New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001

Act No. 77 of 2001 as amended

This compilation was prepared on 31 January 2003

[This Act was amended by Act No. 119 of 2002]

Amendments from Act No. 57 of 2002

[Schedule 12 (item 44) amended item 219 of Schedule 2
Schedule 12 (item 45) amended item 230 of Schedule 2
Schedule 12 (items 44 and 45) commenced on 20 June 2001]

Amendments from Act No. 119 of 2002

[Schedule 3 (items 97 to 99) amended item 488 of Schedule 2
Schedule 3 (items 97 to 99) commenced on 30 June 2001]

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Taxation Laws Amendment Act (No. 1) 2001 144

An Act to implement the New Business Tax System by amending the law relating to taxation, and for related purposes

1 Short title

This Act may be cited as the *New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001*.

2 Commencement

(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 3 commences, or is taken to have commenced, just after the commencement of the *Taxation Laws Amendment Act (No. 1) 2001*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Transitional provisions

Income Tax (Transitional Provisions) Act 1997

1 Before Division 41

Insert:

Division 40—Capital allowances

Table of Subdivisions

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Subdivision 40-B—Core provisions

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40-10 Plant

(1) This section applies to you if:

(a) you have deducted or can deduct amounts for plant under Division 42 of the *Income Tax Assessment Act 1997* (the ***former Act***) as in force just before it was amended by the *New Business Tax System (Capital Allowances) Act 2001*, or you could have deducted amounts under that Division for the plant if you had used it, or had it installed ready for use, for the purpose of producing assessable income before that day; and

(b) either:

(i) you hold the plant at 1 July 2001; or

(ii) subparagraph (i) does not apply and you were the owner or quasi-owner of the plant at the end of 30 June 2001.

(2) Division 40 of the *Income Tax Assessment Act 1997* as amended by the *New Business Tax System (Capital Allowances) Act 2001* (the ***new Act***) applies to the plant on this basis:

(a) the amount that was your undeducted cost at the end of 30 June 2001 becomes the plant's opening adjustable value; and

(b) you use the same cost, effective life and method that you were using under Division 42 of the former Act; and

(c) if you excluded an amount from your assessable income under section 42-290 of the former Act for a balancing adjustment event that occurred on or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999—the cost of the plant, and its opening adjustable value, are reduced by that amount; and

(d) if subparagraph (1)(b)(ii) applies to you—you are treated as the holder of the plant while you are its holder or while the circumstances under which you would have been the owner or quasi-owner of the plant under the former Act continue.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

(3) If you were using a rate for the plant under subsection 42-160(1) or 42-165(1) of the former Act just before 1 July 2001, or would have been using such a rate if you had used it, or had it installed ready for use, for the purpose of producing assessable income before that day, Division 40 of the new Act applies to the plant on this basis:

(a) for the diminishing value method—replace the component in the formula in subsection 40-70(1) of the new Act that includes the plant's effective life with the rate you were using; and

(b) for the prime cost method:

(i) replace the component in the formula in subsection 40-75(1) of the new Act that includes the plant's effective life with the rate you were using; and

(ii) increase the plant's cost under Division 42 of the former Act by any amounts included in the second element of the plant's cost after 30 June 2001.

Note 1: Recalculating effective life will have no practical effect for an entity to whom subsection (3) applies because the component in the relevant formula that relies on effective life has been replaced.

Note 2: STS taxpayers work out the decline in value of their depreciating assets under Division 328.

40-12 Plant acquired after 30 June 2001

(1) This section applies to you if:

(a) you entered into a contract to acquire an item of plant before 1 July 2001 and you acquired it after 30 June 2001; or

(b) you started to construct an item of plant before 1 July 2001 and you complete its construction after 30 June 2001.

(2) Division 40 of the new Act applies to the plant.

(3) If you entered into the contract, or started to construct the plant, at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999, you replace the component in the formula in subsection 40-70(1) or 40-75(1) of the new Act that includes the plant's effective life with the rate you would have been using if you had acquired it, or completed its construction,

before 1 July 2001 and had used it, or had it installed ready for use, for the purpose of producing assessable income before that day.

40-15 Recalculating effective life

You cannot recalculate the effective life of a depreciating asset for which:

(a) you were using, just before 1 July 2001, a rate under subsection 42-160(1) or 42-165(1) of the former Act; or

(b) you would have been using such a rate if you had used the asset, or had it installed ready for use, for the purpose of producing assessable income before that day.

40-20 IRUs

(1) This section applies to you if:

(a) you have deducted or can deduct an amount for an IRU under Division 44 of the former Act; and

(b) you hold the IRU at 1 July 2001.

(2) Division 40 of the new Act applies to the IRU on this basis:

(a) you use the cost, effective life and method you were using under Division 44 of the former Act; and

(b) the amount that was your undeducted cost of the IRU at the end of 30 June 2001 becomes the IRU's opening adjustable value.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-25 Software

(1) Despite its repeal by this Act, Division 46 of the former Act continues to apply to expenditure on software that you incurred and that was in a software pool under that Division at the end of 30 June 2001.

(2) For a unit of software for which you were deducting amounts under Subdivision 46-B of the former Act, Subdivision 40-B of the new Act applies to the unit on this basis:

(a) its cost is the amount of expenditure you incurred on the unit; and

(b) you must use the prime cost method; and

(c) its opening adjustable value at 1 July 2001 is its undeducted cost at the end of 30 June 2001; and

(d) you must use the same effective life you were using under Subdivision 46-B of the former Act.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-30 Spectrum licences

(1) This section applies to you if you have deducted or can deduct an amount under Division 380 of the former Act for expenditure incurred in obtaining a spectrum licence on or before 30 June 2001.

(2) Subdivision 40-B of the new Act applies to the spectrum licence on this basis:

(a) its cost is your expenditure incurred in obtaining the licence; and

(b) its opening adjustable value at 1 July 2001 is the amount of unrecouped expenditure for the licence at the end of 30 June 2001; and

(c) its effective life is the same as it had under the former Act; and

(d) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-33 Datacasting transmitter licences

(1) This section applies to you if you hold a datacasting transmitter licence at 1 July 2001.

(2) Division 40 of the new Act applies to the licence on this basis:

(a) its cost is your expenditure incurred in obtaining the licence; and

(b) its opening adjustable value at 1 July 2001 is its cost; and

(c) its effective life is 15 years less any period that has elapsed from the day the licence was issued until 1 July 2001; and

(d) you must use the prime cost method.

40-35 Mining unrecouped expenditure

(1) This section applies to you if you have an amount of unrecouped expenditure under Division 330 of the former Act at the end of 30 June 2001.

(2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the ***notional asset***) you hold on this basis:

(a) it has an opening adjustable value at 1 July 2001 equal to the amount of unrecouped expenditure reduced by any deductions allowable under section 330-80 of the former Act for your income year ending on 30 June 2001; and

(b) it has a cost equal to the total amount of allowable capital expenditure under the former Act; and

(c) in applying the formula in section 40-75 of the new Act for the income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and

(d) it is taken to have been used for a taxable purpose at the start of 1 July 2001; and

(e) it has a remaining effective life worked out under subsection (3); and

(f) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

(3) The remaining effective life of the notional asset at the start of an income year (***present income year***) for which you are working out its decline in value is:

(a) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible mining operations other than in the course of petroleum mining is the lesser of these:

(i) the number equal to the difference between 10 and the number of income years (which may be zero) before the present income year for which an amount in respect of expenditure was deductible;

(ii) the number equal to the number of whole years in the estimated life of the mine, or proposed mine, on the mining property, or, if there is more than one such mine, of the mine that has the longest estimated life, as at the end of the present income year; or

(b) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible mining operations in the course of petroleum mining is the lesser of these:

(i) the number equal to the difference between 10 and the number of income years (which may be zero) before the present income year for which an amount in respect of expenditure was deductible;

(ii) the number equal to the number of whole years in the estimated life of the petroleum field or proposed petroleum field as at the end of the present income year; or

(c) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible quarrying operations the lesser of these:

(i) the number equal to the difference between 20 and the number of income years (which may be zero) before the present income year for which an amount in respect of expenditure was deductible; and

(ii) the number equal to the number of whole years in the estimated life of the quarry, or proposed quarry, on the quarrying property, or, if there is more than one such quarry, of the quarry that has the longest estimated life, as at the end of the present income year.

(4) Sections 40-95 and 40-110 of the new Act do not apply to the unrecouped expenditure.

(5) If either:

(a) both of these subparagraphs apply:

(i) any of the unrecouped expenditure referred to in subsection (1) relates to a depreciating asset (the ***real asset***);

(ii) in an income year (the ***cessation year***) you stop holding the real asset, or stop using it for a taxable purpose; or

(b) both of these subparagraphs apply:

(i) any of the unrecouped expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the ***other property***);

(ii) in the cessation year, the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;

there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the real asset or the other property and has not been taken into account in working out the amount of a balancing adjustment in relation to the real asset.

(6) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:

(a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or

(b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or

(c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or

(d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or

(e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

40-40 Transport expenditure

(1) This section applies to you if you have deducted or can deduct an amount for transport capital expenditure in respect of a transport facility under Subdivision 330-H of the former Act, or you could

have deducted an amount for the expenditure under that Subdivision if you had started to use the facility for a qualifying purpose before 1 July 2001.

(2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the ***notional asset***) you hold on this basis:

(a) it has an opening adjustable value at 1 July 2001 equal to the total amount of transport capital expenditure under the former Act less the amounts you have deducted or can deduct for that expenditure under the former Act; and

(b) it has a cost equal to the total amount of transport capital expenditure under the former Act; and

(c) in applying the formula in section 40-75 of the new Act for your income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and

(ca) it is taken to have been used for a taxable purpose at the start of 1 July 2001; and

(d) it has an effective life at the start of 1 July 2001 equal to the years remaining for the expenditure under section 330-395 of the former Act; and

(e) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

(3) Sections 40-95 and 40-110 of the new Act do not apply to the expenditure.

(4) If either:

(a) both of these subparagraphs apply:

(i) any of the transport capital expenditure referred to in subsection (1) relates to a depreciating asset (the ***real asset***);

(ii) in an income year (the ***cessation year***) you stop holding the real asset, or stop using it for a taxable purpose; or

(b) both of these subparagraphs apply:

(i) any of the transport capital expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the ***other property***);

(ii) in the cessation year, the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;

there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the real asset or the other property and has not been taken into account in working out the amount of a balancing adjustment in relation to the real asset.

(5) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:

(a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or

(b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or

(c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or

(d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or

(e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

40-45 Intellectual property

(1) This section applies to you if:

(a) at the end of 30 June 2001, you hold an item of intellectual property referred to in the table in section 373-35 of the former Act; and

(b) you have deducted or can deduct an amount for expenditure on the asset under Division 373 of the former Act.

(2) Subdivision 40-B of the new Act applies to the item on this basis:

(a) it has an opening adjustable value at 1 July 2001 equal to its unrecouped expenditure under the former Act at the end of 30 June 2001; and

(b) its cost is its original unrecouped expenditure under the former Act; and

(c) its effective life is the same as it had under the former Act; and

(d) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-50 Forestry roads and timber mill buildings

(1) This section applies to you if:

(a) you have deducted or can deduct an amount under Subdivision 387-G of the former Act for an amount (the ***qualifying amount***) of expenditure on a forestry road or timber mill building; and

(b) you hold the road or building at the end of 30 June 2001.

(2) Subdivision 40-B of the new Act applies to the asset on this basis:

(a) it has an opening adjustable value at 1 July 2001 equal to the qualifying amount less any amounts you have deducted or can deduct for it under the former Act; and

(b) in applying the formula in section 40-75 of the new Act for your income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and

(c) its cost is the qualifying amount; and

(d) it has an effective life equal to the remaining life you last estimated for it under the former Act; and

(e) you can recalculate its effective life if you conclude that your estimate is no longer accurate (except that the effective life cannot exceed 25 years); and

(f) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-55 Environmental impact assessment

(1) This section applies to you if you have deducted or can deduct an amount under Subdivision 400-A of the former Act for an amount (the ***qualifying amount***) of expenditure on or before 30 June 2001 on evaluating the impact on the environment of a project under Subdivision 400-A of the former Act.

(2) Division 40 of the new Act applies to the qualifying amount as if it were a depreciating asset on this basis:

(a) it has an opening adjustable value at 1 July 2001 equal to the qualifying amount less any amounts you have deducted or can deduct for it under the former Act or the *Income Tax Assessment Act 1936*; and

(b) it has a cost equal to the qualifying amount; and

(c) it has an effective life equal to the number of years for which you could deduct for the qualifying amount worked out under subsection 400-15(3) of the former Act; and

(d) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-60 Pooling under Subdivision 42-L of the former Act

(1) Units of plant that you had allocated to a pool under Subdivision 42-L of the former Act and that were allocated to the pool by 30 June 2001 are treated as a single depreciating asset for the purposes of Division 40 of the new Act.

(2) Division 40 of the new Act applies to the single depreciating asset on this basis:

(a) its cost and opening adjustable value at 1 July 2001 is the closing balance of the pool for your income year in which 30 June 2001 occurred; and

(b) you must use the diminishing value method; and

(c) in applying the formula in section 40-70 of the new Act for your income year in which 1 July 2001 occurs—it has a base value equal to that opening adjustable value; and

(d) you replace the component in the formula in subsection 40-70(1) of the new Act that includes an asset's effective life with the pool percentage you were using for the pool; and

(e) if an item of plant is removed from the pool because a balancing adjustment event occurs for the item or because of subsection (3) of this section, section 40-115 of the new Act applies so that you are treated as having split the single depreciating asset into the removed asset and the remaining assets in the pool; and

(f) if an amount is included in the second element of the cost of a depreciating asset in the pool, Division 40 of the new Act applies as if that amount had been included in the second element of the cost of the single asset.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

(3) An item of plant in the pool is automatically removed from the pool if you stop using it wholly for taxable purposes (except because a balancing adjustment event occurs for the item).

Note 1: You work out the decline in value of an item removed under this subsection under Subdivision 40-B of the new Act, using the cost for it worked out under section 40-205 of the new Act.

Note 2: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-65 Substituted accounting periods

(1) This section sets out special rules for the application of Division 40 of the new Act to an entity that:

(a) has a substituted accounting period; and

(b) because of a provision of this Subdivision, uses Division 40 of the new Act to work out the decline in value of an asset, or of something that is treated as an asset.

(2) The entity works out its deductions for its income year that includes 1 July 2001 (the ***calculation year***) in this way:

(a) the entity works out its deductions for that asset under the former Act as from the start of its calculation year up to the end of 30 June 2001 as if that period were an income year; and

(b) the entity works out the decline in value of the asset under Division 40 of the new Act from 1 July 2001 until the end of its calculation year as if that period were an income year in accordance with the following provisions of this section.

(3) The asset's opening adjustable value for the purposes of Division 40 of the new Act is:

(a) for a unit of plant (including IRUs and expenditure on software that is not pooled)—its undeducted cost at the end of 30 June 2001; or

(b) for expenditure on eligible mining or quarrying operations, an item of intellectual property or a spectrum licence—the amount of unrecouped expenditure for the expenditure, item or licence under the former Act at the end of 30 June 2001 reduced, in the case of eligible mining or quarrying operations, by an amount you have deducted or can deduct for the calculation year under the former Act and not yet taken into account in calculating unrecouped expenditure; or

(c) for transport capital expenditure—the entity's amount of transport capital expenditure under the former Act at the end of 30 June 2001 less any amounts the entity has deducted or can deduct for it under the former Act up to that time; or

(d) for expenditure on a forestry road, a timber mill building, a horticultural plant or a grapevine—the amount of that expenditure less any amounts the entity has deducted or can deduct for it under the former Act up to 30 June 2001; or

(e) for expenditure on evaluating the impact on the environment of a project—the amount of that expenditure less any amounts the entity has deducted or can deduct for it under the former Act up to 30 June 2001; or

(f) for assets that were pooled under Subdivision 42-M or 42-L of the former Act—the closing balance of the pool at the end of 30 June 2001.

(4) The asset's base value for applying the formula in section 40-70 of the new Act for the diminishing value method is that opening adjustable value.

(5) The decline in value for the assets referred to in this subsection is worked out using the prime cost method without the adjustments in

subsection 40-75(3) of the new Act, and the opening adjustable value specified in subsection (3) of this section, in this way:

(a) for an item of plant for which you were using the prime cost method—using the rules in section 40-10 of this Act; and

(b) for an IRU for which you were using the prime cost method—using the rules in section 40-20 of this Act; and

(c) for a unit of software for which the entity was deducting amounts under Subdivision 46-B of the former Act—using the rules in subsection 40-25(2) of this Act; and

(d) for a spectrum licence—using the rules in section 40-30 of this Act; and

(e) for an item of intellectual property—using the rules in section 40-45 of this Act; and

(f) for an amount of expenditure on evaluating the impact on the environment of a project—using the rules in section 40-55 of this Act.

(6) The decline in value for the assets referred to in this subsection is worked out using the prime cost method using the adjustments in subsection 40-75(3) of the new Act, and the opening adjustable value specified in subsection (3) of this section, in this way:

(a) for an amount of unrecouped expenditure under Division 330 of the former Act—using the rules in section 40-35 of this Act; and

(b) for an amount of transport capital expenditure under Division 330 of the former Act—using the rules in section 40-40 of this Act; and

(c) for a forestry road or timber mill building—using the rules in section 40-50 of this Act.

(7) The entity must work out the decline in value of each of the assets for later income years under Division 40 of the new Act.

(8) The entity must, in working out its deductions under this section for the calculation year for:

(a) allowable capital expenditure for which the entity had deducted or can deduct an amount under Subdivision 330-C of the former Act; or

(b) transport capital expenditure for which the entity had deducted or can deduct an amount under Subdivision 330-H of the former Act; or

(c) a water facility for which the entity had deducted or can deduct an amount under Subdivision 387-B of the former Act; or

(d) expenditure on connecting power to land or upgrading the connection for which the entity had deducted or can deduct an amount under Subdivision 387-E of the former Act; or

(e) expenditure on a telephone line on or extending to land for which the entity had deducted or can deduct an amount under Subdivision 387-E of the former Act;

reduce its deductions for each of the periods referred to in paragraphs (2)(a) and (b) by multiplying the deduction for that period by the number of days in that period and dividing the result by 365.

(9) The entity cannot deduct anything for an asset referred to in this section under the former Act for any part of its calculation year after 30 June 2001.

(10) You are entitled to a further deduction for a depreciating asset for which you are using the diminishing value method if the sum of the deductions worked out under paragraphs (2)(a) and (b) (the ***sum amount***) is less than the deduction to which you would have been entitled for the asset if the former Act had continued to apply to the whole of the calculation year (the ***former Act amount***).

(11) You increase the amount worked out under paragraph (2)(b) by the difference between the former Act amount and the sum amount.

40-70 References to amounts deducted and reductions in deductions

(1) A reference in the new Act to an amount that you have deducted or can deduct for a depreciating asset under Division 40 of the new Act includes a reference to an amount that you have deducted or can deduct for a capital allowance relating to the asset under the former Act or the *Income Tax Assessment Act 1936*.

(2) An amount you have deducted or can deduct for a water facility under Subdivision 387-B of the former Act or section 75B of the

Income Tax Assessment Act 1936 is taken to have been deducted under Subdivision 40-F of the new Act.

(3) A reference in the new Act to a reduction in your deduction for a depreciating asset includes a reference to amounts by which your deductions for the asset were reduced under the former Act or the *Income Tax Assessment Act 1936*.

40-75 Mining expenditure incurred after 1 July 2001 on an asset

(1) This section applies to you if:

(b) you hold a depreciating asset (except a mining, quarrying or prospecting right that you started to hold before 1 July 2001) that you:

(i) started to hold under a contract entered into before 1 July 2001; or

(ii) constructed where the construction started before that day; or

(iii) started to hold in some other way before that day; and

(c) your expenditure on the asset, whenever incurred, would have been allowable capital expenditure, transport capital expenditure or expenditure on exploration or prospecting within the meaning of Division 330 of the former Act if it had been incurred before 1 July 2001.

(2) If you incur expenditure on the asset after 30 June 2001 that forms part of the cost of the asset, you can deduct the expenditure for the income year in which you incur it if it would have been expenditure on exploration or prospecting within the meaning of Division 330 of the former Act.

(3) Otherwise, Subdivision 40-B of the new Act applies to the asset on the basis that it has a cost, and an adjustable value, of zero at the start of 1 July 2001, and an effective life on that day or at its start time, whichever is the later, worked out under subsection (4) of this section.

(4) The effective life of the depreciating asset is the shorter of its effective life worked out under Division 40 and:

(a) if the expenditure on the asset was incurred in relation to eligible mining operations other than in the course of petroleum mining—the shorter of:

(i) 10 years; and

(ii) the number of whole years in the estimated life of the mine or proposed mine to which the expenditure relates or, if there is more than one such mine, of the mine that has the longest estimated life; or

(b) if the expenditure on the asset was incurred in relation to eligible mining operations in the course of petroleum mining—the shorter of:

(i) 10 years; and

(ii) the number of whole years in the estimated life of the petroleum field or proposed petroleum field to which the expenditure relates; or

(c) if the expenditure on the asset was incurred in relation to eligible quarrying operations—the shorter of:

(i) 20 years; or

(ii) the number of whole years in the estimated life of the quarry or proposed quarry to which the expenditure relates or, if there is more than one such quarry, of the quarry that has the longest estimated life.

40-77 Mining, quarrying or prospecting rights or information held before 1 July 2001

(1) Division 40 of the new Act does not apply to a mining, quarrying or prospecting right that you started to hold before 1 July 2001.

Note: If you incur expenditure relating to assets of that kind, you cannot deduct it under Division 40. However, the expenditure may be taken into account in calculating a capital gain or capital loss under Part 3-1 or 3-3 of the *Income Tax Assessment Act 1997*.

