





# **Fuel Tax (Consequential and Transitional Provisions) Act 2006**

**No. 73, 2006**

**An Act to deal with consequential and transitional  
matters arising from the enactment of the *Fuel Tax  
Act 2006*, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Fuel Tax (Consequential and Transitional Provisions) Act 2006**

**No. 73, 2006**

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**An Act to deal with consequential and transitional matters arising from the enactment of the *Fuel Tax Act 2006*, and for other purposes**

[Assented to 26 June 2006]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*.

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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, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<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.	26 June 2006
2. Schedule 1, Part 1	1 July 2006.	1 July 2006
3. Schedule 1, items 4 to 6	1 January 2007.	1 January 2007
4. Schedule 1, item 7	1 July 2009.	1 July 2009
5. Schedule 1, Part 3	1 January 2007.	1 January 2007
6. Schedule 2, Part 1	1 July 2006.	1 July 2006
7. Schedule 2, Part 2	1 July 2007.	1 July 2007
8. Schedule 3, Parts 1 to 4A	1 July 2006.	1 July 2006
9. Schedule 3, Part 5	1 July 2010.	1 July 2010
10. Schedule 3, Parts 6 and 7	1 July 2012.	1 July 2012
10A. Schedule 3, Part 8, Division 1AA	Immediately after the commencement of the <i>Fuel Tax Act 2006</i> .	1 July 2006
11. Schedule 3, Part 8, Division 1	1 July 2007.	1 July 2007

<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>
11A. Schedule 3, Part 8, Division 1A	1 July 2008.	1 July 2008
12. Schedule 3, Part 8, Division 2	1 July 2010.	1 July 2010
13. Schedule 3, Part 8, Division 3	1 July 2012.	1 July 2012
14. Schedule 3, Part 8, Division 4	1 July 2013.	1 July 2013
16. Schedule 4, item 3	Immediately after the commencement of section 34 of the <i>Product Grants and Benefits Administration Act 2000</i> .	19 June 2000
17. Schedule 4, item 4	The day on which this Act receives the Royal Assent.	26 June 2006
18. Schedule 5, Part 1	At the same time as the <i>Fuel Tax Act 2006</i> commences.	1 July 2006
19. Schedule 5, items 59 and 60	The later of: (a) immediately after the commencement of the <i>Fuel Tax Act 2006</i> ; and (b) the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> .  However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	
20. Schedule 5, items 61 and 62	Immediately before the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> .  However, if Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> commences before the <i>Fuel Tax Act 2006</i> commences, the provision(s) do not commence at all.	
21. Schedule 5, Part 3	At the same time as the <i>Fuel Tax Act 2006</i> commences.	1 July 2006

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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>
22. Schedule 5, Part 4	The later of: (a) immediately after the commencement of the <i>Fuel Tax Act 2006</i> ; and (b) the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> .  However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	

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 contains additional information that is not part of this Act. Information in this column may be added to or edited 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 Regulations**

The Governor-General may make regulations prescribing matters:  
(a) required or permitted by this Act to be prescribed; or  
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Schedule 1—Amendments relating to the repeal of the Fuel Sales Grants Act 2000**

### **Part 1—Amendments commencing on 1 July 2006**

#### ***Fuel Sales Grants Act 2000***

##### **1 Paragraph 7(c)**

Omit “2000.”, substitute “2000 but before 1 July 2006.”.

#### ***Product Grants and Benefits Administration Act 2000***

##### **2 After paragraph 15(2)(d)**

Insert:

(da) if the claim is for payment of a fuel sales grant—must be given to the Commissioner before the earlier of:

- (i) 1 January 2007; and
- (ii) the end of 3 years after the start of the claim period; and

##### **3 Paragraph 15(2)(e)**

Before “must be”, insert “otherwise—”.

**Part 2—Amendments commencing on or after  
1 January 2007**

*Product Grants and Benefits Administration Act 2000*

**4 Section 8 (table item 1)**

Repeal the item.

**5 Subsection 9(3)**

Repeal the subsection.

**6 Paragraph 15(2)(da)**

Repeal the paragraph.

**7 Subparagraphs 47(3)(c)(ia) and (d)(ia)**

Repeal the subparagraphs.

**Part 3—Repeal of Fuel Sales Grants Act 2000 on  
1 January 2007**

*Fuel Sales Grants Act 2000*

**8 The whole of the Act**

Repeal the Act.

## **Schedule 2—Amendments relating to the repeal of the States Grants (Petroleum Products) Act 1965**

### **Part 1—Amendments commencing on 1 July 2006**

#### *States Grants (Petroleum Products) Act 1965*

##### **1 At the end of subsection 5(1)**

Add:

Note: For the cessation of a scheme, see subsection (5).

##### **2 Paragraph 5(5)(a)**

Repeal the paragraph, substitute:

- (a) must provide for the payment by the State to registered distributors of eligible petroleum products, in respect of:
    - (i) the sale by them, before 1 July 2006; and
    - (ii) the delivery by them, before 1 July 2006, to places to which the scheme applies;
- of any eligible petroleum products, of amounts ascertained in accordance with the scheme; and

##### **3 Paragraph 5(5)(aa)**

After “by them”, insert “, before 1 July 2006,”.

##### **4 Subparagraph 5(5)(b)(i)**

After “by them”, insert “, before 1 July 2006,”.

## **Part 2—Repeal of States Grants (Petroleum Products) Act 1965 on 1 July 2007**

### *States Grants (Petroleum Products) Act 1965*

#### **5 The whole of the Act**

Repeal the Act.

## Schedule 3—Fuel credits arising from before 1 July 2006 and until 1 July 2012

### Part 1—Definitions

#### 1 Definitions

In this Schedule:

*Energy Grants Act* means the *Energy Grants (Credits) Scheme Act 2003*.

*Fuel Tax Act* means the *Fuel Tax Act 2006*.

*off-road credit* means an off-road credit under Part 4 of the Energy Grants Act.

*off-road diesel fuel* has the meaning given by section 4 of the Energy Grants Act.

*on-road alternative fuel* has the meaning given by section 4 of the Energy Grants Act.

*on-road credit* means an on-road credit under Part 3 of the Energy Grants Act.

*on-road diesel fuel* has the meaning given by section 4 of the Energy Grants Act.

## **Part 2—Energy grants arising before 1 July 2006**

### **Division 1—Energy grants claimed under the Energy Grants Act**

#### ***Energy Grants (Credits) Scheme Act 2003***

##### **2 Section 40**

Before “This”, insert “(1)”.

##### **3 At the end of section 40**

Add:

- (2) You are not entitled to an on-road credit if you purchase or import on-road diesel fuel on or after 1 July 2006.

Note: Claims under the *Product Grants and Benefits Administration Act 2000* for energy grants for on-road diesel fuel must be made before 1 July 2007 (see subsection 15(2) of that Act). Alternatively, you can claim such grants under the *Fuel Tax Act 2006* (see item 9 of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*).

##### **4 Section 51**

Before “This”, insert “(1)”.

##### **5 At the end of section 51**

Add:

- (2) You are not entitled to an off-road credit if you purchase or import off-road diesel fuel on or after 1 July 2006.

Note: Claims under the *Product Grants and Benefits Administration Act 2000* for energy grants for off-road diesel fuel must be made before 1 July 2007 (see subsection 15(2) of that Act). Alternatively, you can claim such grants under the *Fuel Tax Act 2006* (see item 9 of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*).

#### ***Product Grants and Benefits Administration Act 2000***

##### **6 Before paragraph 15(2)(e)**

Insert:

- (db) if the claim is for payment of an energy grant in respect of an on-road credit for on-road diesel fuel, or an off-road credit for off-road diesel fuel—must be given to the Commissioner before the earlier of:
  - (i) 1 July 2007; and
  - (ii) the end of 3 years after the start of the claim period; and

## **7 After subsection 15(2)**

Insert:

- (2A) Despite the provisions of Part 3 and the *Energy Grants (Credits) Scheme Act 2003*, you are not entitled to an energy grant for:
  - (a) an on-road credit for on-road diesel fuel; or
  - (b) an off-road credit for off-road diesel fuel;if you have already given the Commissioner a return under the *Fuel Tax Act 2006* that includes a net fuel amount that takes into account a decreasing fuel tax adjustment that relates to the fuel.

