A New Tax System (Tax Administration) Act (No. 2) 2000

Act No. 91 of 2000 as amended

This compilation was prepared on 27 October 2003

[This Act was amended by Act No. 156 of 2000 and Act No. 101 of 2003]

Amendment from Act No. 156 of 2000
[Schedule 7 (item 11) amended Schedule 4B (item 2),
Schedule 7 (item 12) amended Schedule 4B (item 7)
The amendments commenced on 1 July 2000]

Amendment from Act No. 101 of 2003
[Schedule 6 (item 4) repealed Schedule 2 (item 8A)
Schedule 6 (item 4) commenced on 1 July 2000]

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An Act to amend the law about taxation to implement A New Tax System, and for related purposes

[*Assented to 30 June 2000*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *A New Tax System (Tax Administration) Act (No. 2) 2000*.

2 Definition

In this Act:

Corporations Law means the Corporations Law set out in section 82 of the *Corporations Act 1989*.

3 Commencement

(1) Subject to this section, this Act commences, or is taken to have commenced, immediately after the commencement of section 1-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

(2) Items 2 to 7 (inclusive) of Schedule 2 commence, or are taken to have commenced, immediately after the commencement of sections 9 and 10 of the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

(3) Part 4 of Schedule 2 commences, or is taken to have commenced, on 1 April 2001.

(4) Schedule 3 commences, or is taken to have commenced, immediately after the commencement of section 1 of the *A New Tax System (Tax Administration) Act (No. 1) 2000*.

(5) Schedule 4 commences, or is taken to have commenced, on 1 July 2000.

(5A) Schedule 4B commences, or is taken to have commenced, immediately after the commencement of the *Customs and Excise Amendment (Diesel Fuel Rebate Scheme) Act 1999*.

(5B) Schedule 4C commences, or is taken to have commenced, on 1 July 2000.

(6) Items 8 and 9 of Schedule 5 commence, or are taken to have commenced, on 1 July 2000.

4 Schedule(s)

Subject to section 3, the Corporations Law and each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Administrative penalties

Taxation Administration Act 1953

1 Section 265-70 in Schedule 1 (link note)

Omit “288”, substitute “284”.

2 Before Division 288 in Schedule 1

Insert:

Division 284—Administrative penalties for statements, unarguable positions and schemes

Table of Subdivisions

	Guide to Division 284
284-A	General provisions
284-B	Penalties relating to statements
284-C	Penalties relating to schemes
284-D	Provisions common to Subdivisions 284-B and 284-C

Guide to Division 284

284-5 What this Division is about

This Division sets out the circumstances in which administrative penalties apply for:

(a) making false or misleading statements; and

(b) taking a position that is not reasonably arguable; and

(c) entering into schemes.

It also sets out the amounts of those penalties.

Subdivision 284-A—General provisions

Table of sections

284-10 Object of Division
284-15 When a matter is *reasonably arguable*
284-20 Which statements this Division applies to
284-25 Statements by agents
284-30 Application of Division to trusts
284-35 Application of Division to partnerships

284-10 Object of Division

The object of this Division is to provide a uniform administrative penalty regime for all *taxation laws to enable administrative penalties to apply to entities that fail to meet their obligations under those laws in relation to:

(a) making false or misleading statements; and
(b) taking a position that is not reasonably arguable; and
(c) entering into *schemes; and
(d) refusing to provide documents to the Commissioner; and
(e) disregarding *private rulings.

284-15 When a matter is *reasonably arguable*

(1) A matter is ***reasonably arguable*** if it would be concluded in the circumstances, having regard to relevant authorities, that what is argued for is as likely to be correct as incorrect, or is more likely to be correct than incorrect.

(2) To the extent that a matter involves an assumption about the way in which the Commissioner will exercise a discretion, the matter is only ***reasonably arguable*** if, had the Commissioner exercised the discretion in the way assumed, a court would be as likely as not to decide that the exercise of the discretion was in accordance with law.

(3) Without limiting subsection (1), these authorities are relevant:
(a) a *taxation law;
(b) material for the purposes of subsection 15AB(1) of the *Acts Interpretation Act 1901*;

(c) a decision of a court (whether or not an Australian court), the *AAT or a Board of Review;

(d) a public ruling within the meaning of Part IVAAA.

284-20 Which statements this Division applies to

This Division applies to a statement made orally, in a document or in any other way (including electronically) for a purpose connected with a *taxation law.

284-25 Statements by agents

This Division applies to a statement made in an *approved form by your agent as if it had been made by you.

284-30 Application of Division to trusts

If you are a trustee of a trust and:

(a) you make a statement to the Commissioner or to an officer who is exercising powers or performing functions under a *taxation law about the trust; and

(b) the statement:

(i) is false or misleading in a material particular, whether because of things in it or omitted from it; or

(ii) treated an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable; or

(iii) treated a taxation law as applying in a particular way to a *scheme;

this Division applies to you as if any *shortfall amount or *scheme shortfall amount of a beneficiary of the trust as a result of the statement were your shortfall amount or scheme shortfall amount.

284-35 Application of Division to partnerships

(1) If you are a partner in a partnership and:

(a) a statement about the partnership net income or partnership loss is made by a partner or the partnership's agent to the Commissioner or to an entity who is exercising powers or

performing functions under a *taxation law about the partnership; and

(b) the statement:

(i) is false or misleading in a material particular, whether because of things in it or omitted from it; or

(ii) treated an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable;

this Division applies to you as if you had made the statement.

(2) If you are a partner in a partnership and:

(a) the partnership participated in a *scheme; and

(b) the partnership net income would have been greater, or the partnership loss would have been smaller, apart from the scheme;

this Division applies to you as if the proportion of the *scheme benefit that is the same as your share of the partnership net income or partnership loss were your scheme benefit.

Subdivision 284-B—Penalties relating to statements

Guide to Subdivision 284-B

284-70 What this Subdivision is about

You are liable to an administrative penalty if:

(a) you make a false or misleading statement about a tax-related matter; or

(b) you take a position that is not reasonably arguable about a tax-related matter; or

(c) the Commissioner determines a tax-related liability of yours without documents you were required to provide; or

(d) you do not follow a private ruling about a tax-related matter.

This Subdivision sets out when the penalties apply and how the amounts of the penalties are calculated.

Table of sections

Operative provisions

284-75 Liability to penalty
284-80 *Shortfall amounts*
284-85 Amount of penalty
284-90 *Base penalty amount*

[This is the end of the Guide.]

Operative provisions

284-75 Liability to penalty

(1) You are liable to an administrative penalty if:
  (a) you or your agent makes a statement to the Commissioner or to an entity that is exercising powers or performing functions under a *taxation law; and
  (b) the statement is false or misleading in a material particular, whether because of things in it or omitted from it; and
  (c) you have a *shortfall amount as a result of the statement.

(2) You are liable to an administrative penalty if:
  (a) you or your agent makes a statement to the Commissioner or to an entity that is exercising powers or performing functions under an *income tax law; and
  (b) in the statement, you or your agent treated an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable; and
  (c) you have a *shortfall amount as a result of the statement; and
  (d) item 4, 5 or 6 of the table in subsection 284-90(1) applies to you.

(3) You are liable to an administrative penalty if:
  (a) you fail to give a return, notice or other document to the Commissioner by the day it is required to be given; and

(b) that document is necessary for the Commissioner to determine a *tax-related liability of yours accurately; and

(c) the Commissioner determines the tax-related liability without the assistance of that document.

Note: You are also liable to an administrative penalty for failing to give the document on time: see Subdivision 286-C.

(4) You are liable to an administrative penalty if:

(a) a *private ruling has been made about the way in which a *taxation law applies to you; and

(b) after the ruling was made, you make a statement to the Commissioner treating that law as applying to you in a different way; and

(c) you have a *shortfall amount as a result of the statement.

284-80 *Shortfall amounts*

You have a ***shortfall amount*** if an item in this table applies to you. That amount is the amount by which the relevant liability, or the payment or credit, is less than or more than it would otherwise have been.

Shortfall amounts

Item	You have a *shortfall amount* in this situation:
1	A *tax-related liability of yours for an accounting period, or for a *taxable importation, worked out on the basis of the statement is less than it would be if the statement were not false or misleading
2	An amount that the Commissioner must pay or credit to you under a *taxation law for an accounting period, or under a tourist refund scheme under Division 168 of the *GST Act or Division 25 of the *A New Tax System (Wine Equalisation Tax) Act 1999*, worked out on the basis of the statement is more than it would be if the statement were not false or misleading
3	A *tax-related liability of yours for an accounting period worked out on the basis of the statement is less than it would be if the statement did not treat an *income tax law as applying in a way that was not *reasonably arguable
4	An amount that the Commissioner must pay or credit to you under an *income tax law for an accounting period worked out on the basis of the statement is more than it would be if the statement did not treat an *income tax law as applying in a way that was not *reasonably arguable

Shortfall amounts	
Item	**You have a *shortfall amount* in this situation:**
5	A *tax-related liability of yours for an accounting period worked out on the basis of the statement is less than it would be if the statement were consistent with the *private ruling
6	An amount that the Commissioner must pay or credit to you under a *taxation law for an accounting period worked out on the basis of the statement is more than it would be if the statement were consistent with the *private ruling

Note: Section 284-215 may reduce or eliminate your shortfall amount.

284-85 Amount of penalty

(1) Work out the *base penalty amount under section 284-90. If the base penalty amount is not increased under section 284-220 or reduced under section 284-225, this is the amount of the penalty.

