3) Where information is communicated to a person under subsection (1) or (2), the person:

(a) shall not voluntarily give the information in evidence in a proceeding before a court; and

(b) shall not be required to divulge or communicate the information to a court.

"(4) Where information is communicated to an authorised law enforcement agency officer under subsection (1), nothing in subsection (2) or (3) prohibits: (a) the communication of the information to a person, or the making of a record of the information, for the purposes of, or in connection with:

(i) the prosecution, or proposed or possible prosecution, of a person for a tax-related offence; or

(ii) proceedings, or proposed or possible proceedings, for the making of a proceeds of crime order; or

(b) the voluntary communication of the information to a court in the course of either of the following proceedings before that court:

(i) a prosecution of a person for a tax-related offence;

(ii) proceedings for the making of a proceeds of crime order.

"(5) A person to whom information has been communicated in accordance with paragraph (4) (a) or this subsection shall not divulge or communicate the information, or make a record of the information, except for the purposes of, or in connection with:

(a) the prosecution referred to in subparagraph (4) (a) (i); or

(b) the proceedings referred to in subparagraph (4) (a) (ii).

"(6) A person to whom information is communicated in accordance with paragraph (4) (a) or subsection (5) shall not be required to divulge or communicate that information to a court.

"(7) A person who divulges or communicates information, or makes a record of information, in contravention of this section is guilty of an offence punishable, upon conviction, by a fine not exceeding \$10,000 or imprisonment for a period not exceeding 2 years, or both.

"(8) Subsection (1) is in addition to, and not in derogation of, any other provision of this Act or of any other law relating to the communication of information.

"(9) For the purposes of this section, the communication of information to, or the making of a record of information by, a barrister or a solicitor representing a person in relation to a particular prosecution or other proceedings shall be taken to be the communication of the information, or the making of a record of the information, as the case requires, for the purposes of, or in connection with, that prosecution or those proceedings, as the case may be.

"(10) A reference in this section to:

(a) the possible making of a proceeds of crime order in respect of a person; or

(b) possible proceedings for the making of a proceeds of crime order in respect of a person;

includes a reference to the making of an order that is only a possibility, or to proceedings that are only a possibility, at the time in question because the person has not been convicted (within the meaning of section 5 of the Proceeds of Crime Act 1987) of an offence to which the order relates.

"(11) In this section:

'proceeds of crime order' means:

(a) an order under Part II or III of the Proceeds of Crime Act 1987 or under a corresponding law of a State or Territory; or

(b) an order under Division 3 of Part XIII of the Customs Act 1901; being an order:

(c) made in respect of a person who has been convicted (within the meaning of section 5 of the Proceeds of Crime Act 1987) of a serious offence; and

(d) that relates to that offence;

'serious offence' means an offence against a law of the Commonwealth, of a State or of a Territory that may be dealt with as an indictable offence (even if it may, in some circumstances, be dealt with as a summary offence);

'taxation secrecy provision' means a provision of a tax law that prohibits the communication or divulging of information;

'tax law' means:

(a) a taxation law;

(b) any other Act of which the Commissioner has the general administration;

(c) a repealed Act of which the Commissioner had the general administration; or

(d) regulations under an Act referred to in paragraph (b) or (c);

'tax-related offence' means:

(a) an offence against:

(i) a tax law; or

(ii) the Crimes (Taxation Offences) Act 1980;

(b) an offence against the Crimes Act 1914 relating to a law referred to in paragraph (a); or

(c) an offence against section 29D or 86A of the Crimes Act 1914, being an offence that relates to a liability to the Commonwealth arising under, or by virtue of, a tax law.

Provision of taxation information to Comptroller-General of Customs

"3F. (1) Notwithstanding any taxation secrecy provision, the Commissioner may disclose to the Comptroller-General of Customs any information that has come to the knowledge of the Commissioner in the performance of the Commissioner's official duties.

"(2) Subsection (1) is in addition to, and not in derogation of, any other provision of this Act or of any other law relating to the communication of information.

"(3) In this section:

'taxation secrecy provision' has the same meaning as in section 3E."

PART 6 - AMENDMENT OF THE TAXATION LAWS AMENDMENT ACT (No. 4) 1988

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 29

Principal Act

29. In this Part, "Principal Act" means the Taxation Laws Amendment Act (No. 4) 1988.*5*.

5 No. 95, 1988.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 30

Commencement

30. Section 2 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

"(2) Paragraph 44 (a) and subsection 54 (11) commence immediately after the commencement of the Taxation Laws Amendment Act 1989."

PART 7 - REDUNDANT ACTS AND PROVISIONS

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 31

Amendments relating to redundant provisions of the Income Tax Assessment Act 1936

31. The Income Tax Assessment Act 1936 is amended as set out in Schedule 1.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 32

Savings

32. (1) Even though an amendment of the Income Tax Assessment Act 1936 has been made under section 31, if a particular assessment would be affected by the amendment, the amendment shall be disregarded in making the assessment.

