



Taxation Laws Amendment Act (No. 3) 2003

Act No. 101 of 2003 as amended

This compilation was prepared on 30 October 2003

[This Act was amended by Act No. 67 of 2003]

Amendments from Act No. 67 of 2003

[Schedule 10 (item 13) amended subsection 2(1)

Schedule 10 (item 14) repealed and substituted Schedule 3 (item 2)

Schedule 10 (item 15) repealed and substituted heading to Schedule 3 (item 4)

Schedule 10 (item 16) amended Schedule 3 (item 4)

Schedule 10 (items 13 to 16) commenced on 14 October 2003]

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

[Assented to 14 October 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Taxation Laws Amendment Act (No. 3) 2003*.

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.

| Commencement information | | |
|---|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 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 | 14 October 2003 |
| 2. Section 5 | 11 October 2002 | 11 October 2003 |
| 3. Schedule 1 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 4. Schedule 2 | The day on which this Act receives the Royal Assent | 14 October 2003 |

Section 2

| Commencement information | | |
|--|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 5. Schedule 3 | The later of: (a) immediately after the commencement of Part 1 of Schedule 10 to the <i>Taxation Laws Amendment Act (No. 6) 2003</i> ; and (b) the start of the day on which this Act receives the Royal Assent | 14 October 2003 |
| 6. Schedule 4 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 7. Schedule 5 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 8. Schedule 6, item 1 | Immediately after the time specified in the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> for the commencement of item 30 of Schedule 4 to that Act | 1 July 2000 |
| 9. Schedule 6, item 2 | Immediately after the commencement of section 195-1 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> | 1 July 2000 |
| 10. Schedule 6, item 3 | Immediately after the time specified in the <i>A New Tax System (Pay As You Go) Act 1999</i> for the commencement of items 44 and 45 of Schedule 2 to that Act | 22 December 1999 |
| 11. Schedule 6, item 4 | Immediately after the time specified in the <i>A New Tax System (Tax Administration) Act (No. 2) 2000</i> for the commencement of item 8A of Schedule 2 to that Act | 1 July 2000 |
| 12. Schedule 6, item 5 | Immediately after the commencement of item 3 of Schedule 8 to the <i>Taxation Laws Amendment Act (No. 2) 2000</i> | 1 July 1998 |
| 13. Schedule 6, item 6 | Immediately after the commencement of Schedule 1 to the <i>Taxation Laws Amendment (Self Assessment) Act 1992</i> | 30 June 1992 |
| 14. Schedule 6, items 7, 8, 9, 10, 11, 12 and 13 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 15. Schedule 6, item 14 | Immediately after the commencement of items 12 and 13 of Schedule 6 to this Act | 14 October 2003 |

| Commencement information | | |
|---|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 16. Schedule 6, items 15 and 16 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 17. Schedule 6, item 17 | Immediately after the commencement of section 43-240 of the <i>Income Tax Assessment Act 1997</i> | 1 July 1997 |
| 18. Schedule 6, items 18 and 19 | Immediately after the commencement of item 11 of Schedule 1 to the <i>Tax Law Improvement Act 1997</i> | 1 July 1997 |
| 19. Schedule 6, item 20 | Immediately after the commencement of item 22 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 7) 2000</i> | 21 December 2000 |
| 20. Schedule 6, item 21 | Immediately after the commencement of item 23 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 7) 2000</i> | 21 December 2000 |
| 21. Schedule 6, items 22, 23, 24 and 25 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 22. Schedule 6, item 26 | Immediately after the commencement of item 1 of Schedule 1 to the <i>New Business Tax System (Capital Gains Tax) Act 1999</i> | 10 December 1999 |
| 23. Schedule 6, item 27 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 24. Schedule 6, item 28 | Immediately after the commencement of item 27 of Schedule 6 to this Act | 14 October 2003 |
| 25. Schedule 6, item 29 | Immediately after the commencement of item 15 of Schedule 1 to the <i>New Business Tax System (Miscellaneous) Act (No. 2) 2000</i> | 30 June 2000 |
| 26. Schedule 6, item 30 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 27. Schedule 6, item 31 | Immediately after the time specified in the <i>Superannuation Legislation Amendment Act (No. 3) 1999</i> for the commencement of item 34 of Schedule 2 to that Act | 8 October 1999 |