(2) Otherwise, use this formula:

$$\text{BPA} + \left[\text{BPA} \times \left(\text{Increase \%} - \text{Reduction \%}\right)\right]$$

where:

BPA is the *base penalty amount.

increase % is the percentage increase (if any) under section 284-220.

reduction % is the percentage reduction (if any) under section 284-225.

284-90 *Base penalty amount*

(1) The ***base penalty amount*** under this Subdivision is worked out using this table:

Base penalty amount		
Item	**In this situation:**	**The *base penalty amount* is:**
1	Your *shortfall amount or part of it resulted from intentional disregard of a *taxation law by you or your agent	75% of your *shortfall amount or part
2	Your *shortfall amount or part of it resulted from recklessness by you or your agent as to the operation of a *taxation law	50% of your *shortfall amount or part
3	Your *shortfall amount or part of it resulted from a failure by you or your agent to take reasonable care to comply with a *taxation law	25% of your *shortfall amount or part
4	Your *shortfall amount or part of it resulted from you or your agent treating an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable, and that amount is more than the greater of $10,000 or 1% of the income tax payable by you for the income year, worked out on the basis of your *income tax return	25% of your *shortfall amount or part
5	You have a *shortfall amount because of section 284-30 (about trusts) and: (a) your shortfall amount or part of it resulted from you or your agent treating an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable; and (b) because of that treatment, the trust's net income would have been reduced, or the trust's *tax loss would have been increased, for the income year by more than the greater of $20,000 or 2% of the trust's net income (if any) for that year worked out on the basis of the trust's *income tax return	25% of your *shortfall amount or part

Base penalty amount		
Item	**In this situation:**	**The *base penalty amount* is:**
6	You have a *shortfall amount because of section 284-35 (about partnerships) and: (a) your shortfall amount or part of it resulted from you or your agent treating an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable; and (b) because of that treatment, the partnership net income would have been reduced, or the partnership loss would have been increased, for the income year by more than the greater of $20,000 or 2% of the partnership net income (if any) for that year, worked out on the basis of the partnership's *income tax return	25% of your *shortfall amount or part
7	You are liable to an administrative penalty under subsection 284-75(3)	75% of the tax-related liability concerned
8	Your *shortfall amount or part of it resulted you or your agent disregarding a *private ruling	25% of your *shortfall amount or part

Note: Section 284-215 may reduce or eliminate your shortfall amount.

(2) If 2 or more items in that table apply to you for your *shortfall amount or a part of it and one of them produces a greater *base penalty amount than any of the others, use that item.

Subdivision 284-C—Penalties relating to schemes

Guide to Subdivision 284-C

284-140 What this Subdivision is about

You are liable to an administrative penalty if you attempt to reduce your tax-related liabilities or increase your credits through a scheme.

This Subdivision sets out when the penalties apply and how the amounts of the penalties are calculated.

Table of sections

Operative provisions

284-145 Liability to penalty
284-150 *Scheme benefits* and *scheme shortfall amounts*
284-155 Amount of penalty
284-160 *Base penalty amount*: schemes

[This is the end of the Guide.]

Operative provisions

284-145 Liability to penalty

(1) You are liable to an administrative penalty if:

(a) you would, apart from a provision of a *taxation law or action taken under such a provision (the ***adjustment provision***), get a *scheme benefit from a *scheme; and

(b) having regard to any relevant matters, it is reasonable to conclude that:

(i) an entity that (alone or with others) entered into or carried out the scheme, or part of it, did so with the sole or dominant purpose of that entity or another entity getting a scheme benefit from the scheme; or

(ii) for a scheme referred to in Division 165 of the *A New Tax System (Goods and Services Tax) Act 1999*—the principal effect of the scheme, or of part of the scheme, is that you would, apart from the adjustment provision, get the scheme benefit from the scheme directly or indirectly.

(2) You are also liable to an administrative penalty if:

(a) you would, apart from section 136AD or 136AE of the *Income Tax Assessment Act 1936*, or the application of the *International Tax Agreements Act 1953* to those sections,

(also the ***adjustment provision***) get a *scheme benefit from a *scheme; and

(b) subparagraph (1)(b)(i) is not satisfied for the scheme.

(3) It does not matter whether the *scheme, or any part of the scheme, was entered into or carried out inside or outside Australia.

284-150 *Scheme benefits* and scheme shortfall amounts

(1) An entity gets a ***scheme benefit*** from a *scheme if:

(a) a *tax-related liability of the entity for an accounting period is, or could reasonably be expected to be, less than it would be apart from the scheme or a part of the scheme; or

(b) an amount that the Commissioner must pay or credit to the entity under a *taxation law for an accounting period is, or could reasonably be expected to be, more than it would be apart from the scheme or a part of the scheme.

(2) The amount of the *scheme benefit that you would, apart from the adjustment provision, have got from the *scheme is called your ***scheme shortfall amount***.

Note: Section 284-215 may reduce or eliminate your scheme shortfall amount.

284-155 Amount of penalty

(1) Work out the *base penalty amount under section 284-160. If the base penalty amount is not increased under section 284-220 or reduced under section 284-225, this is the amount of the penalty.

(2) Otherwise, use this formula:

$$\text{BPA} + \left[\text{BPA} \times \left(\text{Increase \%} - \text{Reduction \%}\right)\right]$$

where:

BPA is the *base penalty amount.

increase % is the percentage increase (if any) under section 284-220.

reduction % is the percentage reduction (if any) under section 284-225.

284-160 *Base penalty amount*: schemes

The ***base penalty amount*** for a *scheme is:

(a) for a scheme to which subsection 284-145(1) applies:

(i) 50% of your *scheme shortfall amount; or

(ii) 25% of your scheme shortfall amount if it is *reasonably arguable that the adjustment provision does not apply; or

(b) for a scheme to which subsection 284-145(2) applies:

(i) 25% of your *scheme shortfall amount; or

(ii) 10% of your scheme shortfall amount if it is *reasonably arguable that the adjustment provision does not apply.

Note: Section 284-215 may reduce or eliminate your scheme shortfall amount.

Subdivision 284-D—Provisions common to Subdivisions 284-B and 284-C

Table of sections

284-215 Exceptions
284-220 Increase in base penalty amount
284-225 Reduction of base penalty amount

284-215 Exceptions

(1) If, apart from this section, you would have a *shortfall amount or a *scheme shortfall amount for an accounting period and:

(a) your shortfall amount or scheme shortfall amount, or part of it, was caused by you or your agent treating a *taxation law as applying in a particular way; and

(b) that way agrees with:

(i) advice given to you or your agent by or on behalf of the Commissioner; or

(ii) general administrative practice under that law; or

(iii) a statement in a publication approved in writing by the Commissioner;

your shortfall amount or scheme shortfall amount is reduced to the extent that it was caused by that treatment.

(2) For the purposes of determining whether you are liable to an administrative penalty, you do not have a *shortfall amount as a result of a statement that is false or misleading in a material particular to the extent that you and your agent (if any) took reasonable care in making the statement.

(3) You do not have a *shortfall amount as a result of a statement referred to in subsection 284-75(4) to the extent that an order of a court or a decision of the *AAT supports the way you treated the *taxation law as applying.

Note: Subsection 284-75(4) deals with statements contrary to private rulings.

284-220 Increase in base penalty amount

(1) The *base penalty amount for your *shortfall amount, or for part of it, for an accounting period is increased by 20% if:

(a) you took steps to prevent or obstruct the Commissioner from finding out about the shortfall amount; or

(b) you became aware of the shortfall amount or part after a statement had been made to the Commissioner about the relevant *tax-related liability and you did not tell the Commissioner about it within a reasonable time; or

(c) the base penalty amount was worked out using item 1, 2 or 3 of the table in subsection 284-90(1) and a base penalty amount for you was worked out under one of those items for a previous accounting period; or

(d) the base penalty amount was worked out using item 4, 5, 6 or 8 of that table and a base penalty amount for you was worked out under that item for a previous accounting period; or

(e) your liability to a penalty arises under subsection 284-75(3) and you were liable to a penalty under that subsection for a previous accounting period.

(2) The *base penalty amount for your *scheme shortfall amount, or for part of it, for an accounting period is increased by 20% if:

(a) you took steps to prevent or obstruct the Commissioner from finding out about the scheme shortfall amount or the part; or

(b) a base penalty amount for you was worked out under section 284-160 for a previous accounting period.

284-225 Reduction of base penalty amount

(1) The *base penalty amount for your *shortfall amount or *scheme shortfall amount, or for part of it, for an accounting period is reduced by 20% if:

(a) the Commissioner tells you that a *tax audit is to be conducted of your financial affairs for that period or a period that includes that period; and

(b) *after* that time, you voluntarily tell the Commissioner, in the *approved form, about the shortfall or the part of it; and

(c) telling the Commissioner can reasonably be estimated to have saved the Commissioner a significant amount of time or significant resources in the audit.

(2) The *base penalty amount for your *shortfall amount or *scheme shortfall amount, or for part of it, for an accounting period is reduced under subsection (3) or (4) if you voluntarily tell the Commissioner, in the *approved form, about the shortfall amount or the part of it before the earlier of:

(a) the day the Commissioner tells you that a *tax audit is to be conducted of your financial affairs for that period or a period that includes that period; or

(b) if the Commissioner makes a public statement requesting entities to make a voluntary disclosure by a particular day about a *scheme or transaction that applies to your financial affairs—that day.

(3) The *base penalty amount for your *shortfall amount, or for part of it, is:

(a) reduced by 80% if the shortfall amount, or the part of, it is $1,000 or more; or

(b) reduced to nil if the shortfall amount, or the part of it, is less than $1,000.

(4) The *base penalty amount for your *scheme shortfall amount, or for part of it, is reduced by 80%.

