



# **Taxation Legislation Repeal and Amendment Regulations 2006 (No. 1)**

## **Select Legislative Instrument 2006 No. 216**

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 *A New Tax System (Goods and Services Tax Transition) Act 1999*, the *Fringe Benefits Tax Assessment Act 1986*, the *Fuel Sales Grants Act 2000*, the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Pay-roll Tax Assessment Act 1941*, the *Sales Tax Assessment Act (No. 1) 1930*, the *Sales Tax Assessment Act (No. 2) 1930*, the *Sales Tax Assessment Act (No. 3) 1930*, the *Sales Tax Assessment Act (No. 4) 1930*, the *Sales Tax Assessment Act (No. 5) 1930*, the *Sales Tax Assessment Act (No. 6) 1930*, the *Sales Tax Assessment Act (No. 7) 1930*, the *Sales Tax Assessment Act (No. 8) 1930*, the *Sales Tax Assessment Act (No. 9) 1930*, the *Sales Tax Assessment Act (No. 10) 1985*, the *Sales Tax Assessment Act (No. 11) 1985*, the *Sales Tax Assessment Act 1992*, the *Sales Tax Procedure Act 1934*, the *Sales Tax (Exemptions and Classifications) Act 1935*, the *Sales Tax (Exemptions and Classifications) Act 1992*, the *Superannuation Guarantee (Administration) Act 1992*, the *Taxation Administration Act 1953*, the *Taxation (Interest on Overpayments and Early Payments) Act 1983*, the *Tobacco Charges Assessment Act 1955*, the *Wool Tax Act (No. 1)*

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1964, the *Wool Tax Act (No. 2) 1964*, the *Wool Tax Act (No. 3) 1964*, the *Wool Tax Act (No. 4) 1964*, the *Wool Tax Act (No. 5) 1964* and the *Wool Tax (Administration) Act 1964*.

Dated 10 August 2006

P. M. JEFFERY  
Governor-General  
By His Excellency's Command

PETER CRAIG DUTTON  
Minister for Revenue and Assistant Treasurer

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**1 Name of Regulations**

These Regulations are the *Taxation Legislation Repeal and Amendment Regulations 2006 (No. 1)*.

**2 Commencement**

These Regulations commence as follows:

- (a) on the commencement of Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* — regulations 1 to 10 and Schedules 1 to 7;
- (b) on the commencement of Part 3 of Schedule 1 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* — regulations 11 to 13 and Schedule 8.

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

Schedule 1 amends the *Income Tax Regulations 1936*.

**4 Amendment of *A New Tax System (Goods and Services Tax Transition) Regulations 2000***

Schedule 2 amends the *A New Tax System (Goods and Services Tax Transition) Regulations 2000*.

**5 Amendment of *Fringe Benefits Tax Regulations 1992***

Schedule 3 amends the *Fringe Benefits Tax Regulations 1992*.

**6 Amendment of *Taxation Administration Regulations 1976***

Schedule 4 amends the *Taxation Administration Regulations 1976*.

**7 Amendment of Taxation (Interest on Overpayments and Early Payments) Regulations**

Schedule 5 amends the Taxation (Interest on Overpayments and Early Payments) Regulations.

**8 Amendment of *Superannuation Guarantee (Administration) Regulations 1993***

Schedule 6 amends the *Superannuation Guarantee (Administration) Regulations 1993*.

**9 Amendment of *Income Tax Assessment Regulations 1997***

Schedule 7 amends the *Income Tax Assessment Regulations 1997*.

**10 Repeals**

The following Regulations are repealed:

- (a) the *Sales Tax Assessment Regulations 1992*;
- (b) the Sales Tax Procedure (Old Law) Regulations;
- (c) the Sales Tax (Exemptions and Classifications) Regulations;
- (d) the Sales Tax (Exemptions and Classifications) (Old Law) Regulations;
- (e) the Sales Tax (Old Law) Regulations;
- (f) the *Wool Tax (Administration) Regulations 1964*;
- (g) the *Wool Tax Regulations 1987 (No. 1)*;
- (h) the *Wool Tax Regulations 1987 (No. 2)*;
- (i) the *Wool Tax Regulations 1987 (No. 3)*;
- (j) the *Wool Tax Regulations 1987 (No. 4)*;
- (k) the *Wool Tax Regulations 1987 (No. 5)*;
- (l) the Pay-roll Tax Regulations;
- (m) the *Tobacco Charges Regulations 1958*;
- (n) the Superannuation Guarantee (Administration) (Charge Percentage) Regulations.

**11      Further amendment of *Income Tax Assessment Regulations 1997***

Schedule 8 amends the *Income Tax Assessment Regulations 1997*.

**12      Application of Schedule 8**

The amendments made by Schedule 8 apply in relation to calculations of STS group turnover for the 2006–07 income year and later income years.

**13      Further repeal**

The *Fuel Sales Grants Regulations 2000* are repealed.

