

PCG 2020/2 - Expansion of estimates regime to GST, LCT and WET

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Expansion of estimates regime to GST, LCT and WET

! Relying on this Guideline

This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this Guideline in good faith, the Commissioner will administer the law in accordance with this approach.

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What this Guideline is about

1. This Guideline explains how the Commissioner will administer changes made by Schedule 3 to the *Treasury Laws Amendment (Combating Illegal Phoenixing) Act 2020* (Amending Act).

2. Schedule 3 of the Amending Act brings goods and services tax (GST), luxury car tax (LCT) and wine equalisation tax (WET) within the existing estimates and director penalty¹ regimes.

3. This Guideline focuses on the expansion to estimates. The estimates regime enables the Commissioner to make an estimate of certain unpaid and overdue tax-related liabilities and recover the amount of the estimate.²

4. This Guideline should be read with Law Administration Practice Statement PS LA 2011/18 *Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts*.

5. All legislative references in this Guideline are to Schedule 1 to the *Taxation Administration Act 1953* unless otherwise indicated.

Date of effect

6. This Guideline applies from the commencement of Schedule 3 of the Amending Act, being 1 April 2020.

Estimates

7. Schedule 3 of the Amending Act permits the Commissioner to make estimates of an entity's net amount under the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). A net amount under the GST Act will include any applicable LCT and WET.³

8. The tax law already:

- allows the Commissioner to estimate the unpaid and overdue amount of a pay as you go (PAYG) withholding or SGC liability⁴
- allows the Commissioner to have regard to anything considered relevant in making the estimate⁵
- requires that the amount of the estimate be what the Commissioner thinks is reasonable⁶
- requires the Commissioner to give notice of an estimate, containing specific details including how to have the estimate reduced or revoked⁷, and
- deems the amount of an estimate to be due and payable when the Commissioner leaves or posts the required notice.⁸

9. The Commissioner may reduce the amount of an estimate or revoke an estimate at any time.⁹

¹ The director penalty regime is contained in Division 269 – it currently applies to pay as you go (PAYG) withholding liabilities, super guarantee charge (SGC) liabilities, and estimates of those liabilities.

² The estimates regime is contained in Division 268. It currently applies to PAYG withholding liabilities and SGC liabilities.

³ Subsection 17-5(2) of the GST Act. See also paragraph 4.27 of the Explanatory Memorandum to the Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019.

⁴ Subsection 268-10(1).

⁵ Subsection 268-10(3).

⁶ Subsection 268-10(2).

⁷ Section 268-15.

⁸ Subsection 268-20(1).

⁹ Section 268-35.

10. An entity may reduce the amount of an estimate or cause the estimate to be revoked by making a sworn statement as follows.

Relevant party	Type of sworn statement	Relevant time period
IF the Commissioner gives you notice of an estimate	<p>AND you give the Commissioner a statutory declaration:</p> <ul style="list-style-type: none"> to the effect that a specified lesser amount is the unpaid amount of the underlying liability, or to the effect that the liability never existed, and verifying the requisite facts 	<p>WITHIN</p> <ul style="list-style-type: none"> seven days after the Commissioner gives you the notice, or a longer period allowed by the Commissioner.
IF you are a party to proceedings before a court that relate to the recovery of the unpaid amount of the estimate	<p>AND you:</p> <ul style="list-style-type: none"> file an affidavit that verifies <ul style="list-style-type: none"> facts sufficient to prove that a specified lesser amount is the unpaid amount of the underlying liability, or facts sufficient to prove that the liability never existed, and the requisite facts, and serve a copy on the Commissioner 	<p>WITHIN</p> <ul style="list-style-type: none"> 14 days after you first take a procedural step as a party to the proceedings, or a longer period allowed by the Court.

11. The effectiveness of a sworn statement depends upon its contents; the statutory declaration or affidavit must do more than make assertions without reference to primary facts or primary documents which must have existed.¹⁰ The expression ‘to the effect that’ has been interpreted by the courts as directing attention to the substance of the statutory declaration rather than its form.¹¹ As such, the Commissioner as recipient of the statutory declaration¹²:

... may evaluate it in order to assess its substance or effect, although in the case of dispute it would ultimately be for a court to decide whether the statutory declaration was to the effect required by the statute.