(2) If, after 30 June 2001:

(a) you dispose of a mining, quarrying or prospecting right that you started to hold before 1 July 2001 to an associate of yours; or

(b) you enter into an arrangement in relation to such a right under which you maintain, in essence, the economic ownership of the right but not its legal ownership;

the cost of the right to the purchaser is limited, for the purposes of Division 40 of the new Act, to a maximum of the costs that would have been deductible for the right under Division 330 of the former Act.

(3) An amount that would be included in your assessable income under section 15-40 or subsection 40-285(1) of the new Act in respect of mining, quarrying or prospecting information you started to hold before 1 July 2001 is reduced (but not below zero) by so much of the capital cost of acquiring the information that you incurred before that day and that:

(a) you have not deducted and cannot deduct (either immediately or over time) under the former Act; and

(b) did not form part of allowable capital expenditure under the former Act; and

(c) did not entitle you to a deduction under section 330-235 of the former Act;

but only to the extent that you have not already applied the amount under this section.

40-80 Other expenditure incurred after 1 July 2001 on a depreciating asset

(1) This section applies to you if:

(a) you incur expenditure after 30 June 2001 that forms part of the cost of a depreciating asset; and

(b) the depreciating asset is one that you:

(i) started to hold under a contract entered into before 1 July 2001; or

(ii) constructed where the construction started before that day; or

(iii) started to hold in some other way before that day; and

(c) if you had incurred the expenditure before 1 July 2001, and had satisfied any relevant requirement for deductibility, you would have been able to deduct an amount for it under Division 44, 373 or 380, or Subdivision 46-B or 387-G, of the former Act.

(2) Subdivision 40-B of the new Act applies to the asset on the basis that it has a cost, and an adjustable value, of zero at the start of 1 July 2001.

40-85 Excess deductions

You can deduct any amount of new EPE (see sections 330-30 and 330-35 of this Act) you have at the end of your 2000-01 income year, reduced by the total of the relevant amounts (see subsections 330-30(4) and 330-35(4) of this Act) for an earlier applicable year (see subsections 330-30(3) and 330-35(3) of this Act).

Subdivision 40-C—Cost

Table of sections

40-230 Car limit

40-230 Car limit

(1) Division 40 of the new Act applies as if references in that Division to the car limit included references to:

(a) the car depreciation limit under Division 42 of the former Act; and

(b) the motor vehicle depreciation limit under section 57AF of the *Income Tax Assessment Act 1936*.

(2) If you:

(a) have a substituted accounting period; and

(b) start to hold a car in your 2001-02 income year but before 1 July 2001;

you must use as the car limit the car depreciation limit under section 42-80 of the former Act for the 2000-01 financial year.

Subdivision 40-D—Balancing adjustments

Table of sections

40-285 Balancing adjustments
40-290 Reduction of deductions under former Act etc.
40-295 Later year relief

40-340 Roll-overs
40-345 Balancing adjustments for depreciating assets that retain CGT indexation

40-285 Balancing adjustments

(1) Paragraphs 40-285(1)(a) and (2)(a) of the new Act have effect in relation to a depreciating asset that you held at 1 July 2001 as if amounts you have deducted or can deduct for the asset under the former Act or the *Income Tax Assessment Act 1936* were part of the asset's decline in value under Division 40.

(2) You are entitled to a further deduction under subsection (3) if:
   (a) you are entitled to a deduction under subsection 40-285(2) of the new Act for a balancing adjustment event happening to a depreciating asset:
      (i) to which Division 58 of the former Act applied; or
      (ii) to which section 61A of the *Income Tax Assessment Act 1936* applied, or for which the transition time under Division 57 of Schedule 2D to that Act occurred before 1 July 2001; and
   (b) you would have been entitled to a further deduction under section 42-197 of the former Act.

(3) The amount of the further deduction is the amount worked out under section 42-197 of the former Act.

(4) Division 40 of the new Act applies to a balancing adjustment event that occurs on or after 1 July 2001 for a depreciating asset you hold if you held the asset on that day.

(5) The amount included in your assessable income under subsection 40-285(1) or section 40-370 of the new Act for a balancing adjustment event happening to a depreciating asset is reduced if:
   (a) the asset is either:
      (i) a depreciating asset that is not plant and that you started to hold under a contract entered into before 1 July 2001, you constructed where the construction started before that day or you started to hold in some other way before that day; or

(ii) plant that you acquired at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; and

(b) any capital gain or capital loss would be disregarded (if Part 3-1 of the new Act applied):

(i) because of section 118-5 (about cars, motor cycles and valour decorations); or

(ii) because of section 118-10 (about collectables); or

(iii) because of section 118-12 (about plant used to produce exempt income); or

(iv) because the asset was a pre-CGT asset at the time of the balancing adjustment event.

(6) The reduction is:

$$\text{Termination value} - \text{Cost} \times \left(1 - \frac{\text{Sum of reductions}}{\text{Total decline}}\right)$$

where:

sum of reductions is the sum of the reductions in your deductions for the asset because you did not use it for a particular purpose.

total decline is the decline in value of the depreciating asset since you started to hold it.

(7) Section 118-24 of the new Act applies to CGT event A1 (disposal of a CGT asset) happening to a depreciating asset if the event happens:

(a) if the depreciating asset is plant—at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or

(b) if the depreciating asset is not plant—before 1 July 2001;

where:

(c) the time of the event is when you entered into the contract for the disposal of the asset; and

(d) the change in ownership constituting the disposal occurred after the applicable time mentioned in paragraph (a) or (b).

40-290 Reduction of deductions under former Act etc.

Subsection 40-290(2) of the new Act has effect in relation to a depreciating asset that you held at 1 July 2001 as if:

(a) any amount by which your deductions for the asset were reduced under the former Act or the *Income Tax Assessment Act 1936* because you did not use it for a particular purpose were an amount by which your deductions for the asset were reduced under section 40-25 of the new Act; and

(b) the ***total decline*** element of the formula in that subsection included all amounts you have deducted or can deduct for the asset under the former Act or the *Income Tax Assessment Act 1936*.

40-295 Later year relief

(1) You may exclude an amount that has been included in your assessable income for plant as a result of a balancing adjustment event that occurred in your 1999-2000 or 2000-01 income year to the extent that you choose under section 42-290 of the former Act to treat that amount as an amount you have deducted for the decline in value of replacement plant.

(2) You can only make this choice for the replacement plant if:

(a) you acquire it:

(i) within 2 income years after the end of the income year in which the balancing adjustment event occurred; and

(ii) in your 2001-02 or 2002-2003 income year; and

(b) at the end of the income year in which you acquired it, you used it, or had it installed ready for use, wholly for the purpose of producing assessable income; and

(c) you can deduct an amount for its decline in value; and

(d) you had not made a choice under section 42-285 or 42-293 of the former Act for the balancing adjustment event.

(3) The adjustable value of the replacement plant is reduced by the amount covered by the choice as at the first day of the income year in which you acquired it.

40-340 Roll-overs

(1) This section applies to an entity (the ***transferee***) if:
   (a) there is roll-over relief under section 40-340 of the new Act as a result of a balancing adjustment event happening to plant; and
   (b) the transferor referred to in that section was working out the decline in value of the plant under subsection 40-10(3) of this Act.

Plant acquired before 21 September 1999

(2) The transferee works out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act using the same method as the transferor if:
   (a) the transferor started to hold the plant under a contract entered into at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
   (b) the transferor constructed it and the construction started at or before that time; or
   (c) the transferor acquired it in some other way at or before that time; or
   (d) the transferor acquired it from an entity that was working out the decline in value of the plant under subsection 40-10(3) of this Act and paragraph (a), (b) or (c) of this subsection applied to that entity or to the earliest successive transferor.

Small business taxpayers

(3) The transferee also works out the decline in value of the plant under subsection 40-10(3) of this Act using the same method as the transferor if:
   (a) the plant was not acquired as mentioned in subsection (2); and

(b) the transferor, or an earlier successive transferor, was using a rate for the plant under subsection 42-160(1) or 42-165(1) of the former Act; and

(c) the conditions set out in this table are satisfied:

Conditions for small business taxpayers retaining accelerated rates	
Item	**Condition**
1	The transferee must have been a small business taxpayer for the income year (the ***start year***) that includes the time when the entity first used the plant, or first had it installed ready for use.
2	At that time, at least 50% of the transferee's intended use of the plant must be in carrying on a business for the purpose of producing assessable income.
3	At that time, neither of these applies: (a) it could reasonably be expected that, because of the plant's use, whether in connection with another asset or not, the transferee would not be a small business taxpayer for the income year following the start year or for either of the next 2 income years; (b) the plant is being or is intended to be let predominantly on a lease of a kind specified in subsection (5).

(4) For the purposes of item 2 in the table in subsection (3), an entity is treated as if it is not carrying on a business in relation to the activities of a partnership in which the entity is a partner unless the entity is connected with the partnership.

(5) A lease of plant referred to in item 3 of the table in subsection (3) is an agreement (including a renewal of an agreement) under which the holder of the plant grants a right to use the plant to another entity, but not a hire purchase agreement or a short-term hire agreement.

(6) The transferee works out the decline in value of the plant by:

(a) for the diminishing value method—replacing the component in the formula in subsection 40-70(1) of the new Act that includes the plant's effective life with the rate the transferor, or the earliest successive transferor, was using; or

(b) for the prime cost method:

(i) replacing the component in the formula in subsection 40-75(1) of the new Act that includes the plant's

effective life with the rate the transferor, or the earliest successive transferor, was using; and

(ii) increasing the plant's cost under Division 42 of the former Act by any amounts included in the second element of the plant's cost after 30 June 2001.

40-345 Balancing adjustments for depreciating assets that retain CGT indexation

(1) The amount included in your assessable income under subsection 40-285(1) or 104-240(1) of the new Act as a result of a balancing adjustment event occurring for:

(a) plant that you acquired at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or

(b) a depreciating asset that is not plant and that you acquired before 1 July 2001;

is reduced (but not below nil) if:

(c) for a paragraph (a) case—there would have been a reduction under subsection 42-192(2) of the former Act as a result of that event; or

(d) for a paragraph (b) case—there would have been a reduction under subsection 42-192(2) of the former Act as a result of that event if the asset were plant.

(2) The amount of the reduction is the amount worked out under subsection 42-192(2) of the former Act.

(3) There is no reduction under subsection (1) to an amount included in your assessable income under subsection 104-240(1) if the balancing adjustment event results in a discount capital gain under Division 115.

(4) However, you can choose not to make a reduction under subsection (1) and instead take advantage of the discount capital gain.

(5) Subsection (6) applies to an entity (the ***transferee***) if there is roll-over relief under section 40-340 of the new Act as a result of a balancing adjustment event happening to a depreciating asset held by the transferee.

(6) Subsections (1), (2), (3) and (4) apply also to the transferee if:

(a) for a depreciating asset that is plant:

(i) the transferor referred to in section 40-340 of the new Act started to hold the plant under a contract entered into at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or

(ii) the transferor constructed it and the construction started at or before that time; or

(iii) the transferor acquired it in some other way at or before that time; or

(iv) the transferor acquired it from an entity that was working out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act and subparagraph (i), (ii) or (iii) of this paragraph applied to that entity or to the earliest successive transferor; or

(b) for a depreciating asset that is not plant:

(i) the transferor started to hold the asset under a contract entered into before 1 July 2001; or

(ii) the transferor constructed it and the construction started at or before that day; or

(iii) the transferor acquired it in some other way before that day.

Subdivision 40-E—Low-value and software development pools

Table of sections

40-420 Low-value pools under Division 42 continue
40-425 Allocating depreciating assets to low-value pools
40-450 Software development pools

40-420 Low-value pools under Division 42 continue

(1) A low-value pool you created under Subdivision 42-M of the former Act continues under the new Act as if it had been created under Subdivision 40-E of the new Act.

(2) For the purposes of working out the decline in value of depreciating assets in such a pool for your income year in which 1 July 2001 occurs, step 3 of the method statement in subsection

40-440(1) of the new Act applies to the pool closing balance, worked out under section 42-470 of the former Act, for the income year before that year.

40-425 Allocating depreciating assets to low-value pools

You can allocate a depreciating asset to a low-value pool under section 40-425 of the new Act if:

(a) you hold the asset at the start of 1 July 2001; and

(b) the conditions in subsection 42-455(3) of the former Act are satisfied for the asset at the end of the previous income year.

40-450 Software development pools

Subsection 40-450(2) of the new Act has effect as if the reference to expenditure being allocated to a software development pool included a reference to expenditure being allocated to a software pool under Division 46 of the former Act.

Subdivision 40-F—Primary production depreciating assets

Table of sections

40-515 Water facilities, grapevines and horticultural plants
40-520 Special rule for water facilities you no longer hold
40-525 Amounts deducted for water facilities

40-515 Water facilities, grapevines and horticultural plants

(1) This section applies to you if you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the ***qualifying amount***) of expenditure on any of these (the ***primary production asset***):

(a) the construction, manufacture, installation or acquisition of a water facility; or

(b) the establishment of horticultural plants; or

(c) the establishment of grapevines;

and you would have been able to deduct amounts for the qualifying amount for the income year in which 1 July 2001 occurs under the former Act if it had continued to apply.

(2) Subdivision 40-F of the new Act applies to the primary production asset on this basis:

(a) the qualifying amount is taken to be:

(i) for a water facility—the amount of capital expenditure you incurred on the construction, manufacture, installation or acquisition of the water facility; or

(ii) for a horticultural plant or a grapevine—the amount of capital expenditure incurred that is attributable to the establishment of the plant or grapevine; and

(b) for horticultural plants, you use the effective life determined under section 387-175 of the former Act; and

(c) amounts that have been deducted or can be deducted for the qualifying amount under the former Act or the *Income Tax Assessment Act 1936* are taken to be a decline in value under Subdivision 40-F of the new Act.

40-520 Special rule for water facilities you no longer hold

(1) This section applies to you if:

(a) you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the ***qualifying amount***) of expenditure on a water facility; and

(b) you do not hold the water facility at the start of 1 July 2001.

(2) Subdivision 40-F of the new Act applies to the water facility on the basis specified in subsection 40-515(2) of this Act, and no other taxpayer can deduct amounts for it under the new Act.

40-525 Amounts deducted for water facilities

The reference in subsection 40-555(1) of the new Act to a person having deducted or being able to deduct an amount under Subdivision 40-F of the new Act for expenditure on a water facility includes a reference to the person having deducted or being able to deduct an amount for it under:

(a) Subdivision 387-B of the former Act; or

(b) section 75B of the *Income Tax Assessment Act 1936*.

Subdivision 40-G—Capital expenditure of primary producers and other landholders

Table of sections

40-645 Electricity supply and telephone lines
40-650 Special rule for land that you no longer hold
40-670 Farm consultants

40-645 Electricity supply and telephone lines

(1) This section applies to you if you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the ***qualifying amount***) of expenditure on:

(a) connecting or upgrading the supply of mains electricity to land; or

(b) a telephone line on land;

and you hold the land to which the electricity or telephone line relates at the start of 1 July 2001.

(2) You deduct amounts for the qualifying amount under Subdivision 40-G of the new Act in the same way you were writing it off under Division 387 of the former Act.

(3) A reference in subsection 40-650(4), (5) or (7) of the new Act to an amount being deducted under Subdivision 40-G of that Act includes a reference to an amount being deducted under:

(a) Subdivision 387-F of the former Act; or

(b) section 70 of the *Income Tax Assessment Act 1936*.

40-650 Special rule for land that you no longer hold

(1) This section applies to you if:

(a) you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the ***qualifying amount***) of expenditure on connecting or upgrading the supply of mains electricity to land or a telephone line on land; and

(b) you do not hold the land to which the electricity or telephone line relates at the start of 1 July 2001.

(2) Subdivision 40-G of the new Act applies to the qualifying amount on the basis specified in that Subdivision, and no other taxpayer can deduct amounts for it under the new Act.

40-670 Farm consultants

A person approved as a farm consultant under Subdivision 387-A of the former Act is taken to be approved as a farm consultant under section 40-670 of the new Act.

Subdivision 40-I—Capital expenditure that is deductible over time

Table of sections

40-825 Genuine prospectors

40-825 Genuine prospectors

The exemption provided by section 330-60 of the former Act continues to apply to ordinary income derived before 20 August 2001.

Schedule 2—General consequential amendments

Airports (Transitional) Act 1996

1 Section 48A

Insert:

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

2 Section 48A

Insert:

hold a depreciating asset has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

3 Section 48A (definition of quasi-owner)

Before “section 42-310”, insert “the former”.

4 After section 49A

Insert:

49B Special rules for fixtures that are depreciating assets—Income Tax Assessment Act 1997

(1) This section applies if:

(a) a company obtains a lease relating to particular land under section 21, 22 or 23; and

(b) at the time the lease was obtained, a depreciating asset is attached to the land.

(2) If:

(a) just before the land vested in the Commonwealth under Part 2:

(i) the part of the land to which the depreciating asset was attached was held by another entity under a quasi-ownership right over land granted by an exempt Australian government agency; and

(ii) the other entity was the holder of the asset; and

(b) on the grant of the lease referred to in paragraph (1)(a), the other entity became a sub-lessee of the company;

then, so long as the other entity continues to hold the sub-lease of that part of the land from the company or a successor, the other entity is taken to hold the asset.

(3) If:

(a) subsection (2) does not apply to the depreciating asset; and

(b) the FAC was the holder of the asset just before the land vested in the Commonwealth under Part 2;

that Division applies to the asset as if:

(c) the company held the asset; and

(d) the amount paid by the company for the grant of the lease were an amount paid for the acquisition of the right.

(4) However, the Minister for Finance may make a written determination of the cost of the asset referred to in subsection (3) for the purposes of Division 40 of the *Income Tax Assessment Act 1997*.

Note: If a determination is made, the cost of the asset will be determined under item 10 of the table in subsection 40-180(2) of the *Income Tax Assessment Act 1997*.

(5) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of Subdivision 40-D of the *Income Tax Assessment Act 1997* to the asset and to the FAC.

(6) This section does not affect the operation of section 19 of the *Civil Aviation Legislation Amendment Act 1995*.

(7) In this section:

entity has the same meaning as in section 49A.

5 After section 50A

Insert:

50B Acquisition of depreciating asset from the Commonwealth—Division 40 of the Income Tax Assessment Act 1997

(1) This section applies to a depreciating asset that:

(a) was transferred from the Commonwealth to a company under section 23; and

(b) at the time of transfer, was not attached to land.

(2) The Minister for Finance may make a written determination of the cost of the asset for the purposes of Division 40 of the *Income Tax Assessment Act 1997*.

Note: If a determination is made, the cost of the plant will be determined under item 10 of the table in subsection 40-180(2) of the *Income Tax Assessment Act 1997*.

(3) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of Subdivision 40-D of the *Income Tax Assessment Act 1997* to the asset and to the FAC.

6 After section 51A

Insert:

51B Acquisition of depreciating asset from the FAC—Division 40 of the Income Tax Assessment Act 1997

(1) This section applies to a depreciating asset that was transferred from the FAC to a company under section 30.

(2) The Minister for Finance may make a written determination of the cost of the asset for the purposes of Division 40 of the *Income Tax Assessment Act 1997*.

Note: If a determination is made, the cost of the plant will be determined under item 10 of the table in subsection 40-180(2) of the *Income Tax Assessment Act 1997*.

(3) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of

Subdivision 40-D of the *Income Tax Assessment Act 1997* to the asset and to the FAC.

7 Subsection 52A(2) (note)

Repeal the note, substitute:

Note: If such a determination is relevant to working out a balancing adjustment, the termination value of the plant will be determined under item 13 or 14 of the table in former section 42-205 of the *Income Tax Assessment Act 1997*, or item 11 of the table in subsection 40-300(2) of that Act.

8 Subsection 52A(3)

Repeal the subsection, substitute:

(3) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of former Subdivision 42-F of the *Income Tax Assessment Act 1997*, or Subdivision 40-D of that Act, to the asset and to the FAC.

9 Paragraph 55(2)(a)

After "depreciation", insert "or capital allowances".

Note: The heading to section 55 is altered by omitting "**depreciation**" and substituting "**capital allowances**".

A New Tax System (Goods and Services Tax) Act 1999

10 Subsection 38-505(2)

Omit "*car depreciation limit", substitute "*car limit".

11 Subsection 38-510(2)

Omit "*car depreciation limit", substitute "*car limit".

12 Paragraph 69-10(1)(c)

Omit "*car depreciation limit", substitute "*car limit".

13 Section 195-1 (definition of car depreciation limit)

Repeal the definition, substitute:

car limit has the meaning given by section 40-230 of the *ITAA 1997.

14 Section 195-1 (definition of minerals)

Omit “section 330-25”, substitute “section 40-730”.

A New Tax System (Luxury Car Tax) Act 1999

15 Subsection 25-1(3)

Repeal the subsection, substitute:

(3) The ***luxury car tax threshold*** is:

(a) the car depreciation limit that applied under the former Subdivision 42-B of the *ITAA 1997; or

(b) the car limit that applies under section 40-230 of that Act;

for the year in which the supply of the car occurred or the car was *entered for home consumption.