## **8 At the end of section 15**

Add:

- (4) In this section:

***decreasing fuel tax adjustment*** has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

***net fuel amount*** has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

***off-road credit*** means an off-road credit under Part 4 of the *Energy Grants (Credits) Scheme Act 2003*.

***off-road diesel fuel*** has the meaning given by section 4 of the *Energy Grants (Credits) Scheme Act 2003*.

***on-road credit*** means an on-road credit under Part 3 of the *Energy Grants (Credits) Scheme Act 2003*.

***on-road diesel fuel*** has the meaning given by section 4 of the *Energy Grants (Credits) Scheme Act 2003*.

## **Division 2—Energy grants claimed under the Fuel Tax Act**

### **9 Grants claimed under the Fuel Tax Act**

- (1) For the purposes of the Fuel Tax Act, you have a *decreasing fuel tax adjustment* if:
  - (a) you purchased or imported on-road diesel fuel or off-road diesel fuel between 1 July 2003 and 30 June 2006 (inclusive); and
  - (b) you were entitled to an on-road credit or an off-road credit in respect of the fuel (disregarding section 41 or 52 of the Energy Grants Act, as the case requires); and
  - (c) you have not made a claim for payment of an energy grant in respect of the credit under section 15 of the *Product Grants and Benefits Administration Act 2000*.
- (2) The amount of the adjustment is the amount of the credit that you were entitled to under the Energy Grants Act.
- (3) The adjustment is attributable to the tax period or fuel tax return period that you choose that ends before 1 July 2009.
- (4) If you have a decreasing fuel tax adjustment under this item, then:
  - (a) Division 44 of the Fuel Tax Act (which is about fuel tax adjustments) applies as if a reference to a fuel tax credit were a reference to an on-road credit or an off-road credit, as the case requires; and
  - (b) sections 49 and 55 of the Energy Grants Act do not apply to the fuel.

## **Part 3—Fuel tax credits arising between 1 July 2006 and 30 June 2012**

### **Division 1—Credits arising between 1 July 2006 and 30 June 2008**

#### **10 Fuel acquired, manufactured or imported between 1 July 2006 and 30 June 2008**

- (1) This item applies if:
- (a) you acquire, manufacture or import taxable fuel between 1 July 2006 and 30 June 2008 (inclusive); and
  - (b) you acquire, manufacture or import the fuel for use in carrying on your enterprise, other than:
    - (i) for use in a vehicle travelling on a public road; or
    - (ii) for incidental use (within the meaning of section 8 of the Energy Grants Act) in relation to a vehicle covered by subparagraph (i); or
    - (iii) for use by you in generating electricity; or
    - (iv) for use other than as a fuel; or
    - (v) for use other than as a fuel in an internal combustion engine; or
    - (vi) for use as heating oil; and
  - (c) apart from this item, you would be entitled to a fuel tax credit under section 41-5 of the Fuel Tax Act.
- (2) You are not entitled to the credit under section 41-5 of the Fuel Tax Act unless you meet a condition in subitem (3) or (5).

*Entitlement to a credit if you would have been entitled to an on-road credit*

- (3) You are not entitled to the credit under section 41-5 of the Fuel Tax Act unless you would have been entitled to an on-road credit in respect of the fuel, assuming:
- (a) that you had disregarded subsection 40(2) and sections 41 and 49A of the Energy Grants Act; and

(b) that references in Part 3 of that Act to “purchase or import into Australia” were instead references to “acquire or manufacture in, or import into, Australia”.

(4) If subitem (3) applies to you, you are taken, for the purposes of section 43-10 of the Fuel Tax Act, to have acquired, manufactured or imported the fuel to use, in a vehicle, for travelling on a public road.

Note: The effect of this subitem is that the amount of the fuel tax credit is reduced under section 43-10 of the Fuel Tax Act by the amount of the road user charge.

*Entitlement to a credit if you would have been entitled to an off-road credit*

(5) You are not entitled to the credit under section 41-5 of the Fuel Tax Act unless you would have been entitled to an off-road credit in respect of the fuel, assuming:

(a) that you had disregarded subsection 51(2) and sections 52 and 55A of the Energy Grants Act; and

(b) that references in Part 4 of that Act to “purchase or import into Australia” were instead references to “acquire or manufacture in, or import into, Australia”.

*Fuel tax adjustment provisions*

(6) If this item applies, then sections 49 and 55 of the Energy Grants Act do not apply to the fuel.

Note: Division 44 of the *Fuel Tax Act 2006* deals with adjustments of fuel tax credits.

**Division 2—Credits arising between 1 July 2008 and 30 June 2012**

**11 Fuel acquired, manufactured or imported between 1 July 2008 and 30 June 2012**

(1) This item applies if:

(a) you acquire, manufacture or import taxable fuel between 1 July 2008 and 30 June 2012 (inclusive); and

(b) you acquire, manufacture or import the fuel for use in carrying on your enterprise, other than:

(i) for use in a vehicle travelling on a public road; or

- (ii) for incidental use (within the meaning of section 8 of the Energy Grants Act) in relation to a vehicle covered by subparagraph (i); or
  - (iii) for use by you in generating electricity; or
  - (iv) for use other than as a fuel; or
  - (v) for use other than as a fuel in an internal combustion engine; or
  - (vi) for use as heating oil; and
- (c) apart from this item, you would be entitled to a fuel tax credit under section 41-5 of the Fuel Tax Act.
- (2) You are not entitled to the credit under section 41-5 of the Fuel Tax Act unless you meet a condition in subitem (3), (5), (6) or (7).

*Entitlement to a full credit if you would have been entitled to an on-road or off-road credit*

- (3) You are not entitled to the credit under section 41-5 of the Fuel Tax Act unless you would have been entitled to an on-road credit in respect of the fuel, assuming:
- (a) that you had disregarded subsection 40(2) and sections 41 and 49A of the Energy Grants Act; and
  - (b) that references in Part 3 of that Act to “purchase or import into Australia” were instead references to “acquire or manufacture in, or import into, Australia”.
- (4) If subitem (3) applies to you, you are taken, for the purposes of section 43-10 of the Fuel Tax Act, to have acquired, manufactured or imported the fuel to use, in a vehicle, for travelling on a public road.

Note: The effect of this subitem is that the amount of the fuel tax credit is reduced under section 43-10 of the Fuel Tax Act by the amount of the road user charge.

- (5) You are entitled to the credit under section 41-5 of the Fuel Tax Act if you would have been entitled to an off-road credit in respect of the fuel, assuming:
- (a) that you had disregarded subsection 51(2) and sections 52 and 55A of the Energy Grants Act; and
  - (b) that references in Part 4 of that Act to:
    - (i) “purchase or import into Australia” were instead references to “acquire or manufacture in, or import into, Australia”; and

- (ii) “off-road diesel fuel” were instead references to the fuel.

*Entitlement to half a credit if you would not have been entitled to a credit*

- (6) You are entitled to the credit under section 41-5 of the Fuel Tax Act even if you do not meet a condition in subitem (3) or (5). However, subject to subitem (7), the amount of the credit is half of the amount it would have been under Division 43 of the Fuel Tax Act apart from this subitem.

Note: You are entitled to a full credit under subitem (7) if you acquire, manufacture or import on-road alternative fuel between 1 July 2011 and 30 June 2012.

*Entitlement to a full credit for alternative fuel acquired, manufactured or imported between 1 July 2011 and 30 June 2012*

- (7) You are entitled to the credit under section 41-5 of the Fuel Tax Act if:
- (a) the fuel you acquire, manufacture or import is on-road alternative fuel; and
  - (b) you acquire, manufacture or import the fuel between 1 July 2011 and 30 June 2012 (inclusive).

*Fuel tax adjustment provisions*

- (8) If this item applies, then sections 49 and 55 of the Energy Grants Act do not apply to the fuel.

Note: Division 44 of the *Fuel Tax Act 2006* deals with adjustments of fuel tax credits.

## **Part 4—Fuel tax credits for vehicles of 4.5 tonnes**

### **12 Fuel acquired, manufactured or imported on or after 1 July 2006**

- (1) This item applies if:
  - (a) you acquire, manufacture or import on-road diesel fuel on or after 1 July 2006; and
  - (b) you acquire, manufacture or import the fuel:
    - (i) for use in a vehicle with a gross vehicle mass of 4.5 tonnes for travelling on a public road; or
    - (ii) for incidental use (within the meaning of section 8 of the Energy Grants Act) in relation to such a vehicle; or
    - (iii) for use in such a vehicle in circumstances not covered by subparagraph (i) or (ii) in which you would have been entitled to an on-road credit under the Energy Grants Act, assuming that you had disregarded subsection 40(2) and sections 41 and 49A of the Energy Grants Act; and
  - (c) you acquired the vehicle before 1 July 2006.
- (2) You are entitled to a credit under section 41-5 of the Fuel Tax Act if you would have been entitled to a credit in respect of the fuel under that section, disregarding section 41-20 of that Act.
- (3) To avoid doubt, this item continues to apply despite the repeal of the Energy Grants Act on 1 July 2012.