12. For the purpose of this Guideline, we use the phrase ‘requisite facts’ to collectively refer to the following facts in relation to the tax period:

- the entity’s net amount
- the entity’s taxable supplies (including taxable supplies of luxury cars) and creditable acquisitions
- the entity’s assessable dealings and wine tax credits, and
- what has been done to comply with the obligation to give a GST return.¹³

¹⁰ *Transtar Linehaul Pty Limited v Deputy Commissioner of Taxation* [2011] FCA 856 at [78-79] (*Transtar Linehaul*), applied in *CLK Kitchens & Joinery Pty Ltd v Commissioner of Taxation* [2019] FCA 1086 (*CLK Kitchens*).

¹¹ *Transtar Linehaul* at [85], *Deputy Commissioner of Taxation v Armstrong Scalisi Holdings Pty Ltd* [2019] NSWSC 129, *CLK Kitchens*.

¹² *Transtar Linehaul* at [86]. Also see *CLK Kitchens* at [173] ‘...The effect of a declaration is not conditioned on whether the Commissioner *accepts* that it has the required effect, but whether it *is* of the required effect.’

¹³ Paragraph 4.37 of the Explanatory Memorandum to the Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019 and subsection 268-90(2B).

When will the Commissioner make an estimate of a net amount?

13. Having regard to the nature of the amending provisions and the context in which they have been introduced, the powers to make an estimate of an unpaid net amount will only be used in limited circumstances. As a safeguard, approval must be sought from a senior tax officer (Executive level 2 or above). The GST, LCT and WET estimate provisions will only be applied where there are reasonable grounds to believe that the taxpayer, or related entities, are involved in phoenix behaviour.

14. Indicators of phoenix behaviour include (but are not limited to):

- cyclically establishing, abandoning or deregistering companies to avoid paying taxes, creditors or employee entitlements
- assets are being dissipated with the intention to defeat creditors or other action is being taken to defeat creditors (which may be a precursor to phoenixing)
- a director associated with prior liquidations and/or deregistrations
- a director associated with prior instances of insolvency
- stripping or transfer of assets from the company, ahead of its potential abandonment, winding up or deregistration
- the transfer of company assets at an undervaluation (often to a related party) to defeat creditors
- the transfer of employees to a new company under the same effective control as the previous company to defeat tax obligations and employee entitlements
- backdating of resignation of a director, appointment of a 'straw' director or abandonment of a company without a resident director
- the concealment of the role of a shadow or de facto director
- the concealment or destruction of company records.

15. These factors, either alone or in combination, may or may not point to phoenix behaviour.¹⁴ It is the totality of the circumstances that must be considered in deciding whether to make an estimate.

16. Further, an estimate of an unpaid net amount will generally not be made unless:

- the Commissioner has made multiple attempts to contact you¹⁵ to establish the overdue and unpaid amount, and
- you fail to engage with us or refuse to cooperate in establishing the overdue and unpaid amount.

17. Examples of when we consider the second dot point in paragraph 16 of this Guideline is satisfied include:

- phone calls and other attempts at communication are not returned despite multiple attempts by us to contact you
- you refuse to provide information when requested, or there are continuing delays or excuses for not making information available

¹⁴ For example, selling assets when under financial pressure, being associated with a deregistered company or a liquidation, or transferring employees to a new company regularly occur as part of legitimate business activity, including legitimate restructuring of a business.

¹⁵ In the case of a company, this may include attempts to contact the directors.

- you refuse to give access to, or cooperate with, tax officers
- you repeatedly break appointments or refuse to meet with tax officers.

18. Notwithstanding paragraphs 16 and 17 of this Guideline, the Commissioner may also make an estimate of an unpaid net amount where an external administration commences, and the Commissioner needs to lodge a proof of debt, but only part of the amount believed to be owing to the Commissioner has been established.

19. An estimate of unpaid net amount will generally not be made where a person is taking a course of action reasonably likely to lead to a better outcome for a company that may become or be insolvent in accordance with the safe harbour provisions of section 588GA of the *Corporations Act 2001*.¹⁶

What will the Commissioner take into account in making a 'reasonable' estimate?

