

# Income Tax Assessment Regulations 1997 No. 198

## EXPLANATORY STATEMENT

Statutory Rules 1997 No. 198

Issued by the Authority of the Assistant Treasurer

*Income Tax Assessment Act 1936*

*Income Tax Assessment Act 1997*

Income Tax Regulations (Amendment)

Income Tax Assessment Regulations

The Governor-General may make regulations under:

\* section 266 of the *Income Tax Assessment Act 1936*; and

\* section 909-1 of the *Income Tar Assessment Act 1997*;

for the purposes of those Acts. Each of those sections allows the Governor-General to make regulations for the purposes of both Acts.

## Background

The income tax law is being progressively rewritten by the Tax Law Improvement Project to give it a better structure and make it easier to understand.

The first instalment of that rewrite is the *Income Tax Assessment Act 1997* (the **1997 Act**), which came into operation on 1 July 1997 and will apply from the 1997/1998 income year.

The 1997 Act establishes the structure and framework of the new income tax law. The Act will, by instalments, progressively rewrite and replace the *Income Tax Assessment Act 1936* (the 1936 Act). As each instalment is enacted, the rewritten provisions of the 1936 Act will be closed off (that is, they will cease to apply from the start of that instalment). The rewritten provisions in the new law will apply as soon as each instalment of new law is enacted. Until the 1936 Act is

completely rewritten, there will be two Income Tax Assessment Acts, but only one set of operative provisions for each area of the law.

The second instalment of the rewrite is the *Tax Law Improvement Act 1997* (the **TLI Act**), which came into operation on 1 July 1997 and will apply from the 1997/1998 income year. The TLI Act includes further rewrites of provisions of the 1936 Act for incorporation in the 1997 Act.

## Reason for amendments and new regulations

The Income Tax Regulations (Amendment) and the Income Tax Assessment Regulations are consequential on the enactment of the TLI Act.

As the 1936 and 1997 Acts will apply concurrently until the 1936 Act is fully rewritten:

\* the 1997 Act will need its own regulations (the income Tax Assessment Regulations) to progressively replace the Income Tax Regulations made under the 1936 Act (Regulations 51-05.01 and 70-55.01);

\* the Income Tax Regulations need to be amended to make changes consequential on the rewrite (for example, to change references to rewritten provisions or to insert notes directing the reader to the provisions that will replace a particular regulation) (Regulations 3, 4, 5, 6, 7 and 8).

Both sets of regulations will commence on 1 July 1997.

The amending and new regulations will make no substantive changes to the law.

Details of the amendments are attached.

Section 48 of the *Acts Interpretation Act 1901* provides that a regulation will have no effect if it would take effect before the date of notification in the *Gazette* if the rights of a person would be affected so as to disadvantage that person or liabilities would be imposed on a person in respect of anything done or omitted to be done before the date of notification. These regulations do not fall into either of those categories, and hence they may commence operation before the date of notification.

## **ATTACHMENT**

### **Details**

Details of the regulations are as follows.

Regulation, 1. provides that the regulations may be cited as the Income Tax Assessment Regulations.

Regulation 2 provides that the regulations will commence on 1 July 1997. The TLI Act 1997 commences on 1 July 1997.

The Income Tax Assessment Regulations are the first regulations made exclusively for the purposes of the 1997 Act. They comprise two substantive, regulations: regulations 51-5.01 and 70-55.01. These regulations adopt a new numbering system, specifically designed for the: new income tax law, that relate the regulation directly to the section of the 1997 Act that it deals with. For example, regulation 51-5.01 refers to section 51-5 of the 1997 Act. The decimal addition '.01' indicates that it is the first regulation made for the purposes of section 51-5.

Regulation 51-5.01 is part of the exempt income provisions of the 1997 Act and prescribes allowances and bounties that are exempt from income tax for the purposes of items 1. 1 and 1.2 of section 51-5 of that Act. These items deal with amounts that are exempt from tax if received by, or in respect of, a member of the Defence Force.

This regulation makes no substantive change to the law. Items 1.1 and 1.2 merely rewrite subparagraph 23(t)(iii) of the 1936 Act, and regulation 51-5.01 rewrites regulation 5 of the Income Tax Regulations which presently prescribes the, same allowances and bounties.

Regulation 70-55.01 is part of the trading stock provisions of the 1997 Act and prescribes a minimum cost price for the natural increase of livestock for the purposes of section 70-55 of that Act - taxpayers have a choice between the actual cost of livestock and the prescribed cost.

This regulation makes no substantive change to the law. It rewrites subregulation 10(3) of the Income Tax Regulations which presently prescribes the same prices. Subregulation 10(3) was made for the purposes of section 34 of the 1936 Act which has been rewritten as section 70-55 of the 1997 Act.