Bounty and Capitalisation Grants (Textile Yarns) Act 1981

16 Paragraph 3(3)(p)

Repeal the paragraph, substitute:

(p) depreciation of machinery, plant or equipment, other than:

(i) depreciation of the machinery, plant or equipment that is an allowable deduction to the producer under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*; or

(ii) depreciation of the machinery, plant or equipment for which the producer can deduct amounts under Division 40 of the *Income Tax Assessment Act 1997*;

Bounty (Computers) Act 1984

17 Paragraph 6(5)(t)

Repeal the paragraph, substitute:

(t) depreciation of machinery, plant or equipment, other than depreciation of machinery, plant or equipment owned by the manufacturer that is:

(i) depreciation allowed by the Commissioner of Taxation for the purposes of a law of the Commonwealth relating to taxation; or

(ii) depreciation for which the producer can deduct amounts under Division 40 of the *Income Tax Assessment Act 1997*;

Bounty (Machine Tools and Robots) Act 1985

18 Paragraph 12(6)(p)

Repeal the paragraph, substitute:

(p) depreciation of machinery, plant or equipment other than depreciation of machinery, plant or equipment, owned by the producer that is:

(i) depreciation allowed by the Commissioner of Taxation for the purposes of a law of the Commonwealth relating to taxation; or

(ii) depreciation for which the producer can deduct amounts under Division 40 of the *Income Tax Assessment Act 1997*;

Defence Act 1903

19 After subsection 122AA(3)

Insert:

(4) In calculating the deductions (if any) allowable to the company under Subdivision 40-B of the *Income Tax Assessment Act 1997* in respect of the asset, the adjustable value of the asset to the company at the time of the acquisition of the asset is the amount that would have been its adjustable value to the Commonwealth just before that time if:

(a) the Commonwealth had been a taxpayer; and

(b) the asset had been used by the Commonwealth exclusively for the purpose of producing assessable income.

Income Tax Assessment Act 1936

20 Subsection 6(1)

Insert:

> ***depreciating asset*** has the same meaning as in the *Income Tax Assessment Act 1997*.

21 Subparagraph 23AH(6)(b)(i)

Before "Division 42", insert "the former".

22 After subparagraph 23AH(6)(b)(i)

Insert:

(ia) a depreciating asset for which the taxpayer can, or could, apart from this section, deduct amounts for its decline in value under Division 40 of the *Income Tax Assessment Act 1997* for any year of income; or

23 Subparagraph 23AH(7)(b)(i)

Before "Division 42", insert "the former".

24 After subparagraph 23AH(7)(b)(i)

Insert:

(ia) a depreciating asset for which the partnership can, or could, apart from this section, deduct amounts for its decline in value under Division 40 of the *Income Tax Assessment Act 1997* for any year of income;

25 Subsection 51AAA(2) (table)

Repeal the table, substitute:

Deduction provisions affected by net capital gains limit

Item	Provision	Description
1	**Subdivision A of Division 3 of Part III**	General
2	section 8-1	General deductions
3	Division 25	Some expenses you can deduct
4	Division 30	Gifts or contributions
5	Division 34	Non-compulsory uniforms
6	Division 36	Tax losses of earlier income years

Deduction provisions affected by net capital gains limit		
Item	**Provision**	**Description**
7	Subdivision 40-F	Facilities to conserve or convey water
8	Subdivision 40-F	Establishing grapevines
9	Subdivision 40-G	Landcare operations
10	Subdivision 40-G	Mains electricity supply
11	Subdivision 40-G	Telephone lines
12	Division 165	Income tax consequences of changing ownership or control of a company
13	Subdivision 170-A	Transfer of tax losses within wholly-owned groups of companies

26 At the end of subsection 51AD(1)

Add:

Note: This section applies to deductions under Division 40 (Capital allowances) and Division 43 (Capital works) of the *Income Tax Assessment Act 1997* as if you were the owner of an asset you hold (under that Division) instead of any other person: see section 40-135 of that Act.

27 Subsection 51AD(3A)

Repeal the subsection.

28 Subsection 73B(1) (definition of consideration receivable)

Omit “section 42-205”, substitute “40-300”.

29 Subsection 73B(1) (paragraph (a) of the definition of plant)

Repeal the paragraph, substitute:

(a) things that are plant within the meaning of section 45-40 of the *Income Tax Assessment Act 1997*; or

30 Subsection 73B(1) (paragraph (b) of the definition of plant)

Omit “section 42-18”, substitute “section 45-40”.

31 Subsection 73B(4J)

Omit “Subdivision 42-C”, substitute “Subdivision 40-B”.

32 Paragraphs 73B(4J)(a) and (b)

Repeal the paragraphs, substitute:

(a) the company could deduct amounts for the decline in value of the relevant unit under Division 40 of that Act; and

(b) any reference in Division 40 of that Act to using an asset for a taxable purpose included a reference to the use of the relevant unit by or on behalf of the company exclusively for carrying on research and development activities.

33 Paragraph 73B(23)(d)

Omit "Division 42 (Depreciation)", substitute "the former Division 42 (Depreciation) or Subdivision 40-B (Capital allowances)".

34 Paragraph 73B(24)(d)

Omit "Division 42 (Depreciation)", substitute "the former Division 42 (Depreciation) or Subdivision 40-B (Capital allowances)".

35 Subsection 73B(30)

Before "Subdivision 330-A" (wherever occurring), insert "the former".

36 Subsection 73B(30)

After "*Income Tax Assessment Act 1997*" (wherever occurring), insert ", or under section 40-730, or 40-830 (because of subsection 40-840(1)) of that Act, under the former Subdivision 387-B or 387-G of that Act, under section 40-515 of that Act (for a water facility) or under Subdivision 40-B of that Act (for a timber mill building or forestry road)".

37 Paragraph 73E(1)(c)

Omit "Division 42 (Depreciation)", substitute "the former Division 42 (Depreciation) or Subdivision 40-B (Capital allowances)".

38 Subsection 73E(3)

Repeal the subsection, substitute:

No deduction for decline in value for transferor in year of disposal

(3) A deduction under the former Division 42 (Depreciation) or Subdivision 40-B (Capital allowances) of the *Income Tax*

Assessment Act 1997 is not allowable to the transferor in respect of the unit in relation to the year of income in which the disposal took place.

39 Subsection 73E(6)

Repeal the subsection, substitute:

Modification of capital allowance provisions applicable to transferee

(6) If a deduction is or becomes allowable to the transferee for the decline in value of the unit, the provisions of Division 40 (Capital allowances) of the *Income Tax Assessment Act 1997* apply as if:

(a) the transferee had acquired the unit for a cost equal to the modified written-down value of the unit; and

(b) subsections 73B(21) and (22) had effect as if a reference in those subsections to the written-down value of the unit were a reference to the modified written-down value of the unit; and

(c) in relation to the year of income of the transferee in which the disposal took place, the component "days held" in the formula in section 40-70 or 40-75 of the *Income Tax Assessment Act 1997* included the number of days in that year when the transferor both:

(i) held the unit within the meaning of Division 40 of the *Income Tax Assessment Act 1997*; and

(ii) used it for a taxable purpose within the meaning of that Division or had it installed ready for use for that purpose.

40 Subsection 73F(10)

Before "Subdivision 330-A" (wherever occurring), insert "the former".

41 Subsection 73F(10)

After "*Income Tax Assessment Act 1997*" (wherever occurring), insert ", or under section 40-730, or 40-830 (because of subsection 40-840(1)) of that Act".

42 Subsection 73G(1)

Omit “section 373-15”, substitute “subsection 995-1(1)”.

43 Paragraphs 82AE(aa) and (a)

Repeal the paragraphs, substitute:

(aa) structural improvements that, apart from section 45-40 of the *Income Tax Assessment Act 1997*, are plant within the meaning of that Act; or

(a) plumbing fixtures and fittings to which subsection (2) of the definition of ***plant*** in section 45-40 of the *Income Tax Assessment Act 1997* applies; or

44 Subsection 82AM(1)

Omit “or 330-590”.

45 Subsection 82AM(2)

Before “section 330-15”, insert “the former”.

46 Subsection 82AM(2)

After “387-E”, insert “or paragraph 40-515(1)(a), section 40-630, section 40-645 or section 40-730”.

47 Paragraphs 82AM(3)(a) and (b)

Repeal the paragraphs, substitute:

(a) the property is a depreciating asset; and

(b) a deduction is allowable for it under Division 40 of the *Income Tax Assessment Act 1997*; and

(c) the taxpayer could have deducted the property’s cost under that Act for the income year in which the taxpayer first used it for a taxable purpose (within the meaning of that Act).

48 Subsection 82AQ(1) (definition of eligible property)

Omit “42-18”, substitute “45-40”.

49 Paragraph 82AQ(3A)(b)

Repeal the paragraph, substitute:

(b) the taxpayer is the holder of the property for the purposes of Division 40 of the *Income Tax Assessment Act 1997*;

50 Subsection 82AQ(3AA)

Repeal the subsection.

51 Subsection 82AQ(3B)

Omit “, ***quasi-owner***”.

52 Subsection 82BC(3)

Omit “an amount of depreciation”, substitute “the decline in value of a depreciating asset”.

53 Subsection 82CB(1) (paragraph (e) of the definition of RHQ setup costs)

Omit “plant”, substitute “depreciating assets”.

54 Subsection 82KH(1) (paragraphs (ka), (oa) and (wa) of the definition of relevant expenditure)

Omit “by section 373-15”, substitute “in”.

55 Subsection 82KH(1) (paragraph (x) of the definition of relevant expenditure)

Omit “it is taken into account in working out under Division 373 of the *Income Tax Assessment Act 1997* the taxpayer’s unrecouped expenditure on the item”, substitute “it is taken into account in working out under Division 40 of the *Income Tax Assessment Act 1997* the adjustable value of the item to the taxpayer”.

56 Subsection 82KH(1) (paragraph (y) of the definition of relevant expenditure)

Repeal the paragraph, substitute:

(y) it would be so taken into account apart from item 8 in the table in subsection 40-180(2), or item 1 in the table in subsection 40-190(3) (both about non-arm’s length transactions).

57 Paragraph 82KH(1AD)(b)

Repeal the paragraph, substitute:

(b) if paragraph (ka), (oa) or (wa) of the definition of ***relevant expenditure*** in subsection (1) covers the expenditure—the

taxpayer deducting or being able to deduct, or not deducting or not being able to deduct, as appropriate, an amount under Division 40 of the *Income Tax Assessment Act 1997* for an item of intellectual property for a year of income because the taxpayer's adjustable value of the item would be calculated under that Division by reference to the relevant expenditure; and

58 Subsection 83(2)

Omit "42-205", substitute "40-300".

59 Section 102AAB (definition of depreciation provision)

Repeal the definition, substitute:

depreciation provision means:

(a) any of sections 54 to 62 of Division 3 of Part III of this Act, any provision of Divisions 10, 10AAA, 10AA, 10A, 10C and 10D of that Part; or

(b) any provision of:

(i) Division 40 of the *Income Tax Assessment Act 1997* (other than Subdivision 40-E); or

(ii) the former Division 42 of that Act (other than Subdivisions 42-L and 42-M); or

(iii) the former Subdivision 330-A, 330-C, 330-H or 387-G of that Act; or

(c) any provision of Division 43 of the *Income Tax Assessment Act 1997*.

60 Subsection 102AAZ(3)

Before "Division 42", insert "the former".

61 At the end of section 102AAZ

Add:

(4) For the purpose of exercising the Commissioner's power under subsection (2) in relation to deductions allowable under Division 40 of the *Income Tax Assessment Act 1997*, the Commissioner must assume that the property was used by the trustee of the trust estate during any non-attributable year of

income wholly and exclusively for a taxable purpose (within the meaning of that Division).

62 Subsection 124L(1A) (note)

Omit “Division 373”, substitute “Division 40”.

63 Subsection 159GE(1) (definition of capital expenditure deduction)

Repeal the definition, substitute:

capital expenditure deduction means a deduction:

(a) under Division 10, 10AAA, 10AA, 10A, 10C or 10D of this Part; or

(b) under Subdivision 40-B of the *Income Tax Assessment Act 1997* for a depreciating asset that is a forestry road or timber mill building; or

(c) under Division 43 of that Act; or

(d) under section 40-830 of that Act for an amount that is a project amount under subsection 40-840(1) (about mining capital expenditure and transport capital expenditure); or

(e) under the former Subdivision 330-C, 330-H or 387-G of that Act.

64 Subsection 159GE(1) (definition of depreciation deduction)

Repeal the definition, substitute:

depreciation deduction means a deduction:

(a) in respect of depreciation under Division 3 of this Act or the former Division 42 of the *Income Tax Assessment Act 1997*; or

(b) for the decline in value of a depreciating asset under Division 40 of the *Income Tax Assessment Act 1997*.

65 Subsection 159GE(1) (definition of Division 10, 10AA or 10A property)

Repeal the definition, substitute:

Division 10, 10AA or 10A property means property in relation to which there has been incurred:

(a) allowable capital expenditure within the meaning of Division 10 or 10AA of this Part or the former Subdivision 330-C of the *Income Tax Assessment Act 1997* or mining capital expenditure within the meaning of section 40-860 of that Act;

(b) expenditure taken into account in ascertaining an amount of residual capital expenditure specified in paragraph 122C(1)(a); or

(c) capital expenditure specified in subsection 124F(1) or 124JA(1) of this Act or the former section 387-460 of the *Income Tax Assessment Act 1997*; or

(d) capital expenditure on a forestry road in connection with a timber operation, or capital expenditure for the construction or acquisition of a timber mill building.

66 Subsection 159GE(1) (definition of Division 10AAA property)

Before “Subdivision 330-H”, insert “the former”.

67 Subsection 159GE(1) (definition of Division 10AAA property)

After “Subdivision 330-H”, insert “, or section 40-865”.

68 Subsection 159GE(1) (paragraph (a) of the definition of eligible amount)

Repeal the paragraph, substitute:

(a) where the item is an item of eligible depreciation property:

(i) the amount that was the cost of the item of property to the taxpayer who owns the item for the purposes of subsection 62(1) of this Act; or

(ii) the amount that was the cost of the item of property within the meaning of Division 40, or the former Division 42, of the *Income Tax Assessment Act 1997* to the taxpayer who holds it;

or that would have been the cost of the item of property to the taxpayer for the purposes of that subsection or that

Division if that subsection or that Division had applied in relation to the item of property, as the case requires; and

69 Subsection 159GE(1) (definition of eligible depreciation property)

Repeal the definition, substitute:

eligible depreciation property means:

(a) plant or articles within the meaning of section 54 of this Act; or

(b) plant within the meaning of the former section 42-18 of the *Income Tax Assessment Act 1997* or plant within the meaning of section 45-40 of that Act; or

(c) a depreciating asset within the meaning of Division 40 of that Act.

70 Subsection 159GE(1) (definition of eligible spectrum licence)

Repeal the definition, substitute:

eligible spectrum licence means a spectrum licence within the meaning of the *Income Tax Assessment Act 1997*.

71 At the end of subsection 159GE(1)

Add:

Note: This Division applies to deductions under Division 40 (Capital allowances) and Division 43 (Capital works) of the *Income Tax Assessment Act 1997* as if you were the owner of an asset you hold (under that Division) instead of any other person: see section 40-135 of that Act.

72 Subsection 159GE(9)

Repeal the subsection.

73 Subsection 159GF(1)

Repeal the subsection, substitute:

(1) Subject to subsection 159GJ(1), in this Division a reference to the residual amount at a particular time (in this subsection referred to as the ***relevant time***) in relation to the eligible amount by reason of

which an item of property is eligible depreciation property at the relevant time is a reference to the eligible amount reduced by:

(a) where the item of property was not dealt with by the taxpayer who holds the item in the prescribed manner at any time during the period (in this subsection referred to as the ***relevant period***) before the relevant time when it was held by the taxpayer (within the meaning of Division 40 of the *Income Tax Assessment Act 1997*)—the total amount of deductions for depreciation or decline in value that would, but for any deduction denying provision, have been allowable to the taxpayer under this Act or the *Income Tax Assessment Act 1997* in respect of that item of property for the relevant period if:

(i) at all times during the relevant period the taxpayer had wholly and exclusively dealt with the item of property in the prescribed manner; and

(ii) those deductions were calculated using the diminishing value method; and

(iii) section 57AG, as in force immediately before the commencement of section 1 of the *Taxation Laws Amendment Act 1992*, did not apply in relation to the item of property;

(b) where the item of property was wholly and exclusively dealt with by the taxpayer who held the item in the prescribed manner at all times during the relevant period—the total amount of deductions for depreciation or decline in value that were or, but for any deduction denying provision, would have been, allowed or allowable to the taxpayer in respect of the item of property for that period under this Act or the *Income Tax Assessment Act 1997*; and

(c) in any other case—the total amount of deductions for depreciation or decline in value that, but for any deduction denying provision, would have been allowable to the taxpayer who holds the item of property in respect of the item under this Act or the *Income Tax Assessment Act 1997* for the relevant period if:

(i) the taxpayer had wholly and exclusively dealt with the item of property in the prescribed manner at all times during the relevant period; and

(ii) in respect of any part of the relevant period for which deductions for depreciation or decline in value were or, but for any deduction denying provision, would have been allowed or allowable under this Act or the *Income Tax Assessment Act 1997*—the deductions were allowable on the same basis and at the same percentage as was or would have been allowed or allowable for that part of the relevant period; and

(iii) in respect of any other part (in this subparagraph referred to as the ***relevant part***) of the relevant period—the deductions were allowable:

(A) where the relevant part was immediately succeeded by another part of the relevant period in respect of which deductions for depreciation or decline in value were or, but for any deduction denying provision, would have been allowed or allowable under this Act or the *Income Tax Assessment Act 1997*—on the same basis and at the same percentage as was or would have been allowed or allowable in respect of that other part; and

(B) in any other case—on the same basis and at the same percentage as was or, but for any deduction denying provision, would have been allowed or allowable under this Act or the *Income Tax Assessment Act 1997* in respect of the part of the relevant period for which deductions for depreciation or decline in value was or would have been allowed or allowable, being the part that immediately preceded the relevant part.

74 Paragraph 159GF(3)(f)

Before “Subdivision 330-C”, insert “the former”.

75 After paragraph 159GF(3)(f)

Insert:

(fa) so much of an amount of mining capital expenditure or transport capital expenditure (within the meaning of the

Income Tax Assessment Act 1997) as has not been deducted under Division 40 of that Act;

76 Paragraph 159GF(3)(g)

Before "subsection 387-470(1)", insert "the former".

77 After paragraph 159GF(3)(g)

Insert:

(h) the difference between the cost of a forestry road or timber mill building for the purposes of Division 40 of the *Income Tax Assessment Act 1997* and its adjustable value for the purposes of that Division;

78 Subsection 159GF(4)

Before "Subdivision 330-H", insert "the former".

79 Subsection 159GF(4)

After "1997", insert ", or under Subdivision 40-I of that Act for transport capital expenditure,".

80 Subsection 159GF(6)

Repeal the subsection, substitute:

(6) In this Division, a reference to the residual amount at a particular time in relation to an amount of expenditure because of which an item of property is an eligible spectrum licence is a reference to:

(a) the amount of unrecouped expenditure (within the meaning of the former section 380-20 of the *Income Tax Assessment Act 1997*) on that licence at that time; or

(b) the adjustable value of that licence (within the meaning of Division 40 of that Act) at that time.

81 Subparagraph 159GJ(1)(c)(iii)

Repeal the subparagraph, substitute:

(iii) in relation to any part (in this subsection referred to as the ***post-application part***) of the year of income that occurs after the application period (not being a part that occurs after the commencement of a subsequent application period):

(A) the residual amount in relation to the item of eligible depreciation property at any time (in this sub-subparagraph referred to as the ***relevant time***) during the post-application part is an amount ascertained in accordance with the formula:

$$A = B - C$$

where:

A is the amount that, but for this application of this section, would be the residual amount at the relevant time in relation to the eligible amount (in this subparagraph referred to as the ***relevant eligible amount***) by reason of which the item is an item of eligible depreciation property.

B is:

(a) where paragraph (b) of this component does not apply—the amount that, in determining the residual amount in component A, would be taken into account as depreciation under subsection 159GF(1) in respect of the application period; and

(b) where, in determining the residual amount in component A, depreciation deductions taken into account in respect of the post-application part would be calculated under this Act or the *Income Tax Assessment Act 1997* using the diminishing value method—the amount that, in determining the residual amount in component A, would be taken into account under subsection 159GF(1) as depreciation deductions in respect of the application period and the part of the post-application part before the relevant time; and

C is:

(a) where paragraph (a) of component B applies—an amount equal to the total notional principal in relation to the relevant

eligible amount in relation to the application period; and

(b) where paragraph (b) of component B applies—the sum of:

(i) the total notional principal in relation to the relevant eligible amount in relation to the application period; and

(ii) the amount that, in determining the residual amount in component A, would be taken into account as depreciation deductions under subsection 159GF(1) in respect of the part of the post-application part before the relevant time if the depreciated value under this Act, the undeducted cost under the former Division 42 of the *Income Tax Assessment Act 1997* or the adjustable value under Division 40 of that Act, of the item of eligible depreciation property at the beginning of the year of income in which this Division ceases to apply were equal to the residual amount at the beginning of the application period as reduced by the total notional principal in relation to the relevant eligible amount in relation to the application period;

(B) for the purposes of any application of this Act or the *Income Tax Assessment Act 1997*, in relation to the item of property in relation to the post-application part—the depreciated value, within the meaning of Division 3 of this Part, the undeducted cost under the former Division 42 of the *Income Tax Assessment Act 1997* or the adjustable value under Division 40 of that Act, of the item of property at any time during the post-application part shall be taken to be an amount equal to the residual amount in relation to the relevant eligible amount at that

time as ascertained in accordance with sub-subparagraph (A); and

(C) the depreciation deduction (if any) allowable to a taxpayer in relation to the item of property in relation to the post-application part is the depreciation deduction that would be allowable in respect of that period if this Division did not apply and, in the case of an item of property in relation to which paragraph 56(1)(a) of this Act or the diminishing value method under the former Division 42, or Division 40, of the *Income Tax Assessment Act 1997* would, apart from this Division, apply, if the depreciated value, within the meaning of Division 3 of this Part, the undeducted cost, under the former Division 42 of the *Income Tax Assessment Act 1997* or the adjustable value under Division 40 of that Act, of the item of property at the beginning of the year of income were equal to the residual amount, as ascertained under sub-subparagraph (A), in relation to the relevant eligible amount at the commencement of the post-application part;

82 Paragraph 159GJ(1)(e)

Omit "Division 3 of this Part and Division 42 of", substitute "this Act and".