20. By nature, estimates are approximations based upon judgment.¹⁷ The amount of the estimate must be what the Commissioner thinks is reasonable as a matter of law. This means that the Commissioner cannot make an estimate if there is no relevant information available for that purpose, but the Commissioner will have regard to anything thought to be relevant for the purposes of making an estimate. For the purposes of estimating an unpaid net amount, those relevant factors may include things such as:

- any information the Commissioner holds about the scope and extent of a taxpayer's trading activities during a tax period
- any information the Commissioner holds about specific taxable supplies, or creditable acquisitions, made by the taxpayer in a tax period
- information obtained from third parties about supplies or acquisitions, for example, sales of real property or land titles data
- information obtained from external administrators
- industry benchmarks¹⁸
- the pattern of past behaviour by the taxpayer, including payments of GST or past claims for input tax credits, including any seasonal fluctuations.

21. The making of a reasonable estimate of an unpaid net amount necessarily involves considering GST on taxable supplies and input tax credits on creditable acquisitions, and arriving at an estimate for each of those amounts that is reasonable. Generally, therefore, acquisitions will be taken into account in making an estimate and credit be given for them.

22. However, there may be exceptions. For example, if the Commissioner has reason to believe that the entity has operated in the cash economy and has not kept accurate records or obtained a tax invoice as required, the Commissioner may not allow input tax credits in making an estimate, because the taxpayer would in most cases not be entitled to attribute the input tax credits without a tax invoice.¹⁹

¹⁶ Section 588GA sets out the circumstances in which a 'safe harbour' may apply to company directors in relation to their duty to prevent insolvent trading.

¹⁷ *CLK Kitchens* at [124].

¹⁸ Industry benchmarks, which are updated each year and published on ato.gov.au, show ratios of business income to business expenses that can be used to compare performance of a business against similar businesses within an industry. However, benchmarks must be used with due caution, given that any given enterprise can vary considerably from an industry average. In particular, small and micro businesses operate within a wide range of size and scale and industry benchmarks may be less useful to assess the data of those businesses. ATO staff should have regard to all existing guidelines when referring to or using benchmarks.

¹⁹ Subsection 29-10(3) of the GST Act.

Who is authorised to make an estimate of an unpaid net amount?

23. An estimate of an unpaid net amount can only be made by a tax officer who is authorised to do so.
24. Further, before officers may issue a notice of estimate of an unpaid net amount, they must obtain written approval from a senior tax officer (Executive Level 2 or above).

Time period for making a sworn statement

25. Paragraphs 1010 to 12 of this Guideline explain how an entity can cause an estimate to be reduced or revoked. In summary, where a complying statutory declaration is provided within the statutory timeframe, the Commissioner must reduce or revoke the estimate as submitted.²⁰ The statutory timeframe is seven days, or such longer period as the Commissioner allows.
26. Generally, the Commissioner will allow a period of 21 days from when the notice of estimate is given for a statutory declaration to be provided. This 21-day period will be notified to you when the notice of estimate is sent.
27. If you need more than 21 days to provide your statutory declaration, you may at any time contact us to request a longer period of time. If you provide us with an explanation, and propose an alternative time period within which you will provide the statutory declaration, and we consider both to be reasonable in the circumstances, the Commissioner may allow a longer period. We encourage you to engage with us as early as possible.
28. If you provide a statutory declaration outside of the period (and have not been granted extra time), we will consider the statement. Provided it verifies the requisite facts as required by the legislation²¹ (and establishes that the underlying liability is a lesser amount, or never existed), we will generally reduce or revoke the estimate accordingly. However, if we have evidence that indicates that the statutory declaration is false or misleading, we will not reduce or revoke the estimate.
29. In court proceedings that relate to recovery of an unpaid estimate, you have 14 days from when you first take a procedural step to provide an affidavit containing the requisite facts. A longer time period may be allowed by the court.

Your response to an estimate

30. If you receive a notice of estimate, you may:
- provide a complying statutory declaration within the relevant time (explained in paragraphs 10 to 12 of this Guideline)
 - request extra time to lodge a statutory declaration, or
 - make a payment of the estimated amount.
31. You should also lodge any GST returns/activity statements that are outstanding.²²
32. The Commissioner only seeks to recover an amount equivalent to the underlying liability. If you lodge your activity statement (rather than providing a sworn statement), the information will be reviewed and consideration will be given to whether to reduce or revoke the estimate. The estimate and the actual assessed net amount are separate liabilities.²³

²⁰ Section 268-40; also see *CLK Kitchens* at [29] and [173].

²¹ Subsection 268-90(2B).

²² Payment of an estimated amount does not relieve a tax debtor of the obligation to lodge a GST return and pay any amount of the underlying liability in excess of the estimate.

²³ Subsection 268-20(2).

