



Taxation Laws Amendment Act (No. 2) 1990

No. 57 of 1990

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Taxation Laws Amendment Act (No. 2) 1990

No. 57 of 1990

An Act to amend the law relating to taxation

[Assented to 16 June 1990]

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

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Taxation Laws Amendment Act (No. 2) 1990*.

Commencement

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

(2) Part 4 commences on the 28th day after the day on which this Act receives the Royal Assent.

**PART 2—AMENDMENT OF THE DEBITS TAX
ADMINISTRATION ACT 1982**

Principal Act

3. In this Part, “Principal Act” means the *Debits Tax Administration Act 1982*¹.

Interpretation

4. Section 3 of the Principal Act is amended by omitting paragraph (a) from the definition of “exempt income” in subsection (1) and substituting the following paragraphs:

- “(a) that is made solely for the purpose of reversing a credit previously made to the account; or
- (aa) that is made for the purpose of deducting an amount under subsection 221YHZC (1A) of the *Income Tax Assessment Act 1936*; or”.

**PART 3—AMENDMENT OF THE INCOME TAX ASSESSMENT
ACT 1936**

Principal Act

5. In this Part, “Principal Act” means the *Income Tax Assessment Act 1936*².

Exemptions

6. Section 23 of the Principal Act is amended:

- (a) by omitting subparagraph (g) (iii) and substituting the following subparagraph:
 - “(iii) a society, association or club established for the encouragement or promotion of a game or sport;”;
- (b) by adding at the end of paragraph (g) the following word and subparagraph:
 - “or (v) a society, association or club established for community service purposes (not being political purposes or lobbying purposes);”;
- (c) by omitting paragraph (jd).

7. After section 26BB of the Principal Act the following section is inserted:

Securities lending arrangements

“26BC. (1) In this section:

‘convertible note’:

- (a) in relation to a company—has the same meaning as in Division 3A; or
- (b) in relation to a unit trust—means a note issued by the trustee

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of the unit trust, being a note that, if the unit trust were a company, would be a convertible note issued by the company, and includes a note that would be a convertible note within the meaning of Division 3A if:

- (i) references in that Division to a company were references to a unit trust, or to the trustee of the unit trust, as the context requires; and
- (ii) references in that Division to shares were references to units;

'debenture', in relation to a unit trust, means an instrument issued by the trustee of the unit trust, being an instrument that, if the unit trust were a company, would be a debenture issued by the company;

'eligible security' means:

- (a) a share, bond, debenture, convertible note, right, option or similar financial instrument issued by a listed company; or
- (b) a unit, bond, debenture, convertible note, right, option or similar financial instrument issued by the trustee of:
 - (i) a listed unit trust; or
 - (ii) a unit trust any of the units of which were offered to the public; or
- (c) a bond, debenture, right, option or similar financial instrument issued by a government or by an authority of a government;

'government' means:

- (a) the Commonwealth, a State or a Territory; or
- (b) the government of, or of a part of, a foreign country;

'listed company' means a company any of the shares of which are listed for quotation in the official list of a stock exchange in Australia or elsewhere;

'listed unit trust' means a unit trust any of the units of which are listed for official quotation in the official list of a stock exchange in Australia or elsewhere;

'option':

- (a) in relation to a company—means an option to acquire shares in the company; or
- (b) in relation to a unit trust—means an option to acquire units in the unit trust; or
- (c) in relation to a government or an authority of a government—means an option to acquire a bond, debenture or similar financial instrument issued by the government or by the authority;

'right':

- (a) in relation to a company—means a right to acquire shares in the company or to acquire an option; or

- (b) in relation to a unit trust—means a right to acquire units in the unit trust or to acquire an option; or
- (c) in relation to a government or an authority of a government—means a right to acquire a bond, debenture or similar financial instrument issued by the government or by the authority or to acquire an option.

“(2) If an eligible security is held by a person as trustee for another person who is absolutely entitled to the eligible security as against the trustee, this section applies as if the eligible security were vested in the other person and any acts of the trustee were the acts of that other person.

“(3) This section applies where:

- (a) under a written agreement of the kind known as a securities lending arrangement, being an agreement that was entered into after 9 May 1990:
 - (i) at a particular time (in this section called the **‘original disposal time’**), a taxpayer (in this section called the **‘lender’**) disposed of an eligible security (in this section called the **‘borrowed security’**) to another taxpayer (in this section called the **‘borrower’**); and
 - (ii) at a later time (in this section called the **‘re-acquisition time’**), not being later than 3 months after the original disposal time, the lender:
 - (A) re-acquired the borrowed security (which re-acquired security is in this section called the **‘replacement security’**) from the borrower; or
 - (B) acquired an identical security (which acquired security is in this section also called the **‘replacement security’**) from the borrower; and
- (b) both the borrower and the lender were dealing with each other at arm’s length in relation to each of the transactions mentioned in paragraph (a); and
- (c) none of the following events occurred during the period (in this section called the **‘borrowing period’**) commencing at the original disposal time and ending at the re-acquisition time:
 - (i) the creation of an entitlement to, or the making or payment of, a distribution (whether in property or money) in respect of the borrowed security;
 - (ii) the issue, by the company, trustee, government or government authority concerned, of a right or option in respect of the borrowed security;
 - (iii) if the borrowed security is a right or option—the exercise of the right or option; and
- (d) if the total consideration payable or to be given by the borrower under the agreement consists of:

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- (i) the transfer of, or the promise to transfer, the replacement security or replacement securities concerned; and
- (ii) other consideration (in this paragraph called the **'notifiable consideration'**);

the agreement contains:

- (iii) if the notifiable consideration is wholly covered by one of the following categories:

- (A) a fee;
- (B) an adjustment for variations in the market value of eligible securities;
- (C) other consideration;

a statement specifying the category concerned and setting out such information as will enable the amount or value of the notifiable consideration to be readily ascertained; or

- (iv) if the notifiable consideration is covered by 2 or more of the following categories:

- (A) a fee;
- (B) an adjustment for variations in the market value of eligible securities;
- (C) other consideration;

a statement dissecting the notifiable consideration into those categories in such a manner as will enable the amount or value of each category to be readily ascertained; and

- (e) the lender does not dispose of (by transfer, declaration of trust or otherwise) the right to receive any part of the total consideration payable or to be given by the borrower under the agreement.

“(4) In determining:

- (a) whether an amount (other than a fee payable under the securities lending arrangement) is included in the assessable income of the lender under a provision of this Act other than Part IIIA; or

- (b) whether an amount is allowable as a deduction to the lender;

in respect of either or both of the transactions covered by paragraph

(3) (a), the lender is to be treated as if:

- (c) neither of those transactions had been entered into; and
- (d) the lender had held the borrowed security at all times during the borrowing period; and
- (e) if the replacement security is not the borrowed security—the replacement security were the borrowed security.

“(5) In determining:

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- (a) whether an amount is included in the assessable income of the borrower under a provision of this Act other than Part IIIA; or
 - (b) an amount (other than a fee payable under the securities lending arrangement) is allowable as a deduction to the borrower;
- in respect of either or both of the transactions covered by paragraph (3) (a):
- (c) if the borrowed security was disposed of by the borrower to a third party:
 - (i) the borrower is to be treated as if the borrower had acquired the borrowed security from the lender for a consideration equal to the market value of the borrowed security at the time of its acquisition; and
 - (ii) the borrower is to be treated as if the borrower had disposed of the replacement security to the lender for a consideration equal to the market value of the borrowed security at the time of its acquisition from the lender; or
 - (d) in any other case—the borrower is to be treated as if neither of the transactions referred to in paragraph (3) (a) had been entered into.

“(6) Part IIIA does not apply in respect of the disposal of the borrowed security by the lender and:

- (a) if the borrowed security was acquired by the lender before 20 September 1985—the lender is to be taken, for the purposes of that Part, to have acquired the replacement security before that date; or
- (b) if the borrowed security was acquired by the lender on or after 20 September 1985—the lender is to be taken, for the purposes of that Part, to have paid as consideration in respect of the acquisition of the replacement security an amount equal to:
 - (i) for the purpose of ascertaining whether a capital gain accrued to the lender in the event of a subsequent disposal of the replacement security by the lender—the amount that would have been the indexed cost base to the lender of the borrowed security for the purposes of that Part if that Part had applied in respect of the disposal of the borrowed security by the lender; or
 - (ii) for the purpose of ascertaining whether the lender incurred a capital loss in the event of a subsequent disposal of the replacement security by the lender—the amount that would have been the reduced cost base to the lender of the borrowed security for the purposes of that Part if that Part had applied in respect of the disposal of the borrowed security by the lender.

“(7) If, in the case of a borrowed security to which paragraph (6) (b) applies, the replacement security was disposed of by the lender

(otherwise than under a transaction covered by subsection (3)) within 12 months after the earliest day on which a paired security in relation to the replacement security was acquired by the lender (otherwise than under a transaction covered by subsection (3)), the reference in paragraph (6) (b) to the indexed cost base to the lender of the borrowed security is to be read as a reference to the cost base to the lender of the paired security.

“(8) For the purposes of subsection (7):

- (a) where the lender disposes of an eligible security to a borrower under a transaction covered by subsection (3), that security is a paired security in relation to the replacement security subsequently acquired or re-acquired by the lender; and
- (b) a security is a paired security in relation to a second security if the first security is a paired security in relation to a third security that is a paired security in relation to the second security (including a pairing with the second security by another application or other applications of this paragraph).

“(9) For the purposes of Part IIIA:

- (a) if the borrowed security was disposed of by the borrower to a third party:
 - (i) the borrower is to be treated as if the borrower had acquired the borrowed security from the lender for a consideration equal to the market value of the borrowed security at the time of its acquisition; and
 - (ii) the borrower is to be treated as if the borrower had disposed of the replacement security to the lender for a consideration equal to the market value of the borrowed security at the time of its acquisition from the lender; or
- (b) if any other case—the borrower is to be treated as if neither of the transactions referred to in paragraph (3) (a) had been entered into.

“(10) An expression used in subsection (6), (7), (8) or (9) and in Part IIIA has the same meaning in the subsection concerned as it has in that Part.

“(11) For the purposes of the application of Part IIIA to a taxpayer, where the expression ‘provision of this Part’ or ‘provisions of this Part’ is used in that Part, the expression is to be taken to include a reference to subsections (6), (7), (8) and (9) of this section.

“(12) Where:

- (a) a taxpayer has entered into a transaction of a kind referred to in subparagraph (3) (a) (i); and
- (b) at the time of making an assessment in respect of income of the taxpayer of the year of income in which the transaction occurred, the Commissioner is of the opinion that, at a later

time, circumstances will exist because of which this section will apply in connection with that transaction;
the Commissioner may apply the provisions of this section as if those circumstances existed at the time of making the assessment.

“(13) Where:

- (a) in the making of an assessment, this section has been applied on the basis that a circumstance that did not exist at the time of making the assessment would exist at a later time; and
- (b) after the making of the assessment, the Commissioner becomes satisfied that the circumstance will not exist;

then, in spite of anything in section 170, the Commissioner may amend the assessment at any time for the purpose of ensuring that this section is to be taken always to have applied on the basis that the circumstance did not exist.”.