(5) If you voluntarily tell the Commissioner, in the *approved form, about your *shortfall amount or *scheme shortfall amount, or part of it, *after* the Commissioner tells you that a *tax audit is to be conducted of your financial affairs, the Commissioner may treat

you as having done so *before* being told about the audit if the Commissioner considers it appropriate to do so in the circumstances.

[The next Division is Division 286.]

Division 286—Penalties for failing to lodge documents on time

Table of Subdivisions

286-A Guide to Division 286
286-B Object of Division
286-C Penalties for failing to lodge documents on time

Subdivision 286-A—Guide to Division 286

286-1 What this Division is about

You are liable to an administrative penalty if you are required to give a return, statement, notice or other document to the Commissioner by a particular time and you do not do so.

This Division sets out when the penalty applies and how the amounts of the penalty are calculated.

Subdivision 286-B—Object of Division

Table of sections

286-25 Object of Division

286-25 Object of Division

The object of this Division is to provide a uniform administrative penalty regime for all *taxation laws to enable administrative penalties to apply for failure to give returns, notices, statements or other documents to the Commissioner on time.

Subdivision 286-C—Penalties for failing to lodge documents on time

Table of sections

286-75 Liability to penalty
286-80 Amount of penalty

[This is the end of the Guide.]

286-75 Liability to penalty

(1) You are liable to an administrative penalty if:
  (a) you are required under a *taxation law to give a return, notice, statement or other document to the Commissioner in the *approved form by a particular day; and
  (b) you do not give the return, notice, statement or document to the Commissioner in the approved form by that day.

(2) Subsection (1) does not apply to a return, notice, statement or other document under any of these Acts:
  (a) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;
  (b) the *Superannuation Guarantee (Administration) Act 1992*; or
  (c) the *Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991*.

286-80 Amount of penalty

(1) The amount of the penalty is worked out in this way:
  (a) work out the *base penalty amount under subsection (2); and
  (b) work out whether the base penalty amount is increased under subsection (3) or (4).

(2) The ***base penalty amount*** for failing to lodge a return, notice or other document on time or in the *approved form is 1 penalty unit for each period of 28 days or part of a period of 28 days starting on the day when the document is due and ending when you give it to the Commissioner (up to a maximum of 5 penalty units).

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Example: An entity lodges a return 31 days late. The base penalty amount under subsection (2) is 2 penalty units.

(3) The *base penalty amount is multiplied by 2 if:

(a) the entity concerned is a *medium withholder for the month in which the return, notice or other document was required to be given; or

(b) the entity's assessable income for the income year in which the return, notice or other document is required to be given is more than $1 million but less than $20 million; or

(c) the entity's *current annual turnover worked out at a time in the month in which the return, notice or other document was required to be given is more than $1 million but less than $20 million.

(4) The *base penalty amount is multiplied by 5 if:

(a) the entity concerned is a *large withholder for the month when the return, notice or other document was required to be given; or

(b) the entity's assessable income for the income year in which the return, notice or other document is required to be given is $20 million or more; or

(c) the entity's *current annual turnover worked out at a time in the month in which the return, notice or other document was required to be given is $20 million or more.

(5) In working out the *base penalty amount, the amount of a penalty unit is the amount applying at the start of the relevant 28 day period.

(6) The fact that you have not yet lodged the relevant return, notice or other document does not prevent the Commissioner notifying you that you are liable to an administrative penalty under this Subdivision. That penalty may be later increased under this section.

Note: The Commissioner is required to notify you of an administrative penalty: see section 298-10.

[The next Division is Division 288.]

3 Transitional

(1) Section 284-220 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if a reference in paragraph (1)(c) or (d) of that section to an item specified in this table included a reference to the corresponding provision of the *Income Tax Assessment Act 1936*.

1936 Act equivalent of certain items

Item	Schedule 1 provision	1936 Act provision
1	Item 1 in the table in subsection 284-90(1) in Schedule 1 to the *Taxation Administration Act 1953*	Section 226J
2	Item 2 in that table	Section 226H
3	Item 3 in that table	Section 226G
4	Item 4 in that table	Section 226K
5	Item 5 in that table	Section 226S
6	Item 6 in that table	Section 226P
7	Item 8 in that table	Section 226M

(2) Section 284-220 in Schedule 1 to the *Taxation Administration Act 1953* has effect as if the reference in subsection 284-220(2) to section 284-160 in that Schedule included a reference to section 224, 225, 226 or 226AA of the *Income Tax Assessment Act 1936*.

4 Application of amendments

(1) Subject to this item, the amendments made by this Schedule apply to things done on or after 1 July 2000.

(2) For fringe benefits tax, those amendments apply to fringe benefits tax, and to things done, for the year of tax starting on 1 April 2001 and later years.

(3) Those amendments do not apply to a return, statement, notice or other document, or a statement made or scheme entered into, in relation to:

(a) for income tax—the 1999-2000 income year or an earlier income year; or

(b) for fringe benefits tax—the year of tax starting on 1 April 2000 or an earlier year of tax; or

(c) for other taxes—the year starting on 1 July 1999 or an earlier year.

Schedule 2—Consequential and miscellaneous amendments

Part 1—General

A New Tax System (Australian Business Number) Act 1999

1 Section 41 (definition of *electronic signature*)

Repeal the definition, substitute:

> ***electronic signature*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

A New Tax System (Tax Administration) Act 1999

1A At the end of subitem 2(3) of Schedule 2

Add:

; and (c) a proceeding to recover an amount of a tax-related liability that became due and payable before 1 July 2000 if the proceeding commences on or after that day, as if it were a proceeding commenced under that section.

Diesel and Alternative Fuels Grants Scheme Act 1999

2 Section 5

Insert:

> ***general interest charge*** means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

3 Subsections 27(2), (3), (4), (5) and (9)

Repeal the subsections, substitute:

(2) If an amount of a designated scheme debt that is payable by you remains unpaid after the day by which it must be paid, you are liable, by way of penalty, to pay the general interest charge on the unpaid amount.

(3) You are liable to pay the charge for each day in the period that:

(a) started at the beginning of the day on which the amount becomes due to be paid; and

(b) finishes at the end of the last day at the end of which any of these remains unpaid:

(i) the unpaid amount;

(ii) general interest charge on the unpaid amount.

4 Sections 28, 29, 30, 31, 32 and 33

Repeal the sections.

5 Subsection 47(5)

Omit “10 penalty units”, substitute “30 penalty units”.

6 Subsection 47(5) (note)

Omit “Note”, substitute “Note 1”.

7 At the end of subsection 47(5)

Add:

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Fringe Benefits Tax Assessment Act 1986

8 Subsection 101(4)

Repeal the subsection.

9 Before section 114

Insert:

113A Part to stop applying

This Part does not apply to a return or information relating to the year of tax starting on 1 April 2001 or a later year of tax.

Note: See instead Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953*.

10 Section 119

Repeal the section, substitute:

Note: Section 251L of the *Income Tax Assessment Act 1936* prohibits a person from charging a fee for doing things under this Act on behalf of someone else unless the person is a registered tax agent or is excluded by that section.

11 Subsection 127(3) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

12 Subsection 132(5) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note 1: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Income Tax Assessment Act 1936

13 Subsection 6(1)

Insert:

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Subsection 16(6)

Omit “in the manner and form prescribed”, substitute “in the approved form”.

15 At the end of subsection 98A(2)

Add:

Note: See Division 3A of Part IIB and section 39 of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay the entity. Division 3 of Part IIB allows the Commissioner to apply the amount owing as a credit against tax debts that the entity owes to the Commonwealth.

16 At the end of subsection 102AAZG(1)

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

17 Subsection 102AAZG(2)

Omit "$3,000", substitute "30 penalty units".

18 At the end of subsection 102AAZG(2)

Add:

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

19 Before section 160ARXA

Insert:

160ARWA Division to stop applying

This Division does not apply to a return or information relating to a franking year starting on or after 1 July 2000.

Note: See instead Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953*.

20 At the end of section 163A

Add:

(10) This section does not apply to a return for the 2000-01 year of income or a later year of income.

Note: See instead Division 286 in Schedule 1 to the *Taxation Administration Act 1953*.

21 At the end of section 163B

Add:

(11) This section does not apply to a return for the 2000-01 year of income or a later year of income.

Note: See instead Division 286 in Schedule 1 to the *Taxation Administration Act 1953*.

22 Subsections 170(6A) and (6B)

Repeal the subsections, substitute:

(6AA) An application for amendment must be in the approved form.

23 At the end of section 170AA

Add:

(15) This section does not apply to amendments relating to the 2000-01 year of income or a later year of income.

24 Section 170B

Repeal the section.

25 Paragraph 172(1)(b)

Repeal the paragraph, substitute:

(b) the Commissioner must apply the amount of any tax overpaid in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953*.

26 Subsection 221AZKD(3) (definition of approved form)

Omit "subsection 995-1(1) of the *Income Tax Assessment Act 1997*", substitute "section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*".

27 Paragraph 222AJA(3)(a)

Omit "the estimate", substitute "the underlying liability".

28 Before section 222A

Insert:

222AA Part to stop applying

This Part does not apply to statements made, or schemes entered into, in relation to the 2000-01 year of income or a later year of income.

Note: See instead Division 284 in Schedule 1 to the *Taxation Administration Act 1953*.

29 Section 226A

Repeal the section.

