Australian Government
Australian Taxation Office

Income Tax Assessment Act 1936

PART I - PRELIMINARY

SECTION 6 INTERPRETATION

View history reference

6(1AA)

View history reference

So far as a provision of the *Income Tax Assessment Act 1936* gives an expression a particular meaning, the provision does *not* also have effect for the purposes of the *Income Tax Assessment Act 1997* (the ***1997 Act***), or for the purposes of Schedule 1 to the *Taxation Administration Act 1953* , except as provided in the 1997 Act or in that Schedule.

View history note

6(1)

View history reference

In this Act, unless the contrary intention appears:

100% subsidiary
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

accrued leave transfer payment
(Repealed by No 56 of 2010)

View history note

adjusted fringe benefits total
, of a taxpayer for a year of income, has the meaning given by clause 4 of Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* .

View history note

adjusted taxable income for rebates
means adjusted taxable income (within the meaning of the *A New Tax System (Family Assistance) Act 1999* , disregarding clauses 3 and 3A of Schedule 3 to that Act).

View history note

AFOF
means an Australian venture capital fund of funds within the meaning of subsection 118-410(3) of the *Income Tax Assessment Act 1997* .

View history note

agent
: this Act applies to some entities (within the meaning of the *Income Tax Assessment Act 1997*) that are not agents in the same way as it applies to agents: see section 960-105 of the *Income Tax Assessment Act 1997* .

View history note

Agriculture Secretary
(Repealed by No 110 of 2014)

View history note

allowable deduction
has the same meaning as ***deduction*** has in the *Income Tax Assessment Act 1997* .

View history note

AMIT
(short for ***attribution managed investment trust***) has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

amount paid-up
on a share means the amount (if any), including any premium, paid on that share.

View history note

amount unpaid
on a share means the amount (if any) unpaid on that share.

View history note

apportionable deductions
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

approved form
has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953* .

View history note

approved stock exchange
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Arts Department
(Repealed by No 110 of 2014)

View history note

Arts Minister
(Repealed by No 110 of 2014)

View history note

Arts Secretary
(Repealed by No 110 of 2014)

View history note

assessable income
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

assessment
means:

(a) the ascertainment:

(i) of the amount of taxable income (or that there is no taxable income); and

(ii) of the tax payable on that taxable income (or that no tax is payable); and

(iii) of the total of a taxpayer ' s tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

Note 1:

A taxpayer does not have a taxable income if the taxpayer ' s deductions equal or exceed the taxpayer ' s assessable income: see subsection 4-15(1) of the *Income Tax Assessment Act 1997* .

Note 2:

A taxpayer may have no tax payable on an amount of taxable income if that income is below the tax-free threshold or if the taxpayer ' s tax offsets reduce the taxpayer ' s basic income tax liability to nil.

(b) (Repealed by No 53 of 2016)

(c) for a taxpayer that is the trustee of a unit trust that is a public trading trust (within the meaning of section 102R) - the ascertainment:

(i) of the net income of the trust (within the meaning of section 102M) (or that there is no net income); and

(ii) of the tax payable on that net income (or that no tax is payable); and

(iii) of the total of a taxpayer ' s tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

(d) for a taxpayer that is the trustee of a trust estate (other than a trustee to which paragraph (b) or (c) applies or the trustee 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) - the ascertainment:

(i) of so much of the net income of the trust estate as is net income in respect of which the trustee is liable to pay tax (or that there is no net income in respect of which the trustee is so liable); and

(ii) of the tax payable on that net income (or that no tax is payable); and

(iii) of the total of a taxpayer ' s tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

(e) the ascertainment of the amount of interest payable under section 102AAM (about distributions from non-resident trust estates); or

(f) (Repealed by No 15 of 2017)

(g) (Repealed by No 4 of 2018)

(h) the ascertainment of the amount of income tax payable on the no-TFN contributions income as defined by section 295-610 of the *Income Tax Assessment Act 1997* (or that no tax is payable); or

(i) (Repealed by No 70 of 2015)

(j) the ascertainment of the amount payable (or that no amount is payable) under the following:

(i) subsection 276-105(2) of the *Income Tax Assessment Act 1997* (AMIT trustee taxed on amounts attributed to foreign resident members);

(ii) subsection 276-340(2) of that Act (AMIT trustee taxed on trust component deficit of character relating to tax offset);

(iii) subsection 276-405(2) of that Act (AMIT trustee taxed on shortfall in determined member components of character relating to assessable income);

(iv) subsection 276-410(2) of that Act (AMIT trustee taxed on excess in determined member components of character relating to tax offset);

(v) subsection 276-415(2) of that Act (AMIT trustee taxed on amounts of determined trust component that are not reflected in member components);

(vi) subsection 276-420(2) of that Act (AMIT trustee taxed on amounts of under of character relating to assessable income not properly carried forward);

(vii) subsection 276-425(2) of that Act (AMIT trustee taxed on amounts of over of character relating to tax offset not properly carried forward); or

(k) the ascertainment of the amount payable under subsection 177P(1) (diverted profits tax).

