



# Income Tax Amendment Regulations 2006 (No. 2)

**Select Legislative Instrument 2006 No. 166**

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Income Tax Assessment Act 1936*.

Dated 22 June 2006

P. M. JEFFERY  
Governor-General

By His Excellency's Command

PETER DUTTON  
Minister for Revenue and Assistant Treasurer

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**1 Name of Regulations**

These Regulations are the *Income Tax Amendment Regulations 2006 (No. 2)*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Amendment of *Income Tax Regulations 1936***

Schedule 1 amends the *Income Tax Regulations 1936*.

**Schedule 1 Amendment**

(regulation 3)

**[1] After regulation 19**

*insert*

**20 Amendment of assessments for an income year**

For a provision of subsection 170 (1) of the Act mentioned in an item of the table, the circumstances set out in the item are prescribed.

*Note* If a circumstance in an item of the table exists, the Commissioner of Taxation may amend an assessment of the taxpayer within 4 years after the day on which the Commissioner gives notice of the assessment to the taxpayer, unless a longer amendment period applies to the taxpayer.

Item	Provision	Circumstance
1	<p>Paragraph (f) of item 1 of the table in subsection 170 (1)</p> <p>Paragraph (e) of item 2 of the table in subsection 170 (1)</p> <p>Paragraph (d) of item 3 of the table in subsection 170 (1)</p>	<p>All of the following exist:</p> <p>(a) there has been a transaction involving associates (within the meaning of section 318 of the Act), that has income tax consequences, in the year of income mentioned in the item;</p> <p>(b) the parties were not dealing with each other at arm's length in relation to the transaction;</p> <p>(c) the period during which the Commissioner may amend an assessment in relation to one of the parties is at least 4 years.</p>
2	<p>Paragraph (f) of item 1 of the table in subsection 170 (1)</p> <p>Paragraph (e) of item 2 of the table in subsection 170 (1)</p> <p>Paragraph (d) of item 3 of the table in subsection 170 (1)</p>	<p>All of the following exist:</p> <p>(a) a private company is taken to have paid a dividend to an entity, as described in section 109C, 109D, 109E or 109F of the Act, in the year of income mentioned in the item;</p> <p>(b) the entity is:</p> <p>(i) a shareholder of the company; or</p> <p>(ii) an associate of a shareholder of the company; or</p> <p>(iii) a former shareholder of the company; or</p> <p>(iv) an associate of a former shareholder of the company;</p> <p>(c) the period during which the Commissioner may amend an assessment in relation to the company is at least 4 years.</p>

Item	Provision	Circumstance
3	Paragraph (f) of item 1 of the table in subsection 170 (1)  Paragraph (d) of item 3 of the table in subsection 170 (1)	All of the following exist: <ul style="list-style-type: none"> <li>(a) the effect of section 109XB of the Act is that an amount is included as a dividend in the assessable income of a taxpayer as described in subsection 109XA (1), (2) or (3) of the Act in the year of income mentioned in the item;</li> <li>(b) the matter involves a taxpayer who is:               <ul style="list-style-type: none"> <li>(i) a shareholder of a company; or</li> <li>(ii) an associate of a shareholder of a company;</li> </ul> </li> <li>(c) the period during which the Commissioner may amend an assessment in relation to both the trust and the company is at least 4 years.</li> </ul>
4	Paragraph (f) of item 1 of the table in subsection 170 (1)  Paragraph (e) of item 2 of the table in subsection 170 (1)  Paragraph (d) of item 3 of the table in subsection 170 (1)	All of the following exist in the year of income mentioned in the item: <ul style="list-style-type: none"> <li>(a) there has been a transaction involving:               <ul style="list-style-type: none"> <li>(i) a company; and</li> <li>(ii) a shareholder or option holder of the company;</li> </ul> </li> <li>(b) for the purposes of section 139DF of the Act (certain shares and rights not qualifying), the predominant business of the company (whether or not stated in its constituent documents) is the acquisition, sale or holding of shares, securities or other investments (whether directly or indirectly through one or more companies, partnerships or trusts);</li> <li>(c) section 139DF of the Act affects the tax status of employee shares, or rights to acquire employee shares, in the hands of the employee;</li> <li>(d) the company is not an STS taxpayer in relation to which item 2 or 3 of subsection 170 (1) of the Act applies.</li> </ul>

Item	Provision	Circumstance
5	<p>Paragraph (f) of item 1 of the table in subsection 170 (1)</p> <p>Paragraph (e) of item 2 of the table in subsection 170 (1)</p> <p>Paragraph (d) of item 3 of the table in subsection 170 (1)</p>	<p>Both of the following exist in the year of income mentioned in the item:</p> <p>(a) the taxpayer has not identified income (ordinary or statutory) from one or more foreign transactions for the purposes of, or in the course of, an assessment;</p> <p>(b) the income has not been received from a resident investment vehicle within the meaning of the <i>Income Tax Assessment Act 1997</i>.</p>
6	<p>Paragraph (f) of item 1 of the table in subsection 170 (1)</p> <p>Paragraph (e) of item 2 of the table in subsection 170 (1)</p> <p>Paragraph (d) of item 3 of the table in subsection 170 (1)</p>	<p>Both of the following exist in the year of income mentioned in the item:</p> <p>(a) subsection 345 (5) of the Act (transfer under a scheme) may be applicable to the taxpayer;</p> <p>(b) not all of the relevant information regarding the application of that subsection can be obtained from a resident investment vehicle within the meaning of the <i>Income Tax Assessment Act 1997</i>.</p>

Item	Provision	Circumstance
7	Paragraph (f) of item 1 of the table in subsection 170 (1)	Both of the following exist in the year of income mentioned in the item:
	Paragraph (e) of item 2 of the table in subsection 170 (1)	(a) paragraph 448 (1A) (f) of the Act (provision of services under a scheme) may be applicable to the taxpayer;
	Paragraph (d) of item 3 of the table in subsection 170 (1)	(b) not all of the relevant information regarding the application of that paragraph can be obtained from a resident investment vehicle within the meaning of the <i>Income Tax Assessment Act 1997</i> .
8	Paragraph (f) of item 1 of the table in subsection 170 (1)	Any of the following provisions applies in relation to the taxpayer in the year of income mentioned in the item:
	Paragraph (e) of item 2 of the table in subsection 170 (1)	(a) section 45A of the Act (streaming of dividends and capital benefits);
	Paragraph (d) of item 3 of the table in subsection 170 (1)	(b) section 45B of the Act (schemes to provide certain benefits);
		(c) subsection 102AE (7) of the Act (excluded income for minors);
		(d) section 177E of the Act (stripping of company profits);
		(e) section 177EA of the Act (franking debit creation and franking credit cancellation schemes);
		(f) Division 270 of Schedule 2F to the Act (scheme to take advantage of deductions);
		(g) subsection 26-50 (7) of the <i>Income Tax Assessment Act 1997</i> (expenses for a leisure facility or boat);

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Item	Provision	Circumstance
		(h) any of sections 165-180 to 165-205 (rules affecting the operation of tests for changing ownership of a company), and Division 175 (use of a company's tax losses or deductions to avoid income tax), of the <i>Income Tax Assessment Act 1997</i> ;
		(i) Subdivision 207-F of the <i>Income Tax Assessment Act 1997</i> (cancellation of gross-up or tax offset where the imputation system has been manipulated).

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