## **Schedule 1**

## **Amendments of *Income Tax Regulations 1936***

(regulation 3)

**[1]      Regulations 4, 5, 10, 11 and 14**

*omit*

**[2]      Part 3B**

*omit*

**[3]      Part 5**

*omit*

**[4]      Subparagraph 56 (4) (g) (i)**

*omit*

**[5]      Subparagraph 56 (4) (h) (iii)**

*substitute*

(iii) the total of any amount withheld under Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953* and any payment made under Division 14 of that Schedule because of the operation of Subdivision 12-F; and

[6] **Subparagraph 56 (4A) (g) (i)**  
*omit*

[7] **Paragraph 56 (5B) (a)**  
*omit*  
to deduct under subsection 221YHZC (1A) of the Act, or to withhold under section 12-140 or 12-145 of Schedule 1 to the *Taxation Administration Act 1953*,

*insert*  
to withhold under section 12-140 or 12-145 of Schedule 1 to the *Taxation Administration Act 1953*

[8] **Part 7, Division 1**  
*omit*

[9] **Part 7, Division 2, heading**  
*substitute*

**Division 2** **Eligible termination payments**

[10] **Part 7, Division 8**  
*omit*

[11] **Part 7, Division 12, heading**  
*substitute*

**Division 12** **Prompt recovery, through estimates and payment agreements, of certain amounts not remitted**

**[12]      Schedule 1, Forms 3 and 4**

*omit*

**[13]      Schedules 2, 3, 4 and 6**

*omit*

**Schedule 2**

**Amendments of A New Tax  
System (Goods and Services  
Tax Transition) Regulations  
2000**

(regulation 4)

**[1]      Part 2**

*omit*

**[2]      Regulation 6**

*omit*

## **Schedule 3**

## **Amendment of *Fringe Benefits Tax Regulations 1992***

(regulation 5)

### **[1] Regulation 3C**

*omit*

**Schedule 4****Amendments of *Taxation Administration Regulations*  
1976**

(regulation 6)

**[1] Regulation 2, definition of *prescribed non-resident****substitute*

*prescribed foreign resident*, for a period in an income year, means a person who:

- (a) is a foreign resident at all times in that period; and
- (b) is not, at any time in that year, a person to whom a pension, allowance or benefit in respect of which he or she is liable to be assessed and to pay income tax in Australia is, or was, payable under:
  - (i) the *Veterans' Entitlements Act 1986*; or
  - (ii) subsection 4 (6) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*; or
  - (iii) a provision (except Part 2.11, 2.12, 2.14 or 2.15) of the *Social Security Act 1991*.

**[2] Regulation 4***omit*

**[3]      Regulation 17**

*substitute*

**17      Prescribed provisions (Act s 16)**

For the purposes of sub subparagraph 16 (2) (a) (i) (B) of the Act, each of the following provisions is prescribed:

- (a) subsection 264 (3) of the *Income Tax Assessment Act 1936*;
- (b) subsection 14I (3) of the *Taxation Administration Act 1953*;
- (c) subregulation 168 (4) of the *Income Tax Regulations 1936*.

**[4]      Paragraph 26 (2) (a)**

*substitute*

- (a) whether the individual wishes to reduce the amount withheld to correspond with the lower of the amounts specified in item 1 of the table in Part I of Schedule 7 to the *Income Tax Rates Act 1986* (the tax-free threshold);

**[5]      Subregulation 30 (6), Note 2**

*substitute*

*Note 2* Division 298 of Schedule 1 to the Act contains machinery provisions relating to civil penalties.

**[6]      Subregulation 31 (2), Note 2**

*substitute*

*Note 2* Division 298 of Schedule 1 to the Act contains machinery provisions relating to civil penalties.

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**[7] Paragraph 32 (1) (e)***substitute*

- (e) if the entity is an Australian government agency (within the meaning of the *Income Tax Assessment Act 1997*) — by an officer appointed or authorised for the purpose.

**[8] Subregulation 34 (1)***omit*

46.5% of the amount of the payment.

*insert*

the product of the top rate and the amount of the payment.

**[9] Paragraph 34 (2) (a)***omit*dividend that has been franked in accordance with section 160AQF of the *Income Tax Assessment Act 1936*; and*insert*

franked distribution; and

**[10] Subregulations 34 (3) and (4)***substitute*

- (3) The amount to be withheld from the payment is the amount worked out using the formula:

Unfranked part of the distribution  $\times$  top rate .

- (4) In this regulation:

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

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

**Part VA investment** has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

**top rate** means the sum of:

- (a) the highest rate specified in the table in Part I of Schedule 7 to the *Income Tax Rates Act 1986*; and
- (b) the rate of levy specified in subsection 6 (1) of the *Medicare Levy Act 1986*.

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

**[11] Paragraphs 36 (2) (a) and (b)**

*omit*

prescribed non-resident

*insert*

prescribed foreign resident

**[12] Paragraphs 37 (2) (a) and (b)**

*omit*

prescribed non-resident

*insert*

prescribed foreign resident

## **Schedule 5**

# **Amendments of Taxation (Interest on Overpayments and Early Payments) Regulations**

(regulation 7)

### **[1] Regulation 1**

*substitute*

#### **1 Name of Regulations**

These Regulations are the *Taxation (Interest on Overpayments and Early Payments) Regulations 1992*.

### **[2] Regulation 4**

*omit*

**Schedule 6**

**Amendment of  
Superannuation Guarantee  
(Administration) Regulations  
1993**

(regulation 8)

**[1]      Regulations 6A, 7AA and 7AB**

*omit*

## **Schedule 7**

### **Amendments of *Income Tax Assessment Regulations 1997* commencing on commencement of Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006***

(regulation 9)

#### **[1] Regulations 50-55.01 and 50-70.01**

*omit*

#### **[2] Schedule 3, items 4, 32, 33, 39, 59, 63, 96, 98, 110 and 140**

*omit*

## **Schedule 8**

### **Amendments of *Income Tax Assessment Regulations 1997* commencing on commencement of Part 3 of Schedule 1 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006***

(regulation 11)

**[1]      Subregulation 328-375.01 (2), except the notes**

*omit*

**[2]      Regulation 328-375.01, after the notes**

*insert*

(2) In this regulation:

*retail fuel* means taxable fuel, within the meaning given by the *Fuel Tax Act 2006*, that is sold by retail.

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