View history note

attribution managed investment trust
: see ***AMIT*** .

View history note

Australia
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Australian superannuation fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

bank or ***banker***
includes, but is not limited to, a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959* .

View history note

base interest rate
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

basic income tax liability
has the meaning given by section 4-10 of the *Income Tax Assessment Act 1997* .

View history note

Board of Referees
(Repealed by No 216 of 1973)

business
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

capital gain
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

capital loss
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

capital proceeds
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

CGT asset
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

CGT event
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Chief Executive Centrelink
has the same meaning as in the *Human Services (Centrelink) Act 1997* .

View history note

child
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

Commissioner
means the Commissioner of Taxation.

Commonwealth education or training payment
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

Commonwealth securities
(Repealed by No 64 of 2020)

View history note

company
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

complying approved deposit fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

complying superannuation fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

"concessional deductions"

(Repealed by No 107 of 1989)

View history note

consolidated group

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

constituent document

, in relation to a company, means the memorandum and articles of association of the company, or any rules or other document constituting the company or governing its activities.

corporate limited partnership

has the meaning given by section 94D .

View history note

corporate tax entity

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

corporate tax rate

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

cost base

of a CGT asset has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

creditable acquisition

has the meaning given by section 195-1 of the GST Act.

View history note

"daughter"

(Repealed by No 135 of 1990)

debenture

, in relation to a company, includes debenture stock, bonds, notes and any other securities of the company, whether constituting a charge on the assets of the company or not.

View history note

debt interest

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

deductible gift recipient

has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

Defence Department

(Repealed by No 145 of 2010)

View history note

Defence Minister

(Repealed by No 145 of 2010)

View history note

Defence Secretary

(Repealed by No 145 of 2010)

View history note

demerged entity

has the meaning given by section 125-70 of the *Income Tax Assessment Act 1997* .

View history note

demerger
has the meaning given by section 125-70 of the *Income Tax Assessment Act 1997* .

View history note

demerger allocation
means:

(a) the total market value of the allocation represented by the ownership interests issued by the demerged entity in itself under a demerger to the owners of ownership interests in the head entity of the demerger group; or

(b) the total market value of the allocation represented by the ownership interests disposed of by a member of a demerger group under a demerger to the owners of ownership interests in the head entity; or

(c) the total of both of those market values.

View history note

demerger dividend
means that part of a demerger allocation that is assessable as a dividend under subsection 44(1) or that would be so assessable apart from subsections 44(3) and (4) .

View history note

demerger group
has the meaning given by section 125-65 of the *Income Tax Assessment Act 1997* .

View history note

demerger subsidiary
has the meaning given by section 125-65 of the *Income Tax Assessment Act 1997* .

View history note

demerging entity
has the meaning given by section 125-70 of the *Income Tax Assessment Act 1997* .

View history note

depreciating asset
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Deputy Commissioner
means a Deputy Commissioner of Taxation.

distribution
, when used in a franking context, has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

diverted profits tax
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

dividend
includes:

(a) any distribution made by a company to any of its shareholders, whether in money or other property; and

(b) any amount credited by a company to any of its shareholders as shareholders;

(c) (Repealed by No 63 of 1998)

but does not include:

(d) moneys paid or credited by a company to a shareholder or any other property distributed by a company to shareholders (not being moneys or other property to which this paragraph, by reason of subsection (4), does not apply or moneys paid or credited, or property distributed for the redemption or cancellation of a redeemable preference share), where the amount of the moneys paid or credited, or the amount of the value of the property, is debited against an amount standing to the credit of the share capital account of the company; or

(e) moneys paid or credited, or property distributed, by a company for the redemption or cancellation of a redeemable preference share if:

(i) the company gives the holder of the share a notice when it redeems or cancels the share; and

(ii) the notice specifies the amount paid-up on the share immediately before the cancellation or redemption; and

(iii) the amount is debited to the company ' s share capital account;

except to the extent that the amount of those moneys or the value of that property, as the case may be, is greater than the amount specified in the notice as the amount paid-up on the share; or

(f) a reversionary bonus on a life assurance policy.

Note:

Subsection (4) sets out when paragraph (d) of this definition does not apply.

View history note

dividend (withholding) tax
(Repealed by No 85 of 1967)

Division 230 financial arrangement
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

dual resident investment company
has the meaning given by section 6F .

