



International Tax Agreements Amendment Act 2016

No. 64, 2016

**An Act to amend the law relating to taxation, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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International Tax Agreements Amendment Act 2016

No. 64, 2016

An Act to amend the law relating to taxation, and for related purposes

[Assented to 20 October 2016]

The Parliament of Australia enacts:

1 Short title

This Act is the *International Tax Agreements Amendment Act 2016*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day this Act receives the Royal Assent.	20 October 2016

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Agreement with Germany

International Tax Agreements Act 1953

1 Subsection 3AAA(1) (definition of German agreement)

Repeal the definition, substitute:

German agreement means:

- (a) the Agreement between Australia and the Federal Republic of Germany for the elimination of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion and avoidance; and
 - (b) the protocol to that agreement;
- each done at Berlin on 12 November 2015.

Note: In 2016, the text of this agreement was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

2 Subsection 3AAB(1)

Insert:

German 1972 agreement means:

- (a) the Agreement between the Commonwealth of Australia and the Federal Republic of Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital and to certain other taxes; and
 - (b) the protocol to that agreement;
- each done at Melbourne on 24 November 1972.

Note 1: The text of this agreement and protocol is set out in Australian Treaty Series 1975 No. 8 ([1975] ATS 8).

Note 2: Section 11 continues to give this agreement and protocol the force of law in respect of certain income.

3 Subsection 5(1) (after table item dealing with French convention)

Insert:

German agreement	nil
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4 Section 11 (heading)

Repeal the heading, substitute:

11 Earlier agreement with Germany

5 Subsection 11(1)

Omit “Subject to this Act, on and after the date of entry into force of the German agreement, the provisions of the agreement, so far as those provisions affect Australian tax, have, and shall be deemed to have had,”, substitute “Subject to this Act, the provisions of the German 1972 agreement, so far as those provisions affect Australian tax, continue to have”.

6 Subsection 11(3)

Repeal the subsection, substitute:

- (2) For the purposes of the Assessment Act, income that:
- (a) is derived by a person who is a resident of the Federal Republic of Germany for the purposes of the German 1972 agreement; and
 - (b) is income in relation to which the agreement remains effective; and
 - (c) is income that, under Articles 6 to 8 and 10 to 16 of the agreement, may be taxed in Australia;
- is taken to be derived from sources in Australia.

Part 2—Technical amendments

International Tax Agreements Act 1953

7 Subsection 3AAA(1) (note at the end of the definition of *Swiss convention*)

Repeal the note, substitute:

Note: The text of this convention and protocol is set out in Australian Treaty Series 2014 No. 33 ([2014] ATS 33).

8 Subsection 3AAB(1) (note 2 at the end of the definition of *Swiss 1980 agreement*)

Omit “or fringe benefits”.

9 Subsection 24(1) (note)

Repeal the note, substitute:

Note: Article 9 of the United Kingdom convention deals with profits of associated enterprises.

Taxation (Interest on Overpayments and Early Payments) Act 1983

10 Subsection 3A(1A)

Repeal the subsection, substitute:

- (1A) For the purposes of this Act, a decision to which this Act applies is made to ***provide correlative relief*** for economic double taxation if:
- (a) there is a double tax agreement applying to Australia and one of the following (a ***treaty partner***):
 - (i) a foreign country or a constituent part of a foreign country;
 - (ii) an overseas territory; and
 - (b) the treaty partner taxes profits, or purports to tax profits, in accordance with, or consistent with the principles of:
 - (i) if the treaty partner is the United Kingdom—Article 9 of the United Kingdom convention (within the meaning of the *International Tax Agreements Act 1953*); or

Schedule 1 Amendments
Part 2 Technical amendments

(ii) otherwise—a corresponding provision of another double tax agreement; and

Note: Article 9 of the United Kingdom convention deals with profits of associated enterprises.

(c) the decision is made in giving effect to subsection 24(3) of that Act.

*[Minister's second reading speech made in—
House of Representatives on 1 September 2016
Senate on 13 October 2016]*

(90/16)