Alternative election in case of disposal, death or compulsory destruction of live stock

8. Section 36AAA of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:

“(1AA) Where:

- (a) live stock, being assets of a business of primary production carried on in Australia by a taxpayer, a partnership or the trustee of a trust estate, are disposed of, by sale or otherwise, by the taxpayer, partnership or trustee in consequence of an official notification under a law of the Commonwealth, a State or a Territory dealing with contamination of land, live stock or other property; and
- (b) the proceeds of the disposal of the live stock would, apart from this section, be included in the assessable income of the taxpayer, the partnership or the trust estate, of a year or years of income; and
- (c) there is a profit on the disposal of the live stock; and
- (d) no election has been made under section 36AA in relation to that profit; and
- (e) it is established to the satisfaction of the Commissioner that the proceeds of the disposal of the live stock have been or will be applied by the taxpayer, the partnership or the trustee, as the case may be, wholly or principally in the purchase of live stock, or in the maintenance of breeding stock, for the purpose of replacing the live stock that were disposed of;

the taxpayer, the partnership or the trustee, together with each beneficiary entitled to make an election under section 36AA in relation to that profit, as the case may be, may, in lieu of any

election that a person is entitled to make under section 36AA in relation to that profit, elect that this section is to apply in relation to the profit and in relation to the proceeds of the disposal of the live stock.”;

- (b)** by inserting in subsection (2) “or (1AA)” after “(1)” (first occurring);
- (c)** by inserting after paragraph (2) (a) the following paragraph:
 - “(aaa) if the election is an election under subsection (1AA):
 - (i)** the whole of the proceeds of the disposal of the live stock to which the election relates (whenever received) are to be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which the election relates and no part of those proceeds are to be included in the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of any other year of income; and
 - (ii)** the assessable income of the taxpayer, the partnership or the trust estate, as the case may be, of the year of income to which the election relates is to be reduced by an amount equal to the profit on the disposal of the live stock;”;
- (d)** by inserting in paragraphs (2) (c) and (d) and subsection (4) “, (1AA)” after “(1)”;
- (e)** by inserting in paragraphs (5) (a), (6) (a), (7) (a), (9) (a), (10) (a), (11) (a), (12) (a) and (13) (a) and subsection (16) “or (1AA)” after “(1)”;
- (f)** by inserting in paragraph (13) (a) “, (aaa)” after “(2) (a)”;
- (g)** by inserting in paragraph (13) (d) “, (1AA)” after “(1)” (first occurring);
- (h)** by inserting in paragraph (13) (d) “, subsection (1AA)” after “(1)” (last occurring);
- (j)** by inserting after paragraph (14) (a) the following paragraph:
 - “(aaa) in the case of an election under subsection (1AA):
 - (i)** if the whole of the proceeds of the disposal of the live stock to which the election relates were received in one year of income—on or before the date of lodgment of the return of income of that year of income; or
 - (ii)** if the proceeds of the disposal of the live stock to which the election relates were received in 2 or more years of income—on or before the date

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of lodgment of the return of income of the later or latest of those years of income;”;

- (k) by omitting from subsection (17) “Paragraph” and substituting “Where an election is made under subsection (1), paragraph”;
- (m) by inserting after subsection (19) the following subsections:

“(19A) Where an election is made under subsection (1AA), a reference in this section to the proceeds of the disposal of any live stock is to be read as a reference to the sum of:

- (a) any amount received by the person who owned the live stock by way of compensation for:
 - (i) the condemnation of the live stock; or
 - (ii) the loss or diminution of the value of the live stock;

resulting from an official notification under a law of the Commonwealth, a State or a Territory dealing with contamination of land, live stock or other property; and

- (b) any amount received by the person who owned the live stock as payment for:
 - (i) the live stock; or
 - (ii) the carcasses, or any part of the carcasses, of the live stock.

“(19B) Where an election is made under subsection (1AA), a reference in this section to profit on the disposal of any live stock is to be read as a reference to the amount remaining after deducting from the proceeds of the disposal of the live stock the sum of:

- (a) in respect of any of the live stock that were on hand at the beginning of the year of income in which the live stock were disposed of—the value at which the live stock is, for the purposes of this Act, to be taken into account at the beginning of that year of income; and
- (b) in respect of any of the live stock that were not on hand at the beginning of the year of income:
 - (i) in the case of live stock acquired by purchase—the purchase price of that live stock; and
 - (ii) in the case of live stock acquired otherwise than by purchase, but not including natural increase bred during that year of income by the person who owned the live stock at the time of the disposal—the amount that, under this Act, is taken to be the purchase price of that live stock.

“(19C) Subsection (19B) has effect for the purpose of determining the profit on the disposal of live stock of a particular species included in live stock that were disposed of and, for

that purpose, a reference in that subsection to live stock is to be read as a reference to live stock of that species.”;

(n) by adding at the end the following subsections:

“(24) In this section, a reference to the year of income to which an election under subsection (1AA) relates is a reference to the year of income in which the live stock to which the election relates were destroyed.

“(25) In this section:

‘official notification’ includes a declaration, direction, instruction or order.”.

Compensation for death, disposal or compulsory destruction of live stock

9. Section 36AA of the Principal Act is amended:

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

“(1A) Where:

- (a) live stock, being assets of a business of primary production carried on by a taxpayer in Australia are disposed of, by sale or otherwise, by the taxpayer in consequence of an official notification under a law of the Commonwealth, a State or a Territory dealing with contamination of land, live stock or other property; and
- (b) the proceeds of the disposal of the live stock would, apart from this section, be included in the assessable income of the taxpayer of a year or years of income; and
- (c) there is a profit arising in respect of the disposal of the live stock;

the taxpayer may elect that this section is to apply in relation to the profit arising in respect of the disposal of the live stock.”;

(b) by inserting in subsections (2), (3), (4), (5) and (6) “or (1A)” after “(1)”;

(c) by inserting in subsections (2), (3), (4) and (6) “or disposal” after “death” (wherever occurring);

(d) by inserting in subsections (2), (3) and (4) “or disposed of” after “destroyed” (wherever occurring);

(e) by omitting “or” from the end of paragraph (5) (c);

(f) by adding at the end of paragraph (5) (d) “or”;

(g) by inserting after paragraph (5) (d) the following paragraph:

“(e) both of the following conditions are satisfied:

- (i) the taxpayer has made an election under subsection (1A);
- (ii) the taxpayer ceases to carry on the business of

primary production of which the live stock that were disposed of were assets;”;

- (h) by inserting in subsection (5) “and in consequence of the election” after “in pursuance of this section”;
- (j) by adding at the end the following subsections:

“(9) In this section, a reference to the proceeds of the disposal of any live stock is to be read as a reference to the sum of:

- (a) any amount received by the person who owned the live stock by way of compensation for:

- (i) the condemnation of the live stock; or
- (ii) the loss or diminution of the value of the live stock;

resulting from an official notification under a law of the Commonwealth, a State or a Territory dealing with contamination of land, live stock or other property; and

- (b) any amount received by the person who owned the live stock as payment for:

- (i) the live stock; or
- (ii) the carcasses, or any part of the carcasses, of the live stock.

“(10) In this section, a reference to profit arising in respect of the disposal of any live stock is to be read as a reference to the amount remaining after deducting from the proceeds of the disposal of the live stock the sum of:

- (a) in respect of any of the live stock that were on hand at the beginning of the year of income in which the live stock were disposed of—the value at which the live stock is, for the purposes of this Act, to be taken into account at the beginning of that year of income; and

- (b) in respect of any of the live stock that were not on hand at the beginning of the year of income:

- (i) in the case of live stock acquired by purchase—the purchase price of that live stock; and
- (ii) in the case of live stock acquired otherwise than by purchase, but not including natural increase bred during that year of income by the person who owned the live stock at the time of the disposal—the amount that, under this Act, is taken to be the purchase price of that live stock.

“(11) In this section:

‘official notification’ includes a declaration, direction, instruction or order.”.

Gifts, pensions etc.

10. Section 78 of the Principal Act is amended:

(a) by inserting after subparagraph (1) (a) (xcvi) the following subparagraphs:

“(xcvii) The Borneo Memorials Trust Fund;

(xcviii) the Guadalcanal and Solomon Islands War Memorial Foundation;

(xcix) Australian Vietnam Forces Welcome Home '87 Pty Limited, where the gift is for the purpose of the Australian Vietnam Forces National Memorial project;

(ci) the Life Education Centre;

(cii) a company that conducts life education programs under the auspices of the Life Education Centre, where:

(A) the gift is for the purpose of the conduct of such programs; and

(B) the company is not carried on for the purposes of profit or gain to its individual members; and

(C) the company is, by the terms of the company's constituent document, prohibited from making any distribution, whether in money, property or otherwise, to its members;”;

(b) by inserting after subsection (6AI) the following subsections:

“(6AJ) A gift to a fund to which subparagraph (1) (a) (xcvii) or (xcviii) applies is not an allowable deduction unless the gift was or is made on or after 10 November 1989 and before 1 July 1992.

“(6AK) A gift is not an allowable deduction under paragraph (1) (a) by virtue of subparagraph (1) (a) (xcix) unless the gift was or is made on or after 1 July 1989 and before 1 July 1990.”.

11. After section 79D of the Principal Act the following sections are inserted:

General domestic losses of post-1989 years of income

“79E. (1) For the purposes of this section, a taxpayer incurs a loss in a post-1989 year of income equal to the amount (if any) by which the taxpayer's non-loss deductions for the year of income exceed the sum of the taxpayer's assessable income and net exempt income for that year.

“(2) In spite of subsection (1), if Subdivision B of Division 2A applies in relation to a taxpayer in relation to a post-1989 year of

income, then, for the purposes of this section, the taxpayer incurs a loss in the year of income if, and only if, the taxpayer's current year loss amount for the year exceeds the taxpayer's net exempt income for the year, and the amount of the loss is equal to the excess.

“(3) Subject to this section, so much of a taxpayer's losses incurred in any of the post-1989 years of income before a particular year of income as has not been allowed as a deduction from the taxpayer's income of any of those years is allowable as a deduction in accordance with the following provisions:

- (a) where the taxpayer has not derived exempt income in the particular year of income, the deduction is to be made from the taxpayer's assessable income of that year;
- (b) where the taxpayer has derived exempt income in that year, the deduction is to be made successively from the taxpayer's net exempt income and from the taxpayer's assessable income of that year;
- (c) where a deduction is allowable under this section in respect of 2 or more losses, the losses are to be taken into account in the order in which they were incurred.

“(4) Where a taxpayer has incurred a loss in a post-1989 year of income for the purposes of this section and has also incurred a loss in that year for the purposes of section 79F, only the excess (if any) of the former loss over the latter loss is to be taken into account for the purposes of subsection (3).

“(5) The losses referred to in subsection (3) are not allowable as a deduction from foreign income of a taxpayer except to the extent provided in an election under subsection (6).

“(6) A taxpayer who has derived foreign income in a year of income may elect that the whole or a specified part of the losses referred to in subsection (3) be allowable as a deduction from the taxpayer's foreign income of that year.

“(7) An election under subsection (6):

- (a) must be exercised by notice in writing to the Commissioner; and
- (b) must be lodged with the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the year of income to which the election relates or within such further period as the Commissioner allows.

“(8) In spite of any other provision of this section, if, before a year of income, a taxpayer:

- (a) has become a bankrupt; or
- (b) not having become a bankrupt, has been released from any debts by the operation of an Act relating to bankruptcy;

then no loss incurred by the taxpayer before the day on which the taxpayer became a bankrupt or was so released is an allowable deduction in respect of the year of income under subsection (3).

“(9) Where:

- (a) in a year of income (in this section called the ‘**payment year**’), a taxpayer pays an amount in respect of a debt incurred by the taxpayer in a preceding year of income; and
- (b) that preceding year of income (in this section called the ‘**loss year**’) is a year in which the taxpayer incurred a loss to which subsection (8) applies;

then, subject to subsection (10), the amount paid by the taxpayer is an allowable deduction for the payment year, but only to the extent (if any) that it does not exceed so much of the debt as the Commissioner is satisfied was taken into account in calculating the amount of the loss.

“(10) The total deductions allowable to the taxpayer for the payment year under subsection (9) are not to exceed the amount of the loss reduced by the sum of:

- (a) the deductions (if any) allowed under subsection (9) from the taxpayer’s income of a year or years of income before the payment year in relation to the payment of other amounts in respect of debts incurred by the taxpayer in the loss year; and
- (b) so much (if any) of the loss as has been allowed under subsection (3) as a deduction or deductions from the taxpayer’s income (including the taxpayer’s net exempt income) of a year or years of income before the payment year; and
- (c) so much (if any) of the loss as, but for subsection (8), would have been allowed or allowable under subsection (3) as a deduction or deductions from the taxpayer’s net exempt income of the payment year or of a year or years of income before the payment year.

“(11) Subsections 80 (5), (6) and (7) have the same effect in relation to deductions under subsection (3) of this section as they do in relation to deductions under subsection 80 (2).

“(12) In this section:

‘**class of income**’ has the same meaning as in section 160AFD;

‘**current year loss amount**’, in relation to a taxpayer to whom Subdivision B of Division 2A applies in relation to a year of income, means the amount calculated using the formula:

$$\text{Excess notional loss} + \text{Excess deductible amount}$$

where:

‘**Excess notional loss**’ means the amount (if any) by which the sum of the taxpayer’s notional losses in respect of relevant periods (within the meaning of that Subdivision) in relation to the year of income exceeds

the eligible notional loss (within the meaning of that Subdivision) of the taxpayer in relation to the year of income;

‘Excess deductible amount’ means the amount (if any) by which the deductible amount referred to in the application of subsection 50C (2) in relation to the taxpayer in relation to the year of income exceeds the income amount referred to in that subsection;

‘foreign source’ has the same meaning as in section 160AFD;

‘net exempt income’, in relation to a taxpayer, means:

- (a) where the taxpayer is a resident—the amount by which the taxpayer’s exempt income derived from all sources exceeds the sum of the expenses (not being expenses of a capital nature) incurred in deriving that income and any taxes payable in respect of that income in any country or place outside Australia; and
- (b) where the taxpayer is a non-resident—the amount by which the taxpayer’s exempt income derived from sources in Australia (other than income, if any, to which section 128D applies) exceeds the sum of the expenses (not being expenses of a capital nature) incurred in deriving that income;

‘non-loss deduction’ means an allowable deduction other than one allowable under this section or section 79F, 80, 80AAA or 80AA;

‘post-1989 year of income’ means the year of income commencing on 1 July 1989 or any later year of income.