View history note

dwelling
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

Education Department
(Repealed by No 110 of 2014)

View history note

Education Secretary
(Repealed by No 15 of 2017)

View history note

eligible taxable income
has the meaning given by section 102AD .

View history note

Employment Department
(Repealed by No 41 of 2011)

View history note

Employment Minister
(Repealed by No 41 of 2011)

View history note

Employment Secretary
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

employment termination payment
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

equity holder
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

equity interest
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

ESVCLP
means an early stage venture capital limited partnership within the meaning of subsection 118-407(4) of the *Income Tax Assessment Act 1997* .

View history note

exempt entity
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

exempt income
has the meaning given by section 6-20 of the *Income Tax Assessment Act 1997* .

View history note

exploration credit
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

exploration development incentive tax offset
(Repealed by No 15 of 2018)

View history note

Families Secretary
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

family tier 1 threshold
(Repealed by No 11 of 2014)

View history note

farm management deposit
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

FHSA
(Repealed by No 70 of 2015)

View history note

FHSA trust
(Repealed by No 70 of 2015)

View history note

FMD provider
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

foreign superannuation fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

foreign tax
has the meaning given by section 6AB .

View history note

frankable distribution
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franked part
of a distribution has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franking credit
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franking debit
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franking deficit tax
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franking surplus
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

franks with an exempting credit
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

friendly society
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

friendly society dispensary
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

fringe benefit
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

full self-assessment taxpayer
, for a year of income (the ***current year***), means any of the following:

(a) a company;

(b) (Repealed by No 53 of 2016)

(c) the trustee of a trust that is a public trading trust in relation to the current year for the purposes of Division 6C of Part III ;

(d) the trustee of a complying approved deposit fund or a non-complying approved deposit fund in relation to the current year;

(e) the trustee of a complying superannuation fund or a non-complying superannuation fund in relation to the current year;

(f) the trustee of a pooled superannuation trust in relation to the current year.

(g) (Repealed by No 70 of 2015)

Note:

A corporate limited partnership is taken to be a company under section 94J , so it will fall within paragraph (a) of this definition.

View history note

fund payment
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

general insurance company
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

general insurance policy
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

general interest charge
means the charge worked out under Part IIA of the *Taxation Administration Act 1953* .

View history note

general partner
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

GST Act
means the *A New Tax System (Goods and Services Tax) Act 1999* .

View history note

head company
of a consolidated group or a MEC group has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

head entity
of a demerger group has the meaning given by section 125-65 of the *Income Tax Assessment Act 1997* .

View history note

Health Department
(Repealed by No 110 of 2014)

View history note

Health Minister
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

Health Secretary
(Repealed by No 110 of 2014)

View history note

hold
, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997* .

View history note

holder
, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997* .

View history note

Housing Secretary
(Repealed by No 110 of 2014)

View history note

Immigration Department
(Repealed by No 110 of 2014)

View history note

Immigration Minister
(Repealed by No 110 of 2014)

View history note

Immigration Secretary
(Repealed by No 110 of 2014)

View history note

income from personal exertion

or ***income derived from personal exertion*** means income consisting of earnings, salaries, wages, commissions, fees, bonuses, pensions, superannuation allowances, retiring allowances and retiring gratuities, allowances and gratuities received in the capacity of employee or in relation to any services rendered, the proceeds of any business carried on by the taxpayer either alone or as a partner with any other person, any amount received as a bounty or subsidy in carrying on a business, any amount that is included in the assessable income of the taxpayer by reason of section 393-10 of the *Income Tax Assessment Act 1997* , the income from any property where that income forms part of the emoluments of any office or employment of profit held by the taxpayer, and any profit arising from the sale by the taxpayer of any property acquired by the taxpayer for the purpose of profit-making by sale or from the carrying on or carrying out of any profit-making undertaking or scheme, but does not include:

(a) interest, unless the taxpayer ' s principal business consists of the lending of money, or unless the interest is received in respect of a debt due to the taxpayer for goods supplied or services rendered by the taxpayer in the course of the taxpayer ' s business; or

(b) rents, dividends or non-share dividends.

View history note

income from property

or ***income derived from property*** means all income not being income from personal exertion.

income tax

means income tax imposed as such by any Act, as assessed under this Act, but, except in section 260 , does not include mining withholding tax or withholding tax.

View history note

income tax or tax

(Repealed by No 110 of 2014)

View history note

Indigenous land

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Indigenous person

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

industrial, commercial or scientific equipment

means industrial, commercial or scientific equipment to the extent that an amount paid or credited as consideration for the use of the equipment, or for the right to use the equipment, is not rent from land (including rent from an interest in land or rent from fixtures on land).