Section 2

| Commencement information | | |
|---------------------------------|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 28. Schedule 6, item 32 | Immediately after the commencement of item 10 of Schedule 6 to the <i>Australian Security Intelligence Organisation Legislation Amendment Act 1999</i> | 10 December 1999 |
| 29. Schedule 6, item 33 | Immediately after the commencement of item 93 of Schedule 2 to the <i>A New Tax System (Tax Administration) Act (No. 2) 2000</i> | 1 July 2000 |
| 30. Schedule 6, item 34 | The day on which this Act receives the Royal Assent | 14 October 2003 |
| 31. Schedule 6, item 35 | Immediately after the commencement of item 34 of Schedule 6 to this Act | 14 October 2003 |
| 32. Schedule 6, items 36 and 37 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 3) 1999</i> for the commencement of items 84 and 85 of Schedule 1 to that Act | 1 July 1999 |
| 33. Schedule 6, item 38 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 3) 1999</i> for the commencement of item 342 of Schedule 1 to that Act | 1 July 1999 |
| 34. Schedule 6, item 39 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 1997</i> for the commencement of item 9 of Schedule 5 to that Act | 21 November 1997 |
| 35. Schedule 6, item 40 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 2000</i> for the commencement of item 2 of Schedule 4 to that Act | 5 September 2000 |
| 36. Schedule 6, item 41 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 2000</i> for the commencement of item 63 of Schedule 4 to that Act | 5 September 2000 |
| 37. Schedule 6, item 42 | Immediately after the commencement of item 71 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 4) 2000</i> | 5 September 2000 |

| Commencement information | | |
|---------------------------------|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 38. Schedule 6, item 43 | Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 7) 2000</i> for the commencement of item 30 of Schedule 4 to that Act | 21 December 2000 |
| 39. Schedule 6, item 44 | Immediately after the time specified in the <i>Tax Law Improvement Act (No. 1) 1998</i> for the commencement of item 94 of Schedule 2 to that Act | 22 June 1998 |
| 40. Schedule 6, item 45 | Immediately after the time specified in the <i>Tax Law Improvement Act (No. 1) 1998</i> for the commencement of item 11 of Schedule 6 to that Act | 22 June 1998 |

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.

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.

5 No tax consequences result from AGL's corporate conversion etc.

- (1) The object of this section is to ensure that no taxation consequences (other than those arising under subsections (9) and (10)) arise in relation to any person as a result of:
 - (a) AGL's corporate conversion; or
 - (b) AGL's registration; or
 - (c) the operation of any provision of the Conversion Act; or
 - (d) any action taken under any provision of the Conversion Act.
- (2) In resolving any ambiguity as to the meaning of this section, an interpretation that is consistent with the object of this section is to be preferred to an interpretation that is not consistent with that object.
- (3) This section only has effect for the purposes of any Commonwealth laws relating to taxation, including, but not limited to:
 - (a) the income tax law; and
 - (b) the GST law; and
 - (c) the fringe benefits tax law; and
 - (d) the *A New Tax System (Australian Business Number) Act 1999*; and
 - (e) the *Taxation Administration Act 1953*; and
 - (f) the *International Tax Agreements Act 1953*; and
 - (g) the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
 - (h) the *Superannuation Guarantee (Administration) Act 1992*; and
 - (i) the *Superannuation Guarantee Charge Act 1992*.
- (4) AGL, corporatised AGL and registered AGL are taken to be, and to have always been, the same company and the same entity.
- (5) Subsections (6) to (8) do not limit, by implication, any other effects of this section.
- (6) No taxation consequences (other than those arising under subsections (9) and (10)) are taken to have arisen in relation to any person as a result of:

- (a) AGL's corporate conversion; or
 - (b) AGL's registration; or
 - (c) the operation of any provision of the Conversion Act; or
 - (d) any action taken under any provision of the Conversion Act.
- (7) The legal and beneficial ownership of:
- (a) shares in AGL; and
 - (b) interests in shares in AGL;
- are taken not to have altered as a result of AGL's corporate conversion or AGL's registration. However, this subsection does not imply that those shares are not shares in corporatised AGL or registered AGL.
- (8) Anything done by or to:
- (a) AGL's Secretary; or
 - (b) the estate of AGL's Secretary; or
 - (c) a replacement trustee in respect of the trust created by subclause 4(1)(c) of Schedule 3 to the Conversion Act;
- as a result of the operation of clause 4 of Schedule 3 to the Conversion Act is taken to have been done by or to corporatised AGL or registered AGL, as the case may be.
- (9) Despite any other provision of this section:
- (a) the item 9 of Schedule 2 to the *Taxation Laws Amendment (Company Law Review) Act 1998* that was included in that Act as originally enacted; and
 - (b) the item of Schedule 2 to the *Taxation Laws Amendment (Company Law Review) Act 1998* that was inserted in that Act by item 7 of Schedule 1 to the *Taxation Laws Amendment Act (No. 7) 1999*;
- apply to AGL as if the reference in each of those items of Schedule 2 to the *Taxation Laws Amendment (Company Law Review) Act 1998* to "Schedule 5 to the *Company Law Review Act 1998*" were a reference to "Schedule 4 to the Conversion Act".
- Note: Item 7 of Schedule 1 to the *Taxation Laws Amendment Act (No. 7) 1999* inserted a second item 9 of Schedule 2 to the *Taxation Laws Amendment (Company Law Review) Act 1998* into that Act.
- (10) Despite any other provision of this section, any Commonwealth law that:
-