“(13) In applying the definition of ‘net exempt income’ in subsection (12) in relation to a taxpayer:

- (a) if the taxpayer is a resident, there is to be disregarded so much of any net exempt income from petroleum (within the meaning of Division 10AA) derived by the taxpayer in a year of income as does not exceed the amount that would be the unrecouped capital expenditure of the taxpayer (within the meaning of that Division) as at the end of the year of income if the taxpayer had not derived that net exempt income from petroleum; and
- (b) for the purposes of paragraph (b) of the definition, exempt income to which subsection 26AG (1) applies is to be taken to be derived from sources in Australia and any taxes payable in respect of that income in any country or place outside Australia are to be taken to be expenses incurred in deriving that income.

“(14) For the purposes of the definition of ‘non-loss deduction’ in subsection (12), where the amount of a class of income derived by a taxpayer in a year of income from a foreign source is exceeded by the sum of:

- (a) any deductions allowed or allowable from the assessable income of the taxpayer of the year of income that relate exclusively to income of that class derived from that source; and
- (b) so much of any other deductions allowed or allowable from

that assessable income (other than apportionable deductions) as, in the opinion of the Commissioner, may appropriately be related to income of that class derived from that source; then the amount of the excess is to be disregarded.

Film losses of post-1989 years of income

“79F. (1) For the purposes of this section, a taxpayer incurs a film loss in a post-1989 year of income if:

- (a) the amount of the taxpayer’s film deductions for the year exceeds the sum of the taxpayer’s assessable film income and net exempt film income for the year; and
- (b) the taxpayer incurs a loss for the year for the purposes of section 79E.

“(2) The amount of the film loss is so much of the excess referred to in paragraph (1)(a) as does not exceed the amount of the loss referred to in paragraph (1)(b).

“(3) In spite of subsection (1), if Subdivision B of Division 2A applies in relation to a taxpayer in relation to a post-1989 year of income, then, for the purposes of this section, the taxpayer incurs a film loss in the year of income if, and only if:

- (a) the taxpayer’s current year loss amount for the year exceeds the taxpayer’s net exempt film income of the year; and
- (b) the taxpayer incurs a loss in the year of income for the purposes of section 79E.

“(4) The amount of the film loss is so much of the excess referred to in paragraph (3)(a) as does not exceed the amount of the loss referred to in paragraph (3)(b).

“(5) In determining for the purposes of subsection (3) whether a taxpayer has a current year loss amount, the only assessable income of the taxpayer to be taken into account is assessable film income and the only allowable deductions of the taxpayer to be taken into account are film deductions.

“(6) Subject to this section, so much of a taxpayer’s film losses incurred in any of the post-1989 years of income before a particular year of income as has not been allowed as a deduction from the taxpayer’s income of any of those years is allowable as a deduction in accordance with the following provisions:

- (a) where the taxpayer has not derived exempt income in the particular year of income, the deduction is to be made from the taxpayer’s assessable income of that year;
- (b) where the taxpayer has derived exempt income in that year, the deduction is to be made successively from the taxpayer’s net exempt income and from the taxpayer’s assessable income of that year;

- (c) where a deduction is allowable under this section in respect of 2 or more losses, the losses are to be taken into account in the order in which they were incurred.

“(7) For the purposes of applying subsection (6) in relation to a taxpayer in relation to a year of income:

- (a) the amount of the deduction to be made from the taxpayer’s net exempt income of the year of income is not to exceed the amount of the taxpayer’s net exempt film income of the year of income; and
- (b) the amount of the deduction to be made from the taxpayer’s assessable income of the year of income is not to exceed the amount of the taxpayer’s net assessable film income of the year of income.

“(8) In spite of any other provision of this section, if, before a year of income, a taxpayer:

- (a) has become a bankrupt; or
- (b) not having become a bankrupt, has been released from any debts by the operation of an Act relating to bankruptcy;

then no film loss incurred by the taxpayer before the day on which the taxpayer became a bankrupt or was so released is an allowable deduction in respect of the year of income under subsection (6).

“(9) Where:

- (a) in a year of income (in this section called the ‘**payment year**’), a taxpayer pays an amount in respect of a debt incurred by the taxpayer in a preceding year of income; and
- (b) that preceding year of income (in this section called the ‘**loss year**’) is a year in which the taxpayer incurred a loss to which subsection (8) applies; and
- (c) the debt was incurred in the course of deriving or gaining amounts to which section 26AG applies in relation to the taxpayer in relation to any year of income;

then, subject to subsection (10), the amount paid by the taxpayer is an allowable deduction for the payment year, but only to the extent (if any) that it does not exceed so much of the debt as the Commissioner is satisfied was taken into account in calculating the amount of the loss.

“(10) The total deductions allowable to the taxpayer for the payment year under subsection (9) are not to exceed the amount of the film loss reduced by the sum of:

- (a) the deductions (if any) allowed under subsection (9) from the taxpayer’s income of a year or years of income before the payment year in relation to the payment of other amounts in respect of debts incurred by the taxpayer in the loss year; and
- (b) so much (if any) of the loss as has been allowed under subsection

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(6) as a deduction or deductions from the taxpayer's income (including the taxpayer's net exempt income) of a year or years of income before the payment year; and

- (c) so much (if any) of the film loss as, but for subsection (8), would have been allowed or allowable under subsection (6) as a deduction or deductions from the taxpayer's net exempt income of the payment year or of a year or years of income before the payment year.

“(11) Subsection 80AAA (12) has the same effect in relation to deductions under subsection (6) of this section as it does in relation to deductions under subsection 80AAA (7).

“(12) In this section:

‘assessable film income’, in relation to a taxpayer in relation to a year of income, means so much of the amount, or the sum of the amounts, to which section 26AG applies in relation to the taxpayer in relation to the year of income as is assessable income;

‘current year loss amount’ has the same meaning as in section 79E;

‘exempt film income’, in relation to a taxpayer in relation to a year of income, means so much of the amount, or the sum of the amounts, to which section 26AG applies in relation to the taxpayer in relation to the year of income as is exempt income;

‘film deductions’, in relation to a taxpayer in relation to a year of income, means:

- (a) deductions allowable to the taxpayer in respect of the year of income under sections 124ZAF and 124ZAF A; and
- (b) deductions allowable to the taxpayer in respect of the year of income that are deductions to which section 124ZAO applies in relation to the taxpayer in relation to the year of income;

‘net assessable film income’, in relation to a taxpayer in relation to a year of income, means the amount of the assessable film income of the taxpayer of the year of income as reduced by the film deductions of the taxpayer of the year of income;

‘net exempt film income’, in relation to a taxpayer in relation to a year of income, means the amount of the exempt film income of the taxpayer of the year of income as reduced by the sum of:

- (a) any taxes payable in respect of that exempt film income in any country or place outside Australia; and
- (b) any expenses (not being expenses of a capital nature) to the extent to which they were incurred in the year of income in deriving that exempt film income;

‘net exempt income’ has the same meaning as in section 79E;

‘post-1989 year of income’ means the year of income commencing on 1 July 1989 or any later year of income.”.

General domestic losses of pre-1990 years of income

12. Section 80 of the Principal Act is amended by inserting before subsection (1) the following subsection:

“(1AA) This section does not apply to a loss incurred in the year of income commencing on 1 July 1989 or any later year of income.”.

Film losses of pre-1990 years of income

13. Section 80AAA of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) This section does not apply to a film loss incurred in the year of income commencing on 1 July 1989 or any later year of income.”.

Primary production losses of pre-1990 years of income

14. Section 80AA of the Principal Act is amended by adding at the end of subsection (1) “before the year of income commencing on 1 July 1989.”.

15. Sections 80AB and 80AC of the Principal Act are repealed and the following sections are substituted:

Order in which loss deductions are to be taken into account

“80AB. Where deductions are allowable from the assessable income of a taxpayer of a year of income under any 2 or more of the following subsections:

- (a) subsection 79E (3);
- (b) subsection 79F (6);
- (c) subsection 80 (2);
- (d) subsection 80AAA (7);
- (e) subsection 80AA (4);

the deductions allowable under the subsections are to be taken into account in the following order:

- (f) first, any deduction allowable under subsection 80AAA (7);
- (g) second, any deduction allowable under subsection 80 (2);
- (h) third, any deduction allowable under subsection 79F (6);
- (j) fourth, any deduction allowable under subsection 80AA (4);
- (k) fifth, any deduction allowable under subsection 79E (3).

Limitations on net exempt income to be taken into account in respect of loss deductions

“80AC. (1) Where, but for this section, a taxpayer’s net exempt income (within the meaning of sections 79E and 80) of a year of income would be taken into account for the purposes of any 2 or more of the following paragraphs:

- (a) paragraph 79E (3) (b);

- (b) paragraph 79F (6) (b);
- (c) paragraph 80 (2) (b);
- (d) paragraph 80AAA (7) (b);
- (e) paragraph 80AA (4) (b);

then the net exempt income is to be so taken into account in accordance with the following principles:

- (f) first, the amount is to be taken into account to the extent (if any) necessary for the purposes of paragraph 80AAA (7) (b);
- (g) the amount, to the extent (if any) not so taken into account, is then to be taken into account to the extent (if any) necessary for the purposes of paragraph 80 (2) (b);

and so on successively for the purposes of paragraphs 79F (6) (b), 80AA (4) (b) and 79E (3) (b).

“(2) Where, but for this section, a taxpayer’s net exempt income (within the meaning of sections 79E and 80) of a year of income would be taken into account for the purposes of any 2 or more of the following paragraphs:

- (a) paragraph 79E (10) (c);
- (b) paragraph 79F (10) (c);
- (c) paragraph 80 (4B) (c);
- (d) paragraph 80AAA (11) (c);
- (e) paragraph 80AA (8) (c);

then the net exempt income is to be so taken into account in accordance with the following principles:

- (f) first, the amount is to be taken into account to the extent (if any) necessary for the purposes of paragraph 80AAA (11) (c);
- (g) the amount, to the extent (if any) not so taken into account, is then to be taken into account to the extent (if any) necessary for the purposes of paragraph 80 (4B) (c);

and so on successively for the purposes of paragraphs 79F (10) (c), 80AA (8) (c) and 79E (10) (c).”.

Heading to Division 10 of Part III

16. The heading to Division 10 of Part III of the Principal Act is repealed and the following heading is substituted:

“Division 10—Mining and Quarrying”.

17. Before section 122 of the Principal Act the following heading is inserted:

“Subdivision A—General Mining”.

Interpretation

18. Section 122 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘allowable capital expenditure’ has the meaning given by section 122A;”.

Deduction of allowable (post 19 July 1982) capital expenditure

19. Section 122DG of the Principal Act is amended by omitting from subsection (6) “or under section 122J” and substituting “, under section 122J, under section 122JE or under section 122JF”.

Election that Subdivision not apply to plant

20. Section 122H of the Principal Act is amended by omitting from subsection (1) “Division” and substituting “Subdivision”.

Exploration and prospecting expenditure

21. Section 122J of the Principal Act is amended by inserting in subsection (4B) “, or under section 122JF,” after “deductions allowable under this section”.

22. Before section 122K of the Principal Act the following Subdivision and heading are inserted:

“Subdivision B—Quarrying

Interpretation

“122JB. (1) In this Subdivision:

‘allowable capital expenditure’ has the meaning given by section 122JC;
‘concentration’ means concentration by a gravity, magnetic, electrostatic or flotation process;

‘eligible purposes’ means:

- (a) the purposes for which allowable capital expenditure may be incurred; or
- (b) the purposes referred to in section 122JF;

‘eligible quarrying operations’ means quarrying operations on a quarrying property in Australia for the extraction of quarry materials from their natural site, being operations carried on for the purpose of gaining or producing assessable income, but does not include prescribed mining operations within the meaning of Subdivision A;

‘housing and welfare’ means:

- (a) residential accommodation; or
- (b) health, educational, recreational or other similar facilities; or
- (c) facilities for the provision of meals;

and includes works carried out directly in connection with such accommodation or facilities (including works for the provision of water, light, power, access or communications);

'property' includes a quarrying or prospecting right;

'quarry materials' means any materials obtained by quarrying;

'quarrying or prospecting information' means geological, geophysical or technical information, being information that:

- (a) relates to the presence, absence or extent of deposits of quarry materials in an area or is likely to be of assistance in determining the presence, absence or extent of such deposits in an area; and
- (b) has been obtained from exploration or prospecting, or quarrying, for quarry materials;

'quarrying or prospecting right' means:

- (a) an authority, licence, permit or right to quarry or prospect for quarry materials in a particular area in Australia; or
- (b) a lease of land in Australia by virtue of which the lessee is entitled to quarry or prospect for quarry materials on the land;

and includes an interest in such an authority, licence, permit, right or lease and, for the purposes of provisions relating to the acquisition by a person of a quarrying or prospecting right from another person, also includes any rights in respect of buildings or other improvements on the land concerned, or used in connection with operations on the land concerned, that are acquired with the quarrying or prospecting right, but does not include rights in respect of housing and welfare;

'treatment' means:

- (a) cleaning, leaching, crushing, grinding, breaking, screening, grading or sizing; or
- (b) concentration; or
- (c) any other treatment applied to quarry materials, being a treatment that is applied before concentration or, in the case of quarry materials not requiring concentration, that would, if the quarry materials had required concentration, have been applied before the concentration;

and, without extending, by implication, the processes that are included in this definition, does not include sintering or calcining.