View history note

insurance business

has the same meaning as in the *Insurance Act 1973* .

View history note

insurance funds

, in relation to a company, means all the Australian statutory funds of the company and all other funds maintained by the company in respect of the life assurance business of the company.

View history note

interest income

, in relation to a taxpayer, means income consisting of interest, or a payment in the nature of interest, in respect of:

(a) money lent, advanced or deposited; or

(b) credit given; or

(c) any other form of debt or liability;

whether security is given or not, other than:

(d) an amount to the extent to which it is a return on an equity interest in a company; or

(e) interest derived by the taxpayer from a transaction directly related to the active conduct of a trade or business; or

(f) interest derived by the taxpayer from carrying on a banking business or any other business whose income is principally derived from the lending of money; or

(g) interest received by the taxpayer during a year of income from a foreign company, where:

> **(i)** at any time during the year of income, the taxpayer had (or would have had, if the taxpayer were a company and a resident), a voting interest, within the meaning of section 334A , amounting to at least 10% of the voting power, within the meaning of that section, in that company; and

> **(ii)** during the year of income or the preceding year of income, the company has not derived an amount of interest income exceeding 10% of the total profits derived by the company during the same year.

View history note

intermediary
(Repealed by No 32 of 2008)

View history note

international tax sharing treaty
(Repealed by No 101 of 2013)

View history note

junior minerals exploration incentive tax offset
means a tax offset under Subdivision 418-B of the *Income Tax Assessment Act 1997* .

View history note

life assurance company
has the meaning given to ***life insurance company*** by the *Income Tax Assessment Act 1997* .

View history note

life assurance policy
has the meaning given to ***life insurance policy*** by the *Income Tax Assessment Act 1997* .

View history note

life assurance premium
has the meaning given to ***life insurance premium*** by the *Income Tax Assessment Act 1997* .

View history note

limited partner
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

limited partnership
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

liquidator
means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company.

listed public company
has the same meaning as in the *Income Tax Assessment Act 1997* .

Note:

For the meaning of ***listed public company*** in Schedule 2F to this Act, see section 272-135 in that Schedule.

View history note

live stock
(Repealed by No 101 of 2006)

View history note

loss carry back tax offset
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

loss year
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

managed investment trust
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

MEC group
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

medical expense rebate higher phase-in limit
(Repealed by No 11 of 2014)

View history note

medical expense rebate lower phase-in limit
(Repealed by No 11 of 2014)

View history note

Medicare levy
means Medicare levy imposed as such by any Act as assessed under this Act.

View history note

Medicare levy (fringe benefits) surcharge
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

member
of a consolidated group or MEC group has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

member of a family tax benefit (Part B) family without shared care
: a taxpayer is a ***member of a family tax benefit (Part B) family without shared care*** if:

(a) the taxpayer, or the taxpayer ' s spouse while being the taxpayer ' s partner (within the meaning of the *A New Tax System (Family Assistance) Act 1999*), is eligible for family tax benefit at the Part B rate (within the meaning of that Act); and

(b) clause 31 of Schedule 1 to that Act does not apply in respect of the Part B rate.

View history note

minerals
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

mining withholding tax
means income tax payable in accordance with section 128V .

View history note

mortgage
includes any charge, lien or encumbrance to secure the repayment of money.

mutual life assurance company
means a life assurance company the profits of which are divisible only among the policy holders.

View history note

natural resource
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

necessary connection with Australia
(Repealed by No 168 of 2006)

View history note

net capital gain
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

net capital loss
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

net GST
has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997* .

View history note

net input tax credit
has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997* .

View history note

non-assessable non-exempt income
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

non-complying approved deposit fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

non-complying superannuation fund
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

non-entity joint venture
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

non-equity share
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

non-resident
means a person who is not a resident of Australia.

"non-resident dividend income"
(Repealed by No 85 of 1967)

non-resident superannuation fund
(Repealed by No 15 of 2007)

View history note

non-share capital account
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

non-share capital return
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

non-share distribution
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

non-share dividend
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

non-share equity interest
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

once-only deduction :

a deduction in a year of income in respect of a percentage of expenditure is a ***once-only deduction*** , in relation to the expenditure, if no deduction is allowable in respect of a percentage of the expenditure in any other year of income.

View history note

ordinary class

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

ordinary income

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

outstanding claims

(Repealed by No 79 of 2010)

View history note

over-franking tax

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

owner

of a farm management deposit has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

ownership interest

has the meaning given by section 125-60 of the *Income Tax Assessment Act 1997* .

View history note

paid

in relation to dividends or non-share dividends includes credited or distributed.

