



Income Tax Act 1986

No. 108, 1986

Compilation No. 9

Compilation date:	5 May 2016
Includes amendments up to:	Act No. 53, 2016
Registered:	16 May 2016

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Income Tax Act 1986* that shows the text of the law as amended and in force on 5 May 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Section 1

An Act to impose a tax upon incomes

1 Short title

This Act may be cited as the *Income Tax Act 1986*.

2 Commencement

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Assessment Act means the *Income Tax Assessment Act 1936*.

non-profit company means:

- (a) a company that is not carried on for the purposes of profit or gain to its individual members and is, by the terms of the company's constituent document, prohibited from making any distribution, whether in money, property or otherwise, to its members; or
- (b) a friendly society dispensary.

prescribed unit trust means a trust estate that is a public trading trust within the meaning of Division 6C of Part III of the Assessment Act.

- (2) In this Act, a reference to taxable income shall be read as a reference to taxable income of the year of income.

4 Incorporation

The Assessment Act is incorporated, and shall be read as one, with this Act.

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5 Imposition of income tax

- (1) Income tax is imposed in accordance with this Act and at the relevant rates declared by the *Income Tax Rates Act 1986*.
- (2) This Act does not impose tax payable in accordance with section 121H, 126, 128B, 128NA, 128NB or 128V of the Assessment Act.
- (2A) This Act does not impose tax payable in accordance with section 301-175 or 306-15, or Division 840, of the *Income Tax Assessment Act 1997* or Division 840 of the *Income Tax (Transitional Provisions) Act 1997*.
- (3) This Act does not impose tax upon the taxable income of a non-profit company where that taxable income does not exceed \$416.
- (4) If this Act, insofar as it imposes tax upon the taxable income of a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust (as defined in the *Income Tax Assessment Act 1997*), would, apart from this subsection, deal with 2 subjects of taxation (within the meaning of section 55 of the Constitution), namely:
 - (a) the taxation of so much of the taxable income as is attributable to contributions that are included in assessable income under Subdivision 295-C of the *Income Tax Assessment Act 1997*; and
 - (b) the taxation of the remainder of the taxable income;this Act imposes tax in respect of only that subject of taxation mentioned in paragraph (b).
- (5) This Act does not impose tax upon the taxable income of a non-complying superannuation fund within the meaning of the *Income Tax Assessment Act 1997*, to the extent that the taxable income is attributable to the inclusion of an amount in the fund's

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assessable income under table item 2 in section 295-320 of that Act.

- (6) This Act does not impose tax upon the taxable income of a Australian superannuation fund, to the extent that the taxable income is attributable to the inclusion of an amount in the fund's assessable income under table item 3 in section 295-320 of that Act.

6 Adjustment where amount to be paid by, or refunded to, taxpayer would not exceed 49 cents

- (1) This section applies for the purposes of the making of an assessment of tax (other than further tax payable under subsection 94(9), (11) or (12) of the Assessment Act) in respect of the income of a taxpayer of a year of income where, upon the making of the assessment and the serving of notice of the assessment upon the taxpayer, there would, but for this section, be a net amount of not more than 49 cents payable by the Commissioner to the taxpayer, or by the taxpayer to the Commissioner, under the law relating to income tax, after taking into account all liabilities of the taxpayer, and all rebates and credits allowable to the taxpayer, under that law.
- (2) Where this section applies in relation to the making of an assessment:
- (a) if the amount of not more than 49 cents would be an amount payable to the taxpayer—additional tax equal to that amount is imposed by this Act in respect of the income of the taxpayer of the year of income; and
 - (b) if the amount of not more than 49 cents would be an amount payable to the Commissioner—the amount that, but for this section, would be the amount of income tax imposed in respect of the income of the taxpayer of the year of income before the allowance of any rebates to which the taxpayer is entitled, is reduced by so much of that amount of not more

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than 49 cents as does not exceed the amount calculated by deducting the amount of any such rebates from the sum of the amount that is to be so reduced and any amount of further tax payable by the taxpayer in respect of that year of income under subsection 94(9), (11) or (12) of the Assessment Act.

