



Tax Laws Amendment (2011 Measures No. 8) Act 2011

No. 136, 2011

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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

[Assented to 29 November 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2011 Measures No. 8) Act 2011*.

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
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 November 2011
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	29 November 2011
7. Schedule 4	Immediately after the commencement of Schedule 1 to the <i>Taxation of Alternative Fuels Legislation Amendment Act 2011</i> .	1 December 2011

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Amendment of assessments

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:

- (a) the assessment was made before the commencement of Schedule 1 to this Act; and

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- (b) the amendment is made for the purpose of giving effect to item 1, 2 or 3 of that Schedule; and
 - (c) the amendment is made within 2 years after the day on which this section commences.

Schedule 1—Commissioner's discretion for primary production concessions

Income Tax Assessment Act 1997

1 Paragraph 385-163(3)(a)

Repeal the paragraph.

2 At the end of section 385-163

Add:

- (4) However, in the case of a trust, a *disentitling event* does not happen if:
 - (a) either:
 - (i) the disentitling event is covered by paragraph 3(c); or
 - (ii) the disentitling event is covered by paragraph 3(d) and a beneficiary leaves Australia permanently, or it appears to the Commissioner that a beneficiary is about to do so; and
 - (b) the Commissioner makes a determination under subsection (5).
- (5) The Commissioner may make a determination for the purpose of subsection (4) if it is fair and reasonable to do so having regard to:
 - (a) the nature of the *disentitling event to which subsection (3) applies; and
 - (b) any relevant circumstances relating to the beneficiary mentioned in paragraph (3)(c) or (d); and
 - (c) any other relevant circumstances relating to the trust; and
 - (d) any other matters the Commissioner considers relevant.
- (6) A determination made under subsection (5) must be made in writing.
- (7) The Commissioner must give the trustee of the trust a copy of the determination.

3 Application of amendments

The amendments made by this Schedule apply to assessments for the 2005-06 income year and later income years.

Schedule 2—Clarifying taxing point for Petroleum Resource Rent Tax

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 2 (definition of *marketable petroleum commodity*)

Repeal the definition, substitute:

marketable petroleum commodity has the meaning given by
section 2E.

2 After section 2D

Insert:

2E *Marketable petroleum commodity*

- (1) A *marketable petroleum commodity* is a product listed in subsection (2) that:
 - (a) is produced from petroleum for the purpose of:
 - (i) sale; or
 - (ii) use as a feedstock for conversion to another product (whether a product listed in subsection (2) or not); or
 - (iii) direct consumption as energy; and
 - (b) is in its final form for that purpose.
- (2) The products are as follows:
 - (a) stabilised crude oil;
 - (b) sales gas;
 - (c) condensate;
 - (d) liquefied petroleum gas;
 - (e) ethane;
 - (f) any other product specified in regulations made for the purposes of this paragraph.
- (3) However, a product cannot be a *marketable petroleum commodity* if it has been produced wholly or partly from a product that was a marketable petroleum commodity.

3 Application of amendments

The amendments made by this Schedule apply in relation to the year of tax commencing on 1 July 1990 and each later year of tax.

Schedule 4—Consequential amendments for taxation of gaseous fuels

Part 1—Excise Act 1901

1 Section 77HA

Before “Compressed natural gas”, insert “(1)”.

2 At the end of section 77HA

Add:

; (d) the gas is exempt from excise duty under subsection (2).

(2) Compressed natural gas is exempt from excise duty if:

- (a) the gas was compressed at residential premises (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and
- (b) the rate at which natural gas can be compressed at those premises is not more than:
 - (i) the amount of compressed natural gas per hour prescribed by the regulations; or
 - (ii) if no amount is prescribed—10 kilograms of compressed natural gas per hour; and
- (c) the gas is not sold or otherwise supplied in the course of carrying on an enterprise (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*).

3 Subsection 77L(3)

Repeal the subsection, substitute:

Contents of notice

- (3) A notice given under this section must comply with any requirements prescribed by the regulations.

4 Transitional provision—regulations

Regulations that are in force under paragraph 77L(3)(b) of the *Excise Act 1901* immediately before this item commences are taken, after that time, to have been made for the purposes of subsection 77L(3) of that Act (as inserted by this Part).

Part 2—Fuel Tax Act 2006

5 Subparagraph 41-10(3)(d)(i)

Omit “and is for use in *carrying on an *enterprise”.

6 Subparagraph 41-10(3)(d)(ii)

Omit “carrying on an enterprise”, substitute “*carrying on an *enterprise”.

7 Application of amendments

The amendments to paragraph 41-10(3)(d) of the *Fuel Tax Act 2006* made by this Part apply to taxable fuel acquired, manufactured or imported on or after the day this Part commences.

*[Minister’s second reading speech made in—
House of Representatives on 13 October 2011
Senate on 22 November 2011]*