“(2) Where a taxpayer carries on eligible quarrying operations on 2 or more quarrying properties, this Subdivision (other than section 122JF), except to the extent to which the contrary intention appears, is to be construed as applying in relation to the operations of that taxpayer on and in connection with each of those quarrying properties as if it were the only quarrying property on which the taxpayer carried on eligible quarrying operations, and, for the purposes of the application of this Subdivision (other than section 122JF) in relation to a taxpayer in relation to a quarrying property:

- (a) any matters or things relating exclusively to any other quarrying

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property on which the taxpayer carried on eligible quarrying operations are to be disregarded; and

- (b) amounts of expenditure or other amounts to which paragraph (a) does not apply are to be apportioned in such manner as the Commissioner considers reasonable.

“(3) If, by virtue of a provision of this Subdivision, an amount is taken to be specified in a notice in lieu of another amount, a reference in this Subdivision to an amount specified in the notice is to be read as a reference to that first-mentioned amount.

“(4) For the purposes of this Subdivision:

- (a) any amount specified in a notice given to the Commissioner under section 122JD in relation to the acquisition from a taxpayer of a quarrying or prospecting right or quarrying or prospecting information is to be taken to be wholly attributable to expenditure incurred by the taxpayer; and
- (b) the extent to which such an amount is attributable to particular expenditure, to expenditure of a particular class or to expenditure incurred at a particular time or during a particular period is to be determined by the Commissioner.

Allowable capital expenditure

“122JC. (1) For the purposes of this Subdivision, allowable capital expenditure of a taxpayer is expenditure of a capital nature incurred by the taxpayer, being:

- (a) expenditure in carrying on eligible quarrying operations, including expenditure:
 - (i) in preparing a site for such operations; or
 - (ii) on buildings or other improvements necessary for the carrying on by the taxpayer of such operations; or
 - (iii) in providing, or by way of contribution to the cost of providing, water, light or power for use on, or access to or communications with, the site of eligible quarrying operations carried on, or to be carried on, by the taxpayer; or
- (b) expenditure on:
 - (i) buildings for use directly in connection with the operation or maintenance of plant, being plant for use primarily and principally in the treatment of quarry materials obtained from the carrying on by the taxpayer of eligible quarrying operations; or
 - (ii) buildings or other improvements for use directly in connection with the storage (whether before or after treatment) of quarry materials in relation to the operation of plant of the kind mentioned in subparagraph (i); or
- (c) expenditure on acquiring:

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- (i) a quarrying or prospecting right from another person; or
- (ii) quarrying or prospecting information from another person;

to the extent only of the amount of the expenditure that is specified in a notice under section 122JD given to the Commissioner by the taxpayer and that other person.

“(2) Subsection (1) does not apply to expenditure on property, being plant or articles for the purposes of section 54.

“(3) Subsection (1) does not apply to expenditure on housing and welfare.

“(4) Without extending, by implication, the operation of subsection (1), the expenditure referred to in that subsection does not include expenditure incurred by the taxpayer on or in relation to:

- (a) ships, railway rolling-stock or road vehicles, or railway lines, roads, pipelines or other facilities, for use wholly or partly for the purpose of the transport of quarry materials or products of quarry materials, other than transport wholly within the site of eligible quarrying operations carried on by the taxpayer; or
- (b) works carried out in connection with, or buildings or other improvements or plant constructed or acquired for use in connection with, the establishment, operation or use of a port or other facilities for ships; or
- (c) an office building that is not situated at or adjacent to the site of eligible quarrying operations carried on by the taxpayer.

Purchase of quarrying or prospecting right or information

“122JD. (1) Where a person (in this section called the ‘**purchaser**’) has incurred expenditure in acquiring from another person (in this section called the ‘**vendor**’), for the purpose of carrying on:

- (a) eligible quarrying operations; or
- (b) exploration or prospecting for quarry materials obtainable by eligible quarrying operations;

a quarrying or prospecting right or quarrying or prospecting information, the purchaser and the vendor may give notice to the Commissioner that they have agreed to the inclusion in the allowable capital expenditure of the purchaser of an amount specified in the notice, being the whole or a part of that expenditure.

“(2) If the amount specified in a notice given under this section in respect of a transaction exceeds the sum of:

- (a) so much of the capital expenditure (other than expenditure on plant or expenditure of a kind referred to in section 122JF) incurred by the vendor after 15 August 1989 and before the date of the transaction in relation to the area that is the subject of the right or to which the information relates as:

- (i) has not been allowed and is not allowable as a deduction to the vendor under subsection 122JE (1) in respect of a year of income of the vendor preceding the year of income during which the transaction occurred; and
 - (ii) is attributable to an amount of expenditure incurred in relation to that area that has not been taken into account in determining an amount to be included in the allowable capital expenditure of a person under paragraph 122JC (1) (c) in respect of a transaction entered into before the first-mentioned transaction; and
- (b) any expenditure of the vendor (other than expenditure on plant in use by the vendor at the date of the transaction) of a kind referred to in section 122JF incurred by the vendor after 15 August 1989 and before the date of the transaction that has not been allowed and is not allowable as a deduction to the vendor in the year of income in which the transaction takes place or in any prior year of income; and
- (c) the amount included in the vendor's assessable income under section 122K in relation to property acquired by the purchaser from the vendor in connection with the transaction;

the amount specified in the notice is to be taken, for all purposes of this Subdivision, to be the amount in fact so specified less the amount of the excess.

“(3) For the purposes of paragraph (2) (a), the capital expenditure incurred by the vendor in relation to an area the subject of a quarrying or prospecting right is to be taken not to include capital expenditure on buildings or other improvements unless rights in respect of them are acquired by the purchaser with the quarrying or prospecting right.

“(4) A notice under this section is not to be taken to have been given where the notice relates to a lease in relation to the grant, assignment or surrender of which the persons giving the notice have (whether before or after the lodging of the notice with the Commissioner) made an election under subsection 88B (5) that has effect in relation to the grant, assignment or surrender.

“(5) A notice under this section:

- (a) must be in writing signed by or on behalf of the persons giving the notice; and
- (b) must be lodged with the Commissioner not later than 2 months after the end of the year of income of the purchaser in which the right or information was acquired, or within such further time as the Commissioner allows.

Deduction of allowable capital expenditure

“122JE. (1) Where, after 15 August 1989 and in a year of income, a taxpayer incurs allowable capital expenditure, an amount ascertained in accordance with this section is an allowable deduction in respect of

that expenditure in respect of that year of income and in respect of all subsequent years of income.

“(2) Subject to subsection (5), the deduction allowable under subsection (1) in respect of a year of income (in this subsection called the ‘**current year of income**’) in respect of an amount of allowable capital expenditure incurred by the taxpayer is the amount calculated using the following formula:

$$\frac{\text{Unrecouped expenditure}}{\text{Statutory factor}}$$

where:

‘**Unrecouped expenditure**’ means so much of that expenditure as is unrecouped as at the end of the current year of income;

‘**Statutory factor**’ means whichever is the lesser of the following numbers:

- (a) a number equal to the difference between:
 - (i) 20; and
 - (ii) the number of years of income (if any) preceding the current year of income in respect of which a deduction has been allowed or is allowable, or, but for the operation of subsection (5), would have been allowed or would be allowable, under subsection (1) in respect of that amount of expenditure;
- (b) a number equal to the number of whole years in the estimated life of the quarry or proposed quarry on the quarrying property, or, if there is more than one such quarry, of the quarry that has the longer or longest estimated life, as at the end of the current year of income.

“(3) For the purposes of subsection (2), the amount of the allowable capital expenditure incurred by a taxpayer that is unrecouped as at the end of a year of income (in this subsection called the ‘**current year of income**’) is the amount calculated by deducting from the amount of that allowable capital expenditure the sum of:

- (a) any part of that allowable capital expenditure that:
 - (i) has been allowed or is allowable, or, but for the operation of subsection (5), would have been allowed or would be allowable, as a deduction under subsection (1) in respect of a year of income preceding the current year of income; or
 - (ii) was incurred on property (not being property in respect of which a notice has been given to the Commissioner under section 122JD by the taxpayer and a person who acquired the property from the taxpayer):
 - (A) that has been disposed of, lost or destroyed; or
 - (B) the use of which by the taxpayer for eligible purposes has been otherwise terminated;

and has not been allowed and is not allowable as a deduction under subsection (1) in respect of a year of income preceding the current year of income; and

- (b) so much of any amounts specified in notices given to the Commissioner under section 122JD in relation to the acquisition from the taxpayer, during the current year of income or a year of income preceding the current year of income, of a quarrying or prospecting right or quarrying or prospecting information as:
 - (i) is attributable to that allowable capital expenditure; and
 - (ii) has not been allowed and is not allowable as a deduction under subsection (1) in respect of a year of income preceding the current year of income.

“(4) For the purposes of subparagraphs (3) (a) (ii) and (3) (b) (ii), an amount that would have been allowed or allowable as a deduction under subsection (1) but for the operation of subsection (5) is to be taken to have been allowed or to be allowable as such a deduction.

“(5) Subject to subsection (6):

- (a) the amount, or the total of the amounts, of the deduction or deductions allowable under subsection (1) in respect of a year of income (including any amount that is taken to be a deduction so allowable because of subsection (9)) must not exceed an amount equal to so much of the assessable income of the year of income as remains after deducting all allowable deductions (other than deductions allowable under this section, under section 122DG, under section 122J or under section 122JF); and
- (b) where the total of the amounts of 2 or more deductions that would be allowable under this section but for this subsection exceeds the maximum amount determined in accordance with this subsection, those deductions are to be reduced respectively by amounts proportionate to those deductions and equal in total to the excess.

“(6) A taxpayer may elect, in relation to a year of income specified in the election, that subsection (7) is to apply in relation to all allowable capital expenditure in relation to the taxpayer.

“(7) Where:

- (a) a taxpayer makes an election under subsection (6) in relation to expenditure of a kind referred to in that subsection in relation to a year of income; and
- (b) but for this subsection, subsection (5) would apply to limit or reduce the amount of a deduction otherwise allowable under subsection (1) in relation to the year of income in relation to an amount of expenditure of that kind;

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subsection (5) does not apply to limit or reduce the amount of the deduction.

“(8) Where, apart from subsection (7), subsection (5) would apply to limit or reduce the amount of a deduction otherwise allowable in relation to a year of income in relation to an amount of expenditure in respect of which a taxpayer has not made an election under this section in relation to the year of income, nothing in subsection (7) affects the application of subsection (5) in relation to that year of income in relation to that amount.

“(9) Subject to subsections (10) and (11), where the whole or a part of a deduction in respect of a year of income is disallowed under subsection (5), that whole or part is taken to be a deduction that is allowable under subsection (1) in respect of the next succeeding year of income.

“(10) Where:

- (a) an amount of allowable capital expenditure was incurred by a taxpayer on property (not being property in respect of which a notice has been given to the Commissioner under section 122JD) that, during a year of income, has been disposed of, lost or destroyed or the use of which by the taxpayer for eligible purposes has been otherwise terminated; and
- (b) the whole or a part of an amount (which whole or part is in this subsection called the ‘**attributable amount**’) in respect of which a deduction would, but for this subsection, be allowable to the taxpayer in that year of income or in a succeeding year of income because of the operation of subsection (9) is attributable to the amount referred to in paragraph (a) of this subsection;

a deduction is not allowable to the taxpayer in respect of the attributable amount.

“(11) Where:

- (a) an amount is specified in a notice given to the Commissioner under section 122JD in relation to the acquisition from a taxpayer, during a year of income, of a quarrying or prospecting right or quarrying or prospecting information; and
- (b) the whole or a part of an amount (which whole or part is in this subsection called the ‘**attributable amount**’) in respect of which a deduction would, but for this subsection, be allowable to the taxpayer in that year of income or in a succeeding year of income because of the operation of subsection (9) is attributable to the amount referred to in paragraph (a) of this subsection;

a deduction is not allowable to the taxpayer in respect of the attributable amount.

“(12) Where:

- (a) a taxpayer has incurred allowable capital expenditure on property the use of which by the taxpayer for eligible purposes has been terminated; and
- (b) the property has come into use by the taxpayer for purposes for which allowable capital expenditure may be incurred;

so much of the first-mentioned expenditure as the Commissioner determines is to be taken, for the purposes of this section, to have been incurred by the taxpayer on that property, on the day on which that property so came into use by the taxpayer, for the purposes for which that property so came into use.

“(13) Where, having regard to the information in the Commissioner’s possession, the Commissioner is not satisfied that the estimated life of a quarry or a proposed quarry as made by the taxpayer is a reasonable estimate, the estimated life is to be taken, for the purposes of paragraph (2) (b), to be such period as the Commissioner considers reasonable.

Exploration and prospecting expenditure

“122JF. (1) Subject to this section, expenditure incurred by the taxpayer after 15 August 1989 and during a year of income on exploration or prospecting in Australia for materials obtainable by eligible quarrying operations is an allowable deduction.