- (a) relates to taxation; and
 - (b) has a substantially similar effect to an item of Schedule 2 to the *Taxation Laws Amendment (Company Law Review) Act 1998* mentioned in paragraph (9)(a) or (9)(b); and
 - (c) commences after the commencement of this section;
- is taken to be modified in such a way as to enable it to apply to AGL and to apply to AGL in that modified form.

(11) In this section:

AGL has the same meaning as in the Conversion Act.

AGL's corporate conversion means AGL being constituted as a body corporate under the Conversion Act.

AGL's registration means corporatised AGL's registration as a public company limited by shares under Part 5B.1 of the *Corporations Act 2001* in accordance with the Conversion Act.

AGL's Secretary means a person who was the Secretary of AGL under AGL's constitution immediately before AGL's corporate conversion.

Conversion Act means the *AGL Corporate Conversion Act 2002* of New South Wales.

corporatised AGL has the same meaning as in the Conversion Act.

registered AGL has the same meaning as in the Conversion Act.

taxation means any taxation imposed under a Commonwealth law.

(12) Other expressions mean the same in this section as in the *Income Tax Assessment Act 1997*.

Schedule 1—Income tax deductions for gifts

Part 1—Amendments

Income Tax Assessment Act 1936

1 Subsection 78(4) (item 4.2.7 of table 4)

After “the Royal Society for the Prevention of Cruelty to Animals (Victoria)”, insert “Inc.”.

Income Tax Assessment Act 1997

2 Subsection 30-25(2) (at the end of the table)

Add:

| | | |
|--------|---|---|
| 2.2.26 | Aboriginal Education Council (N.S.W.) Incorporated | the gift must be made after 6 May 2002 |
| <hr/> | | |
| 2.2.27 | General Sir John Monash Foundation | the gift must be made after 16 June 2002 |

3 Subsection 30-45(2) (table item 4.2.7)

After “(Victoria)”, insert “Inc.”.

4 Subsection 30-50(2) (at the end of the table)

Add:

| | | |
|--------|--|---|
| 5.2.19 | Mount Macedon Memorial Cross Trust | the gift must be made after 14 August 2002 and before 15 August 2004 |
| <hr/> | | |
| 5.2.20 | The Manly Warringah War Memorial Regional Park Remembrance Trust | the gift must be made after 7 April 2002 and before 8 April 2004 |

| | | |
|--------|----------------------------------|--|
| 5.2.21 | Shrine of Remembrance Foundation | the gift must be made after 2 July 2002 and before 3 July 2004 |
|--------|----------------------------------|--|

5 Subsection 30-70(2) (table item 8.2.1)

Omit “none”, substitute “the gift must be made before 1 August 2001”.

6 Subsection 30-70(2) (at the end of the table)

Add:

| | | |
|-------|--------------------------------------|--|
| 8.2.3 | Australian Breastfeeding Association | the gift must be made after 31 July 2001 |
|-------|--------------------------------------|--|

7 Subsection 30-80(2) (table item 9.2.10)

Omit “2002”, substitute “2007”.

8 Section 30-105 (table item 13.2.1)

Omit “2002”, substitute “2004”.