83 Paragraph 159GJ(2)(a)

Repeal the paragraph, substitute:

(a) no deduction is allowable to any taxpayer under:

(i) Division 10, 10AA or 10A of this Part; or

(ii) section 40-830 of the *Income Tax Assessment Act 1997* for a project amount that is mining capital expenditure within the meaning of that Act; or

(iii) Subdivision 40-B of that Act for a depreciating asset that is a forestry road or timber mill building; or

(iv) the former Subdivision 330-C or 387-G of that Act;

in relation to any amount of expenditure (not being expenditure incurred after the application period) by reason of which the item is Division 10, 10AA or 10A property for any year of income in which the whole or a part of the application period occurs;

84 Paragraph 159GJ(2)(c)

Repeal the paragraph, substitute:

(c) for the purposes of the application of:

(i) Division 10, 10AA or 10A of this Part; or

(ii) section 40-830 of the *Income Tax Assessment Act 1997* for a project amount that is mining capital expenditure within the meaning of that Act; or

(iii) Subdivision 40-B of that Act for a depreciating asset that is a forestry road or timber mill building; or

(iv) the former Subdivision 330-C or 387-G of that Act;

in relation to an amount of expenditure (not being expenditure incurred after the application period) by reason of which the item is Division 10, 10AA or 10A property at any time after the application period, there shall be taken to have been allowed in respect of the amount of expenditure a deduction under whichever of those provisions applies in respect of the amount of expenditure of an amount equal to the total notional principal in relation to the amount of expenditure in relation to the application period.

85 Paragraph 159GJ(3)(a)

Repeal the paragraph, substitute:

(a) no deduction is allowable to any taxpayer under:

(i) Division 10AAA of this Part; or

(ii) section 40-830 of the *Income Tax Assessment Act 1997* for a project amount that is transport capital expenditure within the meaning of that Act; or

(iii) the former Subdivision 330-H of that Act;

in relation to any amount of expenditure (not being expenditure incurred after the application period) by reason of which the item is Division 10AAA property for any year

of income in which the whole or a part of the application period occurs;

86 Paragraph 159GJ(3)(c)

Repeal the paragraph, substitute:

(c) for the purposes of the application of:

(i) Division 10AAA of this Part; or

(ii) section 40-830 of the *Income Tax Assessment Act 1997* for a project amount that is transport capital expenditure within the meaning of that Act; or

(iii) the former Subdivision 330-H of that Act;

in relation to an amount of expenditure (not being expenditure incurred after the application period) by reason of which the item is Division 10AAA property for any year of income after the year of income in which this Division ceases to apply—it shall be taken to be a requirement of those provisions that the deduction allowable under any of those provisions in respect of the amount of expenditure does not exceed the residual amount in relation to the amount of expenditure as ascertained in accordance with paragraph (b).

87 Paragraph 159GJ(5)(a)

Omit “Division 380”, substitute “the former Division 380, or Division 40,”.

88 Paragraph 159GJ(5)(c)

Omit “Division 380”, substitute “the former Division 380, or Division 40,”.

89 Paragraph 159GM(b)

Repeal the paragraph, substitute:

(b) the expenditure by reason of which the item of property is eligible capital expenditure property is the amount that was the cost of the item of property to the taxpayer who incurred the expenditure for the purpose of:

(i) subsection 62(1) of this Act; or

(ii) the former Subdivision 42-B, or Subdivision 40-C, of the *Income Tax Assessment Act 1997*;

or that would have been the cost to the taxpayer for the purpose of that subsection or that Subdivision if that subsection or that Subdivision applied in relation to the item of property;

90 Section 159UC

Omit “section 42-18”, substitute “section 45-40”.

91 Paragraph 160APHJ(7)(c)

Before “subsection”, insert “the former”.

92 Subsection 170(10AA) (table item 20)

Omit “Section 42-290”, substitute “The former section 42-290”.

93 Subsection 170(10AA) (table item 180)

Omit “Section 330-175”, substitute “The former section 330-175”.

94 Subsection 170(10AA) (table item 180)

Omit “Section 330-245”, substitute “The former section 330-245”.

95 Subsection 262A(4AB)

Before “section 42-355”, insert “the former”.

96 Subsection 262A(4ACA) (note)

Repeal the note.

97 Section 317 (definition of depreciation provision)

Repeal the definition, substitute:

depreciation provision means:

(a) any of sections 54 to 62 of Division 3 of Part III of this Act, any provision of Divisions 10, 10AAA, 10AA, 10A, 10C and 10D of that Part; or

(b) any provision of Division 40 of the *Income Tax Assessment Act 1997* (other than Subdivision 40-E) or of Division 43 of that Act; or

(c) any provision of the former Division 42 of that Act (other than Subdivisions 42-L and 42-M), or the former Subdivisions 330-A, 330-C, 330-H and 387-G of that Act.

98 Subsection 398(3)

Repeal the subsection, substitute:

(3) For the purpose of exercising his or her power under subsection (2) to determine a notional allowable deduction in relation to:

(a) sections 54 to 62 of this Act; or

(b) the former Division 42 (Depreciation) of the *Income Tax Assessment Act 1997* (other than Subdivisions 42-L and 42-M); or

(c) Division 40 of that Act (other than Subdivision 40-E);

the Commissioner must assume that the property was used by the eligible CFC during any non-attributable income period wholly and exclusively for the purpose of producing notional assessable income.

99 Subsubparagraph 439(1)(a)(iii)(A)

Repeal the subsubparagraph, substitute:

(A) if the company were a resident within the meaning of section 6, depreciation would be allowable to the company under section 54 of this Act or the former Division 42 of the *Income Tax Assessment Act 1997*, or the company could deduct an amount for the decline in value of a depreciating asset under Division 40 of that Act, in respect of any year of income; and

100 Subparagraph 570(1)(a)(i)

Repeal the subparagraph, substitute:

(i) plant or articles within the meaning of section 54 of this Act, plant within the meaning of section 45-40 of the *Income Tax Assessment Act 1997* or a depreciating asset within the meaning of Division 40 of that Act; or

101 Subparagraph 570(1)(a)(ii)

Omit “section 373-15 of”.

102 Paragraph 570(1)(b)

After “articles”, insert “, depreciating asset”.

103 Subparagraph 574(1)(a)(i)

After “articles”, insert “, depreciating asset”.

104 Subsection 245-140(1) of Schedule 2C (table of deductible expenditure)

Repeal the table, substitute:

Table of deductible expenditure

	Column 1	**Column 2**
Item	**General description of expenditure**	**Provision under which a deduction is allowable in respect of the expenditure**
1	Cost of plant or articles used (or installed ready for use) to produce assessable income	Subsections 54(1), 56(1), 57AK(4) and 57AM(5), (7), (9), (10) and (11) of this Act or the former Division 42 of the *Income Tax Assessment Act 1997*
2	Expenditure deductible under Division 40 (capital allowances) of the *Income Tax Assessment Act 1997*	Division 40 of that Act
3	Expenditure on software, pooled	The former Subdivision 46-D of the *Income Tax Assessment Act 1997*
4	Expenditure incurred in borrowing money to produce assessable income	Section 25-25 of the *Income Tax Assessment Act 1997*
5	Expenditure on a telephone line on land on which a business of primary production is carried on	The former Subdivision 387-F of the *Income Tax Assessment Act 1997*
6	Expenditure in connecting or upgrading mains electricity facilities on land used or intended for use in producing assessable income	The former Subdivision 387-E of the *Income Tax Assessment Act 1997*
7	Expenditure on scientific research	Subsection 73A(2)
8	Expenditure on research and development activities	Sections 73B, 73BA, 73BH and 73Y
9	Expenditure in connection with clearing and preparing land for primary production	Subsection 75A(3)

Table of deductible expenditure		
	Column 1	**Column 2**
Item	**General description of expenditure**	**Provision under which a deduction is allowable in respect of the expenditure**
10	Expenditure on establishing a grape vine	The former Subdivision 387-D of the *Income Tax Assessment Act 1997*
11	Expenditure on plant or structural improvements for conserving or conveying water	The former Subdivision 387-B of the *Income Tax Assessment Act 1997*
12	Expenditure on certain kinds of plant and equipment for use in very large development projects	Subsections 82AB(1) and 82AT(1)
13	Expenditure on environmental impact assessment	item 1, 2 or 3 of the table in the former subsection 400-15(3) of the *Income Tax Assessment Act 1997*
14	Advance revenue expenditure	Subdivision H of Division 3 of Part III
15	Expenditure incurred in relation to mining or quarrying operations	The former Subdivision 330-C of the *Income Tax Assessment Act 1997*
16	Expenditure incurred on exploration or prospecting for minerals or quarry materials	The former Subdivision 330-A of the *Income Tax Assessment Act 1997*
17	Expenditure incurred in transporting minerals or quarry materials	The former Subdivision 330-H of the *Income Tax Assessment Act 1997*
18	Expenditure on forestry roads to an area of timber operations	The former Subdivision 387-G of the *Income Tax Assessment Act 1997*
19	Expenditure on timber buildings used for timber milling business, if the buildings are in a forest or adjacent to a timber milling or timber felling area	The former Subdivision 387-G of the *Income Tax Assessment Act 1997*
20	Expenditure on acquiring a unit of industrial property to produce assessable income	Subsection 124M(1)
21	Expenditure on acquiring an item of intellectual property to produce assessable income	The former Subdivision 373-B of the *Income Tax Assessment Act 1997*
22	Expenditure on Australian films	Section 124ZAF

Table of deductible expenditure		
	Column 1	**Column 2**
Item	**General description of expenditure**	**Provision under which a deduction is allowable in respect of the expenditure**
23	Expenditure on assessable income producing buildings and other capital works	Section 43-10 of the *Income Tax Assessment Act 1997*
24	Expenditure incurred in establishing horticultural plants	The former Subdivision 387-C
25	Expenditure incurred in obtaining a spectrum licence to produce assessable income	The former Division 380 of the *Income Tax Assessment Act 1997*

105 Subparagraph 245-155(1)(b)(iv) of Schedule 2C

Omit "Division 42", substitute "the former Division 42, or Division 40,".

106 Section 57-10 of Schedule 2D

Omit "Division 330", substitute "Division 40".

107 After paragraph 57-25(4)(g) of Schedule 2D

Insert:

(ga) Division 40 of the *Income Tax Assessment Act 1997* (about capital allowances); and

108 Paragraph 57-25(4)(h) of Schedule 2D

Before "Division 42", insert "the former".

109 Paragraph 57-25(4)(k) of Schedule 2D

Before "Division 330", insert "the former".

110 Paragraph 57-25(4)(l) of Schedule 2D

Before "Subdivision 387-G", insert "the former".

111 Subsection 57-85(3) of Schedule 2D (table item 2)

Omit "Subdivision 387-E", substitute "the former Subdivision 387-E or Subdivision 40-G".

112 Subsection 57-85(3) of Schedule 2D (table item 3)

Omit “Subdivision 400-A”, substitute “the former Subdivision 400-A or Subdivision 40-I”.

113 Subsection 57-85(3) of Schedule 2D (table item 4)

Omit “Subdivision 400-B”, substitute “the former Subdivision 400-B or Subdivision 40-H”.

114 Subsection 57-85(3) of Schedule 2D (table item 6)

Omit “Subdivision 387-D”, substitute “the former Subdivision 387-D or Subdivision 40-F”.

115 Subsection 57-85(3) of Schedule 2D (table item 7A)

Omit “Subdivision 373-B”, substitute “the former Subdivision 373-B or Subdivision 40-B”.

116 Subsection 57-85(3) of Schedule 2D (table item 8)

Omit “Subdivision 387-A”, substitute “the former Subdivision 387-A or Subdivision 40-G”.

117 Subsection 57-85(3) of Schedule 2D (table item 10)

Omit “Subdivision 330-C”, substitute “the former Subdivision 330-C or Subdivision 40-I”.

118 Subsection 57-85(3) of Schedule 2D (table item 11)

Omit “Subdivision 330-H”, substitute “the former Subdivision 330-H or Subdivision 40-I”.

119 Subsection 57-85(3) of Schedule 2D (table item 12)

Omit “Subdivision 330-I”, substitute “the former Subdivision 330-I or Subdivision 40-H”.

120 Subsection 57-85(3) of Schedule 2D (table item 14A)

Omit “Subdivisions 46-B and 46-D”, substitute “the former Subdivisions 46-B and 46-D or Subdivisions 40-B and 40-E and section 40-335.

121 Subsection 57-85(3) of Schedule 2D (table item 14B)

Omit “Subdivision 380-A”, substitute “the former Subdivision 380-A or Subdivision 40-B”.

122 Subsection 57-85(3) of Schedule 2D (table item 15)

Omit “Subdivision 387-F”, substitute “the former Subdivision 387-F or Subdivision 40-G”.

123 Subsection 57-85(3) of Schedule 2D (table item 16)

Omit “Subdivision 387-G”, substitute “the former Subdivision 387-G or Subdivision 40-B”.

124 Subsection 57-85(3) of Schedule 2D (table item 17)

Omit “Subdivision 387-G”, substitute “the former Subdivision 387-G or Subdivision 40-B”.

125 Subsection 57-85(3) of Schedule 2D (table item 19)

Omit “Subdivision 387-B”, substitute “the former Subdivision 387-B or Subdivision 40-F”.

126 Subsection 57-105(1) of Schedule 2D

Before “Subdivision 330-A”, insert “the former”.

127 Subsection 57-105(1) of Schedule 2D

After “330-C”, insert “or Division 40”.

128 Subsection 57-105(2) of Schedule 2D

Before “Subdivision 330-A”, insert “the former”.

129 Subsection 57-110(2) of Schedule 2D (table item 2)

Before “Division 42”, insert “The former”.

130 Subsection 57-110(2) of Schedule 2D (after table item 2)

Insert:

2A	Capital allowances	Section 40-285	Division 40

131 Subsection 57-110(2) of Schedule 2D (table item 4)

Omit “Section 387-315”, substitute “The former section 387-315”.

132 Subsection 57-110(2) of Schedule 2D (table item 4)

Before “Subdivision 387-D”, insert “The former”.

133 Subsection 57-110(2) of Schedule 2D (table item 5A)

Before “Subdivisions 373-C”, insert “The former”.

134 Subsection 57-110(2) of Schedule 2D (table item 5A)

Before “Subdivision 373-B”, insert “The former”.

135 Subsection 57-110(2) of Schedule 2D (table item 6)

Before “Subdivision 330-J”, insert “The former”.

136 Subsection 57-110(2) of Schedule 2D (table item 6)

After “Whichever of the following”, insert “former Subdivisions”.

137 Subsection 57-110(2) of Schedule 2D (table item 8A)

Before “Subdivisions 380-B”, insert “The former”.

138 Subsection 57-110(2) of Schedule 2D (table item 8A)

Before “Subdivision 380-A”, insert “The former”.

139 Subsection 57-110(2) of Schedule 2D (table item 9)

Omit “Section 387-485”, substitute “The former section 387-485”.

140 Subsection 57-110(2) of Schedule 2D (table item 9)

Before “Subdivision 387-G”, insert “The former”.

141 Subdivision 57-N of Schedule 2D

Repeal the Subdivision, substitute:

Subdivision 57-N—Division not applicable in respect of certain plant

57-130 Plant or depreciating assets covered by Subdivision 58-B of the Income Tax Assessment Act 1997

Subdivision 57-I, and Subdivision 57-K in so far as it applies to balancing adjustments for plant or depreciating assets, do not apply

in respect of an asset to which Subdivision 58-B of the *Income Tax Assessment Act 1997* applies.

142 Subparagraph 42A-90(4)(a)(ii) of Schedule 2E

Repeal the subparagraph, substitute:

(ii) any amount that is included in the lessee's assessable income under subsection 59(2) or under Subdivision 40-D, or the former Subdivision 42F or 42G, of the *Income Tax Assessment Act 1997* because the lessee is taken to have disposed of the car; or

143 Subsection 42A-105(4) of Schedule 2E

Repeal the subsection, substitute:

(4) If the car is afterwards acquired by an associate of the lessee, the cost of the car for the purpose of calculating its adjustable value, within the meaning of Division 40 of the *Income Tax Assessment Act 1997*, at the time of the acquisition for the purposes of the application of this Act to the associate is taken to be whichever is the lesser of:

(a) the sum of:

(i) the amount that would have been the adjustable value of the car (within the meaning of the *Income Tax Assessment Act 1997*) at that time for the purposes of the application of this Act to the lessee if the lessee were not taken under this Division to have disposed of the car; and

(ii) any amount that is included in the lessee's assessable income under subsection 59(2), under the former Subdivision 42F or 42G of the *Income Tax Assessment Act 1997* or under Subdivision 40-D of that Act because the lessee is taken under this Division to have disposed of the car; or

(b) the cost of the acquisition of the car by the associate.

144 Section 42A-120 of Schedule 2E

Omit "depreciation allowable to that person for the car, would have been reduced because of the operation of section 57AF or section 42-80 of the *Income Tax Assessment Act 1997*", substitute "deductions allowable to that person for the decline in value of the car, would have been reduced because of the operation of section 57AF, the former section 42-80 of the *Income Tax Assessment Act 1997* or section 40-230 of that Act".

145 After paragraph 268-35(2)(a) of Schedule 2F

Insert:

(aa) deductions for the decline in value of a depreciating asset;

See Division 40 of the *Income Tax Assessment Act 1997*.

146 Paragraph 268-35(2)(b) of Schedule 2F (note)

Before "Division 330", insert "the former".

147 Paragraph 268-35(2)(c) of Schedule 2F (note)

Before "Division 330", insert "the former".

148 Paragraph 268-40(3)(c) of Schedule 2F (note)

Omit "item 1.16", substitute "item 1.25".

Income Tax Assessment Act 1997

149 Section 10-5 (table item headed "balancing adjustment")

Repeal the item, substitute:

balancing adjustment

see *capital allowances*, *industrial property*, *investments*, *research & development*, *scientific research* and *tax exempt entities*

150 Section 10-5 (after the table item headed "bounties")

Insert:

capital allowances

excess of termination value over adjustable value

generally 40-285

for some cars 40-370

depreciating asset in low-value pool ..... 40-445(2)
expenditure in software development pool..... 40-460
recovery of petroleum resource rent tax ..... 40-750(3)

151 Section 10-5 (table item headed "depreciation")

Repeal the item, substitute:

depreciation

see *capital allowances*

152 Section 10-5 (table item headed "intellectual property")

Repeal the item.

153 Section 10-5 (after table item headed "landcare operations)

Insert:

leased plant ..... Division 45

154 Section 10-5 (table item headed "leases")

Omit "see also *depreciation*".

155 Section 10-5 (table item headed "mining")

Repeal the item, substitute:

Mining

providing mining, quarrying or prospecting information .. 15-40

156 Section 10-5 (table item headed "petroleum")

Repeal the item, substitute:

petroleum

resource rent tax, recovery of ..... 20-30(1)

see also *capital allowances*

157 Section 10-5 (table item headed "pooled depreciated property")

Repeal the item.

158 Section 10-5 (table item headed "pooled software")

Repeal the item.

159 Section 10-5

Insert:

Project pools

An amount received for the abandonment, sale or other disposal of a project..... 40-830

160 Section 10-5 (table item headed "software")

Repeal the item.

161 Section 10-5 (table item headed "spectrum licences")

Repeal the item.

162 Section 10-5 (table item headed "timber")

Repeal the item.

163 Section 11-15 (table item headed "mining")

Omit:

rights to mine, sale of 330-60

164 Section 12-5 (table item headed "balancing adjustment")

Repeal the item, substitute:

balancing adjustment

see *buildings*, *capital allowances*, *industrial property*, *research & development and tax exempt entities*

165 Section 12-5 (table item headed "boats")

Omit "*depreciation*", substitute "*capital allowances*".

166 Section 12-5 (table item headed "buildings")

Repeal the item, substitute:

buildings

income producing buildings, capital allowances ..... Division 43

see also *heritage conservation work*

167 Section 12-5 (table item headed "capital allowances")

Repeal the item, substitute:

capital allowances

generally	Division 40
balancing adjustments	40-285(2), 40-370
business related costs	40-880
electricity and telephone lines	40-645
environmental protection activities	40-755
exploration or prospecting	40-80(1), 40-730
in-house software	40-335, 40-455
intellectual property	Subdivision 40-B
IRUs	Subdivision 40-B
landcare operations	40-630
low-value and software development pools	Subdivision 40-E
mining and quarrying	Subdivision 40-H and Subdivision 40-I
Petroleum Resource Rent Tax	40-750
project pools	40-830
reducing deductions	40-25, 40-290
spectrum licences	Subdivision 40-B
trading ships, special depreciation	**57AM**
water facilities, horticultural plants and grapevines	Subdivision 40-F

168 Section 12-5 (table item headed "car disposal")

Omit "*depreciation*", substitute "*capital allowances*".

169 Section 12-5 (table item headed "controlled foreign companies")

Repeal the item, substitute:

controlled foreign companies

generally	**316 to 468**
bad debts	**399A**
decline in value of depreciating assets	**398**
finance share dividends	**394**
taxes paid	**393**

170 Section 12-5 (table item headed "depreciation")

Repeal the item, substitute:

depreciation

see *capital allowances*

171 Section 12-5 (table item headed "disposal of depreciated property")

Repeal the item, substitute:

disposal of depreciating assets

see *capital allowances*

172 Section 12-5 (table item headed "electricity connections")

Repeal the item, substitute:

electricity connections

see *capital allowances*

173 Section 12-5 (table item headed "environment")

Repeal the item, substitute:

environment

see *capital allowances*

174 Section 12-5 (table item headed "exploration and prospecting")

Repeal the item, substitute:

exploration and prospecting

see *capital allowances*

175 Section 12-5 (table item headed "grape vines")

Repeal the item, substitute:

grape vines

see *capital allowances*

176 Section 12-5 (table item headed "GST—acquiring or upgrading plant to meet GST obligations etc.")

Repeal the item.