“(2) Subject to subsection (4), the amount of the deduction allowable under this section in respect of expenditure incurred during the year of income is not to exceed an amount equal to so much of the assessable income of the year of income as remains after deducting all allowable deductions, other than deductions allowable under this section or under section 122J.

“(3) A taxpayer may elect, in relation to a year of income specified in the election, that the limit in subsection (2) is not to apply in relation to actual expenditure in relation to the taxpayer in relation to the year of income.

“(4) Where:

- (a) a taxpayer makes an election under subsection (3) in relation to a year of income; and
- (b) but for this subsection, subsection (2) would apply to limit the amount of the deduction otherwise allowable under this section in relation to expenditure incurred by the taxpayer during the year of income;

the following provisions have effect:

- (c) subsection (2) does not apply in relation to expenditure incurred by the taxpayer during the year of income;
- (d) the deduction allowable under this section in respect of any

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deemed expenditure in relation to the taxpayer in relation to the year of income is an amount calculated using the following formula:

$$\frac{\text{Reduced assessable income} \times \text{Deemed expenditure}}{\text{Deemed expenditure} + \text{Actual expenditure}}$$

where:

'Reduced assessable income' means an amount equal to the assessable income of the taxpayer of the year of income, reduced by the sum of all deductions allowable from that assessable income, other than deductions allowable under this section;

'Deemed expenditure' means the number of whole dollars in the amount of the deemed expenditure in relation to the taxpayer in relation to the year of income;

'Actual expenditure' means the number of whole dollars in the amount of the actual expenditure in relation to the taxpayer in relation to the year of income.

“(5) For the purposes of subsections (3) and (4):

- (a) a reference to actual expenditure in relation to a taxpayer in relation to a year of income is a reference to expenditure of a kind referred to in subsection (1) incurred by the taxpayer during the year of income, other than deemed expenditure in relation to the taxpayer in relation to the year of income; and
- (b) a reference to deemed expenditure in relation to a taxpayer in relation to a year of income is a reference to expenditure of a kind referred to in subsection (1) that is taken by subsection (6) to have been incurred by the taxpayer during the year of income.

“(6) Where the amount of the expenditure of the kind referred to in subsection (1) that was incurred during the year of income (including any expenditure that is taken to have been incurred during the year of income by any previous application or applications of this subsection) exceeds the amount of the deduction allowable under this section in respect of that expenditure in respect of the year of income, the excess amount is to be taken, for the purposes of subsection (1), to have been incurred by the taxpayer during the first subsequent year of income in which the taxpayer derives assessable income.

“(7) A deduction is not allowable under this section in respect of expenditure incurred during the year of income unless:

- (a) the Commissioner is satisfied that, during the year of income, the taxpayer carried on, or proposed to carry on, eligible quarrying operations; or
- (b) the Commissioner is satisfied that:
 - (i) during the year of income, the taxpayer carried on a business of, or a business that included, exploration or

prospecting in Australia for materials obtainable by eligible quarrying operations; and

- (ii) the expenditure was necessarily incurred in carrying on that business.

“(8) Where:

- (a) an amount of income derived by the taxpayer from the sale, transfer or assignment of rights to mine in a particular area in Australia is or has been exempt from income tax in a year of income (in this subsection called the ‘year of sale’) by virtue of paragraph 23 (pa); and
- (b) in relation to that area there are any excess amounts of expenditure referred to in subsection (6) that have not been, and are not required to be, taken, for the purposes of subsection (1), to have been incurred by the taxpayer in the year of sale or in a prior year of income;

subsection (6) does not operate so as to require the taxpayer to be taken to have incurred, in any year of income after the year of sale, any part of those excess amounts.

“(9) Where an amount specified in a notice given to the Commissioner under section 122JD in relation to the acquisition from the taxpayer of a quarrying or prospecting right or quarrying or prospecting information is attributable to the whole or a part of an excess amount of expenditure referred to in subsection (6), the excess amount or the part of the excess amount, as the case may be:

- (a) is not, under subsection (6), to be taken to have been incurred by the vendor in the year of income in which the transaction to which the notice relates occurred or in any subsequent year of income; and
- (b) is not to be taken into account in calculating the amount to be included in the allowable capital expenditure of a purchaser by virtue of a notice given to the Commissioner under section 122JD in respect of a transaction entered into after the first-mentioned transaction.

“(10) A person may elect that this subsection is to apply in respect of expenditure on a unit of plant referred to in the election, being expenditure incurred in the year of income specified in the election, and any further expenditure on that unit of plant incurred in a subsequent year and, where such an election has been made, expenditure to which the election applies is not to be taken to be expenditure referred to in subsection (1).

“(11) The year of income specified in an election under subsection (10) must be the first year of income in which the taxpayer incurs, in relation to the unit of plant referred to in the election, expenditure, that, but for the election would be expenditure referred to in subsection (1).

“(12) In this section:

‘exploration or prospecting’ means any one or more of the following:

- (a) geological mapping, geophysical surveys, systematic search for areas containing quarry materials, and search by drilling or other means for quarry materials within those areas;
- (b) search for quarry materials by drives, shafts, cross-cuts, winzes, rises and drilling;

but does not include operations in the course of working a quarrying property.

“Subdivision C—General Provisions”.

Disposal, loss, destruction or termination of use of property

23. Section 122K of the Principal Act is amended:

- (a) by inserting in subsection (1) “or eligible purposes” after “prescribed purposes”;
- (b) by inserting in subsection (4) the following definitions:
 - “**‘eligible purposes’** has the same meaning as in Subdivision B;
 - ‘mining or prospecting right’** has the same meaning as in Subdivision A;
 - ‘prescribed purposes’** has the same meaning as in Subdivision A;
 - ‘property’** includes:
 - (a) a mining or prospecting right; or
 - (b) a quarrying or prospecting right;
 - ‘quarrying or prospecting right’** has the same meaning as in Subdivision B.”.

Transactions between persons not at arm’s length

24. Section 122L of the Principal Act is amended:

- (a) by inserting in paragraph (a) “or a quarrying or prospecting right” after “mining or prospecting right”;
- (b) by adding at the end the following subsection:

“(2) In this section:

‘mining or prospecting right’ has the same meaning as in Subdivision A;

‘quarrying or prospecting right’ has the same meaning as in Subdivision B.”.

Deductions not allowable under other provisions

25. Section 122N of the Principal Act is amended:

- (a) by inserting in subsection (2) “or for the purposes referred to in section 122JF” after “prescribed purposes”;

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- (b) by inserting in subsection (2) “or a purpose referred to in section 122JF” after “prescribed purpose”;
- (c) by inserting after subsection (2) the following subsection:
 - “(2A) A reference in subsection (2) to a prescribed purpose is a reference to a prescribed purpose within the meaning of Subdivision A.”;
- (d) by omitting from subsection (3) “or 122J (2) or (4B)” and substituting “, 122J (2) or (4B), 122JE (5) or 122JF (2)”.

26. After section 122N of the Principal Act the following section is inserted:

Apportionment of expenditure deductible under both Subdivision A and Subdivision B

“122NB. (1) Where a particular amount of expenditure (in this subsection called the ‘allowable amount’) is covered by both of the following categories:

- (a) a particular kind of allowable capital expenditure (within the meaning of Subdivision A);
- (b) the corresponding kind of allowable capital expenditure (within the meaning of Subdivision B);

the Commissioner may apportion the allowable amount between those categories in such manner as the Commissioner considers reasonable.

“(2) Where a particular amount (in this subsection called the ‘allowable amount’) is covered by both of the following categories:

- (a) an amount to which a particular paragraph of subsection 122B (2) applies;
- (b) an amount to which the corresponding paragraph of subsection 122JD (2) applies;

the Commissioner may apportion the allowable amount between those categories in such manner as the Commissioner considers reasonable.

“(3) Where a particular amount (in this subsection called the ‘allowable amount’) is covered by both of the following categories:

- (a) expenditure of the kind referred to in subsection 122J (1);
- (b) expenditure of the kind referred to in subsection 122JF (1);

the Commissioner may apportion the allowable amount between those categories in such manner as the Commissioner considers reasonable.”.

Re-numbering and re-location of section 122P

27. Section 122P of the Principal Act is:

- (a) re-numbered as section 122JA; and
- (b) re-located after section 122J of the Principal Act.

Change in interests in property

28. Section 122R of the Principal Act is amended by adding at the end the following subsection:

“(4) In this section:

‘**mining or prospecting right**’ has the same meaning as in Subdivision A;

‘**property**’ includes:

(a) a mining or prospecting right; and

(b) a quarrying or prospecting right;

‘**quarrying or prospecting right**’ has the same meaning as in Subdivision B.”.

Heading to Division 10AAA of Part III

29. The heading to Division 10AAA of Part III of the Principal Act is repealed and the following heading is substituted:

“Division 10AAA—Transport of Minerals and Quarry Materials”.

30. Before section 123 of the Principal Act the following heading is inserted:

“Subdivision A—Transport of Certain Minerals”.

Interpretation

31. Section 123 of the Principal Act is amended by inserting in the definitions of “prescribed mining operations” and “treatment” in subsection (1) “Subdivision A of” before “Division 10”.

Application of Subdivision

32. Section 123A of the Principal Act is amended:

(a) by omitting “this Division” (wherever occurring) and substituting “this Subdivision”;

(b) by omitting “This Division” (wherever occurring) and substituting “This Subdivision”.

33. After section 123BB of the Principal Act the following Subdivision and heading are inserted:

“Subdivision B—Transport of Quarry Materials

Interpretation

“123BC. (1) In this Subdivision:

‘**eligible quarrying operations**’ has the same meaning as in Subdivision B of Division 10;

‘**housing and welfare facilities**’ has the same meaning as in Subdivision A;

'prescribed body' has the same meaning as in Subdivision A;

'processed materials' means:

- (a) materials resulting from the treatment of quarry materials; and
- (b) materials resulting from sintering or calcining; and
- (c) such other materials, or materials resulting from such other processes, as are prescribed;

'quarry materials' has the same meaning as in Subdivision B of Division 10;

'treatment' has the same meaning as in Subdivision B of Division 10.

“(2) In this Subdivision, a reference to a railway, road, pipe-line or other facility is to be read as including a reference to a port facility or other facility for ships.

“(3) In this Subdivision, a reference to capital expenditure on a railway, road, pipe-line or other facility is to be read as including a reference to capital expenditure incurred by a person:

- (a) in obtaining a right, whether by means of a licence, permit or otherwise, to construct or install a railway, road, pipe-line or other facility, or a part of a railway, road, pipe-line or other facility, on land owned or leased by another person; or
- (b) in paying compensation in respect of any damage or loss caused by the construction or installation of a railway, road, pipe-line or other facility or of a part of a railway, road, pipe-line or other facility; or
- (c) on earthworks, bridges, tunnels and cuttings that are necessary for a railway, road, pipe-line or other facility; or
- (d) where the person is a prescribed body—on railway rolling-stock; but as not including a reference to expenditure in respect of:
 - (e) road vehicles or ships; or
 - (f) except as mentioned in paragraph (d)—railway rolling-stock; or
 - (g) housing or welfare facilities, or works for the provision of water, light or power, in connection with a port facility or other facility for ships.

Application of Subdivision

“123BD. (1) Subject to this section, this Subdivision applies to:

- (a) capital expenditure incurred after 15 August 1989 by a taxpayer on; or
- (b) capital expenditure incurred after 15 August 1989 by a taxpayer by way of contribution to capital expenditure incurred by another person on;

a railway, road, pipe-line or other facility constructed or acquired for use in Australia, in the carrying on of a business for the purpose of gaining or producing assessable income, primarily and principally for the transport of:

- (c) quarry materials obtained from the carrying on by any person or persons of eligible quarrying operations; or
- (d) processed materials produced from such quarry materials; other than transport wholly within the site of eligible quarrying operations.

“(2) This Subdivision does not apply, in relation to a taxpayer, to capital expenditure incurred by the taxpayer on, or by way of contribution to capital expenditure of another person on, a port facility or other facility for ships unless the expenditure has not been allowed, and will not be allowable, as a deduction, and has not been, and will not be, taken into account in ascertaining the amount of an allowable deduction, from the assessable income of the taxpayer of any year of income under any provision of this Act other than a provision of this Subdivision.

“(3) In determining whether subsection (2) applies in relation to capital expenditure incurred by a taxpayer, the provisions of subsection 123E (1) are to be disregarded.

“(4) This Subdivision does not apply in relation to a taxpayer to capital expenditure in respect of which the taxpayer is recouped, or becomes entitled to be recouped, by:

- (a) the Commonwealth, a State or a Territory; or
- (b) an authority constituted by or under a law of the Commonwealth, a State or a Territory; or
- (c) any other person;

where the amount of the recoupment is not, and will not be, included in the assessable income of the taxpayer of any year of income.