## **Part 4A—Early payments of fuel tax credits arising between 1 July 2006 and 30 June 2008**

### **12A Fuel acquired, manufactured or imported between 1 July 2006 and 30 June 2008**

- (1) The Commissioner must make you an early payment of a fuel tax credit for taxable fuel if:
- (a) before 31 December 2006, you elect, in the approved form, to receive early payments under this item; and
  - (b) you acquire, manufacture or import the fuel between 1 July 2006 and 30 June 2008 (inclusive); and
  - (c) either of the following applies to you:
    - (i) you, another member of a GST group of which you are the representative member or another participant in a GST joint venture of which you are the joint venture operator was entitled to an energy grant under the Energy Grants Act;
    - (ii) you acquire, manufacture or import the fuel for a use described in subparagraph 10(1)(b)(iv), (v) or (vi) of this Schedule (certain uses other than as a fuel); and
  - (d) you are:
    - (i) entitled to the credit under section 41-5 or 41-10 of the Fuel Tax Act (as affected by this Act); or
    - (ii) taken to be entitled to the credit under Part 4 of this Schedule; and
  - (e) either:
    - (i) if you account on a cash basis and you acquire the fuel—the credit, or a part of the credit, is attributable to the current tax period, or a later tax period, applying to you; or
    - (ii) otherwise—the credit is attributable to the current tax period applying to you; and
  - (f) you have not previously received an early payment of the credit for the fuel; and
  - (g) you make a claim for the early payment in the approved form.

**TSchedule 3T** Fuel credits arising from before 1 July 2006 and until 1 July 2012T  
**TPart 4AT** Early payments of fuel tax credits arising between 1 July 2006 and 30 June 2008T

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Note 1: See Division 3A of Part IIB of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay you. Division 3 of Part IIB of that Act allows the Commissioner to apply the amount owing as a credit against tax debts that you owe to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in paying the amount.

- (2) The amount of the early payment is the amount of the credit to which you are entitled.
- (3) If you receive an early payment under this item, then for the purposes of the Fuel Tax Act:
  - (a) if you account on a cash basis, you acquire the fuel and, in a tax period, you provide part of the consideration for the fuel:
    - (i) you have an ***increasing fuel tax adjustment*** of the amount of the early payment, but only to the extent that you provide the consideration in that tax period; and
    - (ii) the adjustment is attributable to that tax period; or
  - (b) otherwise:
    - (i) you have an ***increasing fuel tax adjustment*** of the amount of the early payment; and
    - (ii) the adjustment is attributable to the earliest tax period to which the credit can be attributed.

Note: You will still claim the credit for the tax period, but the credit will be offset by the amount of the increasing fuel tax adjustment.

## **Part 5—Alternative fuel energy grants arising under the Energy Grants Act**

### **Division 1—Energy grants claimed under the Energy Grants Act**

#### ***Product Grants and Benefits Administration Act 2000***

#### **13 After paragraph 15(2)(d)**

Insert:

(da) if the claim is for payment of an energy grant in respect of an on-road credit for on-road alternative fuel—must be given to the Commissioner before the earlier of:

- (i) 1 July 2011; and
- (ii) the end of 3 years after the start of the claim period; and

#### **14 Paragraph 15(2)(e)**

Before “must be”, insert “otherwise—”.

#### **15 After subsection 15(2)**

Insert:

(2A) Despite the provisions of Part 3 and the *Energy Grants (Credits) Scheme Act 2003*, you are not entitled to an energy grant for an on-road credit for on-road alternative fuel if you have already given the Commissioner a return under the *Fuel Tax Act 2006* that includes a net fuel amount that takes into account a decreasing fuel tax adjustment that relates to the fuel.

#### **16 At the end of section 15**

Add:

(4) In this section:

***decreasing fuel tax adjustment*** has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

***net fuel amount*** has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

*on-road alternative fuel* has the meaning given by section 4 of the *Energy Grants (Credits) Scheme Act 2003*.

*on-road credit* means an on-road credit under Part 3 of the *Energy Grants (Credits) Scheme Act 2003*.

## **Division 2—Energy grants claimed under the Fuel Tax Act**

### **17 Grants claimed under the Fuel Tax Act**

- (1) For the purposes of the Fuel Tax Act, you have a *decreasing fuel tax adjustment* if:
  - (a) you purchased or imported on-road alternative fuel before 1 July 2010; and
  - (b) you were entitled to an on-road credit in respect of the fuel (disregarding section 41 of the Energy Grants Act); and
  - (c) you have not made a claim for payment of an energy grant in respect of the credit under section 15 of the *Product Grants and Benefits Administration Act 2000*.
- (2) The amount of the adjustment is the amount of the credit that you were entitled to under the Energy Grants Act.
- (3) The adjustment is attributable to the tax period or fuel tax return period that you choose that ends before 1 July 2013.
- (4) If you have a decreasing fuel tax adjustment under this item, then:
  - (a) Division 44 of the Fuel Tax Act (which is about fuel tax adjustments) applies as if a reference to a fuel tax credit were a reference to an on-road credit; and
  - (b) section 49 of the Energy Grants Act does not apply to the fuel.

## **Part 6—Amendments relating to the repeal of the Energy Grants Act on 1 July 2012**

### ***Product Grants and Benefits Administration Act 2000***

#### **18 Section 5 (definition of *energy grants scheme fuel*)**

Repeal the definition.

#### **19 Section 8 (table item 3)**

Repeal the item.

#### **20 Subsection 9(4)**

Repeal the subsection.

#### **21 Subsections 27(1A) and (1B)**

Repeal the subsections.

#### **22 Section 27A**

Repeal the section.

## **Part 7—Repeal of Energy Grants Act on 1 July 2012**

### ***Energy Grants (Credits) Scheme Act 2003***

#### **23 The whole of the Act**

Repeal the Act.

## **Part 8—Other amendments relating to the transitional period**

### **Division 1AA—Amendments commencing on 1 July 2006**

#### ***Fuel Tax Act 2006***

##### **23A Subsection 65-10(1) (note)**

Omit “item 9”, substitute “items 9 and 12A”.

##### **23B Section 110-5 (at the end of the definition of *increasing fuel tax adjustment*)**

Add “of this Act and item 12A of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*”.

### **Division 1—Amendments commencing on 1 July 2007**

#### ***Product Grants and Benefits Administration Act 2000***

##### **24 Section 5 (definition of *energy grants scheme fuel*)**

Omit “on-road diesel fuel, on-road alternative fuel, or off-road diesel fuel,”, substitute “on-road alternative fuel”.

##### **25 Paragraph 15(2)(db)**

Repeal the paragraph.

##### **26 Paragraph 15(2)(e)**

Omit “otherwise—”.

##### **27 Subsections 15(2A) and (4)**

Repeal the subsections.

##### **28 Paragraph 16A(1)(a)**

Omit “designated grant”, substitute “cleaner fuel grant”.

##### **29 Paragraph 16A(1)(a)**

Omit “grant fuel”, substitute “cleaner fuel”.

**30 Paragraph 16A(1)(b)**

Omit “designated grant”, substitute “cleaner fuel grant”.

**31 Subsection 16A(2)**

Omit “designated grant”, substitute “cleaner fuel grant”.

**32 Subsection 16A(2)**

Omit “grant fuel”, substitute “cleaner fuel”.

**33 Subsection 16A(3)**

Repeal the subsection.

**34 Subparagraph 27A(b)(i)**

Omit “energy grant scheme fuel”, substitute “energy grants scheme fuel”.

Note: The heading to section 27A is altered by omitting “energy grant scheme fuel” and substituting “energy grants scheme fuel”.

**Division 1A—Amendments commencing on 1 July 2008**

*Fuel Tax Act 2006*

**34A Subsection 65-10(1) (note)**

Omit “items 9 and 12A”, substitute “item 9”.

**34B Section 110-5 (definition of *increasing fuel tax adjustment*)**

Omit “of this Act and item 12A of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*”.

**Division 2—Amendments commencing on 1 July 2010**

*Fuel Tax Act 2006*

**35 Subsection 65-10(1) (note)**

Omit “item 9”, substitute “items 9 and 17”.

**36 Section 110-5 (paragraph (b) of the definition of *decreasing fuel tax adjustment*)**

Omit “item 9”, substitute “items 9 and 17”.

**Division 3—Amendments commencing on 1 July 2012**

***Fuel Tax Act 2006***

**37 Subsection 41-5(1) (note 1)**

Omit “of this Act and Part 3 of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*”.

**38 Section 41-20 (note)**

Repeal the note.

**39 Paragraph 43-5(3)(b)**

Repeal the paragraph.

**Division 4—Amendments commencing on 1 July 2013**

***Fuel Tax Act 2006***

**40 Subsection 65-10(1) (note)**

Repeal the note, substitute:

Note: For another attribution rule for fuel tax adjustments, see subsection 46-5(4) (GST instalment taxpayers).

**41 Section 110-5 (definition of *decreasing fuel tax adjustment*)**

Repeal the definition, substitute:

*decreasing fuel tax adjustment* has the meaning given by section 44-5 and subsection 45-5(2).