9 Section 30-105 (at the end of the table)

Add:

| | | |
|--------|--|--|
| 13.2.4 | Australian Council for Children and Youth Organisations Inc. | the gift must be made after 23 July 2002 |
| 13.2.5 | St Paul’s Cathedral Restoration Fund | the gift must be made after 22 April 2002 and before 23 April 2004 |

10 Subsection 30-315(2) (after table item 1A)

Insert:

| | | |
|-----|--|-------------|
| 1AA | Aboriginal Education Council (N.S.W.) Incorporated | item 2.2.26 |
|-----|--|-------------|

11 Subsection 30-315(2) (after table item 17)

Insert:

| | | |
|-----------|--------------------------------------|------------|
| 17AA A | Australian Breastfeeding Association | item 8.2.3 |
|-----------|--------------------------------------|------------|

12 Subsection 30-315(2) (after table item 20)

Insert:

| | | |
|------|--|-------------|
| 20AA | Australian Council for Children and Youth Organisations Inc. | item 13.2.4 |
|------|--|-------------|

13 Subsection 30-315(2) (table items 28AA and 28AB)

Repeal the items, substitute:

| | | |
|------|---------------------------------|-------------|
| 28AA | Bradman Memorial Fund | item 10.2.7 |
| 28A | Breast Cancer Network Australia | item 1.2.15 |

14 Subsection 30-315(2) (table items 45, 45A, 45A)

Repeal the items, substitute:

| | | |
|-----|---|-----------------------|
| 44A | Diseases—charitable institutions whose principal activity is to promote the prevention or the control of diseases in human beings | item 1.1.6 |
| 45 | Diseases—institutions researching causes, prevention or cure | items 1.1.4 and 1.1.5 |
| 45A | Dymocks Literacy Foundation Limited | item 2.2.21 |

15 Subsection 30-315(2) (after table item 51)

Insert:

| | | |
|-----|------------------------------------|-------------|
| 51A | General Sir John Monash Foundation | item 2.2.27 |
|-----|------------------------------------|-------------|

16 Subsection 30-315(2) (after table item 68)

Insert:

| | | |
|-----|--|-------------|
| 68A | Manly Warringah War Memorial Regional Park Remembrance Trust | item 5.2.20 |
|-----|--|-------------|

17 Subsection 30-315(2) (after table item 72B)

Insert:

| | | |
|------|------------------------------------|-------------|
| 72BB | Mount Macedon Memorial Cross Trust | item 5.2.19 |
|------|------------------------------------|-------------|

18 Subsection 30-315(2) (after table item 110)

Insert:

| | | |
|-------|-------------------------------------|-------------|
| 110AA | Shrine of Remembrance Foundation | item 5.2.21 |
|-------|-------------------------------------|-------------|

19 Subsection 30-315(2) (after table item 112B)

Insert:

| | | |
|-------|---|-------------|
| 112BA | St Paul's Cathedral Restoration Fund | item 13.2.5 |
|-------|---|-------------|

20 Subsection 30-315(2) (table items 117 and 118)

Repeal the items, substitute:

| | | |
|-----|------------------|---|
| 117 | Trusts—ancillary | item 2 of the table in section 30-15 |
|-----|------------------|---|

| | | |
|-----|----------------------|---------------|
| 118 | Trusts—philanthropic | section 30-95 |
|-----|----------------------|---------------|

Part 2—Application of amendments

21 Application

The amendment made by item 1 applies to gifts made after 8 January 1992 and before 1 July 1997.

22 Application

The amendment made by item 2 applies to gifts made after 30 June 1997.

Schedule 2—Employee share schemes

Part 1—Income Tax Assessment Act 1997

1 At the end of subsection 104-75(6)

Add:

Note: There is also an exception for employee share trusts: see section 130-90.

2 Section 109-55 (table item 12)

Repeal the table item.

3 Section 109-55 (before table item 13)

Insert:

- | | | | |
|----|--|--|----------------|
| 12 | You acquire a share or right under an employee share scheme from an employee share trust | at the time you first acquired a beneficial interest in the share or right | section 115-30 |
|----|--|--|----------------|

4 Section 112-75

After “130-80”, insert “130-83”.

5 Subsection 115-30(1) (at the end of the table)

Add:

- | | | |
|---|---|--|
| 8 | A *CGT asset that is a *share or right where: (a) the share or right was *acquired under an *employee share scheme; and (b) the share or right was acquired from an *employee share trust; and (c) if the share is a *qualifying share or the right is a *qualifying right—the acquirer made an election under section 139E of the <i>Income Tax Assessment Act 1936</i> | When the acquirer first acquired a beneficial interest in the share or right |
|---|---|--|

6 At the end of section 130-80

Add:

(3) However, if:

- (a) the *share or right was *acquired from an *employee share trust; and
- (b) if the share is a *qualifying share or the right is a *qualifying right—the acquirer made an election under section 139E of the *Income Tax Assessment Act 1936*;

the first element of the *cost base and *reduced cost base of the share or right is its market value (worked out under sections 139FA to 139FF of the *Income Tax Assessment Act 1936*) when you first acquired a beneficial interest in the share or right.