“(5) Where a taxpayer receives, or becomes entitled to receive, an amount that constitutes to an unspecified extent a recoupment of capital expenditure, the Commissioner may, for the purposes of subsection (4), determine the extent to which that amount constitutes a recoupment of that expenditure.

Deduction of expenditure

“123BE. (1) Subject to this Subdivision, where a taxpayer has incurred or incurs capital expenditure to which this Subdivision applies, 5% of that expenditure is an allowable deduction from:

- (a) the assessable income of the first year of income after the year of income in which the facility in respect of which the expenditure was incurred was, after the incurring of the expenditure, used primarily and principally for a purpose referred to in section 123BD; and
- (b) the assessable income of each of the next 19 succeeding years of income.

“(2) Where capital expenditure to which this Subdivision applies was incurred on:

- (a) property that is disposed of, lost or destroyed; or
- (b) property the use of which by the taxpayer primarily and principally for a purpose referred to in section 123BD is otherwise terminated;

a deduction in respect of that expenditure is not allowable under this section from the assessable income of the year of income in which the disposal, loss, destruction or termination of use takes place or from the assessable income of any subsequent year of income.

“Subdivision C—General Provisions”.

Disposal, loss, destruction or termination of use of property

34. Section 123C of the Principal Act is amended:

- (a) by inserting in subsection (1) “or 123BD” after “123A”;
- (b) by omitting from subsection (6) “this Division” and substituting “Subdivision A”;
- (c) by adding at the end the following subsection:

“(7) Where property the use of which primarily and principally for a purpose referred to in section 123BD has been terminated again comes into use primarily and principally for such a purpose, so much of the expenditure on that property as the Commissioner determines is to be taken to be capital expenditure to which Subdivision B applies incurred in the year of income in which the property again comes into such use.”.

Transactions between parties not at arm’s length

35. Section 123D of the Principal Act is amended by omitting from subparagraphs (a) (i) and (ii) “this Division” and substituting “Subdivision A or B”.

Deductions not allowable under other provisions

36. Section 123E of the Principal Act is amended by inserting in subsection (2) “or 123BD” after “123A”.

37. After section 123E of the Principal Act the following section is inserted:

Apportionment of expenditure deductible under both Subdivision A and Subdivision B

“123EA. Where a particular amount (in this section called the ‘allowable amount’) is covered by both of the following categories:

- (a) capital expenditure to which Subdivision A applies;
- (b) capital expenditure to which Subdivision B applies;

the Commissioner may apportion the allowable amount between those categories in such manner as the Commissioner considers reasonable.”.

Declarations

38. Section 124ZADA of the Principal Act is amended:

(a) by omitting paragraph (1) (e) and substituting the following paragraph:

“(e) stating either of the following:

(i) that a film account (in this section called the ‘**relevant film account**’) has been opened in relation to the film;

(ii) that no film account has been opened in relation to the film;”;

(b) by omitting subparagraphs (1) (f) (ii) to (vii) (inclusive) and substituting the following subparagraphs:

“(ii) if subparagraph (e) (i) applies:

(A) the total amount of the moneys referred to in subparagraph (i) of this paragraph that were, upon receipt, paid into the relevant film account; and

(B) the total amount of the moneys referred to in subparagraph (i) of this paragraph that were not, upon receipt, paid into the relevant film account; and

(C) the total amount withdrawn from the relevant film account during the relevant period; and

(D) the total amount of the moneys referred to in subparagraph (C) that were, upon being withdrawn from the relevant film account, expended in producing the film; and

(E) the total amount of the moneys referred to in subparagraph (B) that were expended in producing the film; and

(iii) if subparagraph (e) (ii) applies—the total amount of the moneys referred to in subparagraph (i) of this paragraph that were expended in producing the film; and”;

(c) by omitting paragraph (1) (g);

(d) by inserting in paragraph (1) (h) “if subparagraph (e) (i) applies—” before “that all moneys”;

(e) by omitting from subsection (4) “matters specified in paragraphs (1) (g) and (h)” and substituting “matter specified in paragraph (1) (h)”;

(f) by inserting before paragraphs (5) (a) and (9) (a) the following paragraph:

“(aa) a film account has been opened in relation to a film;”;

- (g) by inserting in paragraph (5) (a) “in relation to the film” before “is lodged”;
- (h) by omitting from subsection (5) all the words after “allows,” and substituting “a declaration that all moneys withdrawn from the film account after the time the declaration is made will, upon withdrawal, be dealt with in the prescribed manner or paid to persons as refunds of capital moneys expended by way of contribution to the cost of producing the film”;
- (j) by omitting subsections (6) and (7);
- (k) by omitting from paragraph (9) (a) “a film” and substituting “the film”.

Deductions for capital expenditure under post 12 January 1983 contracts

39. Section 124ZAF of the Principal Act is amended:

- (a) by omitting subparagraphs (1) (d) (i) and (ii);
- (b) by omitting paragraphs (1) (e), (f), (g) and (h) and substituting the following paragraphs:

“(e) where:

- (i) the moneys were expended under a contract entered into on or before 23 August 1983; and
- (ii) the moneys were expended by the taxpayer by way of contribution to the cost of producing the film; and
- (iii) the moneys were contributed before 1 July 1983; and
- (iv) the moneys were:
 - (A) expended before 1 July 1983 in producing the film; or
 - (B) on or before 1 July 1983, paid into a film account opened in relation to the film;

150%; or

(f) where:

- (i) the moneys were expended under a contract entered into on or before 23 August 1983; and
- (ii) the moneys were expended by the taxpayer by way of contribution to the cost of producing the film; and
- (iii) the moneys were contributed after 30 June 1983; and
- (iv) the moneys were, upon contribution, deposited in a film account opened in relation to the film;

150%; or

(g) where:

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- (i) the moneys were expended under a contract entered into on or before 23 August 1983; and
 - (ii) the moneys were expended by the taxpayer in producing the film;
- 150%; or
- (h) where:
- (i) the moneys were expended under a contract entered into after 23 August 1983 and on or before 19 September 1985; and
 - (ii) the moneys were expended by the taxpayer by way of contribution to the cost of producing the film; and
 - (iii) the moneys were, upon contribution, deposited in a film account opened in relation to the film;
- 133%; or
- (j) where:
- (i) the moneys were expended under a contract entered into after 23 August 1983 and on or before 19 September 1985; and
 - (ii) the moneys were expended by the taxpayer in producing the film;
- 133%; or
- (k) where:
- (i) the moneys were expended under a contract entered into after 19 September 1985 and before 25 May 1988; and
 - (ii) the moneys were expended by the taxpayer by way of contribution to the cost of producing the film; and
 - (iii) the moneys were, upon contribution, deposited in a film account opened in relation to the film;
- 120%; or
- (m) where:
- (i) the moneys were expended under a contract entered into after 19 September 1985 and before 25 May 1988; and
 - (ii) the moneys were expended by the taxpayer in producing the film;
- 120%; or
- (n) where the moneys were expended under a contract entered into on or after 25 May 1988—100%;”.

40. Section 160AAA of the Principal Act is repealed and the following section is substituted:

Rebate in respect of certain pensions, benefits etc.

“160AAA. (1) In this section:

‘**rebatale benefit**’ means an amount:

- (a) paid by way of a benefit under Part XIII of the *Social Security Act 1947*; or
- (b) paid by way of a benefit under Part III of the *Student Assistance Act 1973*; or
- (c) paid by way of income derived under:
 - (i) the scheme known as the Assistance for Isolated Children Scheme; or
 - (ii) the scheme known as the Veterans’ Children Education Scheme; or
- (d) received under the scheme known as the Aboriginal Study Assistance Scheme; or
- (e) paid by way of Formal Training Allowance;

‘**rebatale pension**’ means a pension, allowance or benefit under:

- (a) the *Veterans’ Entitlements Act 1986* (other than Part VII); or
- (b) the *Social Security Act 1947* (other than Part XIII).

“(2) Subject to subsection (4), where the assessable income of a taxpayer of a year of income includes an amount of rebatale pension, the taxpayer is entitled in the taxpayer’s assessment in respect of income of the year of income to a rebate of tax of an amount (if any) ascertained in accordance with the regulations.

“(3) Subject to subsection (4), where the assessable income of a taxpayer of a year of income includes an amount of rebatale benefit, the taxpayer is entitled in the taxpayer’s assessment in respect of income of the year of income to a rebate of tax of an amount (if any) ascertained in accordance with the regulations.

“(4) Where, apart from this subsection, the taxpayer would be entitled in his or her assessment in respect of income of a year of income to a rebate of tax under both subsections (2) and (3):

- (a) if the amounts of the rebates are the same—the taxpayer is entitled to only one of the rebates; and
- (b) if the amounts of the rebates are not the same—the taxpayer is not entitled to the lesser of the rebates.

“(5) Regulations made for the purposes of this section may be expressed to apply in relation to a year of income any part of which occurred before the notification of the regulations.”.

Foreign losses of previous years

41. Section 160AFD of the Principal Act is amended:

- (a) by inserting in subsection (1) “pre-1990” before “years of income next preceding”;

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

“(1A) Where a resident taxpayer has incurred one or more overall foreign losses in respect of a class of income derived from a foreign source in any of the post-1989 years of income preceding a particular year of income (in this subsection called the ‘**relevant year of income**’), the amount that, but for this section, would, for the purposes of this Division, be the taxpayer’s income of that class of the relevant year of income derived from that source (in this subsection called the ‘**basic amount**’) is, for the purposes of this Act, taken to be reduced by an amount not exceeding the lesser of:

- (a) the amount of the loss, or the total of the amounts of the losses, reduced by the amount, or the total of the amounts, if any, by which the taxpayer’s income of that class derived from that source has been reduced by any previous application or applications of this subsection; or
- (b) the basic amount.”;

(c) by omitting subsection (2) and substituting the following subsection:

“(2) Where, because of the application of either subsection (1) or (1A) or of both subsections (1) and (1A), a taxpayer’s income of a particular class of a year of income derived from a foreign source is to be reduced by 2 or more losses, the losses are to be taken into account in accordance with the following principles:

- (a) any loss or losses under subsection (1) are to be taken into account before any under subsection (1A);
 - (b) any losses under the same subsection are to be taken into account in the order in which they were incurred.”;
- (d) by inserting in subsection (3) “or (1A)” after “subsection (1)”;
- (e) by omitting from subsection (5) “subsection (1)” and substituting “subsections (1) and (1A)”;
- (f) by inserting in subsection (7) the following definitions:
- “‘**post-1989 year of income**’ means the year of income commencing on 1 July 1989 or any later year of income;
 - ‘**pre-1990 year of income**’ means any year of income before the year of income commencing on 1 July 1989.”.

Interpretation

42. Section 160APA of the Principal Act is amended by inserting the following definitions:

“‘**arrangement**’ means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, and whether or not

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enforceable, or intended to be enforceable, by legal proceedings;
and

- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise;

'dividend streaming arrangement', in relation to a company (in this definition called the **'first company'**), means an arrangement where:

- (a) the first company entered into or carried out the arrangement or any part of the arrangement; and

- (b) both of the following conditions are satisfied:

- (i) a shareholder in the first company (in this definition called the **'first shareholder'**) is empowered (either unconditionally or on the fulfilment of a condition) to exercise any choice or selection;

- (ii) the exercise of the choice or selection, or the failure to exercise the choice or selection, has the effect of determining, to any extent, any or all of the following:

- (A) whether the first company will pay an unfranked dividend or a partly franked dividend (which unfranked dividend or partly franked dividend is in this sub-subparagraph called the **'scheme dividend'**) to the first shareholder in substitution, in whole or in part, for the payment, or proposed payment, of one or more franked dividends, being dividends whose actual or proposed franking percentage exceeds the franking percentage of the scheme dividend;

- (B) whether the first company will issue one or more tax-exempt bonus shares to the first shareholder in substitution, in whole or in part, for the payment, or proposed payment, of one or more franked dividends;

- (C) whether another company will pay an unfranked dividend or a partly franked dividend to a shareholder in that other company in substitution, in whole or in part, for the payment, or proposed payment, by the first company of one or more franked dividends to the first shareholder;

- (D) whether the first company will pay one or more franked dividends to the first shareholder in substitution, in whole or in part, for the payment, or proposed payment, by another company of one or more unfranked dividends to a shareholder in that other company;

'franking percentage' means:

- (a) in relation to a franked dividend—the percentage specified in

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the declaration made under subsection 160AQF (1) in relation to the dividend; or

(b) in relation to an unfranked dividend—0%;

'partly franked dividend' means a dividend only part of which has been franked in accordance with section 160AQF;

'tax-exempt bonus share', in relation to a company, means a share issued by the company to a shareholder in the company where:

(a) the amount or value of the share is debited against an amount standing to the credit of a share premium account of the company; and

(b) no part of the paid-up value of the share is a dividend; and

(c) the share is issued:

(i) as a bonus share; or

(ii) in the circumstances mentioned in subsection 6BA (1);

'unfranked dividend' means a dividend (including a dividend that is not a frankable dividend) no part of which has been franked in accordance with section 160AQF;”.