***Product Grants and Benefits Administration Act 2000***

**42 Paragraph 15(2)(da)**

Repeal the paragraph.

**43 Paragraph 15(2)(e)**

Omit “otherwise—”.

**44 Subsections 15(2A) and (4)**

Repeal the subsections.

## Schedule 4—Other amendments

### *Product Grants and Benefits Administration Act 2000*

#### **3 Subsection 34(3) (paragraph (a) of the definition of *scheme*)**

Omit “; and”, substitute “; or”.

#### **4 Subsection 53(2) (table items 5 and 6)**

Repeal the items.

## Schedule 5—Administrative provisions

### Part 1—Administrative provisions

#### *Administrative Decisions (Judicial Review) Act 1977*

##### **1 Paragraph (e) of Schedule 1**

After “*Fringe Benefits Tax Assessment Act 1986*”, insert:  
*Fuel Tax Act 2006*

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

##### **2 At the end of subsection 48-40(1)**

Add:

Note: However, each member is jointly and severally liable to pay the GST that is payable by the representative member (see section 444-90 in Schedule 1 to the *Taxation Administration Act 1953*).

##### **3 At the end of subsection 51-30(1)**

Add:

Note: However, each participant is jointly and severally liable to pay the GST that is payable by the joint venture operator (see section 444-80 in Schedule 1 to the *Taxation Administration Act 1953*).

#### *Income Tax Assessment Act 1936*

##### **4 At the end of section 202**

Add:

; and (p) to facilitate the administration of the fuel tax law (within the meaning of section 110-5 of the *Fuel Tax Act 2006*).

#### *Income Tax Assessment Act 1997*

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

Insert:

*Defence Minister* means the Minister administering the *Defence Act 1903*.

**6 Subsection 995-1(1)**

Insert:

*fuel tax credit* has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

**7 Subsection 995-1(1)**

Insert:

*fuel tax law* has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

**8 Subsection 995-1(1)**

Insert:

*fuel tax return period* has the meaning given by section 61-20 of the *Fuel Tax Act 2006*.

**9 Subsection 995-1(1)**

Insert:

*GST-free* has the meaning given by section 195-1 of the \*GST Act.

**10 Subsection 995-1(1)**

Insert:

*incapacitated entity* has the meaning given by section 195-1 of the \*GST Act.

**11 Subsection 995-1(1)**

Insert:

*indirect tax* means any of the following:

- (a) \*GST;
- (b) \*wine tax;
- (c) \*luxury car tax.

**12 Subsection 995-1(1)**

Insert:

*indirect tax document* means a document that:

- (a) was obtained by you in the course of:
  - (i) your appointment or employment by the Commonwealth; or
  - (ii) the performance of services by you for the Commonwealth; or
  - (iii) the exercise of powers, or the performance of functions, by you under a delegation by the Commissioner; and
- (b) was made or given under, or for the purposes of, an \*indirect tax law.

Example: A GST return is a document made for the purposes of an indirect tax law.

### 13 Subsection 995-1(1)

Insert:

*indirect tax information* means information that:

- (a) was obtained by you in the course of:
  - (i) your appointment or employment by the Commonwealth; or
  - (ii) the performance of services by you for the Commonwealth; or
  - (iii) the exercise of powers, or the performance of functions, by you under a delegation by the Commissioner; and
- (b) was disclosed or obtained under an \*indirect tax law; and
- (c) relates to the affairs of an entity other than you.

### 14 Subsection 995-1(1)

Insert:

*indirect tax law* means any of the following:

- (a) the \*GST law;
- (b) the \*wine tax law;
- (c) the \*luxury car tax law;
- (d) the \*fuel tax law.

### 15 Subsection 995-1(1)

Insert:

*indirect tax ruling* means any ruling or advice given or published by the Commissioner in relation to an \*indirect tax law (other than

the \*fuel tax law), including one that has been previously altered, but not including:

- (a) one given orally; or
- (b) an assessment.

**16 Subsection 995-1(1)**

Insert:

*joint venture operator* for a \*GST joint venture has the meaning given by section 195-1 of the \*GST Act.

**17 Subsection 995-1(1)**

Insert:

*luxury car tax* has the meaning given by section 27-1 of the \*Luxury Car Tax Act.

**18 Subsection 995-1(1)**

Insert:

*Luxury Car Tax Act* means the *A New Tax System (Luxury Car Tax) Act 1999*.

**19 Subsection 995-1(1)**

Insert:

*luxury car tax law* has the meaning given by section 27-1 of the \*Luxury Car Tax Act.

**20 Subsection 995-1(1)**

Insert:

*net fuel amount* has the meaning given by section 60-5 of the *Fuel Tax Act 2006*.

**21 Subsection 995-1(1)**

Insert:

*private indirect tax ruling* means an \*indirect tax ruling given to a particular entity.

**22 Subsection 995-1(1)**

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Insert:

*public indirect tax ruling* means an \*indirect tax ruling other than a \*private indirect tax ruling.

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

Insert:

*representative* of an \*incapacitated entity has the meaning given by section 195-1 of the \*GST Act.

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

Insert:

*representative member* for a \*GST group has the meaning given by section 195-1 of the \*GST Act.

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

Insert:

*reviewable fuel tax decision* has the meaning given by subsection 112-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

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

Insert:

*reviewable GST decision* has the meaning given by subsection 110-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

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

Insert:

*reviewable GST transitional decision* has the meaning given by subsection 110-50(3) in Schedule 1 to the *Taxation Administration Act 1953*.

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

Insert:

*reviewable indirect tax decision* has the meaning given by subsection 105-40(2) in Schedule 1 to the *Taxation Administration Act 1953*.

**29 Subsection 995-1(1)**

Insert:

*reviewable wine tax decision* has the meaning given by subsection 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

**30 Subsection 995-1(1)**

Insert:

*taxable fuel* has the meaning given by section 110-5 of the *Fuel Tax Act 2006*.

**31 Subsection 995-1(1)**

Insert:

*taxable importation of a luxury car* has the meaning given by section 27-1 of the \*Luxury Car Tax Act.

**32 Subsection 995-1(1)**

Insert:

*taxable supply of a luxury car* has the meaning given by section 27-1 of the \*Luxury Car Tax Act.

**33 Subsection 995-1(1)**

Insert:

*visiting force* has the meaning given by section 5 of the *Defence (Visiting Forces) Act 1963*.

**34 Subsection 995-1(1)**

Insert:

*wine tax* has the meaning given by section 33-1 of the \*Wine Tax Act.

**35 Subsection 995-1(1)**

Insert:

*wine taxable dealing* means a taxable dealing (within the meaning of section 33-1 of the \*Wine Tax Act).

**36 Subsection 995-1(1)**

Insert:

*Wine Tax Act* means the *A New Tax System (Wine Equalisation Tax) Act 1999*.

**37 Subsection 995-1(1)**

Insert:

*wine tax credit* has the meaning given by section 33-1 of the \*Wine Tax Act.

**38 Subsection 995-1(1)**

Insert:

*wine tax law* has the meaning given by section 33-1 of the \*Wine Tax Act.

***Taxation Administration Act 1953***

**39 Part VI**

Repeal the Part.

**40 Before Part 2-1 in Schedule 1**

Insert:

**Chapter 2—Collection, recovery and  
administration of income tax**

**41 After Part 2-10 in Schedule 1**

Insert:

## **Chapter 3—Collection, recovery and administration of other taxes**

### **Part 3-10—Indirect taxes**

#### **Division 105—General rules for indirect taxes**

##### **Table of Subdivisions**

	Guide to Division 105
105-A	Assessments
105-B	Review of indirect tax decisions
105-C	Limits on credits, refunds and recovering amounts
105-D	General interest charge and penalties
105-E	Evidence
105-F	Indirect tax refund schemes
105-G	Other administrative provisions

##### **Guide to Division 105**

###### **105-1 What this Division is about**

This Division contains rules relating to the administration of the indirect tax laws.

Note: Administration rules relevant to particular indirect tax laws are in Divisions 110, 111 and 112.

The rules in this Division deal with the following:

- (a) how assessments are made or amended and their effect;
- (b) review of assessments;
- (c) limits on credits, refunds and recovering amounts;
- (d) the effect of relying on a ruling;

- (e) the effect of not passing on refunds of overpaid amounts;
- (f) charges and penalties;
- (g) the evidentiary effect of official indirect tax documents;
- (h) refunding indirect tax because of Australia's international obligations;
- (i) your address for service of documents and requirements for notifications.