Note: Section 130-80 of the *Income Tax (Transitional Provisions) Act 1997* may affect the cost base or reduced cost base for shares or rights held by a trust at 5 pm (by legal time in the Australian Capital Territory) on 27 February 2001.

7 Subsection 130-83(2)

After “A1,” insert “C2,”

8 Subsection 130-83(2)

Omit “disposal”, substitute “event”.

9 At the end of section 130-85

Add:

(3) However, if:

- (a) the *share or right was *acquired from an employee share trust; and
- (b) if the share is a *qualifying share or the right is a *qualifying right—the acquirer made an election under section 139E of the *Income Tax Assessment Act 1936*;

the first element of the *cost base and *reduced cost base of the share or right is its market value (worked out under sections 139FA to 139FF of the *Income Tax Assessment Act 1936*) when you first acquired a beneficial interest in the share or right.

Note: Section 130-80 of the *Income Tax (Transitional Provisions) Act 1997* may affect the cost base or reduced cost base for shares or rights held

by a trust at 5 pm (by legal time in the Australian Capital Territory)
on 27 February 2001.

10 Subsection 130-90(1)

Omit “a trustee makes when a beneficiary”, substitute “a trustee or a beneficiary makes when the beneficiary”.

11 Subsection 995-1(1)

Insert:

employee share trust means a trust of the kind mentioned in
subsection 139C(5) of the *Income Tax Assessment Act 1936*.

12 Application

- (1) The amendments made by items 1, 2, 4, 7, 8, 10 and 11 apply to assessments for the 1998-99 income year and later income years.
- (2) The amendments made by items 3 and 5 apply to shares or rights where the beneficial interest in the share or right was acquired after 5 pm (by legal time in the Australian Capital Territory) on 27 February 2001.
- (3) The amendments made by items 6 and 9 apply to shares or rights acquired (within the meaning of Division 13A of Part III of the *Income Tax Assessment Act 1936*) by you after 5 pm (by legal time in the Australian Capital Territory) on 27 February 2001. Those amendments also apply to shares or rights acquired by you at or before that time if you choose that the amendments apply.

**Part 2—Income Tax (Transitional Provisions) Act
1997**

13 After Subdivision 130-C

Insert:

Subdivision 130-DA—Employee share schemes

130-80 Extension of trust holding period

- (1) This section applies if:
- (a) a share or right is held by an employee share trust at 5 pm (by legal time in the Australian Capital Territory) on 27 February 2001; and
 - (b) at the time that the share or right was acquired by the employee share trust it was possible to determine that the share or right would be acquired from the trust by another entity at a particular time or on the occurrence of a particular event; and
 - (c) the share or right is acquired by that other entity after that time or the occurrence of that event.
- (2) If this section applies, the first element of the cost base and reduced cost base of the share or right is its market value (worked out under sections 139FA to 139FF of the *Income Tax Assessment Act 1936*) at the particular time, or on the occurrence of the particular event, referred to in paragraph (1)(b).

14 Subsection 130-95(1)

Omit “Subdivision 130-D of the *Income Tax Assessment Act 1997*”, substitute “This Subdivision”.

Note: The heading to section 130-95 is altered by omitting “**Division**” and substituting “**Subdivision**”.

15 Subsection 130-95(2)

Omit “Subdivision 130-D of the *Income Tax Assessment Act 1997*”, substitute “this Subdivision”.

16 Application

The amendments made by items 14 and 15 apply to assessments for the 1998-99 income year and later income years.

Part 3—Fringe Benefits Tax Assessment Act 1986

17 Subsection 136(1) (paragraph (hb) of the definition of *fringe benefit*)

After “employees”, insert “, or associates of employees,”.

18 Application

The amendment made by this Part applies in respect of the FBT year beginning on 1 April 1995 and in respect of all later FBT years.