View history note

paid-up share capital

has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

parent

has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

part of a distribution that is franked with an exempting credit

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

part of a distribution that is franked with a venture capital credit

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

partnership

has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

passive commodity gain

, in relation to a taxpayer, in relation to a year of income, means a gain realised by the taxpayer in a year of income from disposing of a forward contract or a futures contract, or a right or option in respect of a forward contract or a futures contract, in respect of any thing (a ***commodity***):

(a) that is capable of delivery under an agreement for its delivery; and

(b) that is not an instrument creating or evidencing a chose in action;

unless the contract, right or option relates to the carrying on by the taxpayer of a business:

(c) of producing or processing the commodity; or

(d) that involves the use of the commodity as a raw material in a production process.

View history note

passive income
, in relation to a taxpayer, in relation to a year of income means:

(a) dividends (within the meaning of this section) and non-share dividends paid to the taxpayer in the year of income; or

(b) unit trust dividends (within the meaning of Division 6C) paid to the taxpayer in the year of income; or

(c) a distribution made to the taxpayer in the year of income that is taken to be a dividend because of section 47 ; or

(d) an amount that is taken to be a dividend paid to the taxpayer in the year of income because of section 47A or 108 or Division 7A of Part III ; or

(e) interest income derived by the taxpayer in the year of income; or

(f) annuities derived by the taxpayer in the year of income; or

(g) income derived by the taxpayer by way of rent (within the meaning of Part X) in the year of income; or

(h) royalties derived by the taxpayer in the year of income; or

(i) an amount derived by the taxpayer in the year of income as consideration for the assignment, in whole or in part, of any copyright, patent, design, trade mark or other like property or right; or

(j) profits of a capital nature that accrued to the taxpayer in the year of income; or

(k) passive commodity gains that accrued to the taxpayer in the year of income; or

(l) an amount included in the assessable income of the taxpayer of the year of income under section 102AAZD , 456 , 457 or 459A ;

but does not include:

(m) an amount that arose from an asset necessarily held by the taxpayer in connection with an insurance business actively carried on by the taxpayer; or

(n) an amount included in the taxpayer ' s assessable income under Division 83A of the *Income Tax Assessment Act 1997* (about employee share schemes).

View history note

PDF
(pooled development fund) means a company that is a PDF within the meaning of the *Pooled Development Funds Act 1992* , but does not include such a company in the capacity of a trustee.

View history note

PDF component
, in relation to a company that becomes a PDF during the year of income and is still a PDF at the end of the year of income, means:

(a) in a case where the amount that, if:

> **(i)** the period beginning at the start of the year of income and ending immediately before the company becomes a PDF were a year of income of the company; and

> **(ii)** the period (***the PDF notional year***) beginning when the company becomes a PDF and ending at the end of the year of income were a year of income of the company; and

> **(iii)** paragraph (c) of the definition of ***taxable income*** were omitted;

would be the company ' s taxable income of the PDF notional year is $ 1 or more - that amount; or

(b) otherwise - a nil amount.

View history note

permanent establishment ,
in relation to a person (including the Commonwealth, a State or an authority of the Commonwealth or a State), means a place at or through which the person carries on any business and, without limiting the generality of the foregoing, includes:

(a) a place where the person is carrying on business through an agent;

(b) a place where the person has, is using or is installing substantial equipment or substantial machinery;

(c) a place where the person is engaged in a construction project; and

(d) where the person is engaged in selling goods manufactured, assembled, processed, packed or distributed by another person for, or at or to the order of, the first-mentioned person and either of those persons participates in the management, control or capital of the other person or another person participates in the management, control or capital of both of those persons - the place where the goods are manufactured, assembled, processed, packed or distributed;

but does not include:

(e) a place where the person is engaged in business dealings through a *bona fide* commission agent or broker who, in relation to those dealings, acts in the ordinary course of his or her business as a commission agent or broker and does not receive remuneration otherwise than at a rate customary in relation to dealings of that kind, not being a place where the person otherwise carries on business;

(f) a place where the person is carrying on business through an agent:

> **(i)** who does not have, or does not habitually exercise, a general authority to negotiate and conclude contracts on behalf of the person; or

> **(ii)** whose authority extends to filling orders on behalf of the person from a stock of goods or merchandise situated in the country where the place is located, but who does not regularly exercise that authority;

not being a place where the person otherwise carries on business; or

(g) a place of business maintained by the person solely for the purpose of purchasing goods or merchandise.

Note:

Subsection (6) treats a person as carrying on, at or through a permanent establishment that is a place described in paragraph (d) of this definition, the business of selling the goods manufactured, assembled, processed, packed or distributed by the other person as described in that paragraph.