### Subdivision 105-A—Assessments

#### Table of sections

105-5	Commissioner may make assessment of indirect tax
105-10	Request for assessment
105-15	Indirect tax liabilities do not depend on assessment
105-20	Commissioner must give notice of the assessment
105-25	Amendment of assessment
105-30	Later assessment prevails in case of inconsistency

#### 105-5 Commissioner may make assessment of indirect tax

- (1) The Commissioner may at any time make an assessment of:
  - (a) your \*net amount, or any part of your net amount, for a \*tax period; or
  - (b) your \*net fuel amount, or any part of your net fuel amount, for a tax period or \*fuel tax return period.
- (2) The Commissioner may at any time make an assessment of the amount of \*indirect tax payable by you on an importation of goods.
- (3) The Commissioner may make an assessment under this section even if he or she has already made an assessment for the \*tax period, \*fuel tax return period or importation concerned.

Note: An assessment made under this section is a reviewable indirect tax decision: see Subdivision 105-B.

### **105-10 Request for assessment**

- (1) You may request the Commissioner in the \*approved form to make an assessment of:
  - (a) your \*net amount for a \*tax period; or
  - (b) your \*net fuel amount for a tax period or \*fuel tax return period; or
  - (c) an amount of \*indirect tax payable by you on an importation of goods.
- (2) The Commissioner must comply with the request if it is made within:
  - (a) 4 years after:
    - (i) the end of the \*tax period or \*fuel tax return period; or
    - (ii) the importation; or
  - (b) such further period as the Commissioner allows.

### **105-15 Indirect tax liabilities do not depend on assessment**

- (1) Your liability to pay \*indirect tax or a \*net fuel amount, and the time by which a \*net amount, a net fuel amount or an amount of indirect tax must be paid, do not depend on, and are not in any way affected by, the making of an assessment under this Subdivision.
- (2) The Commissioner's obligation to pay:
  - (a) a \*net amount under section 35-5 of the \*GST Act; or
  - (b) a \*net fuel amount under section 61-5 of the *Fuel Tax Act 2006*;

and the time by which it must be paid, do not depend on, and are not in any way affected by, the making of an assessment under this Subdivision.

Note: However, a notice of assessment can be used as evidence of liability: see section 105-100.

### **105-20 Commissioner must give notice of the assessment**

- (1) The Commissioner must give you notice of an assessment as soon as practicable after the assessment is made. However, failing to do so does not affect the validity of the assessment.

- (2) The Commissioner may give you the notice electronically if you are required to lodge or have lodged your \*GST returns electronically.

### **105-25 Amendment of assessment**

The Commissioner may amend an assessment at any time. An amended assessment is an assessment for all purposes of any \*indirect tax law.

Note 1: However, there is a time limit on the recovery of overpaid or underpaid net amounts, net fuel amounts and indirect tax: see sections 105-50 and 105-55.

Note 2: An amendment under this section is a reviewable indirect tax decision: see Subdivision 105-B.

### **105-30 Later assessment prevails in case of inconsistency**

If there is an inconsistency between assessments that relate to the same \*tax period, \*fuel tax return period or importation of goods, the later assessment prevails to the extent of the inconsistency.

## **Subdivision 105-B—Review of indirect tax decisions**

### **Table of sections**

105-40 Reviewable indirect tax decisions

### **105-40 Reviewable indirect tax decisions**

- (1) You may object, in the manner set out in Part IVC, against a decision you are dissatisfied with that is a \*reviewable indirect tax decision relating to you.
- (2) A decision under section 105-5 or 105-25 involving an assessment of a \*net amount, a \*net fuel amount or an amount of \*indirect tax is a *reviewable indirect tax decision*.

## **Subdivision 105-C—Limits on credits, refunds and recovering amounts**

### **Table of sections**

- 105-50 Time limit on recovering unpaid net amounts, net fuel amounts and indirect taxes
- 105-55 Time limit on refunds and credits
- 105-60 Reliance on Commissioner's interpretation of an indirect tax law (other than a fuel tax law)
- 105-65 Restriction on refunds

**105-50 Time limit on recovering unpaid net amounts, net fuel amounts and indirect taxes**

Any unpaid \*net amount, \*net fuel amount or amount of \*indirect tax (together with any relevant \*general interest charge under section 105-80) ceases to be payable 4 years after it became payable by you unless:

- (a) within those 4 years the Commissioner has required payment of the amount by giving a notice to you; or
- (b) the Commissioner is satisfied that the payment of the amount was avoided by fraud or evaded.

**105-55 Time limit on refunds and credits**

- (1) You are not entitled to a refund or credit to which this subsection applies in respect of a \*tax period or importation unless:

- (a) within 4 years after:

- (i) the end of the tax period; or
- (ii) the importation;

as the case requires, you notify the Commissioner (in a \*GST return or otherwise) that you are entitled to the refund or credit; or

- (b) within that period the Commissioner notifies you (in a notice of assessment or otherwise) that you are entitled to the refund or credit; or
- (c) in the case of a credit—the credit is taken into account in working out a \*net amount or \*net fuel amount that the Commissioner may recover from you only because of paragraph 105-50(b).

- (2) Subsection (1) applies to:

- (a) a refund under section 35-5 of the \*GST Act or section 61-5 of the *Fuel Tax Act 2006* in respect of a particular \*tax period; or

- (b) an \*input tax credit or \*fuel tax credit that is attributable to a particular tax period; or
- (c) a \*wine tax credit the amount of which could have been included in a reduction of your \*net amount for a tax period under section 21-15 of the \*Wine Tax Act; or
- (d) a refund of an amount of \*indirect tax relating to an importation.

*Fuel tax—non-business taxpayers*

- (3) If you are neither \*registered for GST nor \*required to be registered for GST, you are not entitled to a refund or \*fuel tax credit to which this subsection applies in respect of a \*fuel tax return period, acquisition, manufacture or importation unless:
  - (a) within 4 years after:
    - (i) the end of the fuel tax return period; or
    - (ii) the acquisition, manufacture or importation;(as the case requires) you notify the Commissioner that you are entitled to the refund or credit; or
  - (b) within that period the Commissioner notifies you (in a notice of assessment or otherwise) that you are entitled to the refund or credit; or
  - (c) in the case of a fuel tax credit—the credit is taken into account in working out a \*net fuel amount that the Commissioner may recover from you only because of paragraph 105-50(b).
- (4) Subsection (3) applies to:
  - (a) a refund, under section 61-5 of the *Fuel Tax Act 2006*, of a \*net fuel amount attributable to a \*fuel tax return period; or
  - (b) a \*fuel tax credit for \*taxable fuel that you acquire, manufacture or import.
- (5) To avoid doubt, if, under subsection (3), you are not entitled to a \*fuel tax credit, then you are not entitled to a refund under section 61-5 of the *Fuel Tax Act 2006* in relation to the credit.

**105-60 Reliance on Commissioner's interpretation of an indirect tax law (other than a fuel tax law)**

- (1) This section applies to you if:
-

- (a) the Commissioner alters a previous \*indirect tax ruling that applied to you; and
- (b) relying on the previous ruling, you have underpaid a \*net amount or an amount of \*indirect tax, or the Commissioner has overpaid an amount under section 35-5 of the \*GST Act, in respect of one or more:
  - (i) \*taxable supplies or \*taxable importations; or
  - (ii) \*wine taxable dealings; or
  - (iii) \*taxable supplies of luxury cars or \*taxable importations of luxury cars; or
  - (iv) \*creditable acquisitions or \*creditable importations; that happened before the alteration.

Note: For reliance on the Commissioner's interpretation of a fuel tax law, see Division 357.

- (2) Unless the Commissioner is satisfied that you contributed to the giving, or continuing in force, of the earlier ruling by a misstatement or by suppressing a material fact:
  - (a) the underpaid \*net amount or \*indirect tax ceases to be payable; or
  - (b) the overpaid amount under section 35-5 of the \*GST Act is taken to have been payable in full;from when the previous ruling was made.
- (3) In deciding whether an \*indirect tax ruling applies to you, or whether a ruling has been altered:
  - (a) a \*private indirect tax ruling applies only to the entity to whom it was given; and
  - (b) so far as a private indirect tax ruling conflicts with an earlier \*public indirect tax ruling, the private indirect tax ruling prevails; and
  - (c) so far as a public indirect tax ruling conflicts with an earlier private indirect tax ruling, the public indirect tax ruling prevails; and
  - (d) an alteration that a later indirect tax ruling makes to an earlier indirect tax ruling is disregarded so far as the alteration results from a change in the law that came into operation after the earlier indirect tax ruling was given.

## 105-65 Restriction on refunds

- (1) The Commissioner need not give you a refund to which this section applies, or apply an amount under Division 3 or 3A of Part IIB to which this section applies, if:
- (a) you overpaid the amount, or the amount was not refunded to you, because a \*supply was treated as a \*taxable supply to any extent; and
  - (b) the supply is not a taxable supply to that extent (for example, because it is \*GST-free); and
  - (c) one of the following applies:
    - (i) the Commissioner is not satisfied that you have reimbursed a corresponding amount to the recipient of the supply;
    - (ii) the recipient is \*registered or \*required to be registered.