Schedule 3—Franking of distributions by co-operatives

Income Tax Assessment Act 1936

1 At the end of section 120

Add:

- (4) No deduction is allowable under subsection (1) to the extent that the assessable income of a co-operative company is distributed as the franked part of a franked distribution.
- (5) For the purposes of this section, in determining whether the assessable income of a co-operative company is distributed as the franked part of a franked distribution, if:
 - (a) an amount is distributed by the co-operative company as a franked distribution; and
 - (b) the franking percentage (within the meaning of the *Income Tax Assessment Act 1997*) for the distribution is less than 100%; and
 - (c) a part of the distribution is attributable to sources other than the assessable income of the co-operative company;it is to be assumed that the franked part of the distribution is attributable, to the greatest extent possible, to those other sources.
- (6) If a co-operative company distributes assessable income among its shareholders within the period of 3 months (or such longer period as the Commissioner decides) starting at the end of a year of income, the co-operative company may elect that the distribution is to be taken, for the purposes of this section only, to have been made on the last day of the year of income.
- (7) In this section:

franked distribution has the same meaning as in the *Income Tax Assessment Act 1997*.

Income Tax Assessment Act 1997

2 After paragraph 200-45(c)

Insert:

(d) franking by co-operative companies; and

3 Paragraph 202-45(a)

Repeal the paragraph.

3A Paragraph 202-45(b)

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

4 After Division 216

Insert:

**Division 218—Application of imputation rules to
co-operative companies**

218-5 Application of imputation rules to co-operative companies

- (1) The *imputation system applies to a *co-operative company in the same way as it applies to any other company but with the modifications set out in this section.
- (2) Each reference to a *distribution is taken to include a reference to an amount distributed as mentioned in paragraph 120(1)(a) or (b) of the *Income Tax Assessment Act 1936*.
- (3) Despite subsection 202-75(1) (about giving distribution statements), a *co-operative company does not have to give the recipient of a *frankable distribution a *distribution statement unless the *franking percentage for the distribution is greater than zero.

5 Subsection 995-1(1)

Insert:

co-operative company has the same meaning as in Division 9 of Part III of the *Income Tax Assessment Act 1936*.

6 Application

The amendments made by this Schedule apply to distributions made on or after 1 July 2002.

Schedule 4—Reasonable benefit limits

Income Tax Assessment Act 1936

1 After subsection 140ZQ(1)

Insert:

When rebatable proportion is the same as another pension or annuity

- (1A) Despite paragraph (1)(a), if a rebatable superannuation pension or a rebatable ETP annuity:
- (a) is payable to a person as the result of the death of another person; and
 - (b) is a reversion of another pension or annuity that was already payable to the other person;
- the rebatable proportion of the pension or annuity is the same as the rebatable proportion of the other pension or annuity.

2 Application

The amendment made by this Schedule applies, and is taken to have applied, in relation to the 1999-2000 income year and later income years.

Schedule 5—Petroleum resource rent tax

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 2

Insert:

external petroleum, in relation to a petroleum project, means petroleum, or constituents of petroleum, recovered from an area or areas other than the production licence area or production licence areas in relation to the project.

4 Section 2 (at the end of the definition of *petroleum project* or *project*)

Add “, and includes the extended meaning given by subsection 19(2B)”.

5 Section 2

Insert:

processing of external petroleum, in relation to a petroleum project, includes the stabilisation, transportation, storage or recovery of external petroleum in relation to the project.

7 After subsection 19(2A)

Insert:

- (2B) For the purposes of this Act, there shall be taken to be included, as part of any petroleum project within the meaning of subsection (1) or (2), the carrying on of any processing of external petroleum wholly or partly using the operations, facilities and other things comprising the project:
- (a) in the case of an eligible production licence referred to in subsection (1)—while that licence is in force; or
 - (b) in the case of 2 or more eligible production licences referred to in subsection (2)—while any of those licences are in force.

Note: Under subsection (4), the operations, facilities and other things comprising the project are limited to those used in relation to

petroleum recovered from the one or more production licence areas in relation to the project.

8 After paragraph 23(1)(a)

Insert:

(aa) assessable tolling receipts;

9 Paragraph 24(1)(a)

Omit “petroleum, or a constituent of petroleum, recovered from the production licence area or areas in relation to the project”, substitute “petroleum from the project”.

10 Paragraphs 24(1)(b), (c), (d) and (e)

Omit “recovered from the area or areas to which paragraph (a) applies”, substitute “from the project”.

11 Subsection 24(2)

Insert:

petroleum from the project means any petroleum or a constituent of petroleum:

- (a) that is recovered from the production licence area or areas in relation to the petroleum project in question; or
- (b) that is external petroleum in relation to the project.

12 After section 24

Insert:

24A Assessable tolling receipts

For the purposes of this Act, a reference to assessable tolling receipts derived by a person in relation to a petroleum project is a reference to the consideration receivable by the person in relation to the processing of external petroleum in relation to the project.

14 Subsection 37(1)

Omit “in carrying on or providing”.