177 Section 12-5 (table item headed "horticultural plants")

Repeal the item, substitute:

horticultural plants

see *capital allowances*

178 Section 12-5 (table item headed "intellectual property")

Repeal the item, substitute:

intellectual property

see *capital allowances*

179 Section 12-5 (table item headed "IRUs")

Omit "*depreciation*", substitute "*capital allowances*".

180 Section 12-5 (table item headed "leases")

Omit "see also *depreciation*".

181 Section 12-5 (table item headed "mining")

Repeal the item, substitute:

mining

gold mining	**159GZZG to 159GZZZBI**
uranium mining	**23D**

see also *capital allowances*

182 Section 12-5 (table item headed "petroleum prospecting and mining")

Repeal the item.

183 Section 12-5 (table item headed "plant and articles")

Repeal the item.

184 Section 12-5 (table item headed "pooled software")

Repeal the item.

185 Section 12-5 (table item headed "primary production")

Repeal the item, substitute:

primary production	
drought investment allowance, generally	**625 to 684**
farm management deposits	**393-1 to 393-65 of Schedule 2G**
income equalisation deposits	**159GA to 159GDA**
land, preparing, clearing, ploughing or draining land for use in primary production and other activities	**75A**
see also *capital allowances* and *timber*	

186 Section 12-5 (table item headed "property")

Omit ", *depreciation*".

187 Section 12-5 (table item headed "quarrying")

Repeal the item.

188 Section 12-5 (table item headed "software")

Repeal the item, substitute:

Software	
see *capital allowances*	

189 Section 12-5 (table item headed "spectrum licences")

Repeal the item, substitute:

spectrum licences

see *capital allowances*

190 Section 12-5 (table item headed "timber")

Repeal the item, substitute:

timber

death of owner of land carrying trees, deduction of the part of land cost attributable to trees 70-120

disposal of land carrying trees, deduction of the part of land cost attributable to trees 70-120

felling trees, deduction of cost of land attributable to trees felled or of cost of right to fell trees..... 70-120

see also *capital allowances*

191 Section 12-5 (table item headed "trading ships")

Omit "*depreciation*", substitute "*capital allowances*".

192 Section 12-5 (table item headed "water")

Repeal the item, substitute:

water facilities

see *capital allowances*

193 Section 13-1 (table item headed "primary production")

Repeal the item, substitute:

primary production

averaging of income, trustees **156**

averaging of tax liability, individuals ..... 392-35(2)

exceptional circumstances relief payments see *social security and other benefit payments*

farm help income support payments see *social security and other benefit payments*

farm household support see *social security and other benefit payments*

194 At the end of Division 15

Add:

15-40 Providing mining, quarrying or prospecting information

Your assessable income includes an amount you receive for providing *mining, quarrying or prospecting information to another entity if:

(a) you continue to *hold the information; and

(b) the amount you receive is not assessable as *ordinary income under section 6-5.

195 At the end of Division 17

Add:

17-35 Certain sections not to apply to certain assets or expenditure

Sections 17-5, 17-10 and 17-15 do not apply to assets, or to expenditure, for which you can deduct amounts under Division 40 or Division 328.

Note: See instead Subdivision 27-B.

196 Section 20-5 (table item 1)

Repeal the item, substitute:

1	A balancing adjustment for a depreciating asset is included in your assessable income.	40-285(1) and 40-445(2)

197 Section 20-5 (table item 3)

Omit “330-350(3)”, substitute “40-750(3)”.

198 Section 20-5 (table item 3A)

Repeal the item.

199 Subsection 20-30(1) (table)

Repeal the table, substitute:

Provisions of the *Income Tax Assessment Act 1997*

Item	Provision	Description of expense
1.1	8-1 (so far as it allows you to deduct a bad debt, or part of a debt that is bad)	bad debts
1.2	8-1 (so far as it allows you to deduct rates or taxes)	rates or taxes
1.3	25-5	tax-related expenses
1.4	25-35	bad debts
1.5	25-45	embezzlement or larceny by an employee
1.6	25-60	election expenses, Commonwealth and State elections
1.7	25-75	rates and land taxes on premises used to produce mutual receipts
1.8	25-80	upgrading assets to meet GST obligations etc.
1.9	Division 40	capital allowances
1.10	The former Division 42 (as it applied to *software because of the former Subdivision 46-B)	expenditure on software
1.11	The former Subdivision 46-C	expenditure on software
1.12	The former Subdivision 46-D	expenditure on software, pooled
1.13	The former Division 42 (as it applied to *IRUs because of Division 44)	expenditure on IRUs
1.14	The former 330-15	exploration or prospecting expenditure
1.15	The former 330-80	allowable capital expenditure relating to mining or quarrying
1.16	The former 330-350	petroleum resource rent tax
1.17	The former 330-370	transport capital expenditure relating to mining or quarrying
1.18	The former 330-435	rehabilitation expenditure relating to mining or quarrying
1.19	The former 330-485	balancing adjustment deduction for expenditure relating to mining or quarrying

Provisions of the *Income Tax Assessment Act 1997*		
Item	**Provision**	**Description of expense**
1.20	The former Subdivisions 380-A and 380-C	capital expenditure incurred in obtaining a spectrum licence
1.21	The former Subdivision 387-A	landcare operations expenditure
1.22	The former Subdivision 387-B	expenditure on facilities to conserve or convey water
1.23	The former Subdivision 387-D	grapevine establishment expenditure
1.24	The former Subdivision 387-C	horticultural plant establishment expenditure
1.25	The former Subdivision 387-E	mains electricity connection expenditure
1.26	The former Subdivision 400-A	expenditure on environmental impact assessment
1.27	The former Subdivision 400-B	expenditure on environmental protection activities

200 Subsection 20-30(2) (after table item 2.7)

Insert:

2.7A	**72A**	a payment of petroleum resource rent tax, or an instalment of petroleum resource rent tax, or a credit under paragraph 99(d) of the *Petroleum Resource Rent Tax Assessment Act 1987* in respect of a payment of such an instalment

201 Subsection 20-40(2) (example)

Repeal the example, substitute:

Example: At the start of the 2002-03 income year, a company incurs $100,000 to start to hold a depreciating asset. The company uses the prime cost method, and the effective life is 10 years. $10,000 is deductible for the 2002-03 income year and for each of the following 9 income years under section 40-25.

In the 2002-03 income year, the company receives $20,000 as recoupment. How much is assessable for the 2002-03 income year?

Applying the method statement:

After step 1: the total assessable recoupment is $20,000.

After step 2: the recoupment already assessed is nil.

After step 3: the unassessed recoupment is:
total assessable recoupment minus recoupment already assessed,
i.e. $20,000 minus 0 = $20,000.

After step 4: the total deductions for the loss or outgoing are $10,000.

After step 5: the outstanding deductions are:
total deductions for the loss or outgoing minus recoupment already assessed, i.e. $10,000 minus 0 = $10,000.

After step 6: the unassessed recoupment (step 3) is greater than outstanding deductions (step 5), so the amount of the outstanding deductions is included in assessable income, i.e. $10,000.

Applying the method statement to the 2003-04 income year: a further $10,000 is included in the company's assessable income.

202 Subsection 20-45(1) (note)

Omit "section 40-25", substitute "Subdivision 40-D".

203 Subsection 20-45(3) (example)

Repeal the example, substitute:

Example: Continuing the example in subsection 20-40(2): at the start of the 2005-06 income year, the company:

- receives a further $10,000 as recoupment; and
- sells the depreciating asset for $75,000.

As a result of the sale, a balancing adjustment of $5,000 is included under section 40-285 in the company's assessable income for that income year.

How much of the recoupment amount received in the 2005-06 income year is assessable for that income year?

Applying the method statement in subsection 20-40(2):

After step 1: the total assessable recoupment is $30,000 (received during 2002-03 and 2005-06).

After step 2: the recoupment already assessed is $20,000 (for 2002-03 and 2003-04).

After step 3: the unassessed recoupment is:
total assessable recoupment minus recoupment already assessed,
i.e. $30,000 minus $20,000 = $10,000.

After step 4: the total deductions for the loss or outgoing are $30,000 ($10,000 for each of 2002-03, 2004-04 and 2004-05), reduced by $5,000 (the amount included in assessable income for the balancing adjustment), i.e. $25,000.

After step 5: the outstanding deductions are:
total deductions for the loss or outgoing minus recoupment already assessed, i.e. $25,000 minus $20,000 = $5,000.

After step 6: the unassessed recoupment (step 3) is greater than outstanding deductions (step 5), so the amount of the outstanding deductions is included in assessable income, i.e. $5,000.

204 Section 20-55 (after table item 6)

Insert:

6A	**72A(4)(a) and (aa)**	petroleum resource rent tax

205 At the end of section 20-55

Add:

(2) Section 330-350 of this Act is also a ***previous recoupment law***.

206 Section 20-100

Omit “depreciation of the car”, substitute “the car’s decline in value”.

207 Section 20-120

Omit “Subdivision 42-B (which is about working out the cost of *plant for the purposes of depreciation)”, substitute “Subdivision 40-C (which is about working out the cost of *depreciating assets)”.

208 Section 20-120

Omit “42-205”, substitute “40-300”.

209 Section 20-120 (note 1)

Omit “depreciation of the car”, substitute “the car’s decline in value”.

210 Section 20-150

Omit “sections 42-190 and 42-240”, substitute “sections 40-285 and 40-370”.

211 Section 20-150 (note)

Omit “sections 42-190 and 42-240”, substitute “sections 40-285 and 40-370”.

212 Subsection 25-5(5) (example)

Omit “depreciate your computer and deduct an amount under Division 42”, substitute “deduct the decline in value of your computer under Division 40”.

213 Subsection 25-10(1)

Omit “*plant”, substitute “a *depreciating asset”.

214 Division 27 (after the heading)

Insert:

Table of Subdivisions

	Guide to Division 27
27-A	General
27-B	Division 40

215 After section 27-1

Insert:

Subdivision 27-A—General

216 At the end of Division 27

Add:

27-35 Certain sections not to apply to certain assets or expenditure

Sections 27-5, 27-10, 27-15 and 27-20 do not apply to assets, or to expenditure, for which you can deduct amounts under Division 40 or 328.

Note: See instead Subdivision 27-B.

Subdivision 27-B—Division 40

Table of sections

27-80	Cost or opening adjustable value of depreciating assets reduced for input tax credits
27-85	Cost or opening adjustable value of depreciating assets reduced: decreasing adjustments
27-90	Cost or opening adjustable value of depreciating assets increased: increasing adjustments
27-95	Balancing adjustment events
27-100	Pooling
27-105	Other Division 40 expenditure
27-110	Input tax credit etc. relating to 2 or more things

27-80 Cost or opening adjustable value of depreciating assets reduced for input tax credits

(1) A *depreciating asset's *cost is reduced if:

(a) an entity's acquisition or importation of the asset constitutes a *creditable acquisition or *creditable importation; and

(b) the entity is or becomes entitled to an *input tax credit for the acquisition or importation; and

(c) the entity can deduct amounts for the asset under Division 40 or 328.

The reduction is the amount of the input tax credit.

(2) A *depreciating asset's *cost is also reduced if:

(a) the entity that *holds the asset incurs expenditure that is included in the second element of the asset's cost for the income year in which the asset's *start time occurs; and

(b) the entity is or becomes entitled to an *input tax credit for the *creditable acquisition or *creditable importation to which the expenditure relates; and

(c) the entity can deduct amounts for the asset under Division 40 or 328.

The reduction is the amount of the input tax credit.

(3) However, subsections (1) and (2) do not apply if the *cost of the *depreciating asset is modified under Division 40 to be its *market value.

(3A) A *depreciating asset's *opening adjustable value for an income year is reduced if:

(a) an entity's acquisition or importation of the asset constitutes a *creditable acquisition or *creditable importation; and

(b) the entity is or becomes entitled to an *input tax credit in an income year (the ***credit year***) for the acquisition or importation and the credit year occurs after the income year in which the acquisition or importation occurred; and

(c) the income year is after the one in which the asset's *start time occurs; and

(d) the entity can deduct amounts for the asset under Division 40 or 328.

(4) A *depreciating asset's *opening adjustable value for an income year is reduced if:

(a) the entity that *holds the asset incurs expenditure that is included in the second element of the asset's cost for that income year; and

(b) that income year is after the one in which the asset's*start time occurs; and

(c) the entity is or becomes entitled to an *input tax credit for the *creditable acquisition or *creditable importation to which the expenditure relates for the income year in which the expenditure was incurred; and

(d) the entity can deduct amounts for the asset under Division 40 or 328.

The reduction is the amount of the input tax credit.

(5) If the reduction under subsection (2) or (4) is more than:

(a) for a subsection (2) case—the *depreciating asset's *cost; or

(b) for a subsection (4) case—the depreciating asset's *opening adjustable value;

the excess is included in the entity's assessable income unless the entity is an *exempt entity.

Exception: pooling

(6) This section does not apply to:

(a) a depreciating asset allocated to a low-value pool or a pool under Division 328 for or in the *current year; or

(b) *in-house software if expenditure on the software is allocated to a software development pool for the current year; or

(c) a project pool.

27-85 Cost or opening adjustable value of depreciating assets reduced: decreasing adjustments

(1) This section applies to an entity if:

(a) the entity can deduct amounts for a *depreciating asset under Division 40 or 328; and

(b) the entity has a *decreasing adjustment in an income year that relates directly or indirectly to the asset.

(1A) However, this section does not apply to a *decreasing adjustment that arises under Division 129 or 132 of the *GST Act.

Note: See instead section 27-87.

(2) The asset's *cost is reduced by an amount equal to the *decreasing adjustment if the adjustment arises in the income year in which the asset's *start time occurs.

(3) The asset's *opening adjustable value for an income year is reduced by an amount equal to the *decreasing adjustment if the adjustment arises in that year and that year is after the one in which the asset's*start time occurs.

(4) If the reduction under subsection (2) or (3) is more than:

(a) for a subsection (2) case—the *depreciating asset's *cost; or

(b) for a subsection (3) case—the depreciating asset's *opening adjustable value;

the excess is included in the entity's assessable income unless the entity is an *exempt entity.

Exception: pooling

(5) This section does not apply to:

(a) a depreciating asset allocated to a low-value pool or a pool under Division 328 for or in the *current year; or

(b) *in-house software if expenditure on the software is allocated to a software development pool for the current year; or

(c) a project pool.

27-87 Certain decreasing adjustments included in assessable income

(1) This section applies to an entity if:

(a) the entity can deduct amounts for a *depreciating asset under Division 40 or 328; and

(b) the entity has a *decreasing adjustment that arises under Division 129 or 132 of the *GST Act in an income year that relates directly or indirectly to the asset.

(2) The amount of the *decreasing adjustment is included in the entity's assessable income for the income year unless the entity is an *exempt entity.

27-90 Cost or opening adjustable value of depreciating assets increased: increasing adjustments

(1) This section applies to an entity if:

(a) the entity can deduct amounts for a *depreciating asset under Division 40 or 328; and

(b) the entity has an *increasing adjustment in an income year that relates directly or indirectly to the asset.

(1A) However, this section does not apply to an *increasing adjustment that arises under Division 129 or 132 of the *GST Act.

Note: See instead section 27-92.

(2) The asset's *cost is increased by an amount equal to the *increasing adjustment if the adjustment arises in the income year in which the asset's *start time occurs.

(3) The asset's *opening adjustable value for an income year is increased by an amount equal to the *increasing adjustment if the adjustment arises in that year and that year is after the one in which the asset's *start time occurs.

Exception: pooling

(4) This section does not apply to:

(a) a depreciating asset allocated to a low-value pool or a pool under Division 328 for or in the *current year; or

(b) *in-house software if expenditure on the software is allocated to a software development pool for the current year; or

(c) a project pool.

27-92 Certain increasing adjustments can be deducted

(1) This section applies to an entity if:

(a) the entity can deduct amounts for a *depreciating asset under Division 40 or 328; and

(b) the entity has an *increasing adjustment that arises under Division 129 or 132 of the *GST Act in an income year that relates directly or indirectly to the asset.

(2) The entity can deduct the amount of the *increasing adjustment for the income year.

(3) However, the entity cannot deduct the amount to the extent (if any) that the adjustment arises from an increase in the extent to which the activity giving rise to the adjustment is of a private or domestic nature.

27-95 Balancing adjustment events

(1) The *termination value of a *depreciating asset is reduced if the relevant *balancing adjustment event is a *taxable supply. The reduction is an amount equal to the *GST payable on the supply.

(2) However, subsection (1) does not apply if the *termination value of the *depreciating asset is modified under Division 40 to be its *market value.

(3) The *termination value of a *depreciating asset is increased if the entity that *held the asset has a *decreasing adjustment that relates directly or indirectly to that *taxable supply in the income year in which the *balancing adjustment event occurred. The increase is the amount of the decreasing adjustment.

(4) The *termination value of a *depreciating asset is decreased if the entity that *held the asset has an *increasing adjustment that relates

directly or indirectly to that *taxable supply in the income year in which the *balancing adjustment event occurred. The decrease is the amount of the increasing adjustment.

(5) An amount is included in the assessable income of the entity that *held the asset if the entity has a *decreasing adjustment that relates directly or indirectly to that *taxable supply in a later income year. The amount included is the amount of the decreasing adjustment.

(6) The entity that *held the asset can deduct an amount if the entity has an *increasing adjustment that relates directly or indirectly to that *taxable supply in a later income year. The amount it can deduct is the amount of the increasing adjustment.

27-100 Pooling

(1) This section contains special rules for expenditure (the ***pooled expenditure***) incurred by an entity:

(a) on a *depreciating asset allocated to a low-value pool; or

(b) on a depreciating asset allocated to a pool under Division 328 for or in an income year; or

(c) on *in-house software if the expenditure on the software is allocated to a software development pool; and

(d) on *project amounts if the amounts are allocated to a project pool.

Reduction to pools etc.

(2) There is a reduction under subsection (3) or (5) if:

(a) the pooled expenditure relates directly or indirectly to a *creditable acquisition or *creditable importation; and

(b) the entity is or becomes entitled to an *input tax credit in an income year (the ***credit year***) for the acquisition or importation and the credit year occurs after the income year in which the acquisition or importation occurred.

(2A) There is a reduction under subsection (4) if:

(a) the pooled expenditure relates directly or indirectly to a *creditable acquisition or *creditable importation; and

(b) the entity is or becomes entitled to an *input tax credit in an income year (the ***credit year***) for the acquisition or importation.

Reduced cost of assets allocated to a pool

(2B) A *depreciating asset's *cost is reduced if:

(a) an entity's acquisition or importation of the asset constitutes a *creditable acquisition or *creditable importation; and

(b) the entity is or becomes entitled to an *input tax credit for the acquisition or importation and the income year in which the acquisition or importation occurred is the same as the one in which the input tax credit arose; and

(c) the asset is allocated to a low-value pool or a pool under Division 328 for or in that year.

The reduction is the amount of the input tax credit.

Low-value pools

(3) For a low-value pool, the *closing pool balance of the pool for:

(a) if the credit year is later than the first income year for which *depreciating assets were allocated to the pool—the income year before the credit year; or

(b) if the credit year is the first income year for which *depreciating assets were allocated to the pool—the credit year;

is reduced by an amount equal to the input tax credit.

Software development pools and project pools

(4) For a software development pool or a project pool, the expenditure in the pool for the credit year, or the *pool value for the credit year, is reduced by an amount equal to the *input tax credit.

STS pools

(5) For a pool under Division 328, the *opening pool balance of the pool for the credit year is reduced by an amount equal to the input tax credit.

No reduction if market value

(5A) However, there is no reduction to the *cost of a *depreciating asset if its cost is modified under Division 40 to be its *market value.

Second element of cost

(6) There is a reduction under subsection (7) if:

(a) the entity incurs expenditure in an income year (also the ***credit year***) that is included in the second element of the *cost of a *depreciating asset allocated to a low-value pool or a pool under Division 328 for or in the credit year; and

(b) the entity is or becomes entitled, after the credit year, to an *input tax credit for the expenditure.

(7) An amount equal to the amount of the *input tax credit is applied in reduction of:

(a) for a low-value pool:

(i) if the credit year is later than the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the income year before the credit year; or

(ii) if the credit year is the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the credit year; or

(b) for a pool under Division 328—the *opening pool balance of the pool for the credit year.

(7A) There is a reduction to an amount of expenditure included in the second element of the *cost of a *depreciating asset if:

(a) the asset is allocated to a low-value pool or a pool under Division 328 for or in the income year in which the expenditure was incurred; and

(b) the entity that incurred the expenditure is or becomes entitled to an *input tax credit for the expenditure; and

(c) the entitlement arises in the income year in which the expenditure was incurred.

The reduction is the amount of the input tax credit.

Increasing adjustments

(8) There is an increase under subsection (9) if the entity has an *increasing adjustment (except one that arises under Division 129 or 132 of the *GST Act) in an income year (the ***adjustment year***) that relates directly or indirectly to a *creditable acquisition or *creditable importation to which the pooled expenditure relates.

Note: For an increasing adjustment that arises under Division 129 or 132 of the GST Act, see section 27-92.