Note: Divisions 3 and 3A of Part IIB deal with payments, credits and RBA surpluses.

- (2) This section applies to:
- (a) so much of any \*net amount or amount of \*indirect tax as you have overpaid; or
  - (b) so much of any net amount that is payable to you under section 35-5 of the \*GST Act as the Commissioner has not paid to you or applied under Division 3 of Part IIB of this Act.

Note: Division 3 of Part IIB deals with payments, credits and RBA surpluses.

## Subdivision 105-D—General interest charge and penalties

### Table of sections

105-80	General interest charge
105-85	Amending Acts cannot impose penalties or general interest charge earlier than 28 days after Royal Assent

### 105-80 General interest charge

- (1) If any of an amount (the *liability*) to which this section applies remains unpaid after the time by which it is due to be paid, you are liable to pay the \*general interest charge on the unpaid amount of the liability for each day in the period that:

- (a) started at the beginning of the day by which the liability was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
  - (i) the liability;
  - (ii) general interest charge on any of the liability.

Note: The general interest charge is worked out under Division 1 of Part IIA.

- (2) This section applies to either of the following amounts that you are liable to pay:
  - (a) a \*net fuel amount;
  - (b) an amount of \*indirect tax.

### **105-85 Amending Acts cannot impose penalties or general interest charge earlier than 28 days after Royal Assent**

- (1) An Act that amends an \*indirect tax law does not have the effect of making you liable to:
  - (a) a penalty for an offence against an indirect tax law; or
  - (b) \*general interest charge under section 105-80;for any act or omission that happens before the 28th day (the *postponed day*) after the day on which the amending Act receives the Royal Assent.
- (2) If the amending Act would (apart from this section) have the effect of making you liable to such a penalty or charge because you contravened a requirement to do something:
  - (a) within a specified period ending before the postponed day; or
  - (b) before a specified time happening before the postponed day;the requirement has effect instead by reference to a period ending at the start of the postponed day, or by reference to the start of the postponed day, as the case requires.
- (3) This section does not relieve you from liability to such a penalty or charge to the extent to which the liability would have existed if the amending Act had not been enacted.

### **Subdivision 105-E—Evidence**

#### **Table of sections**

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- 105-100 Production of assessment or declaration is conclusive evidence
- 105-105 Certificate of amount payable is prima facie evidence
- 105-110 Signed copies are evidence

**105-100 Production of assessment or declaration is conclusive evidence**

The production of:

- (a) a notice of assessment under this Part; or
- (b) a declaration under:
  - (i) section 165-40 or subsection 165-45(3) of the \*GST Act; or
  - (ii) section 75-40 or subsection 75-45(3) of the *Fuel Tax Act 2006*;

is conclusive evidence:

- (c) that the assessment or declaration was properly made; and
- (d) except in proceedings under Part IVC of this Act on a review or appeal relating to the assessment or declaration—that the amounts and particulars in the assessment or declaration are correct.

**105-105 Certificate of amount payable is prima facie evidence**

The presentation of a certificate signed by the Commissioner or a Deputy Commissioner certifying that, from the time specified in the certificate, an amount was payable under an \*indirect tax law (whether to or by the Commissioner) is prima facie evidence:

- (a) that the amount is payable from that time; and
- (b) that the particulars stated in the certificate are correct.

**105-110 Signed copies are evidence**

- (1) The production of a document signed by the Commissioner or a Deputy Commissioner that appears to be a copy of, or extract from, any document made or given by or to an entity for the purposes of an \*indirect tax law is evidence of the matters set out in the document to the same extent as the original document would have been evidence of those matters.
- (2) To avoid doubt, subsection (1) applies to a copy or extract of a document that was given by or to the Commissioner on a data

processing device or by way of electronic transmission, unless it is shown that the document was not authorised.

## **Subdivision 105-F—Indirect tax refund schemes**

### **Table of sections**

105-120	Refund scheme—defence related international obligations
105-125	Refund scheme—international obligations

### **105-120 Refund scheme—defence related international obligations**

- (1) The Commissioner must, on behalf of the Commonwealth, pay you an amount equal to the amount of \*indirect tax borne by you in respect of an acquisition (within the meaning of the \*GST Act) if:
  - (a) you are in a class of entities determined by the \*Defence Minister; and
  - (b) the acquisition is covered by a determination of the Defence Minister; and
  - (c) the acquisition is made:
    - (i) by or on behalf of a \*visiting force that is; or
    - (ii) by a member (within the meaning of the *Defence (Visiting Forces) Act 1963*) of the visiting force who is; or
    - (iii) by any other entity that is; covered by a determination of the Defence Minister; and
  - (d) at the time of the acquisition, it was intended for:
    - (i) the official use of the visiting force; or
    - (ii) the use of a member (within the meaning of the *Defence (Visiting Forces) Act 1963*) of the visiting force; or
    - (iii) any other use; and that use is covered by a determination of the Defence Minister; and
  - (e) you claim the amount in the \*approved form.
- (2) The amount is payable:
  - (a) in accordance with the conditions and limitations; and
  - (b) within the period and manner; determined by the \*Defence Minister.

- (3) The \*Defence Minister may only determine an entity under subparagraph (1)(c)(iii) or a use under subparagraph (1)(d)(iii) if the Commonwealth is under an international obligation to grant \*indirect tax concessions in relation to the kind of entity or the kind of use.
- (4) A determination under this section is a legislative instrument.

### **105-125 Refund scheme—international obligations**

- (1) The Commissioner must, on behalf of the Commonwealth, pay you, or an entity in a class of entities determined by the Commissioner, an amount equal to the amount of \*indirect tax borne by you in respect of an acquisition (within the meaning of the \*GST Act) made by you if:
  - (a) you are a kind of entity specified in the regulations; and
  - (b) the acquisition is of a kind specified in the regulations; and
  - (c) you or the entity claims the amount in the \*approved form.
- (2) The amount is payable:
  - (a) in accordance with the conditions and limitations; and
  - (b) within the period and manner;set out in the regulations.
- (3) The regulations may only specify a kind of entity for the purposes of paragraph (1)(a) or a kind of acquisition for the purposes of paragraph (1)(b) if the Commonwealth is under an international obligation to grant \*indirect tax concessions in relation to the kind of entity or the kind of acquisition.
- (4) A determination by the Commissioner under subsection (1) is not a legislative instrument.

### **Subdivision 105-G—Other administrative provisions**

#### **Table of sections**

105-140	Address for service
105-145	Commissioner must give things in writing

#### **105-140 Address for service**

- (1) Your address for service for the purposes of an \*indirect tax law is:
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- (a) if you are registered in the \*Australian Business Register—the address shown in the Register as your address for service; or
- (b) if you are not registered in that Register—the address last notified by you in a document under an indirect tax law; or
- (c) if you have not notified an address in a document under an indirect tax law—your Australian place of business or residence last known to the Commissioner; or
- (d) any other address that the Commissioner reasonably believes to be your address for service.

Note: If you are a company, see also sections 444-10 and 444-15.

(2) If:

- (a) under an \*indirect tax law, you are:
  - (i) liable to pay an amount of \*indirect tax; or
  - (ii) entitled to a credit; and
- (b) you change your address for service;

you must notify the Commissioner in writing of the new address within 28 days after the change.

(3) If:

- (a) a notice or other document must be served on you:
  - (i) under an \*indirect tax law; or
  - (ii) in proceedings for recovery of an amount under an indirect tax law; and
- (b) you have notified the Commissioner of an Australian address for service;

the Commissioner may serve the notice or document by post to that address.

(4) However, if:

- (a) you must lodge or have lodged \*GST returns electronically; and
- (b) you notify the Commissioner of an address for effecting service by way of electronic transmission;

the Commissioner may serve a notice of assessment, or notice of penalty or \*general interest charge under an \*indirect tax law, on you by electronic transmission to that address.

### **105-145 Commissioner must give things in writing**

- (1) Any notice, approval, direction, authority or declaration that the Commissioner may give, or must give, to you under an \*indirect tax law must be in writing.
- (2) However, this does not prevent the Commissioner giving any of those things to you by electronic transmission if a provision of an \*indirect tax law allows the Commissioner to do so.

## **Division 110—Goods and services tax**

### **Table of Subdivisions**

	Guide to Division 110
110-F	Review of GST decisions

### **Guide to Division 110**

#### **110-1 What this Division is about**

This Division gives you the right to object against reviewable GST decisions that relate to you. Section 110-50 sets out the reviewable GST decisions.

#### **Subdivision 110-F—Review of GST decisions**

##### **Table of sections**

110-50	Reviewable GST decisions
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#### **110-50 Reviewable GST decisions**

- (1) You may object, in the manner set out in Part IVC, against a decision you are dissatisfied with that is:
  - (a) a \*reviewable GST decision relating to you; or
  - (b) a \*reviewable GST transitional decision relating to you.