(2) Where, immediately before the commencement of section 31, information respecting the affairs of a person has been communicated to a Royal Commission in pursuance of paragraph 16 (4) (k) of the Income Tax Assessment Act 1936, subsections 16 (4A) to (4JB) (inclusive) of that Act continue to apply in relation to the information as if the paragraph had not been amended by this Act.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 33

Repeal of redundant Acts and consequential amendments of other Acts

33. (1) The following Acts are repealed:

Income Tax (Drought Bonds) Act 1969

Loan (Drought Bonds) Act 1969

Taxation of Loans Act 1923.

(2) The Commonwealth Inscribed Stock Act 1911 is amended by omitting from subsections 52B (2) and (3) "in the Taxation of Loans Act 1923 or".

(3) The Loan (Income Equalisation Deposits) Act 1976 is amended:

(a) by inserting ", as in force immediately before the repeal of the

Division by the Taxation Laws Amendment Act (No. 3) 1989," after "Assessment Act" in subparagraph (c) (ii) of the definition of "primary producer deposit" in subsection 3 (1);

(b) by inserting ", as in force immediately before its repeal by the Taxation Laws Amendment Act (No. 3) 1989," after "Loan (Drought Bonds) Act 1969", in the definition of "stock" in subsection 3 (1).

(4) The Taxation Boards of Review (Transfer of Jurisdiction) Act 1986 is amended by omitting paragraph (f) of the definition of "relevant tax law" in section 213.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 34

Savings

34. Even though the Income Tax (Drought Bonds) Act 1969 has been repealed by subsection 33 (1), if a particular assessment would be affected by the repeal, the repeal shall be disregarded in making the assessment.

PART 8 - CONSEQUENTIAL AMENDMENT OF CERTAIN OTHER ACTS RELATING TO THE COMMUNICATION OF TAXATION INFORMATION

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989

- SECT 35

Amendment of Acts

35. The Acts specified in Schedule 2 are amended as set out in that Schedule.

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989 - SCHEDULE 1

SCHEDULE 1

Section 31

AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936 RELATING TO REDUNDANT PROVISIONS
Subsection 6 (1) (paragraph (a) of definition of "apportionable deductions"):

Omit the paragraph, substitute the following paragraph:

"(a) deductions allowed or allowable under section 77F or paragraph 78 (1) (a); or".

Subsection 6 (1) (definition of "concessional deductions"):

Omit the definition.

Section 6D:

Repeal the section.

Paragraph 16 (4) (k):

Omit the paragraph, substitute the following paragraph:

"(k) a Royal Commission in respect of which Letters Patent issued by the Governor-General declare that the Royal Commission is a Royal Commission to which this paragraph applies, for the purpose of conducting its inquiry."

Subparagraph 23 (c) (iv):

Add at the end "and".

Subparagraphs 23 (c) (vi) and (vii):

Omit the subparagraphs.

Section 24AA:

Repeal the section.

Section 31B:

Repeal the section.

Subparagraphs 50C (2) (d) (i) and (3) (b) (i):
Omit "or Subdivision BA of Division 3".

Subparagraph 50C (3) (d) (i):
Omit "77B,".

Subparagraph 50C (3) (d) (iii):
Omit the subparagraph.

Paragraph 50F (1) (b):
Omit "or Subdivision BB of Division 3".

Paragraph 50F (1) (c):
(a) Omit "77B,".
(b) Omit ", under Subdivision BA of Division 3".

Paragraph 50F (4) (a):
Omit "or under Subdivision BA of Division 3".

Paragraph 50G (1) (a):
Omit "57AA, 57AB, 57AJ, 57AK or 57AM), 62A", substitute "57AK or 57AM)".

Paragraph 50G (2) (a):
Omit "57AA, 57AB or".

Paragraph 50G (2) (b):
Omit the paragraph.

Sections 50M, 51AA, 51AC and 53H:
Repeal the sections.

Paragraph 54 (2) (b):
Omit the paragraph, substitute the following paragraph:
"(b) any of the following:
(i) fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits;
(ii) structural improvements (not including an improvement that is an access road as defined by section 124E) completed after the year of income that ended on 30 June 1963 on land that is used for the purposes of forest operations;
(iii) structural improvements completed after 30 June 1958 which are used wholly and exclusively for the purposes of pearling operations and are situated at or in the vicinity of a port or harbour from which those operations are conducted;
other than structural improvements used for domestic or residential purposes except where the improvements are provided for the accommodation of employees, tenants or sharefarmers engaged in or in connection with those pursuits or operations, as the case may be; and".

Subsections 54 (7) and (8):
Omit the subsections.