(9) An amount equal to the amount of that *increasing adjustment is added to:

(a) for a low-value pool:

(i) if the adjustment year is later than the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the income year before the adjustment year; or

(ii) if the adjustment year is the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the adjustment year; or

(b) for a pool under Division 328—the *opening pool balance of the pool for the adjustment year; or

(c) for *in-house software—the amount of expenditure allocated to the software development pool for the adjustment year; or

(d) for a project pool—the *pool value for the adjustment year.

Decreasing adjustments

(10) There is a decrease under subsection (11) if the entity has a *decreasing adjustment (except one that arises under Division 129 or 132 of the *GST Act) in an income year (also the ***adjustment year***) that relates directly or indirectly to a *creditable acquisition or *creditable importation to which the pooled expenditure relates.

Note: For a decreasing adjustment that arises under Division 129 or 132 of the GST Act, see section 27-87.

(11) An amount equal to the amount of the *decreasing adjustment is applied in reduction of:

(a) for a low-value pool:

(i) if the adjustment year is later than the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the income year before the adjustment year; or

(ii) if the adjustment year is the first income year for which *depreciating assets were allocated to the pool—the *closing pool balance of the pool for the adjustment year; or

(b) for a pool under Division 328—the *opening pool balance of the pool for the adjustment year; or

(c) for *in-house software—the amount of expenditure allocated to the software development pool for the adjustment year; or

(d) for a project pool—the *pool value for the adjustment year.

(12) If the amount available for reduction under subsection (11) is more than the amount referred to in paragraph (11)(a), (b), (c) or (d) (whichever is applicable), the excess is included in the entity's assessable income unless the entity is an *exempt entity.

27-105 Other Division 40 expenditure

(1) This section applies to expenditure for which an entity can deduct amounts under Division 40 (but not under Subdivision 40-B or 40-E, or Subdivision 40-I to the extent that that Subdivision relates to project pools).

(2) The amount of the expenditure is reduced if the entity is or becomes entitled to an *input tax credit for a *creditable acquisition or *creditable importation to which the expenditure directly or indirectly relates. The reduction is the amount of the input tax credit that relates to that expenditure.

(3) If the entity has a *decreasing adjustment in an income year that relates directly or indirectly to the expenditure, an amount equal to the decreasing adjustment is included in the entity's assessable income for that income year.

(4) If the entity has an *increasing adjustment in an income year that relates directly or indirectly to the expenditure, the entity can deduct an amount equal to the increasing adjustment for that income year.

(5) If the entity is a partnership and section 40-570 or 40-665 applies, an amount equal to the *input tax credit, the *decreasing adjustment or the *increasing adjustment is apportioned to each of the partners as appropriate.

(6) However, this section does not apply to an *exempt entity.

27-110 Input tax credit etc. relating to 2 or more things

This Subdivision applies to an *input tax credit, or an *increasing adjustment or *decreasing adjustment, that relates directly or indirectly to 2 or more things of which at least one is a *depreciating asset as if a reasonable proportion of the input tax credit or adjustment related directly or indirectly to each of those depreciating assets and each of those other things.

217 Paragraph 28-13(2)(b)

Repeal the paragraph, substitute:

(b) the decline in value of a car.

218 Section 28-30

Repeal the section, substitute:

28-30 Capital allowances

If a *balancing adjustment event occurs for the *car, you will need to refer to the capital allowances rules in Division 40 to find out how using this method affects the operation of those rules. See section 40-370 (about balancing adjustments for some cars).

219 Subsection 28-45(2)

Omit "*car depreciation limit", substitute "*car limit".

220 Subsection 28-45(2) (note)

Repeal the note, substitute:

Note: Section 40-230 deals with the car limit.

221 Section 28-55

Repeal the section, substitute:

28-55 Capital allowances

If a *balancing adjustment event occurs for the *car, you will need to refer to the capital allowances rules in Division 40 to find out how using this method affects the operation of those rules. See section 40-370 (about balancing adjustments for some cars).

222 Subsection 35-45(2) (table item 1)

Repeal the item, substitute:

1	An asset whose decline in value you can deduct under Division 40	The asset's *written down value

223 Paragraph 43-20(5)(a)

Repeal the paragraph, substitute:

(a) they are constructed as a result of carrying out of *environmental protection activities; and

224 Section 43-45

Repeal the section, substitute:

43-45 Certain anti-avoidance provisions

These anti-avoidance provisions:

(a) section 51AD (Deductions not allowable in respect of property under certain leveraged arrangements) of the *Income Tax Assessment Act 1936*;

(b) Division 16D (Certain arrangements relating to the use of property) of Part III of that Act;

apply to your deductions under this Division for an asset as if you were the owner of the asset instead of any other person.

225 Paragraph 43-70(2)(f)

Repeal the paragraph, substitute:

(f) expenditure on property for which a deduction is allowable, or would be allowable if the property were for use for the *purpose of producing assessable income, under:

(i) Subdivision 40-F (about primary production depreciating assets), Subdivision 40-G (about capital expenditure of primary producers and other landholders), Subdivision 40-H (about capital expenditure that is immediately deductible) or Subdivision 40-I (about capital expenditure that is deductible over time); or

(ii) the former Division 330 of this Act or Division 10, 10AAA or 10AA of Part III of the *Income Tax Assessment Act 1936* (all of which deal with mining and/or quarrying); or

(iii) section 73A of the *Income Tax Assessment Act 1936* (about expenditure on scientific research); or

(iv) the former Subdivision 387-A of this Act or section 75D of the *Income Tax Assessment Act 1936* (both of which allow deductions for capital expenditure to prevent land degradation); or

(v) the former Subdivision 387-B of this Act or section 75B of the *Income Tax Assessment Act 1936* (both of which allow deductions for capital expenditure on facilities to conserve or convey water); or

(vi) the former Subdivision 387-G of this Act or section 124F or 124JA of the *Income Tax Assessment Act 1936* (all of which allow deductions for capital expenditure on forestry roads and/or timber mill buildings); or

226 After paragraph 43-70(2)(f)

Insert:

(fa) any of these kinds of expenditure if a deduction is allowable for the expenditure, or would be allowable if property had been used for the purpose of producing assessable income:

(i) *mining capital expenditure or *transport capital expenditure;

(ii) expenditure on a *forestry road in connection with carrying on a *timber operation for a *taxable purpose;

(iii) expenditure for the construction or acquisition of a *timber mill building;

(iv) expenditure on a *depreciating asset you can deduct under subsection 40-80(1) (about exploration and prospecting); or

227 After section 43-70

Insert:

43-72 Meaning of forestry road, timber operation and timber mill building

(1) A ***forestry road*** is a road constructed primarily and principally for the purpose of providing access to an area to enable:

(a) trees to be planted or tended in the area; or

(b) timber felled in the area to be removed.

For this purpose, a road includes any bridge, culvert or similar work forming part of the road.

(2) A ***timber operation*** is:

(a) planting or tending trees for felling; or

(b) felling standing timber; or

(c) removing felled timber; or

(d) milling felled timber or processing it in another way.

(3) A ***timber mill building*** is a building:

(a) for use primarily and principally:

(i) in carrying on your *business of milling timber for a *taxable purpose; or

(ii) as residential accommodation for your employees engaged in connection with the business, or for their dependants; and

(b) located in a forest, and in or adjacent to the area where timber milled in the business is, or is to be, felled.

228 Division 44

Repeal the Division.

229 Paragraph 45-5(1)(a)

Omit “depreciation of *plant”, substitute “the decline in value of *plant”.

230 Paragraph 45-5(1)(b)

Omit "you owned or were the *quasi-owner of the plant", substitute "you *held the plant".

231 Paragraphs 45-5(3)(a) and (b)

Repeal the paragraphs, substitute:

(a) you have deducted or can deduct an amount for the *plant's decline in value; and

(b) for most of the time when you *held the plant, you leased it to another entity; and

232 Paragraphs 45-5(5)(b) and (c)

Repeal the paragraphs, substitute:

(b) you apply it under section 40-365 (about offsetting balancing adjustments); or

(c) roll-over relief is available for the disposal under section 40-340.

233 Paragraph 45-10(1)(a)

Omit "depreciation", substitute "the decline in value".

234 Paragraph 45-10(1)(c)

Repeal the paragraph, substitute:

(c) for most of the time when the partnership *held the plant, it leased it to another entity; and

235 Paragraph 45-10(3)(a)

Omit "depreciation", substitute "the decline in value".

236 Paragraph 45-10(3)(c)

Repeal the paragraph, substitute:

(c) for most of the time when the partnership *held the plant, it leased it to another entity; and

237 Paragraph 45-10(5)(b)

Repeal the paragraph, substitute:

(b) you apply it under section 40-365 (about offsetting balancing adjustments).

238 Subsection 45-15(4)

Repeal the subsection.

239 Paragraph 45-20(1)(a)

Omit “depreciation”, substitute “the decline in value”.

240 Paragraph 45-20(1)(c)

Repeal the paragraph, substitute:

(c) for most of the time when the partnership *held the plant, the plant was leased to another entity; and

241 Subsection 45-20(4)

Repeal the subsection.

242 At the end of Division 45

Add:

45-40 Meaning of plant and written down value

(1) ***Plant*** includes:

(a) articles, machinery, tools and rolling stock; and

(b) animals used as beasts of burden or working beasts in a *business, other than a *primary production business; and

(c) fences, dams and other structural improvements, other than those used for domestic or residential purposes, on land that is used for agricultural or pastoral operations; and

(d) structural improvements, other than a *forestry road or structural improvements used for domestic or residential purposes, on land used in a business involving:

(i) planting or tending trees in a plantation or forest that are intended to be felled; or

(ii) felling trees in a plantation or forest; or

(iii) transporting trees, or parts of trees, that you felled in a plantation or forest to the place where they are first to be milled or processed, or from which they are to be

transported to the place where they are first to be milled or processed; and

(e) structural improvements, other than those used for domestic or residential purposes, that are used wholly for operations (carried out in the course of a business) relating directly to:

(i) taking or culturing pearls or pearl shell; or

(ii) taking or catching trochus, bêche-de-mer or green snails;

and that are situated at or near a port or harbour from which the business is conducted; and

(f) structural improvements that are excluded from paragraph (c), (d) or (e) because they are used for domestic or residential purposes if they are provided for the accommodation of employees, tenants or sharefarmers who are engaged in or in connection with the activities referred to in that paragraph.

(2) ***Plant*** also includes plumbing fixtures and fittings (including wall and floor tiles) provided by an entity mainly for:

(a) either or both:

(i) employees in a *business carried on by the entity for the *purpose of producing assessable income; or

(ii) employees in a business carried on for that purpose by a company that is a member of the same *wholly-owned group of which the entity is a member; or

(b) *children of any of those employees.

(3) The ***written down value*** of a *depreciating asset is its *cost less the sum of:

(a) the amounts you have deducted or can deduct for its decline in value; and

(b) if section 40-340 applied to your acquisition of it—the amounts the transferor, and earlier successive transferors, deducted or can deduct for its decline in value.

243 Division 46

Repeal the Division.

244 Division 58

Repeal the Division, substitute:

Division 58—Capital allowances for depreciating assets previously owned by an exempt entity

Table of Subdivisions

	Guide to Division 58
58-A	Application
58-B	Calculating decline in value of privatised assets under Division 40

Guide to Division 58

58-1 What this Division is about

This Division sets out special rules that apply in calculating deductions for the decline in value of depreciating assets and balancing adjustments for assets previously owned by an exempt entity if the assets:

- continue to be owned by that entity after the entity becomes taxable; or
- are acquired from that entity, in connection with the acquisition of a business, by a purchaser that is a taxable entity.

There is a choice of 2 methods for each depreciating asset:

- the notional written down value method; and
- the undeducted pre-existing audited book value method.

Subdivision 58-A—Application

Table of sections

58-5 Application of Division
58-10 When an asset is acquired in connection with the acquisition of a business

58-5 Application of Division

(1) This Division applies in 2 situations.

Entity sale

(2) The first (an ***entity sale situation***) is where:
  (a) at a particular time on or after 1 July 2001, an entity is an exempt entity; and
  (b) just after that time, the entity's *ordinary income or *statutory income becomes to any extent assessable income.

(3) In an entity sale situation:
  (a) the entity is a ***transition entity***; and
  (b) the time when the entity's *ordinary income or *statutory income becomes to that extent assessable is the ***transition time***; and
  (c) the income year in which the *transition time occurs is the ***transition year*** for the entity; and
  (d) the *depreciating assets the *transition entity *held just before the transition time are ***privatised assets***.

Asset sale

(4) The second (an ***asset sale situation***) is where:
  (a) at a particular time on or after 1 July 2001, an entity (the ***purchaser***) whose *ordinary income or statutory income is to any extent assessable acquires a *depreciating asset from an *exempt entity; and
  (b) the asset is acquired in connection with the acquisition of a *business from the exempt entity.

(5) In an asset sale situation:
  (a) the *exempt entity is the ***tax exempt vendor***; and
  (b) the time when the *depreciating asset is acquired is the ***acquisition time***; and

(c) the income year in which the *acquisition time occurs is the ***acquisition year***; and

(d) each *depreciating asset the purchaser acquires from the *tax exempt vendor at the acquisition time is a ***privatised asset***.

58-10 When an asset is acquired in connection with the acquisition of a business

(1) A *depreciating asset is taken to be acquired in connection with the acquisition of a *business from the *exempt entity if and only if:

(a) the asset was used by the exempt entity in carrying on a business and the purchaser or another person uses the asset in carrying on the business; or

(b) subsection (2) applies.

(2) This subsection applies if:

(a) the asset was used by the *exempt entity in performing functions, or engaging in activities, that did not constitute the carrying on of a *business by the exempt entity and the asset is used by the purchaser or another person in performing those functions or engaging in those activities as part of carrying on a business; or

(b) all of these subparagraphs apply:

(i) the acquisition by the purchaser of the asset was connected with the acquisition of another asset by the purchaser or another person from the exempt entity or from an *associate of the exempt entity;

(ii) ownership of the other asset gives the purchaser or other person a right, or imposes on the purchaser or other person an obligation, to perform functions or engage in activities as part of the carrying on of a business or confers on the purchaser or other person a commercial advantage or opportunity in connection with performing functions or engaging in activities as part of the carrying on of a business;

(iii) the asset is used by the purchaser or other person in performing those functions or engaging in those activities under the right or obligation or in taking the benefit of the advantage or opportunity; or

(c) the asset was acquired by the purchaser under an *arrangement under which the purchaser or another person acquired another asset from the exempt entity or from an associate of the exempt entity and:

(i) the other asset is taken by paragraph (1)(a), or by paragraph (a) or (b) of this subsection; or

(ii) where the other asset is not a depreciating asset, it would, if it were a depreciating asset, be taken by paragraph (1)(a), or by paragraph (a) or (b) of this subsection;

to be acquired in connection with the acquisition of a business from the exempt entity.

(3) Paragraphs (2)(a), (b) and (c) do not apply if the asset is used by the purchaser solely to derive assessable income from the provision of office or residential accommodation.

Subdivision 58-B—Calculating decline in value of privatised assets under Division 40

Table of sections

58-60	Purpose of rules in this Subdivision
58-65	Choice of method to work out cost of privatised asset
58-70	Application of Division 40
58-75	Meaning of *notional written down value*
58-80	Meaning of *undeducted pre-existing audited book value*
58-85	Pre-existing audited book value of depreciating asset
58-90	Method for transition entity

58-60 Purpose of rules in this Subdivision

This Subdivision sets out rules that affect the way in which the *transition entity or the purchaser work out the decline in value of, and balancing adjustments for, *privatised assets under Division 40 after the *transition time or the *acquisition time.

58-65 Choice of method to work out cost of privatised asset

(1) The *transition entity or the purchaser has a choice to work out the first element of the *cost of each *privatised asset.

(2) The choice is to use either:

(a) the *notional written down value of the asset; or

(b) the *undeducted pre-existing audited book value (if any) of the asset.

(3) The choice must be made:

(a) for the *transition entity—by the day on which the transition entity lodges its income tax return for the *transition year; or

(b) for the purchaser—by the day on which the purchaser lodges the purchaser's income tax return for the *acquisition year;

or within a further period allowed by the Commissioner.

(4) The choice, once made, cannot be changed.

58-70 Application of Division 40

Application of Division 40

(1) The *transition entity and the purchaser work out the decline in value of, and the effect of a *balancing adjustment event occurring for, each *privatised asset using Division 40 (Capital allowances) as if the asset had been acquired under a contract entered into on or after 1 July 2001.

Entity sale situation

(2) Division 40 applies to a *privatised asset *held by the *transition entity as if the asset had not been used, or *installed ready for use, for any purpose before the *transition time.

(3) The first element of the *cost to the *transition entity at the *transition time is the *notional written down value of the asset or the *undeducted pre-existing audited book value of the asset (depending on the choice made for the asset).

(4) No amount incurred before the *transition time is included in the second element of the *cost of a *privatised asset.

Asset sale situation

(5) The first element of the *cost of a *privatised asset to the purchaser at the *acquisition time is the sum of:

(a) the *notional written down value of the asset or the *undeducted pre-existing audited book value of the asset (depending on the choice made for the asset); and

(b) the amount of any incidental costs to the purchaser in acquiring the asset.

58-75 Meaning of notional written down value

(1) The ***notional written down value*** of a *privatised asset is its *adjustable value in the hands of:

(a) the *transition entity just before the *transition time; or

(b) the *tax exempt vendor just before the *acquisition time;

worked out using the assumptions in this section.

Application of Division 40

(2) Assume that Division 40 had always applied to work out the decline in value of the *privatised asset.

Use for taxable purposes

(3) Assume that, in applying Division 40 to the *privatised asset, it had always been used by the *transition entity or the *tax exempt vendor wholly for *taxable purposes.

Cost and acquisition time: exempt Australian government agency

(4) If the *transition entity or the *tax exempt vendor was an *exempt Australian government agency just before the *transition time and had acquired the *privatised asset from another exempt Australian government agency:

(a) assume that the transition entity or tax exempt vendor acquired it at the time when it was acquired or constructed by the other exempt Australian government agency and that the first element of its *cost to the transition entity or tax exempt vendor is the amount that was its cost to the other exempt Australian government agency; or

(b) if it had, before its acquisition by the transition entity or tax exempt vendor, been successively *held by 2 or more exempt Australian government agencies—assume that:

(i) the transition entity or tax exempt vendor acquired it at the time when it was acquired or constructed by the first of those exempt Australian government agencies that owned it; and

(ii) the first element of its cost to the transition entity or tax exempt vendor is the sum of the amount that was the first element of its cost to the first of those exempt Australian government agencies that owned it and any amount included in the second element of its cost for that first agency or a later successive agency.

Effective life

(5) Assume that:

(a) the *transition entity or the *tax exempt vendor had chosen to use an *effective life determined by the Commissioner for the *privatised asset as in force at the *transition time or the *acquisition time; and

(b) subsection 40-95(2) did not apply.

(6) Assume also that section 40-110 (about recalculating effective life) did not apply.

58-80 Meaning of undeducted pre-existing audited book value

(1) The ***undeducted pre-existing audited book value*** of a *privatised asset is its *adjustable value in the hands of:

(a) the *transition entity just before the *transition time; or

(b) the *tax exempt vendor just before the *acquisition time;

worked out using the assumptions in this section.

Application of Division 40

(2) Assume that Division 40 had always applied to work out the decline in value of the *privatised asset.

Use for taxable purposes

(3) Assume that, in applying Division 40 to the *privatised asset, it had always been used by the *transition entity or the *tax exempt vendor wholly for *taxable purposes.

Cost

(4) Assume that:

(a) the first element of the *privatised asset's *cost to the *transition entity or the *tax exempt vendor is its *pre-existing audited book value as at the latest time (the ***test time***) at which it had a pre-existing audited book value; and

(b) no amount was included in the second element of the asset's cost before the test time; and

(c) any amount included in the second element of the asset's cost after the test time had been incurred by the transition entity or the tax exempt vendor.

Acquisition time

(5) Assume that the *transition entity or the *tax exempt vendor had acquired the *privatised asset at the test time.

Effective life

(6) Assume that:

(a) the *transition entity or the *tax exempt vendor had chosen to use an *effective life determined by the Commissioner for the *privatised asset as in force at the *transition time or the *acquisition time; and

(b) subsection 40-95(2) did not apply.

(7) Assume also that section 40-110 (about recalculating effective life) did not apply.

58-85 Pre-existing audited book value of depreciating asset

(1) A *privatised asset has a ***pre-existing audited book value*** if:

(a) a balance sheet, as at the end of an annual accounting period (the ***balance date***), that was prepared as part of an *exempt entity's final accounts for that period showed the asset as an asset of the exempt entity and specified a value for it; and

(b) a qualified independent auditor who was engaged, or was required by law, to undertake an audit of those accounts had prepared and signed, before 4 August 1997, a final audit report on those accounts; and

(c) the report did not state that the auditor was not satisfied that the specified value fairly represented the value of the asset.

The asset is taken to have had a ***pre-existing audited book value*** at the balance date of an amount equal to the specified value.

(2) If a balance sheet did not specify a value for the asset but specified a total value for 2 or more assets including the asset, the balance sheet is taken to have specified as the value of the asset so much of that total value as is reasonably attributable to the asset.

58-90 Method for transition entity

The *transition entity must, in working out the decline in value of a *privatised asset, use the *diminishing value method or the *prime cost method for the asset that it used to work out the *notional written down value, or the *undeducted pre-existing audited book value, of the asset.

245 Section 65-20 (note)

Before "Subdivision 388-A", insert "the former".

246 Subsection 65-25(2) (table item 2)

Before "Subdivision 388-A", insert "the former".

247 At the end of subsection 65-25(2)

Add:

Note: Division 388 was repealed by the *New Business Tax System (Capital Allowances—Transitional Provisions and Consequential Amendments) Act 2001*.