Note: You may object to a decision relating to you under section 105-5 or 105-25 involving an assessment of a net amount or indirect tax: see Subdivision 105-B.

(2) Each of the following decisions is a *reviewable GST decision*:

<b>Reviewable GST decisions under GST Act</b>		
<b>Item</b>	<b>Decision</b>	<b>Provision of GST Act under which decision is made</b>
1	refusing to register you	subsection 25-5(1)
2	registering you	subsection 25-5(2)
3	deciding the date of effect of your *registration	section 25-10
4	refusing to cancel your *registration	subsection 25-55(1)
5	cancelling your *registration	subsection 25-55(2)
6	refusing to cancel your *registration	section 25-57
7	deciding the date on which the cancellation of your *registration takes effect	section 25-60
8	determining that the *tax periods that apply to you are each individual month	subsection 27-15(1)
9	deciding the date of effect of a determination	subsection 27-15(2)
10	refusing to revoke your election under section 27-10	subsection 27-22(1)
11	deciding the date of effect of a revocation	subsection 27-22(3)
12	refusing to revoke a determination under section 27-15	subsection 27-25(1)
13	deciding the date of effect of a revocation	subsection 27-25(2)
14	determining that a specified period is a *tax period that applies to you	section 27-30
15	refusing a request for a determination	section 27-37
16	revoking a determination under section 27-37	subsection 27-38(1)
17	deciding the date of a revocation	subsection 27-38(2)
18	refusing to permit you to account on a cash basis	subsection 29-45(1)
19	deciding the date of effect of your permission to account on a cash basis	subsection 29-45(2)
20	revoking your permission to account on a cash basis	subsection 29-50(3)
21	deciding the date of effect of the revocation of your permission to account on a cash basis	subsection 29-50(4)

<b>Reviewable GST decisions under GST Act</b>		
<b>Item</b>	<b>Decision</b>	<b>Provision of GST Act under which decision is made</b>
22	refusing an application for a decision that an event is a *fund-raising event	paragraph 40-165(1)(c)
23	refusing an application for approval	section 48-5
24	refusing an application for approval or revocation	subsection 48-70(1)
25	revoking an approval under Division 48	subsection 48-70(2)
26	refusing an application for revocation	subsection 48-75(1)
27	revoking the approval of a *GST group	subsection 48-75(2)
28	deciding the date of effect of any approval, or any revocation of an approval, under Division 48	section 48-85
29	refusing an application for approval	section 49-5
30	refusing an application for approval or revocation	subsection 49-70(1)
31	revoking an approval under Division 49	subsection 49-70(2)
32	refusing an application for revocation	subsection 49-75(1)
33	revoking the approval of a *GST religious group	subsection 49-75(2)
34	deciding the date of effect of any approval, or any revocation of an approval, under Division 49	section 49-85
35	refusing an application for approval	section 51-5
36	disallowing an election to consolidate *GST returns relating to *GST joint ventures	subsection 51-52(5)
37	refusing an application for approval or revocation	subsection 51-70(1)
38	revoking an approval under Division 51	subsection 51-70(2)
39	refusing an application for revocation	subsection 51-75(1)
40	revoking the approval of a *GST joint venture	subsection 51-75(2)
41	deciding the date of effect of any approval, or any revocation of an approval, under Division 51	section 51-85
42	refusing an application for *registration	section 54-5
43	deciding the date of effect of *registration as a *GST branch	section 54-10
44	refusing to cancel the *registration of a *GST branch	subsection 54-75(1)
45	cancelling the *registration of a *GST branch	subsection 54-75(2)

<b>Reviewable GST decisions under GST Act</b>		
<b>Item</b>	<b>Decision</b>	<b>Provision of GST Act under which decision is made</b>
46	deciding the date of effect of the cancellation of the *registration of a *GST branch	section 54-80
47	cancelling the *registration of an Australian resident agent	subsection 57-25(1)
48	determining that the *tax periods that apply to a resident agent are each individual month	subsection 57-35(1)
49	deciding the date of effect of a determination	subsection 57-35(2)
50	cancelling the *registration of a *non-profit sub-entity	subsection 63-35(1)
51	refusing to allow, or allowing, a further period within which to make an agreement that the margin scheme is to apply	paragraph 75-5(1A)(b)
52	refusing a request to allow an annual apportionment election to take effect from the start of another *tax period	paragraph 131-10(2)(b)
53	disallowing an annual apportionment election	subsection 131-20(3)
54	cancelling the *registration of a *representative of an *incapacitated entity	subsection 147-10(1)
55	refusing a request to allow an annual *tax period election to take effect from the start of another tax period	paragraph 151-10(2)(b)
56	refusing a request to be allowed to make an annual *tax period election on a specified day	subsection 151-20(3)
57	disallowing an annual *tax period election	subsection 151-25(3)
58	refusing a request to allow an election to pay *GST by instalments to take effect from the start of another *tax period	paragraph 162-15(2)(b)
59	refusing a request to be allowed to make an election on a specified day	subsection 162-25(3)
60	disallowing an election to pay *GST by instalments	subsection 162-30(3)
61	making a declaration to negate a GST benefit	section 165-40
62	making a declaration to negate or reduce a GST disadvantage	subsection 165-45(3)

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**Reviewable GST decisions under GST Act**

<b>Item</b>	<b>Decision</b>	<b>Provision of GST Act under which decision is made</b>
63	deciding whether to grant a request for a declaration to negate or reduce a GST disadvantage	subsection 165-45(5)

- (3) A decision under section 24B of the *A New Tax System (Goods and Services Tax Transition) Act 1999* refusing an application for a determination under that section, or making a determination under that section, is a **reviewable GST transitional decision**.

## **Division 111—Wine tax and luxury car tax**

### **Table of Subdivisions**

Guide to Division 111

111-C Review of wine tax decisions

111-D Effect on contracts from amendments to laws

### **Guide to Division 111**

#### **111-1 What this Division is about**

This Division gives you the right to object against decisions that relate to you disallowing the whole or part of a claim for a wine tax credit.

It also explains how contracts to supply wine or a luxury car are affected if a wine tax law or luxury car tax law changes.

### **Subdivision 111-C—Review of wine tax decisions**

#### **Table of sections**

111-50 Reviewable wine tax decisions

## 111-50 Reviewable wine tax decisions

- (1) You may object, in the manner set out in Part IVC, against a decision you are dissatisfied with that is a \*reviewable wine tax decision relating to you.

Note: You may object to a decision relating to you under section 105-5 or 105-25 involving an assessment of a net amount or indirect tax: see Subdivision 105-B.

- (2) A decision under section 17-45 of the \*Wine Tax Act disallowing the whole or part of a claim for a \*wine tax credit is a *reviewable wine tax decision*.

## Subdivision 111-D—Effect on contracts from amendments to laws

### Table of sections

111-60 Alteration of contracts if cost of complying with agreement is affected by later alteration to wine tax or luxury car tax laws

## 111-60 Alteration of contracts if cost of complying with agreement is affected by later alteration to wine tax or luxury car tax laws

- (1) If, after a contract involving a \*supply or a \*wine taxable dealing has been made, an alteration to the \*wine tax law or the \*luxury car tax law happens and the alteration directly causes an increase or decrease in the cost to a party to the agreement of complying with the agreement, then the contract is altered as follows:
  - (a) if the cost is increased—by allowing the party to add the increase to the contract price;
  - (b) if the cost is decreased—by allowing the other party to deduct the decrease from the contract price.
- (2) The contract is not altered if:
  - (a) the contract has express written provision to the contrary; or
  - (b) it is clear from the terms of the contract that the alteration of the \*wine tax law or the \*luxury car tax law has been taken into account in the agreed contract price.

## Division 112—Fuel tax

### Table of Subdivisions

Guide to Division 112  
112-E Review of fuel tax decisions

### Guide to Division 112

#### 112-1 What this Division is about

This Division gives you the right to object against reviewable fuel tax decisions that relate to you. Section 112-50 sets out the reviewable fuel tax decisions.

### Subdivision 112-E—Review of fuel tax decisions

#### Table of sections

112-50 Reviewable fuel tax decisions

#### 112-50 Reviewable fuel tax decisions

- (1) You may object, in the manner set out in Part IVC, against a decision you are dissatisfied with that is a \*reviewable fuel tax decision relating to you.

Note: You may object to a decision relating to you under section 105-5 or 105-25 involving an assessment of a net fuel amount: see Subdivision 105-B.