43. After section 160APA of the Principal Act the following section is inserted:

Arrangements

“160APAA. A reference in this Part to the carrying out of an arrangement by a person includes a reference to the carrying out of an arrangement by a person together with another person or other persons.”.

44. After section 160AQCA of the Principal Act the following section is inserted:

Dividend streaming arrangements

“160AQCB. (1) Where:

(a) on a particular day after 30 June 1990, a company (in this subsection called the **'debit company'**) pays an unfranked dividend or a partly franked dividend (which unfranked dividend or partly franked dividend is in this subsection called the **'scheme dividend'**) to a shareholder in the debit company; and

(b) the scheme dividend was paid:

(i) under a dividend streaming arrangement in relation to the debit company; and

(ii) in substitution, in whole or in part, for the payment, or proposed payment, of one or more franked dividends (in this subsection called the **'substituted dividends'**), being dividends whose actual or proposed franking percentage exceeds the franking percentage of the scheme dividend;

there arises on that day a franking debit of the debit company equal to the amount calculated using the following formula, as reduced by the amount (if any) of the franking debit of the company arising under section 160AQB in respect of the payment of the scheme dividend:

$$\text{Scheme dividend} \times \text{Substituted franking percentage}$$

where:

'Scheme dividend' means the amount of the scheme dividend;

'Substituted franking percentage' means the actual or proposed franking percentage, or the greatest actual or proposed franking percentage, of the substituted dividends.

“(2) Where:

- (a) on a particular day after 30 June 1990, a company (in this subsection called the **'debit company'**) issues one or more tax-exempt bonus shares (in this subsection called the **'scheme bonus shares'**) to a shareholder in the debit company; and
- (b) the scheme bonus shares were issued:
 - (i) under a dividend streaming arrangement in relation to the debit company; and
 - (ii) in substitution, in whole or in part, for the payment, or proposed payment, of one or more franked dividends (in this subsection called the **'substituted dividends'**);

there arises on that day a franking debit of the debit company equal to the actual or proposed franked amount, or the sum of the actual or proposed franked amounts, of the substituted dividends.

“(3) Where:

- (a) on a particular day after 30 June 1990, a company (in this subsection called the **'linked company'**) pays an unfranked dividend or a partly franked dividend (which unfranked dividend or partly franked dividend is in this subsection called the **'linked dividend'**) to a shareholder in the linked company; and
- (b) the linked dividend was paid:
 - (i) under a dividend streaming arrangement in relation to another company (in this subsection called the **'debit company'**); and
 - (ii) in substitution, in whole or in part, for the payment, or proposed payment, by the debit company of one or more franked dividends (in this subsection called the **'substituted dividends'**) to a shareholder in the debit company;

there arises on that day a franking debit of the debit company equal to the amount calculated using the formula:

$$\text{Linked dividend} \times \text{Substituted franking percentage}$$

where:

'Linked dividend' means the amount of the linked dividend;

'Substituted franking percentage' means the actual or proposed franking percentage, or the greatest actual or proposed franking percentage, of the substituted dividends.

“(4) Where:

- (a) on a particular day after 30 June 1990, a company (in this subsection called the **'debit company'**) pays one or more franked dividends (in this subsection called the **'scheme dividends'**) to one or more shareholders in the debit company; and
- (b) the scheme dividends were paid:
 - (i) under a dividend streaming arrangement in relation to the debit company; and
 - (ii) in substitution, in whole or in part, for the payment, or proposed payment, by another company of one or more unfranked dividends (in this subsection called the **'substituted dividends'**) to one or more shareholders in that other company;

there arises on that day a franking debit of the debit company equal to the sum of the following amounts:

- (c) to the extent that the substituted dividends comprise the whole or a part of a common issue of shares covered by paragraph (c) of the definition of 'dividend' in subsection 6 (1)—the sum of the actual or proposed amounts of the dividends to which that common issue relates;
- (d) to the extent that the substituted dividends:
 - (i) do not consist of shares issued by the other company; and
 - (ii) comprise the whole or a part of a common series of distributions covered by paragraph (a) of the definition of 'dividend' in subsection 6 (1);

the sum of the actual or proposed amounts of the dividends to which those distributions relate;

- (e) to the extent that paragraph (d) of this subsection does not apply and the substituted dividends comprise the whole or a part of a common series of credits covered by paragraph (b) of the definition of 'dividend' in subsection 6 (1)—the sum of the actual or proposed amounts of the dividends to which those credits relate.

“(5) A reference in this section to a dividend streaming arrangement includes a reference to a dividend streaming arrangement entered into before the commencement of this section.”

Combined class of dividends to be equally franked

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

“(3) This section does not apply in relation to a dividend paid by a company if the payment of the dividend gives rise to a franking debit of the company under section 160AQCB.”.

Interpretation

46. Section 202A of the Principal Act is amended by omitting the definition of “recently-arrived visitor to Australia”.

Explanation of terms: investment, investor, investment body

47. Section 202D of the Principal Act is amended by omitting from column 1 of item 3 in the table in subsection (1) “a loan by a financial institution” and substituting “a loan made in the ordinary course of the business of providing business or consumer finance by a person who carries on that business”.

Quotation of tax file numbers in connection with investments

48. Section 202DB of the Principal Act is amended by adding at the end the following subsection:

“(2) Where:

- (a) a person, at any time after the beginning of the phasing-in period for this Division, holds an investment on behalf of another person; and
- (b) the first-mentioned person does not have a tax file number in his or her capacity of trustee of a trust estate in relation to the investment;

the first-mentioned person may quote his or her tax file number to the investment body in connection with the investment and, for the purposes of this Part, that person is to be taken to have quoted the investor’s tax file number in connection with the investment.”.

49. Section 202DD of the Principal Act is repealed and the following section is substituted:

Investor excused from quoting tax file number in certain circumstances

“202DD. Where:

- (a) at a particular time a person becomes an investor in relation to an investment to which this Part applies by virtue of acquiring shares in a public company; and
- (b) at that time, the person has quoted, or is taken to have quoted, a tax file number in connection with an existing investment consisting of a shareholding in that company; and
- (c) the company has not, since the quotation of the number in

connection with the existing investment, informed the person that the company has lost the person's tax file number; the person is to be taken to have quoted a tax file number in connection with the first-mentioned investment.”.

Securities dealer to inform the investment body of tax file number

50. Section 202DE of the Principal Act is amended by omitting from paragraph (b) “has informed” and substituting “informs”.

Investments held jointly

51. Section 202DG of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

“(2) Where more than 2 persons are jointly entitled to the property or rights that constitute an investment to which this Part applies, all of the persons are to be taken to have quoted their tax file numbers in connection with the investment if and only if:

- (a) where one of those persons has a tax file number and is not an exempt person in relation to the investment—that person has quoted that number, and at least one of the other persons is, for the purposes of this Part, to be taken to have quoted his or her tax file number, under this Division in connection with the investment; or
- (b) where 2 or more of those persons have tax file numbers and are not exempt persons in relation to the investment—at least 2 of those persons have quoted their own tax file numbers under this Division in connection with the investment; or
- (c) in any other case—at least 2 of those persons are, for the purposes of this Part, to be taken to have quoted their tax file numbers under this Division in connection with the investment.

“(2A) A reference in subsection (2) to an exempt person in relation to an investment is a reference to a person who, for the purposes of this Part, is to be taken to have quoted his or her tax file number under this Division in connection with the investment although the person has not actually done so.”.

Repeal of sections 202E and 202ED

52. Sections 202E and 202ED of the Principal Act are repealed.

53. Section 202EE of the Principal Act is repealed and the following section is substituted:

Non-residents

“202EE. (1) For the purposes of this Part, where a non-resident is an investor in relation to an investment to which this Part applies, the non-resident is to be taken to have quoted the non-resident's tax file number in connection with the investment:

- (a) if the non-resident becomes liable to pay withholding tax in respect of income derived from the investment; or
- (b) if the non-resident would have become liable to pay withholding tax but for the operation of paragraph 128B (3) (a), (b) or (ga), or subparagraph 128B (3) (h) (iii) or (iv).

“(2) If:

- (a) a person mentioned in subsection (1) becomes a resident of Australia; and
- (b) the person is, at that time, still an investor in relation to the investment; and
- (c) the investment body concerned is not, within one month after that time, informed of the person’s tax file number or informed that the person has become such a resident;

the person is guilty of an offence.

Penalty: \$1,000.

“(3) Nothing in this section affects the person’s liability to pay withholding tax.”.

54. Section 202EH of the Principal Act is repealed and the following section is substituted:

Declarations under this Division to be retained in certain circumstances

“202EH. (1) The Commissioner may direct an investment body to retain declarations, or declarations of a particular kind, made under this Division for such time as is specified in the direction.

“(2) A direction mentioned in subsection (1) must be given to the investment body in writing or by notice published in the *Gazette*.

“(3) An investment body that is retaining a declaration in accordance with such a direction must, if required to do so by the Commissioner:

- (a) forward the declaration to the office of a Deputy Commissioner in accordance with the Commissioner’s directions; or
- (b) give to the Commissioner such information contained in the declaration as the Commissioner specifies.”.

Duties of payers

55. Section 221YHZC of the Principal Act is amended:

- (a) by inserting in subparagraph (1A) (c) (i) “and the investment body is aware of the age of the investor” after “years of age”;
- (b) by adding at the end of sub-subparagraph (1A) (c) (ii) (A) “and”;
- (c) by omitting sub-subparagraph (1A) (c) (ii) (B);
- (d) by omitting paragraph (1A) (f) and substituting the following paragraph:

“(f) within 4 months after the end of each financial year or such longer period as the Commissioner allows, give to

the Commissioner a statement in a form approved by the Commissioner, signed by the investment body, reconciling the total of the amounts of all deductions made by the investment body during that financial year from unattributed income in respect of Part VA investments with the total of the amounts paid to the Commissioner under subsection 221YHZD (1A) in respect of those deductions.”;

- (e) by inserting in subsection (3) “or an investor” after “a non-resident”;
- (f) by inserting in subsection (4) “or an investor” after “a non-resident”.

Deductions from dividends and interest

56. Section 221YL of the Principal Act is amended by inserting after subsection (4) the following subsection:

“(4AA) This section does not apply in relation to a dividend or amount of interest from which a deduction is required to be made under subsection 221YHZC (1A).”.

Deductions to be forwarded to Commissioner etc.

57. Section 221YN of the Principal Act is amended by omitting from paragraph (1) (b) “2 months” and substituting “4 months”.

Interpretation

58. Section 251R of the Principal Act is amended:

- (a) by omitting from subsection (3) “and (6)” and substituting “, (6), (6B), (6C) and (6D)”;
- (b) by inserting after subsection (6) the following subsections:

“(6A) A reference in subsections (6B), (6C) and (6D) to an eligible prescribed person in relation to a period is a reference to a person who would, apart from subsections 251U (2) and (3), be taken to have been a prescribed person, for the purposes of this Part and of any Act imposing levy, during that period by virtue of paragraph 251U (1) (a), (b) or (c).

“(6B) For the purposes of this Part, where:

- (a) a person (in this subsection called the ‘**first person**’) was an eligible prescribed person in relation to a period in a year of income; and
- (b) apart from this subsection, another person (in this subsection called the ‘**leviable person**’) would be a dependant of the first person during that period; and
- (c) levy is payable by the leviable person upon the taxable income of the year of income;

the leviable person is not to be taken to have been a dependant of the first person during that period.

“(6C) For the purposes of this Part, where:

- (a) a person (in this subsection called the ‘**first person**’) was an eligible prescribed person in relation to a period in a year of income; and
- (b) another person (in this subsection called the ‘**spouse**’) was the spouse of the first person during the whole of that period; and
- (c) the spouse was not an eligible prescribed person in relation to that period; and
- (d) levy is payable by the spouse upon the taxable income of the year of income; and
- (e) apart from this subsection, a child of both the first person and the spouse would be a dependant of both the first person and the spouse during that period;

that child is not to be taken to have been a dependant of the first person during that period.

“(6D) Subject to subsection (6F), for the purposes of this Part, where:

- (a) a person (in this subsection and subsections (6E) to (6H) (inclusive) called the ‘**first person**’) was an eligible prescribed person in relation to a period in a year of income; and
- (b) another person (in this subsection called the ‘**spouse**’) was the spouse of the first person during the whole of that period; and
- (c) the spouse was an eligible prescribed person in relation to that period; and
- (d) apart from this subsection, levy would be payable by both the first person and the spouse upon their respective taxable incomes of the year of income; and
- (e) apart from this subsection, a child of both the first person and the spouse would be a dependant of both the first person and the spouse during that period; and
- (f) the first person and the spouse have entered into an agreement (in subsections (6E) to (6H) (inclusive) called the ‘**family agreement**’) stating that, for levy purposes, that child:
 - (i) is not to be treated as a dependant of the first person during that period; and
 - (ii) is to be treated as a dependant of the spouse during that period;

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that child is not to be taken to be a dependant of the first person during that period.