15 Paragraph 37(1)(a)

Before “operations and”, insert “in carrying on or providing”.

16 Paragraph 37(1)(b)

Before “such of the following”, insert “in carrying on or providing”.

17 After paragraph 37(1)(b)

Insert:

and (c) in procuring another person to stabilise, transport, store, recover or process petroleum recovered from the eligible exploration or recovery area (other than any production licence area) in relation to the project, if that stabilisation, transportation, storage, recovery or processing constitutes the processing of external petroleum in relation to another petroleum project;

18 After paragraph 38(b)

Insert:

and (c) in purchasing, as part of the project, external petroleum in relation to the project; and
(d) in procuring another person to stabilise, transport, store, recover or process petroleum recovered from the production licence area or areas in relation to the project, if that stabilisation, transportation, storage, recovery or processing constitutes the processing of external petroleum in relation to another petroleum project;

19 At the end of section 38

Add:

(2) To avoid doubt, carrying on or providing the operations, facilities and other things comprising the project referred to in paragraph (1)(b) includes carrying on or providing the operations, facilities and other things in relation to the processing of external petroleum in relation to the project.

21 At the end of section 41

Add:

- (2) This section does not apply if the other person carries on or provides the operations, facilities or other things as part of the processing of external petroleum in relation to a petroleum project other than the project to which the operations, facilities or other things referred to in subsection (1) relate.

Schedule 6—Technical amendments

A New Tax System (Family Assistance and Related Measures) Act 2000

1 Items 30 and 31 of Schedule 4

Repeal the items.

Note: This item repeals items that relate to an amendment of a provision that does not exist.

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

2 Section 195-1 (definition of *in existence*)

Omit “995-100”, substitute “995-1”.

Note: This item fixes an incorrect cross-reference.

A New Tax System (Pay As You Go) Act 1999

3 Items 44 and 45 of Schedule 2

Repeal the items.

Note: This item repeals items that contain amendments that had already been made.

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

4 Item 8A of Schedule 2

Repeal the item.

Note: This item repeals an item that amends a provision that does not exist.

Income Tax Assessment Act 1936

5 Paragraph 6BA(5)(c)

Omit “applies”, substitute “apply”.

6 Subsection 124ZAE(2)

Omit “124AFA”, substitute “124ZAFA”.

Note: This item fixes an incorrect cross-reference.

7 Subsection 159J(6) (paragraph (aac) of the definition of *separate net income*) (the paragraph (aac) inserted by item 322 of Schedule 1 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997* (as amended by item 8 of Schedule 3 to the *Taxation Laws Amendment Act (No. 3) 1999*))

Reletter as paragraph (aad).

8 Subdivision CA of Division 2 of Part IIIAA (the Subdivision CA inserted by item 75 of Schedule 3 to the *New Business Tax System (Miscellaneous) Act (No. 2) 2000*)

Reletter as Subdivision CB.

9 Subdivision CB of Division 2 of Part IIIAA

Reletter as Subdivision CC.

10 Section 160AQCO

Renumber as section 160AQCNCCK.

11 Subsection 160AQZF(6) (the subsection (6) inserted by item 7 of Schedule 3 to the *Taxation Laws Amendment Act (No. 2) 2000*)

Renumber as subsection (7).

12 Subsection 160ARDM(3) (the subsection (3) inserted by item 4 of Schedule 1 to the *Taxation Laws Amendment Act (No. 7) 1999*)

Renumber as subsection (5).

13 Subsection 160ARDM(4) (the subsection (4) inserted by item 4 of Schedule 1 to the *Taxation Laws Amendment Act (No. 7) 1999*)

Renumber as subsection (6).

14 Subsection 160ARDM(5)

Omit “subsection (4)”, substitute “subsection (6)”.

15 Subsection 221YHZD(1AAA) (the subsection (1AAA) inserted by item 39 of Schedule 2 to the *A New Tax System (Tax Administration) Act 1999*)

Renumber as subsection (1ABA).

Income Tax Assessment Act 1997

16 Subsection 25-35 (table item 4) (the item 4 inserted by item 27 of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*)

Renumber as item 5.

17 Section 43-240 (step 2)

Omit “amount”.

18 Section 52-60

After “work”, insert “out”.

19 Section 52-75 (table item 7)

Omit “Division 3”, substitute “Division 4”.

Note: This item fixes an incorrect cross-reference.

20 Subsection 104-185(1) (note 2)

Omit “CGT event J1”, substitute “CGT event J2”.