248 Subsection 70-30(1) (example)

Omit "a unit of depreciable plant", substitute "a depreciating asset".

249 Subsection 70-30(1) (example)

Omit "Subdivision 42-F provides for the consequences of selling depreciated property", substitute "Subdivision 40-D provides for the consequences of selling depreciating assets".

250 Subsection 70-65(3)

Omit "*undeducted cost", substitute "*adjustable value".

251 Section 70-110 (example 2)

Repeal the example, substitute:

Example 2: You stop holding an item as trading stock and begin to use it as a depreciating asset for the purpose of producing your assessable income. You are treated as having sold it for its cost. This amount is assessable income, just like the proceeds of sale of any of your trading stock.

You are also treated as having bought the item for the same amount, which is relevant to working out the item's cost for capital allowance purposes (see Subdivision 40-C) and the item's cost base for CGT purposes (see Division 110).

252 Paragraph 86-85(b)

Omit "a unit of *plant", substitute "a *depreciating asset".

253 Section 86-85

Omit "depreciation of the plant", substitute "the decline in value of the asset".

254 Paragraph 86-85(c)

Omit "plant", substitute "depreciating asset".

255 At the end of section 100-15

Add:

Note: Capital proceeds and cost base are not relevant for CGT event K7.

256 Section 104-5 (table item K1)

Repeal the item.

257 Section 104-5 (at the end of the table)

Add:

K7 Balancing adjustment occurs for a depreciating asset that you used for purposes other than taxable purposes *[See section 104-235]*	When balancing adjustment event occurs	Termination value less cost times fraction	Cost less termination value times fraction

258 Section 104-205

Repeal the section.

259 At the end of Division 104

Add:

104-235 Balancing adjustment events for depreciating assets: CGT event K7

(1) ***CGT event K7*** happens if:

(a) a *balancing adjustment event occurs for a *depreciating asset you *held; and

(b) at some time when you held the asset, you used it, or had it *installed ready for use, for a purpose other than a *taxable purpose.

(2) The time of *CGT event K7 is when the *balancing adjustment event occurs.

(3) Any *capital gain or *capital loss is worked out:

(a) under section 104-240; or

(b) under section 104-245 if the *depreciating asset was allocated to a low-value pool.

(4) A *capital gain or *capital loss you make is disregarded if:

(a) the *depreciating asset is a *pre-CGT asset; or

(b) you can deduct an amount for the asset's decline in value under Division 328 (about STS taxpayers) for the income year in which the *balancing adjustment event occurred.

104-240 Working out capital gain or loss for CGT event K7: general case

(1) You make a ***capital gain*** if the *depreciating asset's *termination value is more than its *cost. The amount of the *capital gain is:

$$\left[\text{*Termination value} - \text{*Cost} \times \frac{\text{Sum of reductions}}{\text{Total decline}}\right]$$

where:

sum of reductions is the sum of the reductions in your deductions for the asset under section 40-25.

total decline is the decline in value of the *depreciating asset since you started to *hold it.

Note: The CGT concepts of cost base and capital proceeds are not relevant for this event.

(2) You make a ***capital loss*** if the *depreciating asset's *cost is more than its *termination value. The amount of the *capital loss is:

$$\left[\text{*Cost} - \text{*Termination value} \times \frac{\text{Sum of reductions}}{\text{Total decline}}\right]$$

where:

sum of reductions and ***total decline*** have the same meanings as in subsection (1).

104-245 Working out capital gain or loss for CGT event K7: pooled assets

(1) You make a ***capital gain*** if the *depreciating asset's *termination value is more than its *cost. The amount of the *capital gain is:

$$\left[\text{*Termination value} - \text{*Cost} \times \left[1 - \text{Taxable use fraction}\right]\right]$$

where:

taxable use fraction is the taxable use percentage (expressed as a fraction) that you estimated for the asset when you allocated it to the pool.

Note: The CGT concepts of cost base and capital proceeds are not relevant for this event.

(2) You make a ***capital loss*** if the *depreciating asset's *cost is more than its *termination value. The amount of the *capital loss is:

$$\left[\text{*Cost} - \text{*Termination value}\right] \times \left[1 - \text{Taxable use fraction}\right]$$

where:

taxable use fraction has the same meaning as in subsection (1).

260 At the end of section 106-5

Add:

(5) This section does not apply to a *CGT event happening in relation to a *depreciating asset.

261 Subsection 108-55(1)

Repeal the subsection, substitute:

(1) A building or structure on land that you *acquired *on or after* 20 September 1985 is taken to be a separate *CGT asset from the land if one of these balancing adjustment provisions applies to the building or structure (whether or not there is a balancing adjustment):

(a) for *depreciating assets—Subdivision 40-D; or

(b) for research and development—section 73B of the *Income Tax Assessment Act 1936*.

Example: You construct a timber mill building on land you own. The building is subject to a balancing adjustment on its disposal, loss or destruction. It is taken to be a separate CGT asset from the land.

262 Section 108-60

Repeal the section, substitute:

108-60 Depreciating asset that is part of a building is a separate asset

A *depreciating asset that is part of a building or structure is taken to be a separate *CGT asset from the building or structure.

Example: You own a factory from which you carry on a business. You install rest rooms for your employees. The plumbing fixtures and fittings are depreciating assets. These are taken to be a separate CGT asset from the factory.

263 Subsection 108-70(1)

Omit "the table in section 108-55", substitute "subsection 108-55(1)".

264 Subsection 108-70(1) (example)

Repeal the example, substitute:

Example: You own land that you use for pastoral operations. You build some fences that are destroyed by fire. The fences are depreciating assets and are subject to a balancing adjustment on their destruction under Division 40. The fences are taken to be a separate CGT asset from the land.

265 Paragraph 108-70(5)(d)

Omit "*plant", substitute "a *depreciating asset".

266 Paragraph 108-75(1)(d)

Omit "*plant", substitute "a *depreciating asset".

267 Subsection 108-75(2) (table item 4)

Omit "*Plant", substitute "A *depreciating asset".

268 Subsection 109-5(2) (table item K1)

Repeal the item.

269 Section 110-10 (at the end of the table)

Add:

K7	Balancing adjustment event happens to depreciating asset	104-235

270 Subsection 110-45(2)

Repeal the subsection, substitute:

Other deductible expenditure

(2) Expenditure (except expenditure excluded by subsection (1B)) does *not* form part of the ***cost base*** to the extent that you have deducted or can deduct it for an income year, except so far as:

(a) the deduction has been reversed by an amount being included in your assessable income for an income year by a provision of this Act (outside this Part and Part 3-3 and Division 243); or

Note: Division 20 contains some of the provisions that reverse deductions. Section 20-5 lists some others.

(b) the deduction would have been so reversed apart from a provision listed in the table (relief from including a balancing charge in your assessable income).

Note: In the table, provisions of the *Income Tax Assessment Act 1997* are identified in normal text. The other provisions, **in bold**, are provisions of the *Income Tax Assessment Act 1936*.

Provisions for relief from including a balancing charge in your assessable income

Item	Provision	Subject matter
1	section 40-340	Roll-over relief for *depreciating asset
2	section 40-365	Involuntary disposal of *depreciating asset
3	**Section 73E**	Research and development activity expenditure

271 Subsection 110-45(5)

Before “section 388-55”, insert “the former”.

272 Subsection 110-50(5)

Before “section 388-55”, insert “the former”.

273 Subparagraph 110-55(3)(a)(ii)

Omit “depreciation”, substitute “the decline in value”.

274 Subparagraphs 110-55(3)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

(i) section 40-365; or

(ii) any of these former sections—section 42-285, 42-290 or 42-293; or

(iii) subsection 59(2A) or (2D) of the *Income Tax Assessment Act 1936*.

275 Subsection 110-55(5)

Repeal the subsection, substitute:

(5) The ***reduced cost base*** does not include an amount that you could have deducted for a *CGT asset had you used it wholly for the *purpose of producing assessable income.

276 Subsection 110-55(6A)

Repeal the subsection, substitute:

(6A) Expenditure does *not* form part of the ***reduced cost base*** to the extent that you chose a *tax offset for it under the former section 388-55 (about the landcare and water facility tax offset) instead of deducting it.

277 Subparagraphs 110-60(1)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

(i) section 40-365; or

(ii) any of these former sections—section 42-285, 42-290 or 42-293; or

(iii) subsection 59(2A) or (2D) of the *Income Tax Assessment Act 1936*;

278 Subsection 110-60(3)

Repeal the subsection, substitute:

(3) Expenditure does *not* form part of an entity's ***reduced cost base*** for its interest in a *CGT asset of a partnership to the extent that a partnership in which the entity is or was a partner could have deducted an amount for the asset if it had used it wholly for the *purpose of producing assessable income.

279 Subsection 110-60(4A)

Repeal the subsection, substitute:

(4A) Expenditure does *not* form part of an entity's ***reduced cost base*** for its interest in a *CGT asset of a partnership to the extent that the entity chose a *tax offset for the expenditure under the former section 388-55 (about the landcare and water facility tax offset) instead of deducting it.

280 Section 112-45 (table item K1)

Repeal the item.

281 Section 112-115 (table item 13)

Omit "Plant", substitute "Depreciating assets".

282 Paragraph 115-25(3)(i)

Repeal the paragraph.

283 Paragraph 116-20(3)(b)

Repeal the paragraph, substitute:

(b) disregard any *depreciating assets for whose decline in value the lessor has deducted or can deduct an amount under this Act.

284 Subsection 116-20(4)

Omit "*plant", substitute "a *depreciating asset".

285 Section 116-25 (table item K1)

Repeal the item.

286 Section 116-25 (at the end of the table)

Add:

K7	Balancing adjustment event happens to depreciating asset	1, 2, 3, 4	None

287 Subsection 116-30(4) (table item K1)

Repeal the item.

288 Subsection 116-85(1) (table item 2)

Omit "(about plant)", substitute "(about depreciating assets)".

289 Subsection 118-10(1)

After "*cost base", insert ", or the first element of its *cost if it is a *depreciating asset,".

290 Subsection 118-10(3)

After "*cost base", insert ", or the first element of its *cost if it is a *depreciating asset,".

291 At the end of subsection 118-10(1)

Add:

Example: On 10 July 2001, Gayle buys a print for $450 and hangs it in her home. On 30 November 2001 she takes the print to her office and hangs it in the lobby. Gayle self assesses the effective life of the print to be 7 years.

Gayle sells the print to Anna for $700 on 2 January 2002.

How much can Gayle deduct for the 2001-02 income year?

The cost of the print is $450. Gayle chooses to use the prime cost method to calculate its decline in value.

The print's decline in value is:

$$\$450 \times \frac{177}{365} \times \frac{100\%}{7 \text{ years}}$$

= $31

Gayle can deduct $6 as the taxable use portion of the decline in value under Division 40:

$$\frac{34}{177} \times 31$$

Due to the balancing adjustment event that occurred on 2 January 2002, $54 is included in Gayle's assessable income for the 2001-02 income year under section 40-285. The amount is reduced for non-taxable use by section 40-290.

A capital gain of $202 is disregarded under this section because the asset is a collectable acquired for less than $500.

292 Section 118-24

Repeal the section, substitute:

118-24 Depreciating assets

(1) A *capital gain or *capital loss you make from a *CGT event that is also a *balancing adjustment event that happens to a *depreciating asset is disregarded if the asset was:

(a) a depreciating asset you *held; or

(b) if you are a partner, a depreciating asset of the partnership; or

(c) if you are absolutely entitled to the asset as against the trustee of a trust (disregarding any legal disability), a depreciating asset of the trustee;

where the decline in value of the asset was worked out under Division 40 or Division 328, or would have been if the asset had been used.

(2) However, subsection (1) does not apply to a *capital gain or *capital loss you make from *CGT event K7 happening.

293 Section 118-45

Before "section 330-60", insert "the former".

294 Subsection 122-25(3)

Repeal the subsection, substitute:

(3) A ***precluded asset*** is:

(a) a *depreciating asset; or

(b) *trading stock; or

(c) an interest in the copyright in a film referred to in section 118-30.

295 Paragraph 124-75(2)(a)

Repeal the paragraph, substitute:

(a) incur expenditure in *acquiring another *CGT asset (except a *depreciating asset); or

296 At the end of subsection 124-75(5)

Add ", nor can it be a *depreciating asset".

297 Subsection 124-80(2)

Repeal the subsection, substitute:

(2) The other asset cannot become an item of your *trading stock just after you *acquire it, nor can it be a *depreciating asset.

298 Subsection 124-85(2) (example)

Repeal the example, substitute:

Example: In 1999 Simon bought a small factory. In 2000 a fire destroys part of it. He receives $100,000 under an insurance policy.

The capital gain is worked out under section 112-30.

Suppose the factory's cost base at the time of the fire is $75,000 and the market value of the part that is not destroyed is $150,000. The cost base of the part that is destroyed is:

$$\$75{,}000 \times \frac{\$100{,}000}{\$100{,}000 + \$150{,}000} = \$30{,}000$$

The capital gain is:

$$\$100{,}000 - \$30{,}000 = \$70{,}000$$

Case 1

Suppose Simon spent $80,000 on repairing the factory. The money he received under the insurance policy exceeds the repair cost by $20,000. The gain exceeds that by $50,000.

The result is that the gain is reduced to $20,000 and the $80,000 he spent on repairs is reduced to $30,000.

Case 2

Suppose Simon spent $15,000 on repairs instead. The money he received under the policy exceeds that amount by $85,000. This is more than the gain he made.

The gain is relevant to working out Simon's net capital gain or loss for the income year and the $15,000 he spent on repairs forms part of the factory's cost base.

Case 3

Suppose Simon spent $120,000 on repairs instead. The gain is disregarded and the $120,000 is reduced to $50,000.

299 Subdivision 124K (heading)

Repeal the heading, substitute:

Subdivision 124-K—Depreciating assets

300 Section 124-655

Repeal the section, substitute:

124-655 Roll-over for depreciating assets

There is a roll-over for a *depreciating asset if:

(a) the asset is attached to land you hold under a *quasi-ownership right granted by an *exempt Australian government agency or an *exempt foreign government agency; and

(b) you *hold the asset because of section 40-40; and

(c) the quasi-ownership right expires or is terminated or you surrender it; and

(d) you are granted a new quasi-ownership right over the land or an estate in fee simple in the land; and

(e) there is no roll-over for you under Subdivision 124-J (about Crown leases) or Subdivision 124-L (about prospecting and mining entitlements).

Note 1: The roll-over consequences are set out in Subdivision 124-A.

Note 2: This section provides a roll-over for a depreciating asset in the limited circumstances where Subdivision 124-J cannot because a quasi-ownership right over land covers situations that a Crown lease does not (for example, an easement over land).

Note 3: If there has been a capital improvement to the quasi-ownership right: see section 108-75.

301 Paragraph 124-660(a)

Repeal the paragraph, substitute:

(a) your *reduced cost base of the *depreciating asset is reduced by the *adjustable value of the asset just before the original quasi-ownership right expired or was surrendered or terminated; and

302 Paragraph 132-10(2)(b)

Repeal the paragraph, substitute:

(b) the *cost of any *depreciating asset for which the lessor has deducted or can deduct an amount for the asset's decline in value under this Act.

303 Section 136-10 (table item K1)

Repeal the item.

304 Section 136-10 (at the end of the table)

Add:

K7	Balancing adjustment event happens to a depreciating asset	the depreciating asset	2

305 Section 138-5

Omit "Depreciable plant" (wherever occurring), substitute "Depreciating asset that is plant".

306 Section 138-5 (note 1)

Omit "depreciable plant", substitute "a depreciating asset that is plant".

307 Subdivision 138-B (heading)

Repeal the heading, substitute:

Subdivision 138-B—Value shifts involving depreciating asset that is plant: reductions of direct interests

308 Paragraph 138-85(1)(b)

Repeal the paragraph, substitute:

(b) it involved *plant (that is not a building or structure) for whose decline in value the originating company has deducted or can deduct an amount; and

309 Subsection 138-100(1) (example 1)

Omit "depreciable asset", substitute "depreciating asset that is plant".

310 Section 138-110

Omit "depreciable plant group", substitute "*depreciating asset group".

Note: The heading to section 138-110 is altered by omitting "**depreciable plant**" and substituting "**depreciating assets that are plant**".

311 Section 138-360

Omit "depreciable *plant group", substitute "*depreciating asset group".

312 Subsection 138-365(3)

Repeal the subsection, substitute:

(3) An additional condition for allocating a *CGT asset to a *depreciating asset group is that the asset is *plant for whose decline in value the originating company has deducted or can deduct an amount.

313 Section 138-370

Repeal the section, substitute:

138-370 Condition for applying this Division to depreciating asset group

There is an additional condition that must be satisfied before you can apply this Division to a *depreciating asset group. The sum of the market values of the assets in the group must not be more than 110% of the sum of those residual values.

314 Subsection 152-10(1)

After "*capital gain", insert "(except a capital gain from *CGT event K7)".

315 Paragraphs 165-55(2)(a), (b) and (c)

Repeal the paragraphs, substitute:

(a) deductions for the decline in value of a *depreciating asset;

See Division 40.

(b) deductions for *exploration or prospecting, or *mining capital expenditure, in connection with mining or quarrying;

See section 40-80 and Subdivisions 40-H and 40-I.

(c) deductions for expenditure, deductions for which are spread over 2 or more income years, but not:

(i) deductions for exploration or prospecting, or capital expenditure, in connection with mining or quarrying; or

See Subdivision 40-I.

(ii) *full year deductions (see subsection (5));

316 Subsection 165-115F(6)

Repeal the subsection, substitute:

(6) This subsection applies to an asset at the relevant time if:

(a) the asset is a *depreciating asset (not a building or structure) for whose decline in value the company has deducted or can deduct an amount; and

(b) the expenditure incurred by the company to *acquire the asset was less than $1,000,000 (the expenditure can include the giving of property: see section 103-5); and

(c) it would be reasonable for the company to conclude that the *market value of the asset at that time was not less than 80% of its *written down value at that time.

317 Subsection 165-115R(6) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

318 Subsection 165-115S(6) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

319 Subsection 165-115V(7)

Repeal the subsection, substitute:

(7) This subsection applies to an asset at the alteration time if:

(a) the asset is a *depreciating asset (not a building or structure) for whose decline in value the company has deducted or can deduct an amount; and

(b) the expenditure incurred by the company to *acquire the asset was less than $1,000,000 (the expenditure can include the giving of property: see section 103-5); and

(c) it would be reasonable for the company to conclude that the market value of the asset at the alteration time was not less than 80% of its *written down value at that time.

320 Subsection 170-210(3B) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

321 Subsection 170-215(4A) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

322 Subsection 170-220(3B) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

323 Subsection 170-225(4A) (note)

Repeal the note, substitute:

Note: Where the income tax law allows, as all or part of a loss, an amount for the decline in value of a depreciating asset that exceeds the actual economic depreciation or depletion of the asset concerned, the excess is not to be regarded for the purposes of this subsection as representing an outlay or loss of economic resources of the company.

324 Paragraph 320-255(2)(a)

Omit “Division 42”, substitute “Division 40”.

325 Subsection 320-255(5)

Repeal the subsection, substitute:

(5) If a *depreciating asset is transferred from the *segregated exempt assets of a *life insurance company, the company must assume, for the purposes of Division 40, that the asset had, at all times during the period beginning when it was acquired or constructed by the company and ending immediately before the time of the transfer, been used by the company wholly for the *purpose of producing assessable income.

326 Subsection 320-255(6)

Omit "an asset that is a unit of *plant", substitute "a *depreciating asset".

327 Subsection 320-255(6)

Omit "Division 42", substitute "Division 40".

328 Subsection 320-255(7)

Repeal the subsection, substitute:

(7) If a *depreciating asset that has been included in the *segregated exempt assets of a *life insurance company since the asset was acquired by the company or the initial segregation of those assets took place is transferred from those assets, then the company must assume for the purposes of Division 40 that:

(a) if the asset's *market value at the time of the transfer is greater than its *notional adjustable value at that time, the company:

(i) had, at the time immediately before the transfer, sold the asset for a consideration equal to its notional adjustable value at that time; and

(ii) had, at the time of the transfer, purchased the asset again for a consideration equal to its notional adjustable value at that time; or

(b) if the asset's market value at the time of the transfer is equal to or less than its notional adjustable value at that time, the company:

(i) had, at the time immediately before the transfer, sold the asset for a consideration equal to its market value at that time; and

(ii) had, at the time of the transfer, purchased the asset again for a consideration equal to its market value at that time.

329 Subsection 320-255(8)

Omit "an asset that is a unit of *plant", substitute "a *depreciating asset".

330 Subsection 320-255(8)

Omit "Division 42", substitute "Division 40".

331 Division 330

Repeal the Division.

332 Division 373

Repeal the Division.

333 Division 380

Repeal the Division.

334 Section 385-5 (table item 3)

Omit "Division 387", substitute "Subdivisions 40-F and 40-G".

335 Division 387

Repeal the Division.

336 Division 388

Repeal the Division.

337 Paragraph 396-45(4)(a)

Omit "*plant", substitute "*depreciating assets".

338 Paragraph 396-45(4)(c)

Omit "plant", substitute "depreciating assets".

339 Division 400

Repeal the Division.

340 Paragraph 900-30(7)(a)

Omit “depreciation”, substitute “the decline in value”.

341 Subsection 900-115(1)

Omit “depreciation”, substitute “the decline in value of a *depreciating asset”.

342 Section 900-120

Repeal the section, substitute:

900-120 Written evidence of depreciating asset expense

(1) You may use this set of rules only for a *depreciating asset expense.

(2) You must get evidence of the original acquisition of the *depreciating asset. It must be a document that you get from the supplier of the asset and that specifies:
   (a) the name or business name of the supplier; and
   (b) the cost of the asset to you; and
   (c) the nature of the asset; and
   (d) the day you acquired the asset; and
   (e) the day it is made out.