30 Paragraph 226Z(b)

Repeal the paragraph, substitute:

(b) the taxpayer voluntarily tells the Commissioner in writing about the shortfall or part before the earlier of:

(i) the day the Commissioner informs the taxpayer that a tax audit relating to the taxpayer in respect of the year was to be carried out; or

(ii) if the Commissioner has made a public statement requesting taxpayers to make a voluntary disclosure by a particular day about a scheme or transaction that applies to the taxpayer's financial affairs—before that day;

31 Section 251A

Insert:

BAS provisions has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

32 Section 251A

Insert:

BAS service has the meaning given by section 251L.

33 Section 251A

Insert:

taxation law means an Act of which the Commissioner has the general administration, or regulations under such an Act, but does not include:

(a) Customs Acts as defined in section 4 of the *Customs Act 1901*; or

(b) Excise Acts as defined in section 4 of the *Excise Act 1901*; or

(c) the *Diesel and Alternative Fuels Grants Scheme Act 1999*; or

(d) a sales tax law as defined in section 5 of the *Sales Tax Assessment Act 1992*; or

(e) *A New Tax System (Goods and Services Tax Transition) Act 1999*.

34 Subsections 251L(1), (2), (3) and (4)

Repeal the subsections, substitute:

(1) Subject to this section, a person who is not a registered tax agent must not knowingly or recklessly demand or receive any fee for:

(a) preparing or lodging on behalf of a taxpayer a return, notice, statement, application or other document about the taxpayer's liabilities under a taxation law; or

(b) giving advice about a taxation law on behalf of a taxpayer; or

(c) preparing or lodging on behalf of a taxpayer an objection under Part IVC of the *Taxation Administration Act 1953* against an assessment, determination, notice or decision under a taxation law; or

(d) applying for a review of, or instituting an appeal against, a decision on such an objection; or

(e) on behalf of a taxpayer, dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law.

Penalty: 200 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

35 At the end of section 251L

Add:

(6) Subsection (1) does not apply to the provision of a BAS service on behalf of a taxpayer by:

(a) a member (except a student member or retired member) of a recognised professional association; or

(b) a bookkeeper working under the direction of a registered tax agent; or

(c) where the BAS service is under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*—a person who provides payroll services to an employer; or

(d) where a BAS service relates to imports or exports to which an indirect tax law (within the meaning of Part VI of the *Taxation Administration Act 1953*) applies—a customs broker licensed under Part XI of the *Customs Act 1901*.

(7) A ***BAS service*** is any of these:

(a) preparing or lodging an approved form about a taxpayer's liabilities, obligations or entitlements under a BAS provision;

(b) giving advice about a BAS provision;

(c) dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law in relation to a BAS provision.

(8) Subsection (1) does not apply to the provision of any of these services on behalf of a taxpayer by a barrister or solicitor who is acting in the course of his or her profession:

(a) preparing or lodging a notice, application or other document about the taxpayer's liabilities under a taxation law;

(b) giving advice about a taxation law;

(c) preparing or lodging an objection under Part IVC of the *Taxation Administration Act 1953* against an assessment, determination, notice or decision under a taxation law;

(d) applying for a review of, or instituting an appeal against, a decision on such an objection or undertaking any litigation or proceedings about a taxation law;

(e) while acting for a trust or a deceased estate for which the barrister or solicitor is the trustee or legal personal representative, preparing or lodging a return or statement about the trust's or estate's liabilities, obligations or entitlements under a taxation law;

(f) dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law about any of the matters specified in paragraphs (a) to (e).

(9) A member of a recognised professional association can provide BAS services through an entity for:

(a) if the member is a partner in a partnership—the partnership; or

(b) if the member is a director or employee of a company—the company.

(10) A defendant does not bear an evidential burden in relation to a matter specified in subsection (6) or (8).

36 After section 251L

Insert:

251LA *Recognised professional associations*

(1) A ***recognised professional association*** is an organisation that:
  (a) meets the requirements in subsections (2) to (10); or
  (b) is a charitable institution or a public educational institution:
    (i) that meets the requirements in subsections (2) to (4); and
    (ii) whose income is exempt from income tax under section 50-5 of the *Income Tax Assessment Act 1997*; and
    (iii) whose sole or principal activity is providing education, training and information about taxation.

(2) The organisation must:
  (a) be administered by a committee of management elected by and accountable to its members; and
  (b) not be carried on for profit or gain (excluding a reasonable salary or honorarium) to:
    (i) an office holder of the organisation; or
    (ii) its members; or
    (iii) members of bodies (***member bodies***) that are its members; and
    (iv) any person who is a member of that committee of management.

(3) The individuals who are members of that committee must be of good fame, integrity and character.

(4) The organisation must have at least 1,000 financial members who have the right to vote at meetings of the organisation.

(5) An individual or member body must not be eligible for membership of the organisation unless the individual, or each individual who is a member of the member body (except a student member), has completed the requirements for:
  (a) a diploma or certificate in accounting from a college or institute of technical and further education involving at least 2 years' full time, or 4 years' part time, study; or
  (b) an Australian tertiary qualification in accountancy involving at least 3 years' full time, or 6 years' part time, study; or

(c) some other similar qualification, or exemption from qualification, acceptable to the organisation; or

(d) admission as a legal practitioner in Australia.

(6) Under the rules of the organisation, individuals who are its members or members of its member bodies and who carry on a profession must:

(a) be subject to rules controlling their conduct in the practice of that profession; and

(b) be subject to discipline for breaches of those rules; and

(c) be required to undertake at least 15 hours of continuing professional education in each year (unless exempted in special circumstances); and

(d) if they are permitted by that organisation to be in public practice—have professional indemnity insurance.

(7) The organisation must have in place adequate operational procedures to ensure it is properly managed and its rules are enforced.

(8) The organisation must have satisfactory arrangements in place for:

(a) notifying clients of its members or of members of its member bodies as to how to make complaints; and

(b) hearing and deciding those complaints; and

(c) taking disciplinary action if complaints are justified.

(9) The organisation must have satisfactory arrangements in place for publishing annual statistics about:

(a) the kinds and frequency of complaints (except complaints under this Act about registered tax agents); and

(b) findings made as a result of the complaints; and

(c) action taken as a result of those findings.

(10) The organisation must be able to pay its debts as they fall due.

37 At the end of subsection 262A(1)

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

38 After subsection 262A(1C)

Insert:

(1D) A taxpayer who is a full self-assessment taxpayer must:

(a) keep a record containing particulars of the basis of the calculation of the amounts that the taxpayer specified under section 161AA in a return for a year of income; and

(b) produce to the Commissioner, when and as required by the Commissioner under this Act, a document containing those particulars.

39 Subsection 262A(5) (penalty)

Repeal the penalty.

40 At the end of section 262A

Add:

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

41 Subsection 263(3) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

42 At the end of section 462

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this Division: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

43 Section 465

Omit “$3,000”, substitute “30 penalty units”.

44 At the end of section 465

Add:

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

45 At the end of section 615

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this Division: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

46 Section 621

Omit "$3,000", substitute "30 penalty units".

47 At the end of section 621

Add:

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

48 At the end of subsection 245-265(1) in Schedule 2C

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

Income Tax Assessment Act 1997

49 Subsection 121-20(1) (note)

Omit "Note", substitute "Note 1".

50 At the end of subsection 121-20(1)

Add:

Note 2: There is an administrative penalty if you do not keep records as required by this Division: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

51 Subsection 121-20(5) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

52 Subsection 121-25(4) (note)

Omit “Note”, substitute “Note 1”.

53 At the end of subsection 121-25(4)

Add:

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Petroleum Resource Rent Tax Assessment Act 1987

54 Before section 101

Insert:

100A Part to stop applying

This Part does not apply to a return, or information, relating to the year of tax starting on 1 July 2000 or a later year of tax.

Note: See instead Division 284 in Schedule 1 to the *Taxation Administration Act 1953*.

55 Subsection 107(3) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

56 Section 112 (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

Superannuation Contributions Tax (Assessment and Collection) Act 1997

57 Subsection 35A(4)

Repeal the subsection, substitute:

(4) The prescribed penalty is 5 penalty units for each week or part of a week during which the contravention continues.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

58 Subsection 38(3) (penalty)

Omit “10 penalty units”, substitute “30 penalty units”.

59 Subsection 38(3) (note)

Omit “Note”, substitute “Note 1”.

60 At the end of subsection 38(3)

Add:

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Superannuation Guarantee (Administration) Act 1992

61 Subsection 38(2) (definition of *overpaid amount*)

After “Part 7”, insert “of this Act or administrative penalty under Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953*”.

62 Subsection 59(2)

Repeal the subsection, substitute:

(2) An employer liable to pay superannuation guarantee charge in relation to a year must:

(a) keep a record in relation to the year containing details of the basis of calculation of the following amounts:

(i) the employer’s annual national payroll for the employer’s base year;

(ii) the individual superannuation guarantee shortfalls of the employer for the year;

(iii) the employer’s nominal interest component for the year;

(iv) the employer's administration component for the year;

that were specified in a superannuation guarantee statement under section 33 or a statement under section 34; or

(b) produce to the Commissioner, when and as required by the Commissioner under this Act, a document containing details of the basis of calculation of the amounts referred to in paragraph (2)(a) that were specified in a superannuation guarantee statement under section 33 or a statement under section 34.

63 Sections 60 and 61

Repeal the sections.

64 Subsection 76(3) (penalty)

Repeal the penalty, substitute:

Penalty for contravention of this subsection: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

65 At the end of subsection 79(1)

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

66 Subsection 79(6)

Omit "$3,000", substitute "30 penalty units".

67 At the end of subsection 79(6)

Add:

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Taxation Administration Act 1953

68 Subsection 3AA(4)

Repeal the subsection.