Note: This item fixes an incorrect cross-reference.

21 Subsection 104-190(1) (note)

Omit “CGT event J2”, substitute “CGT event J3”.

Note: This item fixes an incorrect cross-reference.

22 Subsection 110-25(9) (the subsection (9) inserted by item 75 of Schedule 2 to the *New Business Tax System (Miscellaneous) Act (No. 2) 2000*)

Re-number as subsection (11).

23 Section 112-97 (table item 12A) (the item 12A inserted by item 1 of Schedule 1 to the *New Business Tax System (Miscellaneous) Act (No. 2) 2000*)

Re-number as item 12B.

24 Section 118-65 (the section 118-65 inserted by item 44 of Schedule 4 to the *Taxation Laws Amendment Act (No. 7) 2000*)

Re-number as section 118-70.

25 Subsection 124-783(3) (heading in the form “*Certain companies and trusts not required to trace interests*”)

Repeal the heading.

26 Subsection 152-40(3) (example)

Omit “Example”, substitute “Note”.

27 Paragraph 165-75(2)(b) (the paragraph (2)(b) inserted by item 7 of Schedule 11 to the *Taxation Laws Amendment Act (No. 1) 1998*)

Re-letter as paragraph (2)(d).

28 Paragraph 165-75(2)(d)

Omit “period;”, substitute “period.”.

29 Subsection 165-115C(1) (note 4)

Omit “subsection 166-115A(2A)”, substitute “subsection 165-115A(2A)”.

Note: This item fixes an incorrect cross-reference.

30 Subsection 995-1(1) (definition of *taxable importation*) (the definition inserted by item 15 of Schedule 5 to the *A New Tax System (Tax Administration) Act (No. 2) 2000*)

Repeal the definition.

Note: This item repeals one of 2 identical definitions.

Superannuation Legislation Amendment Act (No. 3) 1999

31 Item 34 of Schedule 2

Repeal the item.

Note: This item repeals an item that amends a provision that does not exist.

Taxation Administration Act 1953

32 Paragraph 3EC(2)(a)

Omit “or ASIO”, substitute “of ASIO”.

33 Section 16-195 in Schedule 1 (note)

Omit “a administrative”, substitute “an administrative”.

34 Subsection 250-10(2) in Schedule 1 (table items 22 and 23) (the items 22 and 23 inserted by item 1 of Schedule 2 to the *Diesel and Alternative Fuels Grants Scheme Amendment Act 2000*)

Repeal the items.

35 Subsection 250-10(2) in Schedule 1 (after table item 22)

Insert:

| | | | |
|-----|---|-----|--|
| 22A | amount of advance to be repaid | 14A | <i>Diesel and Alternative Fuels Grants Scheme Act 1999</i> |
| 22B | amount payable as a result of an amended assessment | 15E | <i>Diesel and Alternative Fuels Grants Scheme Act 1999</i> |

Taxation Laws Amendment Act (No. 3) 1999

36 Item 84 of Schedule 1 (heading)

Omit “214A(e)”, substitute “214A(2)(e)”.

37 Item 85 of Schedule 1 (heading)

After “Paragraphs”, insert “214A(2)”.

38 Item 342 of Schedule 1

Repeal the item.

Note: This item repeals an item that amends a provision that does not exist.

Taxation Laws Amendment Act (No. 4) 1997

39 Item 9 of Schedule 5

Repeal the item.

Note: This item repeals an item that omits words that do not exist in the relevant provision.

Taxation Laws Amendment Act (No. 4) 2000

40 Item 2 of Schedule 4

Repeal the item.

Note: This item repeals an item that omits words that do not exist in the relevant provision.

41 Item 63 of Schedule 4

Repeal the item.

Note: This item repeals an item that omits words that do not exist in the relevant provision.

42 Item 71 of Schedule 4 (table items 10 and 11)

Repeal the items.

Note: This item repeals 2 table items that omit words that do not exist in the relevant provision.

Taxation Laws Amendment Act (No. 7) 2000

43 Item 30 of Schedule 4

Repeal the item.

Note: This item repeals an item that contains an amendment that had already been made.

Tax Law Improvement Act (No. 1) 1998

44 Item 94 of Schedule 2

Repeal the item.

Note: This item repeals an item that amends a provision that does not exist.

45 Item 11 of Schedule 6

Repeal the item.

Note: This item repeals an item that omits words from a provision and inserts the identical words into the provision.

*[Minister's second reading speech made in—
House of Representatives on 5 December 2002
Senate on 15 September 2003]*