(3) However, if the document the supplier gave you does not specify the nature of the asset, you may write in the missing details yourself before you lodge your *income tax return for the income year in which you first claim a deduction for the decline in value of the asset.

(4) If you don’t get the document in time, for example because you only decided to use the asset for income-producing purposes several years after you acquired it, there are rules that might help you in Subdivision 900-H (Relief from effects of failing to substantiate).

(5) The document must be in English. However, if you *imported the asset into Australia, the document can instead be in a language of the country from which the asset was originally exported.

343 Subsection 900-125(3)

Omit “depreciation”, substitute “the decline in value of a *depreciating asset”.

344 Subsection 900-125(4)

Omit “depreciation” (first occurring), substitute “the decline in value of a *depreciating asset”.

345 Paragraph 900-125(4)(b)

Omit “depreciation”, substitute “decline in value”.

346 Subsection 900-220(3)

Omit “depreciation of property”, substitute “the decline in value of a *depreciating asset”.

347 Section 960-265 (table item 1)

Repeal the item, substitute:

1	Car limit	section 40-230

348 Subsection 960-280(2)

Omit “*car depreciation limit under Subdivision 42-K”, substitute “*car limit”.

349 Subsection 995-1(1) (definition of abnormal income)

Repeal the definition.

350 Subsection 995-1(1) (definition of acquisition time)

Omit “section 58-150”, substitute “section 58-5”.

351 Subsection 995-1(1) (definition of acquisition year)

Omit “section 58-150”, substitute “section 58-5”.

352 Subsection 995-1(1)

Insert:

> ***adjustable value*** of a *depreciating asset has the meaning given by section 40-85.

353 Subsection 995-1(1) (definition of allowable capital expenditure)

Repeal the definition.

354 Subsection 995-1(1) (definition of amount arising)

Repeal the definition.

355 Subsection 995-1(1) (definition of ancillary activities)

Repeal the definition.

356 Subsection 995-1(1)

Insert:

> ***ancillary mining activities*** has the meaning given by section 40-740.

357 Subsection 995-1(1) (definition of approved management plan)

Omit “387-80”, substitute “40-640”.

358 Subsection 995-1(1) (definition of available assessable income)

Repeal the definition.

359 Subsection 995-1(1) (definition of balancing adjustment event)

Repeal the definition, substitute:

> ***balancing adjustment event*** has the meaning given by section 40-295.

360 Subsection 995-1(1) (definition of capital allowance)

Repeal the definition, substitute:

> ***capital allowance*** means a deduction under:
>
> (a) Division 40 (capital allowances) of this Act; or
>
> (b) Subdivision B of Division 3 of Part III of the *Income Tax Assessment Act 1936* (development allowance); or
>
> (c) Part XII of that Act (drought investment allowance); or

(d) Division 10BA of Part III of that Act (Australian films); or
(e) Division 10B of Part III of that Act (copyright in Australian films); or
(f) section 73B of that Act (research and development).

361 Subsection 995-1(1) (definition of cash bidding exploration or prospecting authority)

Repeal the definition.

362 Subsection 995-1(1) (definition of car depreciation limit)

Repeal the definition.

363 Subsection 995-1(1)

Insert:

car limit has the meaning given by section 40-230.

364 Subsection 995-1(1) (definition of closing balance)

Repeal the definition, substitute:

closing pool balance has the meaning given by:
(a) for a low-value pool—section 40-440; or
(b) for a *general STS pool or a *long life STS pool—section 328-200.

365 Subsection 995-1(1)

Insert:

closing pool value has the meaning given by section 40-830.

366 Subsection 995-1(1) (definition of commercial horticulture)

Omit “subsection 387-170(4)”, substitute “40-535”.

367 Subsection 995-1(1) (definition of concentration)

Repeal the definition.

368 Subsection 995-1(1) (definition of connecting power to land or upgrading the connection)

Omit “subsections 387-360(1) and (2)”, substitute “section 40-655”.

369 Subsection 995-1(1) (paragraph (a) of the definition of cost)

Repeal the paragraph, substitute:

(a) ***cost*** of a *depreciating asset has the meaning given by Subdivision 40-C; and

370 Subsection 995-1(1)

Insert:

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

371 Subsection 995-1(1)

Insert:

datacasting transmitter licence has the meaning given by section 5 of the *Radiocommunications Act 1992*.

372 Subsection 995-1(1)

Insert:

depreciating asset has the meaning given by section 40-30.

373 Subsection 995-1(1) (definition of diminishing value method)

Repeal the definition, substitute:

diminishing value method has the meaning given by section 40-70.

374 Subsection 995-1(1) (definition of diminishing value rate)

Repeal the definition.

375 Subsection 995-1(1) (definition of effective life)

Repeal the definition, substitute:

effective life: the ***effective life*** of a *depreciating asset is worked out under sections 40-95, 40-100, 40-105 and 40-110.

376 Subsection 995-1(1) (definition of eligible building site)

Repeal the definition.

377 Subsection 995-1(1) (definition of eligible mining operations)

Repeal the definition.

378 Subsection 995-1(1) (definition of eligible mining or quarrying operations)

Repeal the definition.

379 Subsection 995-1(1) (definition of eligible quarrying operations)

Repeal the definition.

380 Subsection 995-1(1) (definition of entitlement to an eligible cash bidding amount)

Repeal the definition.

381 Subsection 995-1(1) (definition of environmental protection activities)

Omit “subsection 400-60(1)”, substitute “section 40-755”.

382 Subsection 995-1(1) (definition of excess deduction rules)

Repeal the definition.

383 Subsection 995-1(1) (definition of expenditure)

Repeal the definition.

384 Subsection 995-1(1) (definition of expenditure on software)

Repeal the definition.

385 Subsection 995-1(1) (definition of exploration or prospecting)

Omit “330-20”, substitute “40-730”.

386 Subsection 995-1(1) (definition of exploration or prospecting authority)

Repeal the definition.

387 Subsection 995-1(1) (definition of exploration or prospecting cash bidding payment)

Repeal the definition.

388 Subsection 995-1(1) (definition of forestry road)

Omit “subsection 387-465(1)”, substitute “section 43-72”.

389 Subsection 995-1(1) (definition of genuine prospector)

Repeal the definition.

390 Subsection 995-1(1) (definition of hold)

Repeal the definition, substitute:

hold:

(a) ***hold*** a car for the purposes of Division 28 has the meaning given by section 28-90; and

(b) ***hold*** a *depreciating asset has the meaning given by section 40-40.

391 Subsection 995-1(1) (definition of horticultural plant)

Omit “subsection 387-170(1)”, substitute “section 40-520”.

392 Subsection 995-1(1) (definition of horticulture)

Omit “subsection 387-170(3)”, substitute “section 40-535”.

393 Subsection 995-1(1) (definition of horticulture business)

Repeal the definition.

394 Subsection 995-1(1)

Insert:

in-house software is computer software, or a right to use computer software, that you acquire, develop or have another entity develop:

(a) that is mainly for you to use in performing the functions for which the software was developed; and

(b) for which you cannot deduct amounts under a provision of this Act outside Division 40.

395 Subsection 995-1(1) (definition of instalment of petroleum resource rent tax)

Repeal the definition, substitute:

instalment of petroleum resource rent tax is an instalment of tax payable under Division 2 of Part VIII of the *Petroleum Resource Rent Tax Assessment Act 1987*.

396 Subsection 995-1(1) (definition of intellectual property)

Repeal the definition, substitute:

intellectual property: an item of ***intellectual property*** consists of the rights (including equitable rights) that an entity has under a *Commonwealth law as:

(a) the patentee, or a licensee, of a patent; or

(b) the owner, or a licensee, of a registered design; or

(c) the owner, or a licensee, of a copyright;

or of equivalent rights under a *foreign law.

397 Subsection 995-1(1) (definition of IRU)

Repeal the definition, substitute:

IRU is an indefeasible right to use an international telecommunications submarine cable system.

398 Subsection 995-1(1) (definition of landcare operation)

Omit “387-60”, substitute “40-635”.

399 Subsection 995-1(1) (definition of low-cost plant)

Repeal the definition.

400 Subsection 995-1(1)

Insert:

low-cost asset has the meaning given by section 40-425.

401 Subsection 995-1(1)

Insert:

low-value asset has the meaning given by section 40-425.

402 Subsection 995-1(1) (definition of low-value pool)

Repeal the definition.

403 Subsection 995-1(1) (definition of metering point)

Omit “subsection 387-360(3)”, substitute “section 40-655”.

404 Subsection 995-1(1) (definition of method of depreciation)

Repeal the definition.

405 Subsection 995-1(1) (definition of minerals)

Omit “section 330-25”, substitute “section 40-730”.

406 Subsection 995-1(1)

Insert:

minerals treatment has the meaning given by section 40-875.

407 Subsection 995-1(1) (definition of mining authority)

Repeal the definition.

408 Subsection 995-1(1) (definition of mining cash bidding payment)

Repeal the definition.

409 Subsection 995-1(1)

Insert:

mining building site has the meaning given by section 40-740.

410 Subsection 995-1(1)

Insert:

mining capital expenditure has the meaning given by section 40-860.

411 Subsection 995-1(1)

Insert:

mining operations has the meaning given by section 40-730.

412 Subsection 995-1(1) (definition of mining or quarrying transport)

Repeal the definition.

413 Subsection 995-1(1) (definition of mining, quarrying or prospecting information)

Omit “330-240”, substitute “40-730”.

414 Subsection 995-1(1) (definition of mining, quarrying or prospecting right)

Repeal the definition, substitute:

mining, quarrying or prospecting right is:

(a) an authority, licence, permit or right under an *Australian law to mine, quarry or prospect for minerals, *petroleum or quarry materials; or

(b) a lease of land that allows the lessee to mine, quarry or prospect for minerals, petroleum or quarry materials on the land; or

(c) an interest in such an authority, licence, permit, right or lease; or

(d) any rights that:

(i) are in respect of buildings or other improvements (including anything covered by the definition of ***housing and welfare***) that are on the land concerned or are used in connection with operations on it; and

(ii) are acquired with such an authority, licence, permit, right, lease or interest.

However, a right in respect of anything covered by the definition of ***housing and welfare*** in relation to a quarrying site is not a ***mining, quarrying or prospecting right***.

415 Subsection 995-1(1)

Insert:

> ***mining site rehabilitation*** has the meaning given by section 40-735.

416 Subsection 995-1(1) (definition of new spectrum licence)

Repeal the definition.

417 Subsection 995-1(1)

Insert:

> ***notional adjustable value*** of a *depreciating asset means its *adjustable value reduced by the amounts assumed under subsection 320-255(6) to have been deducted for its decline in value.

418 Subsection 995-1(1) (definition of notional depreciation amount)

Repeal the definition.

419 Subsection 995-1(1) (definition of notional income)

Repeal the definition.

420 Subsection 995-1(1) (definition of notional undeducted cost)

Repeal the definition.

421 Subsection 995-1(1) (definition of notional written down value)

Repeal the definition, substitute:

> ***notional written down value*** of a *depreciating asset has the meaning given by section 58-75.

422 Subsection 995-1(1) (definition of old spectrum licence)

Repeal the definition.

423 Subsection 995-1(1)

Insert:

> ***opening adjustable value*** of a *depreciating asset has the meaning given by section 40-85.

424 Subsection 995-1(1) (definition of opening balance)

Repeal the definition.

425 Subsection 995-1(1) (definition of partial realisation)

Repeal the definition.

426 Subsection 995-1(1) (definition of petroleum)

Omit “330-25”, substitute “40-730”.

427 Subsection 995-1(1) (definition of petroleum mining)

Repeal the definition.

428 Subsection 995-1(1) (definition of petroleum resource rent tax)

Repeal the definition, substitute:

> ***petroleum resource rent tax*** means tax imposed by the *Petroleum Resource Rent Tax Act 1987*, as assessed under the *Petroleum Resource Rent Tax Assessment Act 1987*.

429 Subsection 995-1(1) (definition of plant)

Omit “42-18”, substitute “45-40”.

430 Subsection 995-1(1) (definition of plant lease)

Repeal the definition.

431 Subsection 995-1(1) (definition of plant lessee)

Repeal the definition.

432 Subsection 995-1(1) (definition of pool)

Repeal the definition.

433 Subsection 995-1(1) (definition of pool closing balance)

Repeal the definition.

434 Subsection 995-1(1) (definition of pre-existing audited book value)

Repeal the definition, substitute:

> ***pre-existing audited book value*** of a *depreciating asset has the meaning given by section 58-85.

435 Subsection 995-1(1) (definition of pre-mining condition)

Repeal the definition.

436 Subsection 995-1(1) (definition of prime cost method)

Repeal the definition, substitute:

> ***prime cost method*** has the meaning given by section 40-75.

437 Subsection 995-1(1) (definition of prime cost rate)

Repeal the definition.

438 Subsection 995-1(1)

Insert:

> ***privatised asset*** has the meaning given by section 58-5.

439 Subsection 995-1(1) (definition of processed materials)

Repeal the definition.

440 Subsection 995-1(1)

Insert:

> ***processed minerals*** has the meaning given by section 40-875.

441 Subsection 995-1(1)

Insert:

> ***project amount*** has the meaning given by section 40-840.

442 Subsection 995-1(1)

Insert:

> ***project life*** has the meaning given by section 40-845.

443 Subsection 995-1(1) (definition of purpose of producing assessable income, notes 1 and 2)

Repeal the notes, substitute:

Note: These provisions treat use of property as *not* being for the purpose of producing assessable income:

- section 32-15 (about using property in providing entertainment)

444 Subsection 995-1(1) (definition of qualifying interest)

Repeal the definition.

445 Subsection 995-1(1) (definition of qualifying purpose)

Repeal the definition.

446 Subsection 995-1(1) (definition of quarry materials)

Repeal the definition.

447 Subsection 995-1(1) (definition of quasi-owner)

Repeal the definition.

448 Subsection 995-1(1) (definition of rehabilitation)

Repeal the definition.

449 Subsection 995-1(1)

Insert:

remaining effective life of a *depreciating asset has the meaning given by section 40-75.

450 Subsection 995-1(1) (definition of related)

Repeal the definition.

451 Subsection 995-1(1) (definition of replace)

Repeal the definition.

452 Subsection 995-1(1) (definition of retention authority)

Repeal the definition.

453 Subsection 995-1(1) (definition of roll-over event)

Repeal the definition.

454 Subsection 995-1(1) (definition of short-term hire agreement)

Repeal the definition, substitute:

> ***short-term hire agreement***: a ***short-term hire agreement*** is an agreement for the intermittent hire of an asset on an hourly, daily, weekly or monthly basis. However, an agreement for the hire of an asset is not a ***short-term hire agreement*** if, having regard to any other agreements for the hire of the same asset to the same taxpayer or an *associate of that taxpayer, there is a substantial continuity of hiring so that the agreements together are for longer than a short-term basis.

455 Subsection 995-1(1) (definition of software)

Repeal the definition.

456 Subsection 995-1(1) (definition of software pool)

Repeal the definition.

457 Subsection 995-1(1)

Insert:

> ***start time*** of a *depreciating asset has the meaning given by section 40-60.

458 Subsection 995-1(1)

Insert:

> ***taxable purpose*** has the meaning given by section 40-25.

459 Subsection 995-1(1) (definition of tax exempt vendor)

Omit “section 58-150”, substitute “section 58-5”.

460 Subsection 995-1(1) (definition of termination value)

Repeal the definition, substitute:

> ***termination value*** has the meaning given by section 40-300.

461 Subsection 995-1(1) (definition of test time)

Omit “58-10,”.

462 Subsection 995-1(1) (definition of timber mill building)

Omit “subsection 387-465(3)”, substitute “section 43-72”.

463 Subsection 995-1(1) (definition of timber operation)

Omit “subsection 387-465(2)”, substitute “section 43-72”.

464 Subsection 995-1(1) (definition of transition entity)

Omit “section 58-15”, substitute “section 58-5”.

465 Subsection 995-1(1) (definition of transition time)

Omit “section 58-15”, substitute “section 58-5”.

466 Subsection 995-1(1) (definition of transition year)

Omit “section 58-15”, substitute “section 58-5”.

467 Subsection 995-1(1) (definition of transport capital expenditure)

Omit “330-375”, substitute “40-865”.

468 Subsection 995-1(1) (definition of transport facility)

Omit “330-380”, substitute “40-870”.

469 Subsection 995-1(1) (definition of treatment)

Repeal the definition.

470 Subsection 995-1(1) (definition of undeducted cost)

Repeal the definition.

471 Subsection 995-1(1) (definition of undeducted pre-existing audited book value)

Repeal the definition, substitute:

> ***undeducted pre-existing audited book value*** of a *depreciating asset has the meaning given by section 58-80.

472 Subsection 995-1(1) (definition of unrecouped expenditure)

Repeal the definition.

473 Subsection 995-1(1) (definition of water facility)

Omit “387-130”, substitute “40-520”.

474 Subsection 995-1(1) (definition of written down value)

Repeal the definition, substitute:

> ***written down value*** of a *depreciating asset has the meaning given by section 45-40.

475 Subsection 995-1(1) (definition of years remaining)

Repeal the definition.

476 Subsection 995-1(1) (definition of your earning activity)

Omit “subsection 400-60(3)”, substitute “section 40-755”.

Income Tax Rates Act 1986

477 Subsection 3(1) (definition of reduced notional income)

Repeal the definition, substitute:

> ***reduced notional income***, in relation to a taxpayer deriving a notional income in the year of income, as specified in:
>
> (a) section 59AB or 86 of the Assessment Act; or
>
> (b) the former section 42-300 of the *Income Tax Assessment Act 1997*;
>
> means the amount that would be that notional income if that notional income had been calculated by reference to the reduced taxable income instead of by reference to the taxable income.

478 Subsection 12(5)

Before “section 42-295”, insert “the former”.

479 Schedule 9

Before “section 42-300” (wherever occurring), insert “the former”.

Social Security Act 1991

480 After paragraph 1075(1)(b)

Insert:

(ba) amounts that relate to the business and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

481 After subparagraph 1185K(3)(d)(ii)

Insert:

(iia) amounts that relate to a relevant farm asset and can be deducted for the decline in value of the asset under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

482 After paragraph 1208B(1)(b)

Insert:

(ba) amounts that relate to the business or investment and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

483 After paragraph 1209C(1)(b)

Insert:

(ba) amounts that relate to the primary production enterprise and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

Veterans' Entitlements Act 1986

484 After paragraph 46C(1)(b)

Insert:

(ba) amounts that relate to the business and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

485 After subparagraph 49J(3)(f)(ii)

Insert:

(iia) amounts that relate to a relevant farm asset and can be deducted for the decline in value of the asset under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

486 After paragraph 52ZZO(1)(b)

Insert:

(ba) amounts that relate to the business or investment and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

487 After paragraph 52ZZZO(1)(b)

Insert:

(ba) amounts that relate to the primary production enterprise and can be deducted for the decline in value of depreciating assets under Subdivision 40-B of the *Income Tax Assessment Act 1997*; and

488 Application

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

(a) depreciating assets:

(i) you start to hold under a contract entered into after 30 June 2001; or

(ii) you constructed where the construction started after that day; or

(iii) you start to hold in some other way after that day; and

(b) expenditure that does not form part of the cost of a depreciating asset incurred after that day.

(1A) The amendment made by item 194 applies to amounts received on or after 1 July 2001.

(1B) The amendments made by items 255 to 258 (inclusive) and 260 to 314 (inclusive) apply to CGT events happening on or after 1 July 2001.

(1C) The amendment made by item 259 applies to balancing adjustment events occurring on or after 1 July 2001.

(2) The amendment made by item 244 applies where the transition time or acquisition time, as the case may be, referred to in Division 58 inserted in the *Income Tax Assessment Act 1997* by that item is a time on or after 1 July 2001.

(3) Despite its repeal by item 336 of this Schedule, Division 388 of the former Act continues to apply until the end of the 2002-03 income year.

Schedule 3—Taxation Laws Amendment Act (No. 1) 2001

Taxation Laws Amendment Act (No. 1) 2001

1 Subsection 240-3(4)

Omit "for depreciation (under Division 42) or under any of the other capital allowances (listed in Division 40)", substitute "under Division 40 (about capital allowances)".

2 Subsection 240-7(2)

Repeal the subsection, substitute:

(2) If the property is not trading stock, the notional buyer may be able to deduct amounts for the expenditure under Division 40 (about capital allowances)".

3 Subsection 240-90(4)

Omit "for the purpose of calculating the depreciation allowable to that person for the car, would have been reduced because of the operation of section 42-80", substitute "for the purpose of working out its decline in value for that person under Division 40, would have been limited by section 40-230".

4 Subsection 240-90(5)

Repeal the subsection, substitute:

(5) Where an associate of the *notional buyer acquires the *car, the *cost of the car for the purposes of the application of Division 40 to the associate is taken to be whichever is the lesser of:

(a) the sum of:

(i) the amount that would have been the *adjustable value of the car at that time for the purposes of the application of that Division to the notional buyer if the notional buyer were not taken under this Division to have disposed of the car; and

(ii) any amount that is included in the notional buyer's assessable income under section 40-285 because the notional buyer is taken to have disposed of the car; or

(b) the cost of the acquisition of the car by the associate.

5 Subsection 243-35(3)

Repeal the subsection, substitute:

(3) The reference in step 2 of the method statement in subsection (2) to an amount that is included in the assessable income of a taxpayer as a result of the disposal of the *financed property includes a reference to an amount that is included under section 26AG of the *Income Tax Assessment Act 1936* as a result of the disposal of the financed property.

Note: Division 20 deals with amounts included to reverse the effect of past deductions.

6 Application

The amendments made by this Schedule apply to arrangements entered into on or after 1 July 2001.