69 Subsection 8AAB(5) (before table item 1)

Insert:

1A	27	*Diesel and Alternative Fuels Grants Scheme Act 1999*

70 Subsection 8AAB(5) (table items 17C and 17D)

Repeal the items.

71 Subsection 8AAB(5) (before table item 19)

Insert:

18	298-25 in Schedule 1	*Taxation Administration Act 1953*

72 Subsection 8AAG(5)

Repeal the subsection, substitute:

(5) The Commissioner may remit all or a part of the charge referred to in subsection (2) if the Commissioner is satisfied that:

(a) there are special circumstances because of which it would be fair and reasonable to remit all or a part of the charge; or

(b) it is otherwise appropriate to do so.

73 Before section 8AAI

Insert:

8AAHA Division to stop applying

This Division does not apply to a notification of a liability that arises on or after 1 July 2000.

74 Before section 8AAO

Insert:

8AANA Division to stop applying

This Division does not apply to a statement, report or form that relates to the 2000-01 year of income or a later year of income.

75 Subsection 8AAZLH(2)

After “nominated” (first occurring), insert “in the approved form”.

76 After subsection 8AAZLH(2)

Insert:

(2A) The account must be one held by:

(a) the entity, or the entity and some other entity; or

(b) the entity’s registered tax agent; or

(c) a legal practitioner as trustee or executor for the entity.

77 At the end of section 8AAZLH

Add:

(5) If the Commissioner pays a refund to the credit of an account nominated by an entity, the Commissioner is taken to have paid the refund to the entity.

78 After section 8AAZM

Insert:

8AAZMA Electronic payment of tax debts

(1) An entity that, under subsection 33-10(2) of the *A New Tax System (Goods and Services Tax) Act 1999*, is required to pay a net amount for a tax period electronically must also electronically pay the Commissioner all of its other tax debts that are due to be paid during that period.

(2) A large withholder that, under subsection 16-85(1) in Schedule 1, is required to pay an amount electronically in a particular month must also electronically pay the Commissioner all of its other tax debts that are due to be paid during that month.

80 Paragraph 14ZU(a)

Omit “writing”, substitute “the approved form”.

81 Section 16B

Repeal the section, substitute:

16B Certain liabilities to be reduced to nearest multiple of 5 cents

If the amount of a tax-related liability that arises by way of penalty or because it is assessed by the Commissioner (other than an RBA deficit or a liability to pay the general interest charge) is not a multiple of 5 cents, the amount is decreased to the nearest multiple of 5 cents.

82 Subsection 66(4) (penalty)

Omit “10 penalty units”, substitute “30 penalty units”.

83 At the end of subsection 70(4)

Add:

Note 3: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1.

84 Subsection 16-25(1) in Schedule 1 (note 2)

Omit “civil”, substitute “administrative”.

85 Subsection 16-25(2) in Schedule 1 (note 2)

Omit “civil”, substitute “administrative”.

86 Subsection 16-85(1) in Schedule 1 (note 3)

Omit “288-15”, substitute “8AAZMA”.

87 Subsection 16-140(3) in Schedule 1 (note 2)

Omit “civil”, substitute “administrative”.

88 At the end of section 16-142 in Schedule 1

Add:

(2) The Commissioner may register a branch of a *government entity or a *non-profit sub-entity if:

(a) the branch or sub-entity applies, in the *approved form, for registration; and

(b) the branch or sub-entity has an *ABN or has applied for one.

A branch or sub-entity that is so registered is also a ***PAYG withholding branch***.

89 Subsection 16-150(1) in Schedule 1

After “pay an amount”, insert “(even if it is a nil amount)”.

90 Subsection 16-150(2) in Schedule 1

Repeal the subsection.

91 Subsection 16-153(4) in Schedule 1

Repeal the subsection.

92 Section 16-175 in Schedule 1 (penalty)

Repeal the penalty.

93 Section 16-195 in Schedule 1 (note)

Omit “civil”, substitute “administrative”.

94 Section 16-200 in Schedule 1

Repeal the section.

95 Subsections 18-40(1) and (2) in Schedule 1

Repeal the subsections, substitute:

(1) If an entity has paid to the Commissioner:

(a) an amount of penalty under Subdivision 284-C in relation to a *scheme to which section 177CA of the *Income Tax Assessment Act 1936* applies for a *withholding payment; or

(b) an amount of *general interest charge under section 298-25 in relation to that amount;

the person liable to pay the *withholding tax for that withholding payment is entitled to a credit equal to the amount paid by the entity.

Remission

(2) If:

(a) an entity has paid an amount under Subdivision 284-C in relation to a penalty mentioned in paragraph (1)(a); and

(b) the Commissioner remits the whole or a part of the amount of the penalty under section 298-20;

then:

(c) any credit under subsection (1) relating to the amount paid by the entity is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

Note: The heading to section 18-40 in Schedule 1 is replaced by the heading "**Credit: liability under Part 4-25**".

96 Subsection 18-100(1) in Schedule 1 (note)

Omit "Note", substitute "Note 1".

97 At the end of subsection 18-100(1) in Schedule 1

Add:

Note 2: There is an administrative penalty if you do not retain the copy as required by this section: see section 288-25 in Schedule 1.

98 Section 20-80 in Schedule 1 (table item 15)

Repeal the item.

99 Section 20-80 in Schedule 1 (table item 20)

Repeal the item.

100 At the end of section 20-80 in Schedule 1

Add:

Note: Division 298 also provides review rights about remission of administrative penalties.

101 At the end of section 45-25 in Schedule 1

Add:

(2) This section does not apply to a notification required to be lodged on or after 1 July 2000.

Note: See instead Division 286 in Schedule 1 to the *Taxation Administration Act 1953*.

102 Paragraph 45-230(3)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

103 Paragraph 45-232(4)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

104 Paragraph 45-233(5)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

105 Paragraph 45-235(4)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

106 Section 45-420 in Schedule 1 (link note)

Repeal the link note.

107 Subsection 250-10(2) in Schedule 1 (table items 95 and 110)

Repeal the items.

108 Subsection 250-10(2) in Schedule 1 (table item 140)

Repeal the item, substitute:

140	administrative penalties	Divisions 284, 286 and 288 in Schedule 1	*Taxation Administration Act 1953*

109 At the end of section 255-10 in Schedule 1

Add:

(3) A deferral under subsection (1) does not defer the time for giving an *approved form to the Commissioner.

Note: Section 388-55 allows the Commissioner to defer the time for giving an approved form.

110 Division 288 in Schedule 1 (heading)

Repeal the heading, substitute:

Division 288—Miscellaneous administrative penalties

111 Section 288-5 in Schedule 1

Repeal the section.

112 Paragraph 288-10(b) in Schedule 1

Omit “288-5”, substitute “388-80”.

113 Section 288-15 in Schedule 1

Repeal the section.

114 Paragraph 288-20(b) in Schedule 1

Repeal the paragraph, substitute:

(b) under section 8AAZMA, or subsection 16-85(1) in this Schedule, is required to pay an amount electronically;

115 After section 288-20 in Schedule 1

Insert:

288-25 Penalty for failure to keep or retain records

(1) You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a *taxation law requires you to keep or retain a record; and

(b) you do not keep or retain that record in the manner required by that law.

(2) Subsection (1) does not apply to:

(a) documents required to be retained under Part X of the *Fringe Benefits Tax Assessment Act 1986* (about statutory evidentiary documents); or

(b) documents required to be kept or retained under Division 900 of the *Income Tax Assessment Act 1997* (about substantiation of expenses).

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

288-30 Penalty for failure to retain or produce declarations

You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a *taxation law requires you to retain or produce a declaration you made about an agent giving an *approved form to the Commissioner on your behalf; and

(b) you do not retain or produce that declaration in the manner required by that law.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

288-35 Penalty for preventing access etc.

You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a *taxation law confers a power on an officer authorised under that law:

(i) to enter or remain on land, premises or a place that you occupy; or

(ii) to have access to documents, goods or other property in your possession; or

(iii) to inspect, copy or take extracts from documents in your possession; or

(iv) to inspect, examine, count, measure, weigh, gauge, test or analyse any goods or other property in your possession and, to that end, take samples; and

(b) you refuse to provide the officer with all reasonable facilities for the officer effectively to exercise that power in accordance with that law.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

116 Section 298-5 in Schedule 1

Repeal the section, substitute:

298-5 Scope of Division

This Division applies if an administrative penalty is imposed on an entity by another Division in this Part.

117 At the end of Division 298 in Schedule 1

Add:

298-30 Assessment of penalties under Division 284

(1) The Commissioner must make an assessment of the amount of an administrative penalty under Division 284.

(2) An entity that is dissatisfied with such an assessment made about the entity may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

(3) The production of a notice of such an assessment, or of a copy of it certified by or on behalf of the Commissioner, is conclusive evidence of the making of the assessment and of the particulars in it.

(4) Subsection (3) does not apply to proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment.

118 Subsection 353-10(2) in Schedule 1

After “oath” (wherever occurring), insert “or affirmation”.

119 Section 360-180 in Schedule 1 (link note)

Omit “400”, substitute “388”.

120 Section 420-5 in Schedule 1 (note 2)

Omit “civil”, substitute “administrative”.

Note: The heading to section 420-5 in Schedule 1 is altered by omitting “**civil**” and substituting “**administrative**”.

Taxation (Interest on Overpayments and Early Payments) Act 1983

121 Section 13

Repeal the section, substitute:

Note: For rules about allocation of credits arising under this Act, see Division 3 of Part IIB of the *Taxation Administration Act 1953*.

Tobacco Charges Assessment Act 1955

122 Before section 29

Insert:

28A Part to stop applying

This Part does not apply to a return, or information, relating to the year starting on 1 July 2000 or a later year.

