





# **Taxation Laws Amendment Act (No. 2) 2003**

**No. 65, 2003**

**An Act to amend the law relating to taxation, and  
for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# **Taxation Laws Amendment Act (No. 2) 2003**

**No. 65, 2003**

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## **An Act to amend the law relating to taxation, and for related purposes**

[Assented to 30 June 2003]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Taxation Laws Amendment Act (No. 2) 2003*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	30 June 2003
3. Schedule 2	The day on which this Act receives the Royal Assent	30 June 2003
4. Schedule 3	The day on which this Act receives the Royal Assent	30 June 2003
5. Schedule 4	The day on which this Act receives the Royal Assent	30 June 2003
6. Schedule 5, item 1	Immediately after the commencement of item 26 of Schedule 1 to the <i>Taxation Laws Amendment Act (No. 2) 1999</i>	16 July 1999
7. Schedule 5, items 2 to 4	The day on which this Act receives the Royal Assent	30 June 2003

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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#### **4 Amendment of assessments**

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment made before the commencement of this section for the purposes of giving effect to this Act.

## Schedule 2—Exempting compensation for loss of defence remuneration

### *Income Tax Assessment Act 1997*

#### **1 Section 11-15 (table item headed “defence”)**

Omit:

Emergency Defence Force member, pay and allowances... 51-5

substitute:

Defence Force member, compensation payments for loss of deployment allowance for warlike service..... 51-5

Former Reserve Defence Force member, compensation payments for loss of pay and/or allowances ..... 51-5

#### **2 Section 51-5 (after table item 1.1)**

Insert:

1.1A a member of the Defence Force compensation payments for loss of deployment allowance for warlike service see section 51-32

#### **3 Section 51-5 (at the end of the table)**

Add:

1.5 a former member of:  
(a) the Naval Reserve; or  
(b) the Army Reserve; or  
(c) the Air Force Reserve compensation payments for loss of pay and/or allowances as a member see section 51-33

#### **4 After section 51-30**

Insert:

**51-32 Compensation payments for loss of deployment allowance for warlike service**

A compensation payment for the loss of your deployment allowance for warlike service is exempt from income tax if:

- (a) the payment is made under the *Safety, Rehabilitation and Compensation Act 1988* in respect of an injury (as defined in that Act) you suffered; and
- (b) you suffered your injury while covered by a certificate in force under paragraph 23AD(1)(a) of the *Income Tax Assessment Act 1936*; and
- (c) your injury caused the loss of your deployment allowance; and
- (d) your deployment allowance was payable under a determination under the *Defence Act 1903*.

**51-33 Compensation payments for loss of pay and/or allowances as a Defence reservist**

A compensation payment for the loss of your pay and/or allowances is exempt from income tax if:

- (a) the payment is made under the *Safety, Rehabilitation and Compensation Act 1988* in respect of an injury (as defined in that Act) you suffered; and
- (b) you suffered your injury while serving as a member of the Naval Reserve, Army Reserve or Air Force Reserve (but not while on continuous full time service); and
- (c) your injury was the sole or dominant reason for you stopping being a member of that Reserve; and
- (d) your pay and/or allowances were payable for service of a kind described in paragraph (b).

**5 Application**

The amendments of the *Income Tax Assessment Act 1997* made by this Schedule apply to assessments for the 1996-97 income year and assessments for later income years.

## Schedule 3—Amounts repaid are not assessable income

### *Income Tax Assessment Act 1936*

#### **1 After subsection 170(10AA)**

Insert:

(10AB) Nothing in this section prevents the amendment of an assessment, at any time, for the purpose of giving effect to Division 22 of the *Income Tax Assessment Act 1997*.

#### **2 Application**

The amendment of the *Income Tax Assessment Act 1936* made by this Schedule applies to assessments made after the commencement of section 4 of this Act.

Note: Section 4 of this Act allows the amendment of an assessment, made before the commencement of that section, for the purposes of giving effect to this Act.

### *Income Tax Assessment Act 1997*

#### **3 Section 10-5 (after table item headed “reinsurance”)**

Insert:

repayments

effect of ..... Division 22

#### **4 Section 20-160 (link note)**

Repeal the link note, substitute:

*[The next Division is Division 22.]*

## **Division 22—Amounts you must repay are not assessable income**

### **Guide to Division 22**

#### **22-1 What this Division is about**

Your assessable income does not include amounts you must repay in a later income year.
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#### **Table of sections**

22-5      Amounts you must repay are not assessable income

*[This is the end of the Guide.]*

#### **Operative provisions**

#### **22-5 Amounts you must repay are not assessable income**

- (1) An amount you receive is not assessable income, and is not \*exempt income, for an income year if:
  - (a) you must repay it; and
  - (b) you repay it in a later income year; and
  - (c) you cannot deduct the repayment for any income year.
- (2) It does not matter if:
  - (a) you received the amount as part of a larger amount; or
  - (b) the obligation to repay existed when you received the amount or it came into existence later.
- (3) This section does not apply to an amount you must repay because you received a lump sum as compensation or damages for a wrong or injury you suffered in your occupation.

*[The next Division is Division 25.]*

**5 Part 2-5 (link note after the heading)**

Repeal the link note.

***Income Tax (Transitional Provisions) Act 1997***

**6 At the end of section 20-115**

Add:

*[The next Division is Division 22.]*

**7 After Division 20**

Insert:

**Division 22—Amounts you must repay are not assessable income**

**Table of sections**

22-5 Application of Division 22 of the *Income Tax Assessment Act 1997*

**22-5 Application of Division 22 of the Income Tax Assessment Act 1997**

Division 22 of the *Income Tax Assessment Act 1997* applies to assessments for the 1996-97 income year and assessments for later income years.

*[The next Division is Division 25.]*

**8 Part 2-5 (link note after the heading)**

Repeal the link note.

## **Schedule 4—Amendment relating to rebate for medical expenses**

### *Income Tax Assessment Act 1936*

#### **1 Paragraph 159P(3A)(b)**

Omit “\$1,250”, substitute “\$1,500”.

#### **2 Application**

The amendment made by this Schedule applies to assessments in respect of the 2002-03 year of income and for all later years of income.

## Schedule 5—Exemption for the Commonwealth Games Federation

### *Income Tax Assessment Act 1936*

#### **1 Paragraph 128B(3)(aa)**

Repeal the paragraph, substitute:

- (aa) income derived by a non-resident that is an overseas charitable institution (within the meaning of section 121C) where the income is exempt under subsection 121ELA(1); or

#### **2 Before paragraph 128B(3)(b)**

Insert:

- (ab) income that is exempt from income tax because of item 9.4 of the table in section 50-45 of the *Income Tax Assessment Act 1997* (which exempts income derived by the Commonwealth Games Federation); or

### *Income Tax Assessment Act 1997*

#### **3 Section 50-45 (at the end of the table)**

Add:

9.4	the Commonwealth Games Federation	only income derived on or after 1 January 2000 and before 1 July 2007
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#### **4 Application**

The amendment made by item 2 of this Schedule applies in relation to income derived on or after 1 January 2000.

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[Minister's second reading speech made in—  
House of Representatives on 23 October 2002  
Senate on 27 March 2003]

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(222/02)

