

No. 4443.

An Act to amend the *Income Tax (Rates) Act*
1936.

[23rd December, 1936.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. (1) This Act may be cited as the *Income Tax (Rates) Amendment Act* 1936 and shall be read and construed as one with the *Income Tax (Assessment) Act* 1936 and the *Income Tax (Rates) Act* 1936 which Acts and this Act may be cited together as the *Income Tax Acts*.

Short title
construction
and citation.
Nos. 4440, 4400.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement.

2. The *Income Tax (Rates) Act* 1936 is hereby amended as follows :—

Amendments of.
No. 4400.

(a) In sub-section (1) of section one—

S. 1.

(i) for the expression "*Income Tax Act* 1928" there shall be substituted the expression "*Income Tax (Assessment) Act* 1936"; and

Construction
and citation.

(ii) for

(ii) for the words "and any Act and the enactment amending the same all of which Acts and which enactment" there shall be substituted the words "which Act";

S. 2.
Rates.

(b) In paragraph (d) of sub-section (1) of section two—

(i) before the words "On the income" there shall be inserted the expression "(i)"; and

(ii) at the end of the said paragraph there shall be inserted the expression—

"(ii) In the case of a company (other than a mutual life assurance company)—

for every pound of interest paid or credited by the company to any person who is not a resident of Australia—

on money secured by debentures of the company and used in Victoria, or used in acquiring assets for use or disposal in Victoria; or

on money lodged at interest in Victoria with the company—

Fourteenpence";

S. 3.

(c) Section three shall be repealed

Continuation of
Income Tax
Acts.
Title.

(d) In the title to the said Act, the words "and to continue the Income Tax Acts" shall be repealed; and

Schedule.

(e) For the Schedule to the said Act there shall be substituted the Schedule to this Act which Schedule may for all purposes be cited as the Schedule to the *Income Tax (Rates) Act 1936*.

No. 4400.

SCHEDULE.

SCHEDULE.

Section 2.

(Substituted for and may be cited as the Schedule to the Income Tax (Rates) Act 1936.)

For the purposes of paragraph (g) of sub-section (1) of section two of the *Income Tax (Rates) Act 1936*—

- (a) unless inconsistent with the context or subject-matter, “Taxable income” means the amount remaining after deducting from the assessable income all allowable deductions under the Principal Act (other than the allowable deductions under section seventy-two, except paragraph (f) of sub-section (1) thereof, and section seventy-five of the Principal Act);
- (b) the provisions of section seventy-one of the Principal Act shall not apply;
- (c) subject to the said paragraph (g), the taxable income within the meaning hereof of taxpayers shall be calculated and the amount of the special tax aforesaid payable by each taxpayer shall be assessed in like manner as the taxable income within the meaning of the Principal Act of taxpayers is calculated under the Principal Act and as the amount of income tax payable under the Principal Act is assessed, and for the purposes of the said paragraph (g) the provisions of the Principal Act as modified by the said paragraph (g) shall take effect—
- (i) as if in calculating the exemptions provided for in section fourteen of the Principal Act paragraph (v) of that section were omitted;
- (ii) as if in the Principal Act it were provided that—
- in the case of any person who is a shareholder of a company registered in Victoria—any dividend credited paid or distributed to him by the company from any profit derived in or from Victoria or elsewhere by it; and
- in the case of any person ordinarily resident in Victoria who is a shareholder of a company whether registered in Victoria or not and whether carrying on business in Victoria or not—any dividend credited paid or distributed to him by the company—
- is to be deemed to form part of the assessable income of that person;
- (iii) as if in the Principal Act it were provided that distributions to shareholders of a company by a liquidator in the course of the winding up of the company, to the extent to which such distributions represent income derived by the company (whether before or during liquidation) other than income which has been properly applied to replace a loss

“Taxable income” for purposes of special tax.

Agricultural rebates.

Calculation of taxable income for and assessment of special tax.

SCHEDULE

SCHEDULE—continued.

of paid up capital, shall be deemed to be dividends paid to the shareholders by the company out of profits derived by it;

(iv) as if any dividend credited paid or distributed before the commencement of the Principal Act which would not have been deemed to be assessable income under the Income Tax Acts as in force immediately before the commencement of the Principal Act were deemed not to be a dividend;

(v) as if paragraphs (s) and (t) of section fourteen of the Principal Act did not apply to income from property; and

(vi) as if section seventy-three of the Principal Act were omitted; and

(d) (i) in the Income Tax Acts unless inconsistent with the context or subject-matter—

“Income from property” or “income derived from property” means (notwithstanding anything in paragraph (a) of sub-section (1) of section seventeen of the Principal Act)—

in the case of a person ordinarily resident in Victoria—all income wherever derived; and

in the case of a person not ordinarily resident in Victoria—all income derived in or from Victoria—

and not derived from personal exertion, although such income has not been derived from the taxpayer's own property;

“Reciprocating State” means any State of the Commonwealth which has been declared under the Income Tax Acts to be a reciprocating State for the purposes of the said Acts (so far only as the same relate to the special tax);

(ii) where the Governor in Council is satisfied that substantially reciprocal provisions have been made by the legislature of any State of the Commonwealth for the exemption of income from property derived in or from such State by a person ordinarily resident in Victoria from special income tax on income from property or any tax which in the opinion of the Governor in Council is substantially similar to the special tax under the Income Tax Acts, the Governor in Council may by proclamation published in the *Government Gazette* declare such State to be a reciprocating State for the purposes of the Income Tax Acts (so far only as the same relate to the special tax), and thereupon such State shall become a reciprocating State for the purposes of the Income Tax Acts as aforesaid;

(iii) any such proclamation may be revoked or varied by the Governor in Council by a subsequent proclamation published in the *Government Gazette*;

Provision as to reciprocating States.

Comp. No. 4238 s. 3.

“Income from property” or “income derived from property.”

“Reciprocating State.”

Proclamation of other Australian States as reciprocating States.

Power to revoke or vary proclamation hereunder.

SCHEDULE

SCHEDULE—*continued.*

- (iv) income from property derived in or from Victoria by a person ordinarily resident in a reciprocating State shall be exempt from the special tax under the Income Tax Acts; and
- (v) where any taxpayer ordinarily resident in Victoria derives any income from property in or from any State that is not a reciprocating State, there shall be allowed as a rebate of the special tax otherwise payable by such taxpayer the amount payable in Victoria as such special tax in respect of such income or the amount paid in such other State in respect of such income as special income tax or as any tax which in the opinion of the Governor in Council is substantially similar to the special tax under the Income Tax Acts, whichever amount is the less.

Exemption from special tax of income from property derived from Victoria by resident in reciprocating State.

Rebate of special tax on property income derived from non-reciprocating State by resident in Victoria.