





# **Tax Laws Amendment (2005 Measures No. 1) Act 2005**

**No. 77, 2005**

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

[Assented to 29 June 2005]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (2005 Measures No. 1) Act 2005*.

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## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Fringe benefits tax exemptions

### *Fringe Benefits Tax Assessment Act 1986*

#### **1 After section 58A**

Insert:

#### **58AA Exempt benefits—engagement of relocation consultant**

- (1) A benefit is an exempt benefit in relation to a year of tax if:
- (a) the benefit is an expense payment benefit, or a residual benefit, provided in, or in respect of, the year of tax in respect of the employment of an employee; and
  - (b) the benefit is in respect of, or consists of, the engagement of a relocation consultant; and
  - (c) the engagement of the relocation consultant is required solely for one or more of the following reasons:
    - (i) the employee is required to live away from his or her usual place of residence to perform the duties of the employment mentioned in paragraph (a) (the *new employment duties*);
    - (ii) having lived away from his or her usual place of residence to perform the new employment duties, the employee is required to return there to perform them, or because the employee has ceased to perform them;
    - (iii) the employee is required to change his or her usual place of residence to perform those duties; and
  - (d) the relocation consultant is engaged to help a family member:
    - (i) if subparagraph (c)(i) applies—to settle, or to remain, at or near the location where the employee performs the new employment duties while living away from his or her usual place of residence; or
    - (ii) if subparagraph (c)(ii) applies—to settle at the location of the employee's usual place of residence; or
    - (iii) if subparagraph (c)(iii) applies—to settle, or to remain, at the location of the employee's new usual place of residence; and

- (e) the benefit is not provided under a non-arm's length arrangement; and
  - (f) if the benefit is an expense payment benefit—documentary evidence of the recipients expenditure is obtained by the recipient and that documentary evidence, or a copy, is given to the employer before the declaration date.
- (2) Without limiting subsection (1), a reference in that subsection to helping a family member to settle, or to remain, at a location includes:
- (a) a relocation consultant finding, or providing information to the family member about, accommodation for the family member at the location; or
  - (b) a relocation consultant providing information to the family member about education facilities or other community amenities and services at the location;
- but does not include a reference to a relocation consultant paying expenses on behalf of a family member.

## **2 Paragraph 58X(2)(g)**

After “an electronic diary”, insert “, a personal digital assistant”.

## **3 At the end of subsection 58X(2)**

Add:

- ; (i) a portable printer designed for use with a notebook computer, a laptop computer or a similar portable computer.

## **4 Paragraph 58ZC(2)(c)**

Repeal the paragraph.

## **5 Application**

The amendments made by this Schedule apply in respect of the FBT year following the FBT year in which this Act receives the Royal Assent and in respect of all later FBT years.

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## Schedule 2—Effective life of assets declining in value

### *Income Tax Assessment Act 1997*

#### **1 Subsection 40-102(4) (at the end of the table)**

Add:

5	Bus with a *gross vehicle mass of more than 3.5 tonnes	7.5 years
6	Light commercial vehicle with a *gross vehicle mass of 3.5 tonnes or less and designed to carry a load of 1 tonne or more	7.5 years
7	Minibus with a *gross vehicle mass of 3.5 tonnes or less and designed to carry 9 or more passengers	7.5 years
8	Trailer with a *gross vehicle mass of more than 4.5 tonnes	10 years
9	Truck with a *gross vehicle mass of more than 3.5 tonnes (other than a truck that is used in *mining operations and that is not of a kind that can be registered to be driven on a public road in the place in which the truck is operated)	7.5 years

#### **2 Subsection 995-1(1)**

Insert:

*gross vehicle mass* of a vehicle means:

- (a) the road weight specified by the manufacturer of the vehicle as the maximum design weight capacity of the vehicle; or
- (b) in the absence of such a specification, the sum of:
  - (i) the weight of the vehicle; and
  - (ii) the weight of the maximum load for which the vehicle was designed (including the weight of the driver and a full tank of fuel, if applicable).

#### **3 Application**

The amendments made by this Schedule apply to a depreciating asset if the start time for the asset occurs on or after 1 January 2005.

## **Schedule 3—Supplies of rights or options offshore**

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

#### **1 Subsection 9-25(5)**

Omit “either”.

#### **2 At the end of subsection 9-25(5)**

Add:

; or (c) all of the following apply:

- (i) neither paragraph (a) nor (b) applies in respect of the thing;
- (ii) the thing is a right or option to acquire another thing;
- (iii) the supply of the other thing would be connected with Australia.

Example: A holiday package for Australia that is supplied overseas might be connected with Australia under paragraph (5)(c).