Note: See instead Division 284 in Schedule 1 to the *Taxation Administration Act 1953*.

123 Subsection 41(3) (penalty)

Repeal the penalty, substitute:

Penalty for a contravention of this subsection: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Termination Payments Tax (Assessment and Collection) Act 1997

124 Subsection 26(3) (penalty)

Omit “10 penalty units”, substitute “30 penalty units”.

Wool Tax (Administration) Act 1964

125 Before section 61

Insert:

60 Part to stop applying

This Part does not apply to a return, or information, relating to the year starting on 1 July 2000 or a later year.

Note: See instead Division 284 in Schedule 1 to the *Taxation Administration Act 1953*.

126 Subsection 89(1) (penalty)

Omit “$2,000”, substitute “30 penalty units”.

127 At the end of subsection 89(1)

Add:

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

128 Subsection 90(3) (penalty)

Repeal the penalty, substitute:

Penalty for a contravention of this subsection: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

129 Transitional—existing RBAs

Although the *A New Tax System (Pay As You Go) Act 1999* repealed subsection 8AAZL(3) of the *Taxation Administration Act 1953*, special priority credits referred to in that subsection are to continue to be applied in accordance with that subsection.

Part 2—Amendments applying to returns etc. for the 2000-01 year and later years

Income Tax Assessment Act 1936

130 Section 160ARG

Repeal the section, substitute:

160ARG Requirements for returns

A return under this Part must be in the approved form.

131 Subsection 161(1)

Omit "or such further period as the Commissioner allows".

132 At the end of subsection 161(1)

Add:

Note: The Commissioner may defer the time for giving the return: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

133 Subsection 161A(1)

Repeal the subsection, substitute:

(1) The return must be in the approved form.

134 Section 161B

Repeal the section.

135 Section 161C

Repeal the section.

136 Section 161D

Repeal the section.

137 Section 161E

Repeal the section.

138 Section 162

Repeal the section, substitute:

162 Further returns and information

A person must, if required by the Commissioner, whether before or after the end of the year of income, give the Commissioner, within the time required and in the approved form:

(a) a return or a further or fuller return for a year of income or a specified period, whether or not the person has given the Commissioner a return for the same period; or

(b) any information, statement or document about the person's financial affairs.

139 Section 163

Omit "in the manner", substitute "in the approved form".

140 Section 165

Repeal the section.

141 Section 264B

Repeal the section.

142 Section 264C

Repeal the section.

Taxation Administration Act 1953

142A Paragraph 8C(1)(a)

Omit "return", substitute "approved form".

143 Before Part 5-30 in Schedule 1

Insert:

Part 5-25—Record-keeping and other obligations of taxpayers

Division 388—Requirements about giving material to the Commissioner

Table of Subdivisions

388-A Object of Division
388-B General provisions

Subdivision 388-A—Object of Division

388-5 Object of Division

The object of this Division is to set out requirements to ensure the integrity and efficiency of giving material to the Commissioner.

Subdivision 388-B—General provisions

Table of sections

388-50 Approved forms
388-55 Commissioner may defer time for lodgment
388-60 Declaration by entity
388-65 Declaration by entity where agent gives document
388-70 Declaration by agent
388-75 Signing declarations
388-80 Electronic notification of BAS amounts
388-85 Truncating amounts

388-50 Approved forms

(1) A return, notice, statement, application or other document under a *taxation law is in the ***approved form*** if, and only if:

(a) it is in the form approved in writing by the Commissioner for that kind of return, notice, statement, application or other document; and

(b) it contains a declaration signed by a person or persons as the form requires (see section 388-75); and

(c) it contains the information that the form requires, and any further information, statement or document as the Commissioner requires, whether in the form or otherwise; and

(d) for a return, notice, statement, application or document that is required to be given to the Commissioner—it is given in the manner that the Commissioner requires (which may include *electronically).

(2) The Commissioner may combine in the same *approved form more than one return, notice, statement, application or other document.

(3) The Commissioner may approve a different *approved form for different entities.

Example: The Commissioner may require high wealth individuals to lodge a different income tax return to that required to be lodged by an individual whose only income is a salary.

388-55 Commissioner may defer time for lodgment

(1) The Commissioner may defer the time within which an *approved form is required to be given to the Commissioner or to another entity.

(2) A deferral under subsection (1) does not defer the time for payment of any amount to the Commissioner.

Note: Section 255-10 allows the Commissioner to defer the time for payment of an amount of a tax-related liability.

388-60 Declaration by entity

If you give a return, notice, statement, application or other document to the Commissioner in the *approved form, you must make a declaration in the approved form that any information in the document is true and correct.

388-65 Declaration by entity where agent gives document

(1) If a return, notice, statement, application or other document of yours is to be given to the Commissioner in the *approved form by an agent on your behalf, you must make a declaration in writing:

(a) stating that you have authorised the agent to give the document to the Commissioner; and

(b) declaring that any information you provided to the agent for the preparation of the document is true and correct.

(2) You must give the declaration to the agent.

(3) You must retain the declaration or a copy of it for:

(a) if you are not a *SPOR taxpayer—5 years after it is made; or

(b) if you are a SPOR taxpayer—2 years after it is made.

(4) You must produce the declaration or copy if requested to do so within that period by the Commissioner.

(5) The agent must not give the document to the Commissioner before you make the declaration.

(6) You must sign the declaration.

388-70 Declaration by agent

If an agent gives a return, notice, statement, application or other document to the Commissioner in the *approved form on behalf of another entity, the agent must, if the document so requires, make a declaration in the approved form stating that:

(a) the document has been prepared in accordance with the information supplied by the other entity; and

(b) the agent has received a declaration from the other entity stating that the information provided to the agent is true and correct; and

(c) the agent is authorised by the other entity to give the document to the Commissioner.

388-75 Signing declarations

(1) You must sign a declaration in a return, notice, statement, application or other document you give to the Commissioner in paper form.

(2) If your agent gives a return, notice, statement, application or other document to the Commissioner on your behalf in paper form, the document must contain:

(a) a declaration signed by you; and

(b) if the document so requires—an agent's declaration signed by your agent.

(3) Any return, notice, statement, application or other document of yours that is *lodged electronically:

(a) if you give it to the Commissioner—must contain your declaration (see section 388-60) with your *electronic signature; or

(b) if your agent gives it to the Commissioner—must contain the agent's declaration (see section 388-70) with the agent's electronic signature.

(4) Any return, notice, statement, application or other document of yours that is given by telephone:

(a) if you give it—must contain your *telephone signature; or

(b) if your agent gives it—must contain your agent's telephone signature.

388-80 Electronic notification of BAS amounts

An entity that, under section 31-25 of the *GST Act, chooses or is required to *lodge a *GST return electronically must also electronically notify the Commissioner of all other *BAS amounts whose notification is required on the same day as the GST return (ignoring any extension allowed by the Commissioner under section 31-10 of that Act or a deferral under section 388-55).

388-85 Truncating amounts

If an *approved form that you are required to give the Commissioner specifies that amounts set out in the form are to be expressed in whole dollars, you truncate the amounts to the nearest whole dollar.

Example: Stefan Pty Ltd calculates that its PAYG instalment for a quarter is $8,496.73. Because the approved form requires amounts to be truncated, the amount would be reported in its BAS as $8,496.

144 Application of amendments

(1) Subject to this item, the amendments made by this Part apply to:

(a) for income tax—returns, statements, notices and other documents given for the 2000-01 income year and later years; and

(b) for fringe benefits tax—returns, statements, notices and other documents for the year of tax starting on 1 April 2001 and later years; and

(c) for other taxes—returns, statements, notices and other documents for the period starting on 1 July 2000 and later periods.

(2) Section 388-85 in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms required to be given to the Commissioner on or after 1 July 2000.

Part 3—Amendments applying to tax payable for the 2000-01 year and later years

Income Tax Assessment Act 1936

145 Subsection 204(1)

Repeal the subsection, substitute:

(1) Subject to the provisions of this Part, the tax payable by a taxpayer other than a full self-assessment taxpayer for a year of income becomes due and payable:

(a) if the taxpayer's return of income is lodged on or before the due date for lodgment—on the later of:

(i) 21 days after the due date for lodgment of that return specified in the *Gazette* under section 161 for the year of income; or

(ii) 21 days after a notice of assessment is given to the taxpayer; or

(b) in any other case—21 days after that due date for lodgment.

Note 1: The Commissioner may defer the time at which the tax is, or would become, due and payable: see section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2 The Commissioner may defer the due date for lodgment: see section 388-55 in that Schedule.

146 Subsection 204(2)

Repeal the subsection.

147 Application of amendments

The amendments made by this Part apply to income tax payable for the 2000-01 year of income and later years.

Part 4—FBT amendments commencing on 1 April 2001

Fringe Benefits Tax Assessment Act 1986

148 Section 70

Repeal the section, substitute:

70 Keeping records of indirect tax transactions

A return under section 68 or 69 must:

(a) be in the approved form; and

(b) specify:

(i) the fringe benefits taxable amount of the employer of the year of tax concerned; and

(ii) the amount of tax payable on that amount.

149 Section 70A

Repeal the section.

150 Section 70B

Repeal the section.

151 Section 71

Repeal the section.

152 Subsections 74(6A) and (6B)

Repeal the subsections, substitute:

(6A) An application for amendment must be in the approved form.

153 Section 124B

Repeal the section.

154 Section 124C

Repeal the section.