However, they are also 'parallel liabilities'. This means that payment of one liability discharges the other to the same extent.²⁴

What might drive the ATO towards making an estimate of a net amount rather than using existing assessment powers?

33. The object of the estimates regime is to enable the Commissioner to take prompt and effective action to recover amounts not paid as required.²⁵

34. In 2009 the Australian Government published the *Action against fraudulent phoenix activity* proposals paper which noted that 'existing mechanisms do not provide a sufficient disincentive to prevent fraudulent phoenix activity' and recommended the extension of the estimates and director penalty regimes to super guarantee and GST.²⁶

35. When the estimates regime was extended in 2012 to include SGC, the Explanatory Memorandum to the Tax Laws Amendment (2012 Measures No. 2) Bill 2012 explained the rationale as follows²⁷:

The ability to estimate a superannuation guarantee charge reduces the scope of phoenix operators and other non-compliant corporate entities to escape liabilities once they become aware that the Commissioner is pursuing them. For example, the issue of an estimate enables the Commissioner to take prompt action when an opportunity arises to secure recovery, without having to delay recovery by waiting for an assessment to be issued.

Like the director penalty regime, the estimates regime treats the superannuation guarantee charge as being payable even if it has not been assessed, to avoid problems with delaying or avoiding quantification.

36. Therefore, where there are reasonable grounds to believe that the circumstances outlined in paragraph 13 of this Guideline are present, the Commissioner may be more inclined to issue an estimate of a net amount, rather than making an assessment (see paragraphs 39 to 60 of this Guideline for examples).

37. The rationale for the making of an estimate rather than making an assessment was recently explained in the Federal Court decision of *CLK Kitchens*. The Court noted that²⁸:

...It is necessarily implicit that the taking of prompt and effective action will often occur on limited information where the actual liability of the payer is not fully ascertainable. Requiring the Commissioner to delay to acquire more fulsome information and to more fully assess the actual liability would undermine Parliament's express intention.

38. The Court also noted that²⁹:

...After all, the recipient of the estimate who has all the information and knows the true facts can immediately cause the estimate to be reduced by the giving of a statutory declaration.

Estimates examples

Example 1 – BAS lodged late, no estimate made

39. *Bob the builder has been particularly busy recently and forgot to lodge his BAS until it was two months late. He may be subject to a penalty for lodging late and interest on any liability that is outstanding. Apart from this occasion, he has a good compliance history, generally lodging on time and paying any liabilities as they are due. There is no*

²⁴ Subsection 268-20(3).

²⁵ Section 268-5.

²⁶ Australian Government, 2009, *Action against fraudulent phoenix activity – Proposals Paper*, The Treasury, Canberra.

²⁷ At paragraphs 1.33 and 1.34.

²⁸ *CLK Kitchens* at [127].

²⁹ *CLK Kitchens* at [130].

indication of phoenix behaviour, assets being dissipated or actions being taken to defeat creditors in this case. The Commissioner will not seek to make an estimate of Bob's GST liability.

Example 2 – missed BAS lodgment date, no estimate made

40. *Angie runs a small business. When she started her business last year, she preferred to lodge her BAS on paper as she liked that the due date for lodging and paying is displayed on her BAS. Last quarter, Angie decided to switch to lodging electronically and did so for the first time. She made sure to update her contact details on myGov and awaited the reminder email for the next quarter. Unfortunately the ATO reminder email was automatically sent to her junk mail folder. A month after she would usually lodge, she wonders whether something has gone awry and finds the email in her junk mail folder. She calls the ATO and is advised to lodge her BAS as soon as possible to minimise any interest charges or penalties. In this case, there is no indication of phoenix behaviour, assets being dissipated or actions being taken to defeat creditors. The Commissioner will not make an estimate of Angie's GST liability in this scenario.*

Example 3 – missed multiple BAS lodgment dates, no estimate made

41. *Carl is a sole trader carpenter. After operating his business for 10 years, he decides to take a break and go on holiday driving around Australia for six months. He usually engages a tax agent to lodge his quarterly BAS. He has a good compliance history, generally lodging on time and paying any tax-related liabilities as they are due. As Carl has temporarily stopped working, and he hasn't been to visit his tax agent recently, he has not lodged a BAS. After his first lodgment date passes without anything being lodged, the ATO systems send him a reminder text message and reminder prompts via the myGov portal. Carl does not receive these messages as he is outside of phone signal range. Carl's tax agent has noticed that the BAS is overdue but similarly can't reach him. When the next lodgment date passes without anything being lodged, further reminders are sent to Carl by both the ATO and his tax agent. When Carl goes into a town, gets phone reception and receives his messages he calls his tax agent to inform her that he's been on holiday and has not been trading. The tax agent lodges a nil BAS for the two periods via the portal for Carl. Despite the missed lodgments, there are no indicators of phoenix behaviour, assets being dissipated or actions being taken to defeat creditors, therefore the Commissioner has not made an estimate of Carl's GST liability in the interim.*