View history note

person
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

petroleum exploration company
(Repealed by No 80 of 1975)

View history note

pooled superannuation trust
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

post FIF abolition credit
means a post FIF abolition credit arising under:

(a) subsection 23AK(6) ; and

(b) subsection 717-220(2) of the *Income Tax Assessment Act 1997* ; and

(c) subsection 717-255(2) of that Act.

View history note

post FIF abolition debit
means a post FIF abolition debit arising under:

(a) subsection 23AK(2) ; and

(b) subsection 23B(1) ; and

(c) subsection 717-220(3) of the *Income Tax Assessment Act 1997* ; and

(d) subsection 717-255(3) of that Act.

View history note

post FIF abolition surplus
has the meaning given by section 23AK .

View history note

prescribed dual resident
means a company that satisfies either of the following conditions:

(a) the first condition is that:

(i) the company is a resident of Australia within the meaning of subsection 6(1) ; and

(ii) there is an agreement (within the meaning of the *International Tax Agreements Act 1953*) in force in respect of a foreign country; and

(iii) the agreement contains a provision that is expressed to apply where, apart from the provision, the company would, for the purposes of the agreement, be both a resident of Australia and a resident of the foreign country; and

(iv) that provision has the effect that the company is, for the purposes of the agreement, a resident solely of the foreign country;

(b) the alternative condition is that the company:

(i) is a resident of Australia within the meaning of subsection 6(1) for no other reason than that it carries on business in Australia and has its central management and control in Australia; and

(ii) it is also a resident of another country; and

(iii) its central management and control is in another country.

View history note

present war
(Repealed by No 216 of 1973)

primary production business
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

principal beneficiary
of a special disability trust has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

private ancillary fund
(Repealed by No 147 of 2011)

View history note

private company
, in relation to a year of income, means a company that is a private company in relation to that year of income for the purposes of Division 7 of Part III.

proclaimed superannuation standards day
means 1 July 1990.

View history note

provider
, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997* .

View history note

prudential standards
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

rebatable benefit
has the meaning given by subsection 160AAA(1) .

View history note

rebatable medical expense amount
(Repealed by No 11 of 2014)

View history note

rebate income
of an individual for a year of income is the sum of:

(a) the individual ' s taxable income for the year of income, disregarding the individual ' s assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for the year of income; and

(b) the individual ' s reportable superannuation contributions for the year of income; and

(c) the individual ' s total net investment loss for the year of income; and

(d) the individual ' s adjusted fringe benefits total for the year of income.

View history note

recognised large credit union
has the meaning given by section 6H .

View history note

recognised medium credit union
has the meaning given by section 6H .

View history note

recognised small credit union
has the meaning given by section 6H .

View history note

reduced cost base
of a CGT asset has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

registered tax agent
(Repealed by No 114 of 2009)

View history note

relative
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

reportable fringe benefits total
(Repealed by No 55 of 2016)

View history note

reportable superannuation contributions
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Research Department
(Repealed by No 110 of 2014)

View history note

Research Minister
(Repealed by No 110 of 2014)

View history note

Research Secretary
(Repealed by No 110 of 2014)

View history note

resident
or ***resident of Australia*** means:

(a) a person, other than a company, who resides in Australia and includes a person:

(i) whose domicile is in Australia, unless the Commissioner is satisfied that the person ' s permanent place of abode is outside Australia;

(ii) who has actually been in Australia, continuously or intermittently, during more than one-half of the year of income, unless the Commissioner is satisfied that the person ' s usual place of abode is outside Australia and that the person does not intend to take up residence in Australia; or

(iii) who is:

(A) a member of the superannuation scheme established by deed under the *Superannuation Act 1990* ; or

(B) an eligible employee for the purposes of the *Superannuation Act 1976* ; or

(C) the spouse, or a child under 16, of a person covered by sub-subparagraph (A) or (B); and

(b) a company which is incorporated in Australia, or which, not being incorporated in Australia, carries on business in Australia, and has either its central management and control in Australia, or its voting power controlled by shareholders who are residents of Australia.

View history note

resident superannuation fund
(Repealed by No 15 of 2007)

View history note

resident trust for CGT purposes
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

return
on a debt interest or equity interest has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

return of income
means a return of income, or of profits or gains of a capital nature, or of both income and such profits or gains.