155 Subsection 136(1)

Insert:

> ***approved form*** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

156 Subsection 136(1) (definition of *electronic signature*)

Repeal the definition, substitute:

> ***electronic signature*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

157 Application of amendments

The amendments made by this Part apply to returns for the year of tax starting on 1 April 2001 and later years.

Schedule 3—Pay As You Go (PAYG) withholding system

Taxation Administration Act 1953

1 At the end of paragraph 12-60(1)(b) in Schedule 1

Add “, or directly for a client of another entity”.

2 Paragraph 12-190(2)(a) in Schedule 1

Omit “supply”, substitute “*supply”.

3 After subsection 12-190(2) in Schedule 1

Insert:

(2A) The payer need not withhold an amount under this section if the other entity has made the *supply, or proposes to make the supply, through an agent and, when the payment is made:

(a) the agent has given the payer an *invoice that relates to the supply and *quotes the agent’s *ABN; or

(b) the payer has some other document relating to the supply on which the agent’s ABN is *quoted.

4 Subsection 12-190(3) in Schedule 1

Omit “also”.

5 Paragraph 12-190(3)(a) in Schedule 1

Omit “supply”, substitute “*supply”.

6 After subsection 12-190(3) in Schedule 1

Insert:

(3A) The payer need not withhold an amount under this section if the other entity has made the *supply, or proposes to make the supply, through an agent and, when the payment is made:

(a) the agent has given the payer an *invoice that relates to the supply and purports to *quote the agent’s *ABN, or the payer has some other document that relates to the supply and purports to *quote the agent’s ABN; and

(b) the agent does not have an ABN, or the invoice or other document does not in fact quote the agent's ABN; and

(c) the payer has no reasonable grounds to believe that the agent does not have an ABN, or that the invoice or other document does not quote the agent's ABN.

7 Paragraph 12-190(4)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) the payment is made otherwise than in the course or furtherance of an *enterprise *carried on in Australia by the payer; or

8 Paragraph 12-190(4)(b) in Schedule 1

After "the payment", insert "(disregarding so much of it as relates to *GST payable on the *supply) or, if the payer has also made, or proposes to make, one or more other payments to the other entity for the supply, the total of all the payments (disregarding so much of them as relates to *GST payable on the supply)".

8A At the end of subsection 12-190(4) in Schedule 1

Add:

; or (d) the supply is wholly *input taxed.

9 Subparagraph 12-190(6)(a)(i) in Schedule 1

Omit "supply", substitute "*supply".

10 Subsection 15-25(1) in Schedule 1

Omit "11-1(b) and (c)", substitute "11-1(b), (c), (da) and (db)".

11 Paragraph 16-155(1)(a) in Schedule 1

After "12-85,", insert "12-190,".

12 Paragraph 16-160(1)(a) in Schedule 1

After "12-85,", insert "12-190,".

13 After section 16-165 in Schedule 1

Insert:

16-167 Payment summary for payment to recipient who does not quote ABN

(1) An entity (the ***payer***) that makes a *withholding payment covered by section 12-190 (about payments to recipients who do not quote their ABN) to another entity (the ***recipient***) must give the recipient a *payment summary (and a copy of it) that covers that payment, unless the *amount required to be withheld from the payment is nil.

(2) The summary must cover only that payment.

(3) The payer must give the summary to the recipient when making the payment, or as soon as practicable afterwards.

14 Subsection 16-170(3) in Schedule 1

Omit "or 16-165", substitute ", 16-165 or 16-167".

15 Section 16-175 in Schedule 1

Omit "or 16-165", substitute ", 16-165 or 16-167".

16 After section 16-175 in Schedule 1

Insert in Subdivision 16-C:

16-180 Commissioner may exempt entity from giving payment summary

(1) The Commissioner may, having regard to the circumstances of a particular case or class of cases, exempt an entity from specified requirements of any of sections 16-155 to 16-167. If the Commissioner does so, the exemption has effect accordingly.

(2) An exemption must be made by a written notice:

(a) if it applies to a particular entity—that is given to that entity; or

(b) if it applies to a class of entities—that is given to each of the entities, or a copy of which is published in the *Gazette*.

A New Tax System (Tax Administration) Act 1999

17 Items 26 and 27 of Schedule 18

Repeal the items.

Note: See instead items 8 and 9 of Schedule 5 to this Act.

18 Application

The items in Schedule 18 to the *A New Tax System (Tax Administration) Act 1999* that are repealed by item 17 of this Schedule are taken never to have had any effect.

Schedule 4—Amendment of the Corporations Law consequential on Pay As You Go (PAYG) withholding system

1 Subsection 443BA(2) (at the end of the definition of *remittance provision*)

Add:

; and any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

2 Subsection 459E(5)

Before "even if", insert "and any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*,".

3 Subsection 588F(2) (at the end of the definition of *remittance provision*)

Add:

; or any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

4 At the end of subsection 588FGA(1)

Add:

; or under a provision of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

Schedule 4A—Income tax deductions for GST-related expenditure

Income Tax Assessment Act 1997

1 Subsection 25-80(1)

After "*plant", insert "for the income year in which you incur the expenditure or enter into a contract to carry out the upgrade".

2 Paragraph 25-80(1)(a)

After "incur the expenditure", insert "or enter into the contract".

3 Paragraph 25-80(1)(c)

After "incur the expenditure", insert "or enter into the contract".

4 Paragraph 25-80(1)(d)

Omit "1 July 2000" (wherever occurring), substitute "1 July 2001".

5 Paragraph 25-80(1)(d)

Omit "immediately".

6 Paragraph 25-80(1)(e)

After "incur the expenditure", insert "or enter into the contract".

7 At the end of subsection 25-80(1)

Add:

> If you have already deducted the expenditure but you fail to comply with paragraph (d) of this subsection, your assessment may be amended to disallow the deduction.

8 Subsection 25-80(2)

After "incur the expenditure", insert "or enter into the contract".

9 At the end of section 25-80

Add:

Reducing the deduction

(4) Reduce your deduction by an amount that reasonably reflects the extent (if any) you neither used the upgraded *plant, nor had it *installed ready for use, for the *purpose of producing assessable income during the period in the income year you were its owner or *quasi-owner.

(5) Also, if you do not become the owner or *quasi-owner of the upgraded *plant by the end of 30 June 2000, reduce your deduction by an amount that reflects the extent (if any) that, as at that time, you *reasonably expect* neither to use the upgraded plant, nor to have it *installed ready for use, for the *purpose of producing assessable income during that part of the *financial year beginning on 1 July 2000 for which you expect to be its owner or quasi-owner.

10 At the end of section 42-15 (after the notes)

Add:

Note 3: The requirements in paragraphs (a) and (b) do not apply in the case of certain plant acquired for GST compliance: see section 42-168.

11 Subsection 42-168(1)

After “income year in which you”, insert “incur the cost or enter into a contract to”.

12 Paragraph 42-168(1)(a)

Omit “become the owner or quasi-owner of the plant”, substitute “incur the cost or enter into the contract”.

13 At the end of subsection 42-168(1)

Add:

; and (e) before 1 July 2001, you become the owner or *quasi-owner of the *plant and use it, or have it *installed ready for use, for the *purpose of producing assessable income.

If you have already deducted the cost but you fail to comply with paragraph (e), your assessment may be amended to disallow the deduction.

14 After subsection 42-168(1)

Insert:

Ownership and use not required in 1999-2000

(1A) The requirements in paragraphs 42-15(a) and (b) do not apply to a deduction that meets the requirements of subsection (1) of this section.

15 Subsection 42-168(2)

Omit "become the owner or *quasi-owner of the *plant", substitute "incur the *cost or enter into the contract".

16 At the end of section 42-170

Add:

Special reduction for plant acquired to meet GST obligations etc.

(4) A deduction covered by section 42-168 can be reduced under subsection (5) if you do not become the owner or *quasi-owner of the relevant *plant by the end of 30 June 2000.

(5) Reduce your deduction by an amount that reflects the extent (if any) that, as at that time, you *reasonably expect* neither to use the *plant, nor to have it *installed ready for use, for the purpose of producing assessable income during that part of the *financial year beginning on 1 July 2000 for which you expect to be the owner or *quasi-owner of the plant.

Schedule 4B—Diesel Fuel Rebate Scheme

Customs Act 1901

1 Subsection 164(5A)

Before “where the Minister”, insert “subject to subsection (5AAC),”.

2 Before subsection 164(5AA)

Insert:

(5AAC) The Minister may, by notice published in the *Gazette*, declare that the rate of rebate payable under subsection (1) to a person in respect of a specified type of diesel fuel that:

(a) is like fuel of a kind prescribed for the purposes of the definition of ***diesel fuel*** in subsection 4(1); and

(b) is for use in a manner referred to in a paragraph of subsection (1) of this section and specified in the notice;

is, on and after a day specified in the notice, a rate specified in the notice, being a rate lower than the rate specified in subsection (5) or under subsection (5A) (as the case requires) in relation to that paragraph, and, where the Minister makes such a declaration, the declaration has effect accordingly.

(5AAD) If a particular type of diesel fuel is used for more than one purpose, it may be treated for the purposes of subsection (5AAC) as more than one type of diesel fuel, each type relating to one or more purposes for which the fuel is used.

3 Subsection 164(5AA)

Omit “The”, substitute “Subject to subsection (5ABA), the”.

4 At the end of paragraph 164(5AA)(b)

Add “or (5AAC)”.

5 After subsection 164(5AB)

Insert:

(5ABA) Subsection (5AA) does not apply to the rebate payable in respect of diesel fuel if:

(a) the rate of rebate payable in respect of the diesel fuel is a rate specified in a notice under subsection (5AAC); and

(b) one or more of the rates of rebate that would be averaged under subsection (5AA) in respect of the fuel if that subsection applied would not be a rate specified in such a notice.