Example 4 – indicators lead to an audit being commenced

42. *Suzie operates an art gallery business. She has employed a bookkeeper to help her with her accounts but otherwise lodges her own BAS and tax returns. A friend recommends a tax agent to her as they were very helpful in reducing their taxes last year. Suzie visits the tax agent and likes what she hears but wonders if it is too good to be true. She asks the tax agent whether the tax law really allows for what is being proposed, seeking some assurance and the tax agent explains to her that they can seek a private ruling if she wants certainty. The tax agent submits a private ruling request to the ATO containing four questions. The Commissioner rules favourably for the first two questions and unfavourably for the last two questions.*

43. *A year later an ATO team is reviewing Suzie's business' tax affairs and notices some inconsistencies between what was proposed in the private ruling request and what the business seems to have implemented, and their self-assessed tax treatment seems inconsistent with the ruling provided. Suzie's quarterly BAS lodgments show sales on trend with her previous quarters, but significantly higher input tax credits being claimed. The compliance team attempt to contact Suzie via phone but she does not answer and does*

not return calls after messages are left. The tax agent is no longer listed as an authorised contact on Suzie's account. ATO staff check the data the business is reporting about payments to employees and notice the payments and withholding have continued in a similar pattern to previous years. This risk review identifies some concerns so the ATO commences an audit on the art gallery business. There is no indication of phoenix behaviour, assets being dissipated or actions being taken to defeat creditors. The business's BAS lodgments are up to date. The Commissioner will not make an estimate in this case.

Example 5 – company winding up imminent, no estimate made

44. Li and Wei are directors of LW Carpentry Pty Ltd, a carpentry business. Monthly BAS have been reliably lodged on time by LW Carpentry Pty Ltd for many years, until recently. Several months have gone by without any BAS being lodged.

45. Initial calls and texts to Li go unanswered. Contact is then made with Wei, who explains that Li was injured at work and that has caused the business's financial difficulties. They believe the business is not in a position to pay their suppliers and they won't be able to pay their tax liabilities. They have sought advice and intend to place the company into voluntary administration. The ATO will be a creditor.

46. Neither Li nor Wei has been associated with a company that has gone into liquidation before and they hold no other directorships. Records indicate that LW Carpentry Pty Ltd has three employees who are receiving employment income from that company. Third party data does not indicate any drawdown of bank accounts beyond their normal business expenses.

47. In these circumstances, there is no indication of phoenix behaviour. The Commissioner will not make an estimate.

Example 6 – estimate made as phoenix behaviour indicated

48. Sebastian and Henry are directors of a company, KeenOne Enterprises Pty Ltd, which provides a luxury goods sales assistance service. The company was registered on 1 July 2018 and has an Australian Business Number (ABN) and a tax file number. Monthly BAS were lodged within due dates for the 2018–19 year, some resulting in a refund being paid to the company, others resulting in GST liabilities. The company has not lodged any BAS since. ATO data indicates that the company does not employ staff, however three individuals (unrelated to Sebastian and Henry) have lodged their 2019-20 tax returns showing employment income from the company and claiming credits for income tax withheld by the company.

49. The 2018 company tax return shows significant income but with an overall loss. The director payments disclosed in the company tax return have not been declared as income by the directors as they have not lodged their personal tax returns either.

50. BAS lodgment reminders have been sent to the company and the directors. Attempts to contact the directors have not been successful. Third-party data indicates that the company bank accounts are being drawn down; ad hoc withdrawals of amounts under \$10,000 commenced in July 2019 and have since been increasing in size and frequency.

51. A check with the Australian Securities and Investments Commission shows that Sebastian and Henry have recently registered a new company, Keen2Go Enterprises Pty Ltd, with the same business address as KeenOne Enterprises Pty Ltd. Further checks show that the new company has just applied for an ABN and GST registration. In this scenario, there are reasonable indicators of phoenix behaviour. The Commissioner uses the estimates regime to estimate the PAYG withholding, SGC and GST liabilities of the company for periods after the last BAS was lodged.