#### **4 Paragraph 83-5(2)(a)**

Omit “that is not \*connected with Australia but that is a \*taxable supply because of Division 84”, substitute “that is a \*taxable supply under Division 84”.

#### **4A At the end of subsection 83-5(2)**

Add:

; or (c) a supply that is disregarded under paragraph 188-15(3)(b) or (c) or 188-20(3)(b) or (c) (which are about supplies of rights or options offshore).

#### **5 Section 84-1**

Repeal the section, substitute:

## **84-1 What this Division is about**

This Division deals with supplies (of things other than goods or real property) taking place outside Australia. The GST on a supply that is a taxable supply under this Division is “reverse charged” to the recipient of the supply.

## **6 Section 84-5 (heading)**

Repeal the heading, substitute:

## **84-5 Intangible supplies from offshore that are taxable supplies under this Division**

### **7 Subsection 84-5(1)**

Repeal the subsection, substitute:

- (1) A supply of anything other than goods or \*real property that is:
- (a) a supply not \*connected with Australia; or
  - (b) a supply connected with Australia because of paragraph 9-25(5)(c);

is a *taxable supply* if:

- (c) the \*recipient of the supply acquires the thing supplied solely or partly for the purpose of an \*enterprise that the recipient \*carries on in Australia, but not solely for a \*creditable purpose; and
- (d) the supply is for \*consideration; and
- (e) the recipient is \*registered or \*required to be registered.

However, the supply is not a \*taxable supply to the extent that it is \*GST-free or \*input taxed.

### **8 Subsection 84-5(2)**

Omit “paragraph (1)(c)”, substitute “paragraph (1)(e)”.

### **9 At the end of section 84-10**

Add:

- (3) If a supply is a taxable supply under both sections 9-5 and 84-5, GST is only payable under this section (instead of section 9-40).

**10 Subsection 84-13(1) (paragraph (a) of the definition of *full input tax credit*)**

After “had been”, insert “or is”.

**11 Section 129-70 (paragraph (b) of the definition of *full input tax credit*)**

Omit “only”.

**12 Section 129-70 (paragraph (b) of the definition of *full input tax credit*)**

After “had been”, insert “or is”.

**13 Section 129-75 (paragraph (b) of the definition of *full input tax credit*)**

Omit “only”.

**14 Section 129-75 (paragraph (b) of the definition of *full input tax credit*)**

After “had been”, insert “or is”.

**15 Subsection 132-5(2) (paragraph (b) of the definition of *full input tax credit*)**

Omit “only”.

**16 Subsection 132-5(2) (paragraph (b) of the definition of *full input tax credit*)**

After “had been”, insert “or is”.

**16A Section 151-5**

Before “You are eligible”, insert “(1)”.

**16B At the end of section 151-5**

Add:

- (2) However, you are not eligible to make an \*annual tax period election if the only reason you are not \*required to be registered is because you disregarded supplies under paragraph 188-15(3)(b) or (c) or 188-20(3)(b) or (c) (which are about supplies of rights or options offshore).

**16C Subsection 188-15(3)**

Repeal the subsection, substitute:

*Supplies that are disregarded*

- (3) In working out your **current annual turnover**, disregard:
- (a) any supply that is not \*connected with Australia; and
  - (b) any supply that is connected with Australia because of paragraph 9-25(5)(c); and
  - (c) any supply (other than a supply covered by paragraph (a) or (b)):
    - (i) of a right or option to use \*commercial accommodation in Australia; and
    - (ii) that is not made in Australia; and
    - (iii) that is made through an \*enterprise that the supplier does not \*carry on in Australia.

**16D Subsection 188-20(3)**

Repeal the subsection, substitute:

*Supplies that are disregarded*

- (3) In working out your **projected annual turnover**, disregard:
- (a) any supply that is not \*connected with Australia; and
  - (b) any supply that is connected with Australia because of paragraph 9-25(5)(c); and
  - (c) any supply (other than a supply covered by paragraph (a) or (b)):
    - (i) of a right or option to use \*commercial accommodation in Australia; and
    - (ii) that is not made in Australia; and
    - (iii) that is made through an \*enterprise that the supplier does not \*carry on in Australia.

**17 Application provision**

The amendments made by items 1 to 16D apply to supplies made on or after 1 October 2005.

**18 Transitional provision**

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For the purposes of sections 188-15 and 188-20 of the *A New Tax System (Goods and Services Tax) Act 1999*, in working out an enterprise's current annual turnover, or projected annual turnover, at a time during July, August or September 2005, disregard a supply if:

- (a) the enterprise through which the supply is made is not carried on in Australia; and
- (b) the supply:
  - (i) is a supply of a right or option to use commercial accommodation in Australia; and
  - (ii) is not made in Australia.