Subsection 56 (3):
Omit "section 62AA, section 62AB, section 70, section 73B, Subdivision B of Division 3 or Subdivision BB of Division 3", substitute "section 70, section 73B or Subdivision B of Division 3".

Sections 57AA to 57AD (inclusive):
Repeal the sections.

Paragraph 57AG (2) (b):
Omit "57AJ,".

Section 57AJ:
Repeal the section.

Sections 58, 62AA, 62AB, 62A and 75:
Repeal the sections.

Paragraphs 75B (8) (a) and (9) (a):
Omit the paragraphs.

Sections 75C, 76, 77, 77B, 77C, 77D and 77E:
Repeal the sections.

Subsection 78 (1):

Omit " section 77B, subsection 77D (11) and".

Subparagraphs 78 (1) (a) (vii), (xi), (xxxii), (xxxviii), (1), (li), (lix), (lxi), (lxv), (lxvii), (lxx), (lxxi), (lxxii) and (lxxix):

Omit the subparagraphs.

Subsections 78 (3) and (4):

Omit the subsections.

Subsections 78 (6) to (6AF) (inclusive):

Omit the subsections.

Section 79C:

(a) Omit "77B, 77C,".

(b) Omit ", Division 16B".

Subsection 80 (1):

Omit "the concessional deductions and".

Paragraph 80AA (2) (a):

Omit "the concessional deductions and".

Subsections 82 (3) and (4):

Omit the subsections.

Paragraph 82AC (a):

Omit "or Subdivision BB".

Paragraph 82AF (2) (g):

Omit the paragraph.

Subsection 82AM (2):

Omit "75C,".

Subsections 82AM (3) and (4):

Omit the subsections.

Subdivisions BA, BB and C of Division 3 of Part III:

Repeal the Subdivisions.

Subsection 82KH (1) (definitions of "exempt business" and "moneys paid on shares"):

Omit the definitions.

Subsection 82KH (1) (paragraphs (j) and (u) of definition of "relevant expenditure"):

Omit the paragraphs.

Subsection 82KH (1AB):

Omit the subsection, substitute the following subsection:

"(1AB) A reference in:

(a) subsection 82KL (2); or

(b) section 80 in relation to this Subdivision;

to the incurring by a taxpayer of a loss or outgoing shall be read as including a reference to the incurring by a taxpayer of a bad debt."

Paragraph 82KH (1AD) (a):

Add "and" at the end of the paragraph.

Paragraph 82KH (1AD) (c):

Omit the paragraph.

Subsection 82KH (1FB):

Omit the subsection.

Paragraph 82KH (1G) (j):

Omit the paragraph.

Subsections 82KH (1JC) and (1JD):

Omit the subsections.

Paragraph 82KH (1JE) (b):

Omit the paragraph, substitute the following paragraph:

"(b) that relevant expenditure consists of calls paid by the taxpayer on shares owned by the taxpayer and is relevant expenditure to which paragraph (s) or (t) of the definition of 'relevant expenditure' in subsection (1) applies;

and".

Paragraphs 82KH (1L) (j) and (u):
Omit the paragraphs.

Subsection 82KH (1P):
Omit "or (1R)".

Subsection 82KH (1R):
Omit the subsection.

Subdivision E of Division 3 of Part III:
Repeal the Subdivision.

Section 90 (definitions of "net income" and "partnership loss"):
Omit "the concessional deductions and".

Subsection 94 (11):
Omit all the words after "(12A) or (12B)", substitute the following:
"upon the relevant portion of that net income or of that share of that net income, as the case may be."

Subsection 95 (1) (definition of "net income"):
Omit "the concessional deductions and".

Subsections 98 (1), (2) and (4):
Omit all the words after "deduction".

Subparagraph 122A (1) (e) (ii):
Add "as in force immediately before its repeal by the Taxation Laws Amendment Act (No. 3) 1989" at the end of the subparagraph.

Paragraph 122B (2) (c):
Omit the paragraph.

Subsection 122B (3):
Omit "paragraphs (2) (a) and (c)", substitute "paragraph (2) (a)".

Subsection 122B (6):
Omit the subsection.

Subparagraph 122C (1) (c) (i):
Add "or" at the end of the subparagraph.

Subparagraphs 122C (1) (c) (ii) and (iii):
Omit the subparagraphs.

Paragraph 122C (2) (a):
Add "or" at the end of the paragraph.

Paragraph 122C (2) (b):
Omit "or".

Paragraph 122C (2) (c):
Omit the paragraph.

Subsection 122C (2):
Omit "and of section 122F".

Sections 122E, 122F and 122G:
Repeal the sections.

Subsection 122J (3):
Omit "sections 122DA and 122E", substitute "section 122DA".