View history note

royalty
or ***royalties*** includes any amount paid or credited, however described or computed, and whether the payment or credit is periodical or not, to the extent to which it is paid or credited, as the case may be, as consideration for:

(a) the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade mark, or other like property or right;

(b) the use of, or the right to use, any industrial, commercial or scientific equipment;

(c) the supply of scientific, technical, industrial or commercial knowledge or information;

(d) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in paragraph (a), any such equipment as is mentioned in paragraph (b) or any such knowledge or information as is mentioned in paragraph (c);

(da) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by:

(i) satellite; or

(ii) cable, optic fibre or similar technology;

(db) the use in connection with television broadcasting or radio broadcasting, or the right to use in connection with television broadcasting or radio broadcasting, visual images or sounds, or both, transmitted by:

(i) satellite; or

(ii) cable, optic fibre or similar technology;

(dc) the use of, or the right to use, some or all of the part of the spectrum (within the meaning of the *Radiocommunications Act 1992*) specified in a spectrum licence issued under that Act;

(e) the use of, or the right to use:

(i) motion picture films;

(ii) films or video tapes for use in connexion with television; or

(iii) tapes for use in connexion with radio broadcasting; or

(f) a total or partial forbearance in respect of:

(i) the use of, or the granting of the right to use, any such property or right as is mentioned in paragraph (a) or any such equipment as is mentioned in paragraph (b);

(ii) the supply of any such knowledge or information as is mentioned in paragraph (c) or of any such assistance as is mentioned in paragraph (d);

(iia) the reception of, or the granting of the right to receive, any such visual images or sounds as are mentioned in paragraph (da);

(iib) the use of, or the granting of the right to use, any such visual images or sounds as are mentioned in paragraph (db);

(iic) the use of, or the granting of the right to use, some or all of such part of the spectrum specified in a spectrum licence as is mentioned in paragraph (dc); or

(iii) the use of, or the granting of the right to use, any such property as is mentioned in paragraph (e).

View history note

RSA
has the same meaning as in the *Income Tax Assessment Act 1997* .

Note:

That Act defines ***RSA*** as having the meaning given by the *Retirement Savings Accounts Act 1997* .

View history note

RSA provider
has the same meaning as in the *Income Tax Assessment Act 1997* .

Note:

That Act defines ***RSA provider*** as having the same meaning as in the *Retirement Savings Accounts Act 1997* .

View history note

Second Commissioner
means a Second Commissioner of Taxation.

View history note

"SGIO"
(Repealed by No 101 of 2004)

View history note

share
in a company has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

share capital account
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

shareholder
includes member or stockholder.

shareholders ' funds
has the same meaning as in the *Life Insurance Act 1995* .

View history note

"share premium account"
(Repealed by No 63 of 1998)

shorter period of review taxpayer or SPOR taxpayer
(Repealed by No 161 of 2005)

View history note

shortfall interest charge
means the charge worked out under Division 280 in Schedule 1 to the *Taxation Administration Act 1953* .

View history note

singles tier 1 threshold
(Repealed by No 11 of 2014)

View history note

small business entity
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

social security law
has the meaning given by the *Social Security Act 1991* .

View history note

special disability trust
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

spouse
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

"State income tax law"
(Repealed by No 73 of 1989)

View history note

statutory income
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

Student Assistance Secretary
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

subsidiary member
of a consolidated group or a MEC group has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

superannuation benefits
means individual personal benefits, pensions or retiring allowances.

View history note

superannuation fund
means:

(a) a scheme for the payment of superannuation benefits upon retirement or death; or

(b) a superannuation fund within the definition of " superannuation fund " in section 10 of the *Superannuation Industry (Supervision) Act 1993* .

View history note

superannuation fund for foreign residents
has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

View history note

superannuation lump sum
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

tainted
, in relation to a company ' s share capital account, has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

tax
means income tax imposed as such by any Act, as assessed under this Act, but does not include mining withholding tax or withholding tax.

View history note

taxable Australian property
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

taxable income
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

taxable supply
has the meaning given by section 195-1 of the GST Act.

View history note

tax cost is set
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

tax loss
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

tax offset refund
has the meaning given by the *Income Tax Assessment Act 1997* .

View history note

taxpayer
means a person deriving income or deriving profits or gains of a capital nature.

View history note

"the Income Tax Ordinances of Papua New Guinea"
(Repealed by No 80 of 1975)

View history note

this Act
includes:

(a) the *Income Tax Assessment Act 1997* ; and

(b) Part IVC of the *Taxation Administration Act 1953* , so far as that Part relates to:

(i) this Act or the *Income Tax Assessment Act 1997* ; or

(ii) Schedule 1 to the *Taxation Administration Act 1953* ; and

(c) Schedule 1 to the *Taxation Administration Act 1953* .

Note:

Subsection (1AA) of this section prevents definitions in the *Income Tax Assessment Act 1936* from affecting the interpretation of the *Income Tax Assessment Act 1997* .