- (3) A reference in this section to a liability of the taxpayer shall be read as including a reference to a liability in respect of income tax or provisional tax notified to the taxpayer by the Commissioner, notwithstanding that the amount of the liability has not become due and payable.
- (4) For the purposes of any calculation under the law relating to income tax that depends upon the amount of tax paid or payable by, or assessed in respect of the income of, a taxpayer, the tax assessed and payable under an assessment in relation to which this section applies shall be deemed to be the tax that would have been so assessed and payable if this section had not applied.

7 Levy of Tax

The tax imposed by subsection 5(1) is levied, and shall be paid, for the financial year commencing on 1 July 1986 and for all subsequent financial years until the Parliament otherwise provides.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Income Tax Act 1986	108, 1986	4 Nov 1986	4 Nov 1986 (s 2)	
Income Tax Amendment Act 1987	64, 1987	5 June 1987	5 June 1987 (s 2)	—
Income Tax Amendment Act (No. 2) 1987	109, 1987	26 Nov 1987	26 Nov 1987 (s 2)	s 6
Taxation Laws Amendment Act 1988	11, 1988	26 Apr 1988	s 7: 26 Apr 1988 (s 2(1))	—
Income Tax Amendment Act 1988	92, 1988	24 Nov 1988	24 Nov 1988 (s 2)	—
Income Tax Amendment Act 1989	100, 1989	30 June 1989	30 June 1989 (s 2)	—
Income Tax Amendment Act (No. 2) 1989	142, 1989	23 Nov 1989	23 Nov 1989 (s 2)	—
Income Tax Amendment Act 1990	85, 1990	6 Nov 1990	6 Nov 1990 (s 2)	—
Taxation Laws Amendment Act (No. 4) 1994	181, 1994	19 Dec 1994	Sch 3 (items 101, 102): 19 Dec 1994 (s 2(1))	Sch 3 (item 101)
New Business Tax System (Miscellaneous) Act (No. 2) 2000	89, 2000	30 June 2000	Sch 2 (items 112, 113): 30 June 2000 (s 2(1))	—
Taxation Laws Amendment (Superannuation) Act (No. 1) 2002	15, 2002	4 Apr 2002	Sch 1 (items 15, 21): 4 Apr 2002 (s 2(1) item 2)	Sch 1 (item 21)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 2 (item 117) and Sch 6 (items 1, 6–11): 14 Sept 2006 (s 2(1) items 2, 4)	Sch 6 (items 1, 6–11)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Income Tax Amendment Act 2007	16, 2007	15 Mar 2007	15 Mar 2007(s 2)	Sch 1 (item 9)
Tax Laws Amendment (Election Commitments No. 1) Act 2008	32, 2008	23 June 2008	Sch 1 (items 3, 58): 23 June 2008 (s 2)	Sch 1 (item 58)
First Home Saver Accounts (Consequential Amendments) Act 2008	45, 2008	25 June 2008	Sch 1 (item 1): 26 June 2008 (s 2)	—
Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015	70, 2015	25 June 2015	Sch 1 (items 46, 195– 205): 1 July 2015 (s 2(1) items 3, 6)	Sch 1 (items 195– 205)
Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016	53, 2016	5 May 2016	Sch 5 (items 5, 75) and Sch 8 (item 1): 5 May 2016 (s 2(1) items 2, 4)	Sch 5 (item 75) and Sch 8 (item 1)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3	am No 89, 2000; No 53, 2016
s 5	am No 109, 1987; No 11, 1988; No 100, 1989; No 181, 1994; No 89, 2000; No 15, 2002; No 101, 2006; No 16, 2007; No 32, 2008; No 45, 2008; No 70, 2015
s 7	am No 109, 1987 rs No 92, 1988 am No 142, 1989 rs No 85, 1990
s 8	am No 64, 1987 rep No 109, 1987
s 9	rep No 109, 1987
s 10	rep No 109, 1987