Example 7 – estimate made as phoenix behaviour indicated

52. Mandy and Christina are directors of Cars Co, a car dealership and servicing company. The entity reports and pays GST quarterly. Their GST net amounts have been in the range between \$18,000 and \$25,000 for each quarter from the beginning of 2018.

53. Cars Co fails to lodge its quarterly BAS for the January–March 2020 and April–June 2020 tax periods.

54. A tax officer attempts to contact Mandy and Christina to encourage lodgment of their outstanding BAS. Despite numerous promises to do so, they do not comply. Through investigation, a tax officer discovers that Mandy and Christina have previously been directors of three other similar companies, which operated from the same premises as Cars Co, and have been placed into liquidation leaving multiple tax debts unpaid.

55. This pattern of behaviour indicates that Cars Co may soon be liquidated to avoid outstanding debts, including unpaid GST and falls within the circumstances described in paragraph 13 of this Guideline. There is a time-sensitive risk to revenue which warrants speedy recovery action, so an estimate of unpaid tax-related liabilities is made.

56. To calculate the estimate, the tax officer takes into account:

- information the Commissioner holds about the company in relation to total sales and acquisitions, and taxable supplies and creditable acquisitions in past periods
- the pattern of past payments of GST by the entity, and past claims for input tax credits, including any seasonal fluctuations, and
- likely annual turnover and relevant industry benchmarks.

57. In these circumstances, the reasonable estimate of unpaid amounts for each period are considered and the Commissioner issues a notice of estimate pursuant to Division 268 to Cars Co for the unpaid and overdue amounts of \$22,000 for the quarter ended 31 March 2020 and \$19,000 for the quarter ended 30 June 2020.

58. The notice is taken to be given at the time the Commissioner posts it to Cars Co. In the letter accompanying the notice of estimate, the Commissioner allows 21 days for the making of a statutory declaration in response.

59. **If the company engages with the tax system:** Mandy and Christina, as directors of Cars Co, provide the Commissioner, within 21 days, a complying statutory declaration verifying the requisite facts (see paragraphs 10 to 12 of this Guideline) and with sufficient evidence to demonstrate that their business is seasonal and their GST liabilities were significantly less for the last two quarters of the income year. As the complying statutory declaration is provided within the relevant period, the reduction of the estimate is automatic.

60. **Alternatively, if the company ignores the notice:** Cars Co fails to engage with the Commissioner and does not discharge any of the estimated GST liabilities, and Mandy and Christina fail to cause Cars Co to comply with its obligations under the Taxation Administration Act 1953 to pay the estimate. The Commissioner can commence immediate action to recover the unpaid amount of the estimate.

Commissioner of Taxation
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References

Previous draft

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ATOlaw topics	Administration ~~ Other ATO processes
Legislative references	ANTS(GST)Act 1999 ANTS(GST)Act 1999 29-10(3) Corporations Act 2001 588GA TAA 1953 TAA 1953 Sch 1 Div 268 TAA 1953 Sch 1 268-5 TAA 1953 Sch 1 268-10(1) TAA 1953 Sch 1 268-10(2) TAA 1953 Sch 1 268-10(3) TAA 1953 Sch 1 268-15 TAA 1953 Sch 1 268-20(1) TAA 1953 Sch 1 268-20(2) TAA 1953 Sch 1 268-20(3) TAA 1953 Sch 1 268-35 TAA 1953 Sch 1 Div 269 Treasury Laws Amendment (Combating Illegal Phoenixing) Bill 2019 Treasury Laws Amendment (Combating Illegal Phoenixing) Act 2020
Case references	CLK Kitchens & Joinery Pty Ltd v Commissioner of Taxation [2019] FCA 1086 Deputy Commissioner of Taxation v Armstrong Scalisi Holdings Pty Ltd [2019] NSWSC 129; 2019 ATC 20-684 Transtar Linehaul Pty Limited v Deputy Commissioner of Taxation [2011] FCA 856; 196 FCR 271
Other references	PS LA 2011/18 Explanatory Memorandum to Tax Laws Amendment (2012 Measures No. 2) Bill 2012 Australian Government 2009, <i>Action against fraudulent phoenix activity, Proposals Paper</i> , The Treasury, Canberra
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