Excise Act 1901

6 Subsection 78A(5A)

Before "where the Minister", insert "subject to subsection (5AAC),".

7 Before subsection 78A(5AA)

Insert:

(5AAC) The Minister may, by notice published in the *Gazette*, declare that the rate of rebate payable under subsection (1) to a person in respect of a specified type of diesel fuel that:

(a) is like fuel of a kind prescribed for the purposes of the definition of ***diesel fuel*** in subsection 4(1); and

(b) is for use in a manner referred to in a paragraph of subsection (1) of this section and specified in the notice;

is, on and after a day specified in the notice, a rate specified in the notice, being a rate lower than the rate specified in subsection (5) or under subsection (5A) (as the case requires) in relation to that paragraph, and, where the Minister makes such a declaration, the declaration has effect accordingly.

(5AAD) If a particular type of diesel fuel is used for more than one purpose, it may be treated for the purposes of subsection (5AAC) as more than one type of diesel fuel, each type relating to one or more purposes for which the fuel is used.

8 Subsection 78A(5AA)

Omit "The", substitute "Subject to subsection (5ABA), the".

9 At the end of paragraph 78A(5AA)(b)

Add "or (5AAC)".

10 After subsection 78A(5AB)

Insert:

(5ABA) Subsection (5AA) does not apply to the rebate payable in respect of diesel fuel if:

(a) the rate of rebate payable in respect of the diesel fuel is a rate specified in a notice under subsection (5AAC); and

(b) one or more of the rates of rebate that would be averaged under subsection (5AA) in respect of the fuel if that subsection applied would not be a rate specified in such a notice.

Schedule 4C—Access to ABN information

Part 1—Amendments

A New Tax System (Australian Business Number) Act 1999

1 Subsection 3(3) (note)

Repeal the note, substitute:

Note: Section 30 facilitates this object by enabling the Registrar to provide information collected under this Act to State, Territory and local government bodies.

2 Section 26

Repeal the section, substitute:

26 Access to certain information in the Australian Business Register

(1) The *Registrar may (on receiving payment of any prescribed fee) give a *person a copy of the entry in the *Australian Business Register relating to an *entity.

(2) Before the copy is given to the *person, the*Registrar must excise from it:

(a) any detail not listed in subsection (3) or in regulations made under subsection (3); and

(b) any detail that the Registrar is prohibited from disclosing under subsection (4).

(3) The details are the following:

(a) the *entity's name;

(b) the entity's *ABN;

(c) the date of effect of the registration;

(d) either:

(i) the business name registered for the entity under the law of a State or Territory; or

(ii) if a business name is not registered for the entity—any name used for business purposes by the entity;

(e) the date of effect of any GST registration under section 25-10 of the *A New Tax System (Goods and Services Tax) Act 1999*;

(f) the date of effect of any GST cancellation under section 25-60 of the *A New Tax System (Goods and Services Tax) Act 1999*;

(g) any statement required to be entered in the *Australian Business Register in relation to the entity under section 30-229 of the *ITAA 1997;

(h) the entity's Australian Company Number and Australian Registered Body Number (if any);

(i) the kind of entity;

(j) the State or Territory in which the entity's principal place of *business is located, and the postcode relating to the location;

(k) any details prescribed in the regulations for the purposes of this section.

(4) If:

(a) a *person applies for a detail listed in subsection (3), or in regulations made under subsection (3), in relation to an *entity, not to be disclosed; and

(b) the *Registrar is satisfied that it is not appropriate to disclose the detail;

the Registrar must not disclose the detail under this section.

(5) In addition to providing copies under subsection (1), the *Registrar may make publicly available any details listed in subsection (3), or in regulations made under subsection (3), in relation to an *entity, other than any detail that the Registrar is prohibited from disclosing under subsection (4).

3 At the end of section 27

Add:

(7) If:

(a) a *person applies for a detail included in the *Australian Business Register in relation to an *entity not to be disclosed; and

(b) the *Registrar is satisfied that it is not appropriate to disclose the detail;

the detail must not be included in any document the Registrar issues or gives under subsection (2) or (4).

4 After Division 10

Insert:

Division 10A—Review of decisions about disclosure

27A Review of decisions

(1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the *Registrar under subsection 26(4) or 27(7).

(2) If an application for review is made under subsection (1), the orders that may be made under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975* include an order that the *Registrar not disclose the details that are the subject of the application pending the determination of the application for review.

27B Statement of rights to seek review

(1) If:

(a) a decision of a kind referred to in section 27A is made; and

(b) notice in writing of the decision is given to a *person whose interests are affected by the decision;

that notice must:

(c) include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision; and

(d) except where subsection 28(4) of that Act applies—also include a statement to the effect that the person may request a statement under section 28 of that Act.

(2) A failure to comply with subsection (1) does not affect the validity of the decision.

5 At the end of paragraph 30(3)(c)

Add:

or (vi) the head (however described) of a Department of State of a State or Territory for the purposes of legislation

administered by the Minister responsible for that Department; or

(vii) the head (however described) of a body established for a public purpose by or under a law of a State or Territory (including a local governing body) for the purposes of carrying out functions conferred on the body by a law of the State or Territory; or

(viii) a prescribed body for the prescribed purposes;

6 At the end of paragraph 30(3)(d)

Add:

; or (iv) the head (however described) of a Department of State of a State or Territory for the purposes of legislation administered by the Minister responsible for that Department; or

(v) the head (however described) of a body established for a public purpose by or under a law of a State or Territory (including a local governing body) for the purposes of carrying out functions conferred on the body by a law of the State or Territory; or

(vi) a prescribed body for the prescribed purposes.

7 Subsection 30(4)

Repeal the subsection, substitute:

(4) Subsection (3) does not authorise the disclosure of information to:

(a) a Commonwealth Minister; or

(b) a Minister of a State or Territory; or

(c) an elected member of a body established under a law of a State or Territory.

8 Section 41 (at the end of the definition of *official employment*)

Add:

; or (c) appointment or employment by a State or Territory, or the performance of services for a State or Territory; or

(d) appointment or employment by a local governing body, or the performance of services for a local governing body.

Part 2—Transitional

9 Regulations

Regulations made for the purposes of subsection 26(1) of the *A New Tax System (Australian Business Number) Act 1999* and in force immediately before the commencement of this Schedule continue in force as if they had been made for the purposes of that subsection as amended by item 2. This does not prevent amendment or repeal of the regulations.

Schedule 5—Consequential amendment of Chapter 6 (the Dictionary) of the Income Tax Assessment Act 1997

1 Subsection 995-1(1) (definition of *approved form*)

Repeal the definition, substitute:

> ***approved form*** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

1A Subsection 995-1(1) (after paragraph (d) of the definition of *BAS provisions*)

Insert:

; and (e) sales tax law as defined in section 5 of the *Sales Tax Assessment Act 1992*.

2 Subsection 995-1(1)

Insert:

> ***base penalty amount***: the base penalty amount for calculating the amount of an administrative penalty is worked out under the relevant provision in this table:

Base penalty amount

Item	For a penalty for this:	See:
1	False or misleading statement Position not reasonably arguable	Section 284-90 in Schedule 1 to the *Taxation Administration Act 1953*
2	*Schemes	Section 284-160 in that Schedule
3	Failure to lodge returns etc.	Section 286-80 in that Schedule

3 Subsection 995-1(1)

Insert:

> ***current annual turnover*** has the meaning given by section 195-1 of the *GST Act.

4 Subsection 995-1(1) (definition of *electronic signature*)

Repeal the definition, substitute:

> ***electronic signature*** of an entity means a unique identification of the entity in electronic form that is approved by the Commissioner.

5 Subsection 995-1(1)

Insert:

> ***fringe benefits taxable amount*** has the meaning given by section 5B of the *Fringe Benefits Tax Assessment Act 1986*.

6 Subsection 995-1(1)

Insert:

> ***government entity*** has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

6A Subsection 995-1(1)

Insert:

> ***input taxed*** has the meaning given by section 195-1 of the *GST Act.

7 Subsection 995-1(1)

Insert:

> ***non-profit sub-entity*** has the meaning given by section 195-1 of the *GST Act.

8 Subsection 995-1(1) (definition of *PAYE earner*)

Repeal the definition.

9 Subsection 995-1(1) (definition of *PAYE earnings*)

Repeal the definition.

10 Subsection 995-1(1)

Insert:

> ***reasonably arguable*** has the meaning given by section 284-15 in Schedule 1 to the *Taxation Administration Act 1953*.

10A Subsection 995-1(1) (paragraphs (b) and (c) of the definition of *recognised tax adviser*)

Repeal the paragraphs, substitute:

(b) a legal practitioner.

11 Subsection 995-1(1)

Insert:

scheme benefit has the meaning given by section 284-150 in Schedule 1 to the *Taxation Administration Act 1953*.

12 Subsection 995-1(1)

Insert:

scheme shortfall amount has the meaning given by section 284-150 in Schedule 1 to the *Taxation Administration Act 1953*.

13 Subsection 995-1(1)

Insert:

shortfall amount has the meaning give by section 284-80 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Subsection 995-1(1) (definition of *tax audit*)

Repeal the definition, substitute:

tax audit means an examination by the Commissioner of an entity's financial affairs for the purposes of a *taxation law.

15 Subsection 995-1(1)

Insert:

taxable importation has the meaning given by section 195-1 of the *GST Act.

16 Subsection 995-1(1)

Insert:

telephone signature of an entity is a unique identification of the entity that can be given by telephone and that is approved by the Commissioner.