Paragraph 122M (b):
Omit the paragraph, substitute the following paragraph:
"(b) shall be delivered to the Commissioner on or before the last day for the furnishing of the return of income of the year of income specified in the election, or within such further time as the Commissioner allows."

Subsection 122N (2):
Omit ", 57AA, 57AB, 58".

Section 122NA:
Repeal the section.

Paragraph 122P (b):
Omit ", other than a deduction under section 77,".

Section 122Q:

Repeal the section.

Subsection 123E (2):

Omit ", 57AA, 57AB, 58".

Subsection 124AB (6):

Omit the subsection.

Paragraph 124AE (e):

Add at the end of the paragraph "and".

Paragraph 124AE (f):

Omit the paragraph.

Section 124AEA:

Repeal the section.

Subsection 124AN (2):

Omit ", 57AA, 57AB, 58".

Section 124ANA:

Repeal the section.

Section 124AR:

Repeal the section.

Division 16B of Part III:

Repeal the Division.

Subsection 159GA (1) (definition of "drought bonds"):

Add at the end of the definition ", as in force immediately before its repeal by the Taxation Laws Amendment Act (No. 3) 1989".

Subsection 159GC (4):

Omit the subsection, substitute the following subsection:

"(4) The deduction allowable to a taxpayer under this section in respect of a year of income shall not exceed 60% of the gross receipts from primary production of the taxpayer in respect of that year of income."

Paragraph 159GC (5) (b):

Omit the paragraph, substitute the following paragraph:

"(b) if, at the end of the period that is the relevant period in relation to that year of income, an unrecouped deduction exists or unrecouped deductions exist in respect of:

(i) any conversion deposit or conversion deposits made by the taxpayer before the commencement of, or during, that period; or

(ii) any other deposit or deposits made by the taxpayer before the commencement of that period;

the amount by which \$250,000 exceeds the unrecouped deduction or the sum of the unrecouped deductions."

Subsection 159GD (2B):

Omit the subsection.

Sections 160 and 160ABA:

Repeal the sections.

Sections 160AC to 160ACD (inclusive):

Repeal the sections.

Subsection 170 (10):

(a) Omit "31B,".

(b) Omit ", 47 (2B), 51AC (7) or 51AC (8), section 51AD, 51AH or 53H", substitute "or 47 (2B), section 51AD or 51AH".

(c) Omit all the words from and including "section 75C" to and including "77F (5)", substitute "75D (4) or 77F (5)".

(d) Omit "section 82D, Subdivision BB of Division 3 of Part III,".

(e) Omit "Subdivision E or", substitute "Subdivision".

(f) Omit "122NA or" and "124ANA or".

(g) Omit all the words from and including ", subsection 160AC (9)" to and including "160ACC".

Paragraph 221YDA (1) (da):

Omit "160ACD,".

Subparagraph 221YDA (2) (a) (ii):

Omit "160ACD,".

TAXATION LAWS AMENDMENT ACT (No. 3) 1989No. 107, 1989 - SCHEDULE 2

SCHEDULE 2

Section 35

AMENDMENT OF CERTAIN ACTS RELATING TO THE COMMUNICATION OF TAXATION INFORMATION
Customs Administration Act 1985

After section 16:

Insert the following section:

Information communicated to the Comptroller-General by the Commissioner of Taxation

"16A. (1) The Comptroller-General may disclose information disclosed to the Comptroller-General under section 3F of the Taxation Administration Act 1953 only:

(a) to a person or body having a responsibility in connection with the administration of a law of customs or excise for a purpose connected with the exercise of that responsibility; or

(b) to a court or tribunal for a purpose of a proceeding relating to the determination of a matter under a law of customs or excise.

"(2) Nothing in subsection (1) permits a person to disclose information in any circumstances where that disclosure would be contrary to section 16 or any other provision of a law of customs or excise that prohibits the disclosure of information.

"(3) In this section, a reference to the disclosure of information includes a reference to the production of, or the granting of access to, a document."

Sales Tax Assessment Act (No. 1) 1930

Subsection 10 (4):

Omit the subsection, substitute the following subsection:

"(4) Notwithstanding anything in this section, the Commissioner may, in connection with proceedings under an Act of which the Commissioner has the general administration, communicate to the Tribunal any matter that comes to the knowledge of the Commissioner in the performance of the Commissioner's official duties."

Notes to the *Taxation Laws Amendment Act (No. 3) 1989*

Note 1

The *Taxation Laws Amendment Act (No. 3) 1989* as shown in this compilation comprises Act No. 107, 1989 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 1989</i>	107, 1989	30 June 1989	See s. 2	
<i>Tax Laws Amendment (2010 Measures No. 2) Act 2010</i>	75, 2010	28 June 2010	Schedule 6 (item 57): 29 June 2010	—

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 23	rep. No. 75, 2010