“(6E) The family agreement must be entered into on or before the date of lodgment of the return of income of the first person for the year of income concerned or within such further time as the Commissioner allows.

“(6F) Subsection (6D) does not apply, and is to be taken never to have applied, if the first person fails to retain the family agreement for the period of 5 years commencing on the date of lodgment of the return of income of the first person for the year of income concerned.

“(6G) Where the family agreement is lost or destroyed and the Commissioner is satisfied that the first person has a document (in this subsection called the ‘**substitute family agreement**’) that:

- (a) is a copy of the family agreement; or
- (b) properly records all the matters set out in the family agreement and was in existence when the family agreement was lost or destroyed;

the substitute family agreement is to be taken, for the purposes of this section, to be, and to have been at all times after the family agreement was lost or destroyed, the family agreement.

“(6H) Where the family agreement is lost or destroyed and the Commissioner is satisfied that:

- (a) the family agreement was lost or destroyed because of circumstances beyond the control of the first person; and
- (b) subsection (6G) does not apply;

subsection (6F) does not apply and is to be taken never to have applied.

“(6J) Section 170 does not prevent the amendment of an assessment at any time for the purposes of giving effect to subsection (6F), (6G) or (6H).”.

Consequential amendments—losses

59. The Principal Act is amended as set out in Schedule 1.

Consequential amendments—quarrying

60. The Principal Act is amended as set out in Schedule 2.

Application of amendments

61. (1) In this section:

“**amended Act**” means the Principal Act as amended by this Act.

(2) The amendments made by paragraphs 6 (a) and (b) and sections 40 and 58 apply to assessments in respect of income of the year of

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income commencing on 1 July 1989 and of all subsequent years of income.

(3) The amendment made by paragraph 6 (c) applies to income derived on or after 1 July 1990.

(4) The amendments made by sections 8 and 9 apply in relation to live stock disposed of on or after 1 July 1987.

(5) Subparagraphs 78 (1) (a) (ci) and (cii) of the amended Act apply to gifts made on or after 10 November 1989.

(6) The amendments made by section 38 apply in relation to declarations relating to the financial year commencing on 1 July 1987 and in relation to all subsequent financial years.

Transitional—Australian Wool Testing Authority

62. (1) In this section:

“amended Act” means the Principal Act as amended by this Act;

“AWTA” means the Australian Wool Testing Authority Limited, a company incorporated in Victoria;

“changeover time” means the end of 30 June 1990.

(2) Expressions used in this section that are also used in Part IIIA of the amended Act have the same respective meanings as in that Part.

(3) Sections 57AH and 57AL of the amended Act, being those sections as they continue to apply in spite of their repeal by the *Taxation Laws Amendment Act (No. 4) 1988*, do not apply in relation to any unit of property of the AWTA.

(4) The following provisions of this section have effect where Part IIIA of the amended Act applies to the disposal of an asset owned by the AWTA at the changeover time.

(5) If the market value of the asset at the changeover time is greater than the amount that would be its indexed cost base if the AWTA disposed of it at that time, then, for the purpose of determining under Part IIIA of the amended Act whether a capital gain accrues to the AWTA in respect of the disposal referred to in subsection (4):

- (a) the AWTA is to be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that indexed cost base; and
- (b) the AWTA is to be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time; and
- (c) the reference in subsection 160Z (3) of the amended Act to the day on which the asset was acquired by the AWTA is to be taken to be a reference to the day on which the asset was actually acquired by it.

(6) If the disposal referred to in subsection (4) takes place within 12 months of the actual acquisition of the asset, subsection (5) has effect as if the references in that subsection to its indexed cost base were references to its cost base.

(7) If the market value of the asset at the changeover time is less than the amount that would be its reduced cost base if the AWTA disposed of it at that time, then, for the purposes of determining under Part IIIA of the amended Act whether the AWTA incurred a capital loss in respect of the disposal referred to in subsection (4):

- (a) the AWTA is to be taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that reduced cost base; and
- (b) the AWTA is to be taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time.

Transitional—declarations and notices under section 124ZADA of the Principal Act

63. (1) In this section:

“amended Act” means the Principal Act as amended by this Act.

(2) For the purposes of the amended Act, a declaration or notice relating to the financial year commencing on 1 July 1987 or a subsequent financial year that was lodged or given under subsection 124ZADA (1), (4) or (5) of the Principal Act before the commencement of this section has effect, and is to be taken to have had effect, as if it had been lodged or given under the corresponding provision of the amended Act.

Transitional—tax concessions for film investments

64. For the purposes of the application of Division 5 of Part III of the *Taxation Laws Amendment Act (No. 5) 1988* (in this section called the “1988 Act”):

- (a) the amendments of section 124ZAFA of the Principal Act made by this Act are to be treated as if they had commenced immediately before the commencement of that Division of the 1988 Act; and
- (b) the amendments made by paragraphs 23 (a) and (b) of the 1988 Act are to be disregarded.

Amendment of assessments

65. Section 170 of the Principal Act does not prevent the amendment of an assessment made before the commencement of this section for the purpose of giving effect to this Act.

**PART 4—AMENDMENT OF THE SALES TAX (EXEMPTIONS
AND CLASSIFICATIONS) ACT 1935**

Principal Act

66. In this Part, “**Principal Act**” means the *Sales Tax (Exemptions and Classifications) Act 1935*³.

Amendment of First Schedule

67. The First Schedule to the Principal Act is amended:

(a) by inserting after item 21 the following item:

“21A. Goods, being precious stones or semi-precious stones which: Nos. 5 to 9

(a) are derived directly from mining operations carried on outside Australia; and

(b) have not been subject to any process or treatment resulting in an alteration of the form, nature or condition of the goods”;

(b) by inserting after item 108A the following item:

“108B. (1) Coin that is lawfully current in a foreign country by virtue of a law in force in that country Nos. 5 to 9

(2) Without limiting the meaning of ‘foreign country’, a reference in sub-item (1) to a foreign country is to be read as including a reference to a place that is a territory, dependency or colony (however described) of another country”.

Application of amendments

68. The amendments made by this Part apply in relation to transactions, acts and operations effected or done in relation to goods after the commencement of this Part.

SCHEDULE 1

Section 59

CONSEQUENTIAL AMENDMENTS RELATING TO LOSSES

PART 1

Subsection 80A (1):

Insert "79E, 79F," before "80, 80AAA and 80AA".

Subsection 80DA (1):

Insert "79E, 79F," before "80, 80AAA and 80AA".

Paragraph 80G (6) (a):

Insert "79E or" before "80".

Subparagraph 80G (6) (c) (i):

Insert "79E (3), 79F (6)," before "80 (2)".

Subsection 80G (7):

- (a) Insert "79E (3)," before "80 (2) or 80AA (4)".
- (b) Insert "79E (3), 79F (6)," before "80 (2), 80AAA (7)".

Subsection 80G (8):

- (a) Insert "79F (6) or" before "80AAA (7)".
- (b) Omit "section 80AAA", substitute "section 79F or 80AAA, as the case requires,".

Paragraph 80G (10) (a):

Insert "79E, 79F," before "80, 80AAA".

Subsection 80G (10):

- (a) Insert "79E or" before "80 as is not allowable".
- (b) Insert "79E (3), 79F (6)," before "80 (2)".

Subsection 80G (11):

Insert "79F or" before "80AAA".

Subsection 80G (19):

Omit "section 80", substitute "section 79E".

Section 90 (definitions of "net income" and "partnership loss"):

Insert "79E," before "80, 80AA".

Section 159GZZJ (paragraph (b) of the definition of "notional writing-down assumptions"):

Omit "section 80", substitute "sections 79E and 80".

SCHEDULE 1—continued

Subsection 159GZZT (2):

- (a) Omit “subsection 80 (3)”, substitute “the definition of ‘net exempt income’ in subsection 79E (12) or 80 (3)”.
- (b) Omit “in that subsection”, substitute “in that definition”.

Subsection 160AF (8) (paragraph (b) of the definition of “net foreign income”):

Insert “79E (6) or” before “80 (2C)”.

Subsection 160ZC (5):

Omit “section 80”, substitute “section 79E”.

PART 2¹

The following provisions of the Principal Act are amended by inserting “79E, 79F,” before “80, 80AAA or 80AA” (wherever occurring):

Subparagraph 50C (3) (d) (iv), paragraphs 50F (1) (c) and 50H (2) (a) and (b), subsection 63A (10), section 79C, subsection 80A (1), paragraph 80A (2) (a), subsections 80A (3) and (5), paragraph 80B (5) (c), subsection 80DA (1), paragraphs 80DA (6) (a), 80E (1) (a) and 80E (2) (b), section 80F, subsection 80G (6), paragraph 82AC (b), subsections 82KH (1BA), 95 (1) (definition of “net income”), 105A (11), 110 (1) (definition of “prior year loss deduction”) and 116E (1) (definition of “prior year loss deduction”) and subparagraphs 124AE (e) (i) and (ii).

SCHEDULE 2

Section 60

CONSEQUENTIAL AMENDMENTS RELATING TO QUARRYING

PART 1

Subparagraph 50C (3) (d) (v):

Omit “122DG,”, substitute “122DG, 122JE”.

Subparagraph 50C (3) (d) (vi):

Omit “122J or”, substitute “122J, 122JF or”.

Paragraph 50F (2) (b):

Omit “122J,”, substitute “122J, 122JE, 122JF,”.

Paragraph 50F (5) (b):

Omit “122J,”, substitute “122J, 122JE, 122JF,”.

SCHEDULE 2—continued

Paragraph 50G (1) (ba):

Omit “122J,” substitute “122J, 122JE, 122JF,”.

Paragraph 50G (2) (q):

Omit “122J or”, substitute “122J, 122JE, 122JF or”.

Subparagraph 50G (2) (r) (ii):

Omit “123A”, substitute “123A or 123BD”.

Subparagraph 50G (2) (r) (iii):

Omit “123A”, substitute “123A or 123BD”.

Paragraph 50G (2) (s):

Omit “123A”, substitute “123A or 123BD”.

Paragraph 80G (10) (c):

(a) Omit “or 122J”, substitute “, 122J, 122JE or 122JF”.

(b) Omit “122J,”, substitute “122J, 122JE, 122JF,”.

Subsection 82AM (2):

Omit “122J, 123B”, substitute “122J, 122JF, 123B, 123BE,”.

Section 159GZZJ (paragraph (a) of the definition of “notional writing-down assumptions”):

Omit “122P”, substitute “122JA”.

Subsection 170 (10):

Omit “section 122T, subsection 123A (2), 123A (3)”, substitute “subsection 122JD (2), section 122T, subsection 123A (2) or (3), 123BD (4) or (5)”.

PART 2

The following provisions of the Principal Act are amended by omitting “this Division” (wherever occurring) and substituting “this Subdivision”:

Sections 122, 122A, 122B, 122C, 122DA, 122DC, 122DE, 123, 123B and 123BB.

NOTES

1. No. 142, 1982, as amended. For previous amendments, see Nos. 39 and 110, 1983; Nos. 102 and 123, 1984; Nos. 65 and 123, 1985; Nos. 48 and 112, 1986; Nos. 23 and 62, 1987; and No. 97, 1988.
2. 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,

NOTES—continued

- 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; Nos. 2, 11, 56, 70, 73, 105, 107, 129, 163 and 167, 1989; No. 97, 1989 (as amended by No. 105, 1989); and No. 20, 1990.
3. No. 60, 1935, as amended. For previous amendments, see No. 41, 1936; No. 78, 1938; No. 32, 1939; Nos. 29 and 76, 1940; No. 32, 1941; No. 6, 1942; Nos. 35 and 44, 1943; No. 31, 1944; No. 36, 1945; Nos. 12 and 67, 1946; No. 65, 1947; No. 42, 1948; No. 54, 1949; No. 37, 1950; No. 42, 1951; No. 44, 1952; No. 53, 1953; No. 45, 1954; No. 5, 1956; No. 71, 1957; Nos. 17 and 92, 1959; Nos. 65 and 88, 1960; No. 1 and 76, 1961; No. 4, 1962; No. 44, 1963; No. 30, 1965; Nos. 26 and 62, 1966; Nos. 21, 29 and 80, 1976; No. 78, 1970; Nos. 67 and 87, 1972; Nos. 17, 181 and 216, 1973; No. 24, 1975; No. 175, 1976; No. 107, 1978; Nos. 3, 94 and 157, 1979; No. 142, 1981; Nos. 64, 93 and 115, 1982; Nos. 63, 84 and 136, 1983; Nos. 81, 123 and 165, 1984; Nos. 65 and 67, 1985; Nos. 28, 76 and 98, 1986; Nos. 42, 135 and 140, 1987; Nos. 78, 89 and 152, 1988; Nos. 63 and 72, 1989; and No. 18, 1990.

NOTE ABOUT SECTION HEADING

When section 159GZZT of the *Income Tax Assessment Act 1936* is amended by this Act, the heading to that section is altered by inserting “79E,” before “80”.

[Minister's second reading speech made in—
House of Representatives on 16 May 1990
Senate on 31 May 1990]