View history note

"Timor Gap treaty"
(Repealed by No 10 of 2003)

View history note

Timor Sea Treaty
(Repealed by No 59 of 2019)

View history note

total net investment loss
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

Trade Department
(Repealed by No 110 of 2014)

View history note

Trade Minister
(Repealed by No 110 of 2014)

View history note

Trade Secretary
(Repealed by No 110 of 2014)

View history note

trading stock
has the meaning given by section 70-10 of the *Income Tax Assessment Act 1997* .

View history note

Tribunal
means the Administrative Review Tribunal.

View history note

trustee
in addition to every person appointed or constituted trustee by act of parties, by order, or declaration of a court, or by operation of law, includes:

(a) an executor or administrator, guardian, committee, receiver, or liquidator; and

(b) every person having or taking upon himself the administration or control of income affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the income of a person under any legal or other disability.

unfranked part
of a distribution has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

value of the outstanding claims liability
(Repealed by No 79 of 2010)

View history note

value of the unearned premium reserve
(Repealed by No 79 of 2010)

View history note

VCLP
means a venture capital limited partnership within the meaning of subsection 118-405(2) of the *Income Tax Assessment Act 1997* .

View history note

VCMP
means a venture capital management partnership.

View history note

venture capital deficit tax
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

venture capital management partnership
has the meaning given by subsection 94D(3) .

View history note

Veterans ' Affairs Department
(Repealed by No 110 of 2014)

View history note

Veterans ' Affairs Minister
(Repealed by No 110 of 2014)

View history note

Veterans ' Affairs Secretary
means the Secretary of the Department administered by the Minister administering section 1 of the *Military Rehabilitation and Compensation Act 2004* .

View history note

withholding tax
has the same meaning as in the *Income Tax Assessment Act 1997* .

View history note

work and income support related withholding payments and benefits
means:

(a) payments from which an amount:

> **(i)** must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D or Division 13 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld); or

> **(ii)** would be required to be withheld under a provision mentioned in subparagraph (i) (other than section 12-55) apart from subsection 12-1(1A) in Schedule 1 to that Act; and

(b) amounts included in a person ' s assessable income under section 86-15 of the *Income Tax Assessment Act 1997* in respect of which an amount must be paid under Division 13 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not paid); and

(c) non-cash benefits in relation to which the provider of the benefit must pay an amount to the Commissioner under Division 14 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not paid).

Note:

The payments covered by paragraph (a) are: payments to employees and company directors, payments to office holders, return to work payments, payments under labour hire arrangements, payments of annuities, superannuation benefits, payments for termination of employment, payments for unused leave, benefit payments, compensation payments and payments specified by regulations.

View history note

year of income
means an income year as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997* .

year of tax
means the financial year for which income tax is levied.

6(1A)

View history reference

Unless the contrary intention appears, a reference in this Act to a failure to do an act or thing includes a reference to a refusal to do the act or thing.

View history note
View history note
View history note
View history note

6(2)
(Repealed by No 97 of 2008)

View history note

6(2AA)

View history reference

A reference in this Act to an accounting period adopted in lieu of a year of income includes a reference to an accounting period:

(a) that commences or ends under section 18A ; and

(b) that would, but for that section, form part of an accounting period so adopted.

View history note

6(2AB)

View history reference

The Commissioner may, by legislative instrument, make a determination modifying the operation of one or more provisions of this Act in relation to limited partnerships whose accounting periods commence or end under section 18A of the *Income Tax Assessment Act 1936* .

View history note

6(2AC)

View history reference

A determination can only be made under subsection (2AB) in order to take account of the fact that such accounting periods are of less than 12 months ' duration.

View history note

6(2AD)
(Repealed by No 58 of 2006)

View history note

6(2A)
(Repealed by No 97 of 2008)

View history note

6(3)

View history reference

The express references in this Act to companies do not imply that references to persons do not include references to companies.

View history note

6(4)

View history reference

Paragraph (d) of the definition of ***dividend*** in subsection (1) does not apply if, under an arrangement:

(a) a person pays or credits any money or gives property to the company and the company credits its share capital account with the amount of the money or the value of the property; and

(b) the company pays or credits any money, or distributes property to another person, and debits its share capital account with the amount of the money or the value of the property so paid, credited or distributed.

View history note

6(5)
(Repealed by No 63 of 1998)

View history note

6(6)

View history reference

Where a place is, by virtue of paragraph (d) of the definition of ***permanent establishment*** in subsection (1), a permanent establishment of a person, the person shall, for the purposes of this Act, be deemed to be carrying on at or through that permanent establishment the business of selling the goods manufactured, assembled, processed, packed or distributed by the other person at the place that is that permanent establishment.

View history note

View history note