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## **Schedule 4—Mature age worker tax offset**

### *Income Tax Assessment Act 1997*

#### **1 Section 13-1 (after table item headed “lump sum income arrears”)**

Insert:

**mature age workers**

..... Subdivision 61-K

#### **2 At the end of Division 61**

Add:

### **Subdivision 61-K—Mature age worker tax offset**

#### **Guide to Subdivision 61-K**

#### **61-550 What this Subdivision is about**

You may get a tax offset under this Subdivision if you are an Australian resident individual who is aged 55 or over at the end of the income year and who has worked during the year.

The amount of the offset depends on the amount of your net income from working, but is up to a maximum of \$500. (Basically, your net income from working is the total of amounts of assessable income that are mainly a reward for your personal efforts or skills, less any relevant deductions.)

#### **Table of sections**

##### **Operative provisions**

61-555	Object of this Subdivision
61-560	Entitlement to the mature age worker tax offset
61-565	The amount of the tax offset
61-570	Definition of <i>net income from working</i>

## Operative provisions

### 61-555 Object of this Subdivision

The object of this Subdivision is to provide a \*tax offset (subject to certain income conditions) as an incentive to Australians aged 55 or over to remain in work.

### 61-560 Entitlement to the mature age worker tax offset

You are entitled to a \*tax offset for an income year if you are an Australian resident individual who is aged 55 or over at the end of the income year.

Note: However, the amount of the tax offset is nil if have you no net income from working or your net income from working is over \$63,000 (or \$58,000 for the 2004-2005 income year).

### 61-565 The amount of the tax offset

- (1) If your \*net income from working for the income year is equal to or less than \$53,000, the amount of the \*tax offset is the lesser of the amount worked out under the following formula and \$500:

$$5\% \times \text{Your net income from working for the year}$$

- (2) If your \*net income from working for the income year is greater than \$53,000, the amount of the \*tax offset is the amount worked out under the following formula (but not below nil):

$$\$500 - \left[ 5\% \times \left( \text{Your net income from working for the year} - \$53,000 \right) \right]$$

*Special rule for the 2004-2005 income year*

- (3) For the 2004-2005 income year, references in subsections (1) and (2) to \$53,000 are taken instead to be references to \$48,000.

### 61-570 Definition of *net income from working*

- (1) Your *net income from working* for an income year is the sum of the following amounts (excluding amounts covered by subsection (2)):

- (a) your assessable income for the year to the extent that it consists of the following:
    - (i) \*personal services income;
    - (ii) assessable income from a \*business you carry on;
    - (iii) an amount included under section 393-15 of Schedule 2G to the *Income Tax Assessment Act 1936* as a result of the repayment of a \*farm management deposit;
  - (b) your \*reportable fringe benefits total for the year; less the sum of any amounts you can deduct for the year to the extent that they relate to assessable income mentioned in subparagraph (a)(i) or (ii).
- (2) Your *net income from working* for an income year does not include your assessable income for the year to the extent that it consists of the following:
- (a) amounts of \*eligible termination payments;
  - (b) amounts to which section 26AC or 26AD of the *Income Tax Assessment Act 1936* applies (about annual or long service leave payments);
  - (c) amounts of passive income (within the meaning of subsection 160AEA(1) of the *Income Tax Assessment Act 1936*).

### **3 Subsection 995-1(1)**

Insert:

*net income from working* has the meaning given by section 61-570.

### **4 Subsection 995-1(1)**

Insert:

*reportable fringe benefits total* has the same meaning as in the *Fringe Benefits Tax Assessment Act 1986*.

### **5 Application of items 1 to 4**

The amendments made by items 1 to 4 apply to assessments for the 2004-2005 income year and later income years.

## ***Taxation Administration Act 1953***

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**6 Section 45-340 in Schedule 1 (method statement, step 1, after paragraph (a))**

Insert:

(aaaa) Subdivision 61-K of the <i>Income Tax Assessment Act 1997</i> (for mature age workers); or
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**7 Application of item 6**

The amendment made by item 6 applies in relation to the calculation of an entity's adjusted tax:

- (a) for a base year that is the first income year starting on or after 1 July 2004 or a later income year; and
- (b) only for the purposes of a PAYG instalment period that includes, or starts after, the day on which this Act receives the Royal Assent.

**8 Section 45-375 in Schedule 1 (method statement, step 1, after paragraph (a))**

Insert:

(aaa) Subdivision 61-K of the <i>Income Tax Assessment Act 1997</i> (for mature age workers); or
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**9 Application of item 8**

The amendment made by item 8 applies in relation to the calculation of an entity's adjusted assessed tax for a variation year that is the first income year starting on or after 1 July 2004 or a later income year.

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*[Minister's second reading speech made in—  
House of Representatives on 10 February 2005  
Senate on 7 March 2005]*

(2/05)