- (2) Each of the following decisions is a *reviewable fuel tax decision*:

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Reviewable fuel tax decisions		
Item	Decision	Provision of the <i>Fuel Tax Act 2006</i> under which decision is made
1	making a declaration to negate a *fuel tax benefit	section 75-40
2	making a declaration to negate or reduce a *fuel tax disadvantage	subsection 75-45(3)

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**Reviewable fuel tax decisions**

<b>Item</b>	<b>Decision</b>	<b>Provision of the <i>Fuel Tax Act 2006</i> under which decision is made</b>
3	deciding whether or not to grant a request to negate or reduce a *fuel tax disadvantage	subsection 75-45(5)

**42 Before Part 4-15 in Schedule 1**

Insert:

**Chapter 4—Generic collection and recovery rules**

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

Insert:

36	net fuel amount	61-10	<i>Fuel Tax Act 2006</i>
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**44 Before Part 5-1 in Schedule 1**

Insert:

**Chapter 5—Administration**

**45 Before Division 353 in Schedule 1**

Insert:

**Division 352—Accountability of the Commissioner**

**Table of Subdivisions**

	Guide to Division 352
352-A	Accountability of the Commissioner in respect of indirect tax laws

## Guide to Division 352

### 352-1 What this Division is about

This Division requires the Commissioner to prepare an annual report on the working of the indirect tax laws.

### Subdivision 352-A—Accountability of the Commissioner in respect of indirect tax laws

#### Table of sections

352-5 Commissioner must prepare annual report on indirect tax laws

### 352-5 Commissioner must prepare annual report on indirect tax laws

- (1) As soon as practicable after 30 June in each year, the Commissioner must prepare and give to the Minister a report on the working of the \*indirect tax laws during the year ending on that 30 June.
- (2) The report must include a report on any breaches or evasions of the \*indirect tax laws that the Commissioner knows about.
- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

### 46 Subsection 353-10(1) in Schedule 1

Repeal the subsection, substitute:

- (1) The Commissioner may by notice in writing require you to do all or any of the following:
  - (a) to give the Commissioner any information that the Commissioner requires for the purpose of:
    - (i) the application of an \*indirect tax law in relation to you or any other entity; or
    - (ii) the administration or operation of this Schedule (other than Division 340);

- (b) to attend and give evidence before the Commissioner, or an individual authorised by the Commissioner, for the purpose of:
  - (i) the application of an indirect tax law in relation to you or any other entity; or
  - (ii) the administration or operation of this Schedule (other than Division 340);
- (c) to produce to the Commissioner any documents in your custody or under your control for the purpose of:
  - (i) the application of an indirect tax law in relation to you or any other entity; or
  - (ii) the administration or operation of this Schedule.

Note: Failing to comply with a direction can be an offence against section 8C.

#### **47 Subsection 353-10(3) in Schedule 1**

Omit “persons”, substitute “entities”.

#### **48 At the end of Division 353 in Schedule 1**

Add:

#### **353-15 Access to premises for the purposes of the indirect tax laws**

- (1) For the purposes of an \*indirect tax law, the Commissioner, or an individual authorised by the Commissioner for the purposes of this section:
  - (a) may at all reasonable times enter and remain on any land or premises; and
  - (b) is entitled to full and free access at all reasonable times to any documents, goods or other property; and
  - (c) may inspect, examine, make copies of, or take extracts from, any documents; and
  - (d) may inspect, examine, count, measure, weigh, gauge, test or analyse any goods or other property and, to that end, take samples.
- (2) An individual authorised by the Commissioner for the purposes of this section is not entitled to enter or remain on any land or premises if, after having been requested by the occupier to produce proof of his or her authority, the individual does not produce an

authority signed by the Commissioner stating that the individual is authorised to exercise powers under this section.

- (3) You commit an offence if:
- (a) you are the occupier of land or premises; and
  - (b) an individual enters, or proposes to enter, the land or premises under this section; and
  - (c) the individual is the Commissioner or authorised by the Commissioner for the purposes of this section; and
  - (d) you do not provide the individual with all reasonable facilities and assistance for the effective exercise of powers under this section.

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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

- (4) Strict liability applies to paragraphs (3)(a) and (c).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **49 At the end of Part 5-1 in Schedule 1**

Add:

### **Division 355—Confidentiality**

#### **Table of Subdivisions**

Guide to Division 355

355-A Protection of confidentiality of indirect tax information

#### **Guide to Division 355**

##### **355-1 What this Division is about**

This Division prohibits the disclosure of indirect tax information by officials except in certain circumstances.

## **Subdivision 355-A—Protection of confidentiality of indirect tax information**

### **Table of sections**

355-5 Protection of confidentiality of indirect tax information

### **355-5 Protection of confidentiality of indirect tax information**

#### *Object*

- (1) The object of this section is to protect the confidentiality of taxpayers' personal tax affairs by restricting what you may do with \*indirect tax information and \*indirect tax documents.

#### *Offence*

- (2) You commit an offence if:
- (a) you:
    - (i) make a record of information; or
    - (ii) disclose information to anyone else; and
  - (b) the information was disclosed to you, or obtained by you, in the course of:
    - (i) your appointment or employment by the Commonwealth; or
    - (ii) the performance of services by you for the Commonwealth; or
    - (iii) the exercise of powers, or the performance of functions, by you under a delegation by the Commissioner; and
  - (c) the information was disclosed to you, or obtained by you, under an \*indirect tax law; and
  - (d) the information relates to the affairs of an entity other than you.

**Penalty:** Imprisonment for 2 years.

**Note:** Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (3) Strict liability applies to paragraph (2)(c).

**Note:** For strict liability, see section 6.1 of the *Criminal Code*.

- (4) Subsection (2) does not apply if you make the record for, or you disclose the information to, an entity who is not a Minister and:
- (a) the making of the record or the disclosure is for the purposes of:
    - (i) an \*indirect tax law; or
    - (ii) complying with an obligation Australia has under an agreement with another country; or
  - (b) the making of the record or the disclosure is in the course of:
    - (i) the performance of the duties of your appointment or employment by the Commonwealth; or
    - (ii) the performance of services by you for the Commonwealth; or
    - (iii) the exercise of powers, or performance of functions, by you under a delegation by the Commissioner.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

- (5) Subsection (2) does not apply if:
- (a) you are:
    - (i) the Commissioner; or
    - (ii) a Deputy Commissioner; or
    - (iii) an individual authorised by the Commissioner or a Deputy Commissioner to disclose the information; and
  - (b) an item in the following table covers your disclosure:

<b>Disclosures</b>		
<b>Item</b>	<b>The disclosure is to...</b>	<b>and the disclosure...</b>
1	any entity (other than a Minister)	is for the purpose of the entity carrying out functions under a *taxation law.
2	the Administrative Appeals Tribunal	is in connection with proceedings under a *taxation law.
3	the Australian Statistician	is of information to be used for the purposes of the <i>Census and Statistics Act 1905</i> .
4	the Chief Executive Officer of the Commonwealth Services Delivery Agency	is of information to be used for the purpose of the administration of the social security law (within the meaning of the <i>Social Security Act 1991</i> ).

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**Disclosures**

<b>Item</b>	<b>The disclosure is to...</b>	<b>and the disclosure...</b>
5	the Chief Executive Officer of Customs	is for any purpose.
6	the Secretary of the Department dealing with matters relating to the social security law (within the meaning of the <i>Social Security Act 1991</i> )	is of information to be used for the purpose of the administration of that law.
7	an individual who holds an office of a State or Territory, being an office prescribed for the purposes of this table item	both: (a) relates to alcoholic beverages; and (b) is for the purpose of the individual administering an *arrangement for the rebate, refund or other payment or credit by a State or Territory in respect of alcoholic beverages.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5): see subsection 13.3(3) of the *Criminal Code*.

*Protection of confidentiality of indirect tax information and documents from courts*

- (6) You are not to be required:
- (a) to disclose \*indirect tax information to a court; or
  - (b) to produce an \*indirect tax document to a court;
- unless it is necessary for the purposes of an \*indirect tax law.

**Division 356—General administration of tax laws**

**Table of Subdivisions**

Guide to Division 356  
356-A Indirect tax laws

## Guide to Division 356

### 356-1 What this Division is about

This Division gives the Commissioner the general administration of the indirect tax laws.

### Subdivision 356-A—Indirect tax laws

#### Table of sections

356-5 Commissioner has general administration of indirect tax laws

### 356-5 Commissioner has general administration of indirect tax laws

The Commissioner has the general administration of each \*indirect tax law.

### 50 At the end of section 357-55 in Schedule 1

Add:

; (i) a \*net fuel amount, or the administration, collection or payment of a net fuel amount.

### 51 Before Division 388 in Schedule 1

Insert:

## Division 382—Record-keeping

### Table of Subdivisions

Guide to Division 382

382-A Keeping records of indirect tax transactions

## Guide to Division 382

### 382-1 What this Division is about

You are required to keep records of indirect tax transactions in accordance with this Division.

## Subdivision 382-A—Keeping records of indirect tax transactions

### Table of sections

382-5 Keeping records of indirect tax transactions

### 382-5 Keeping records of indirect tax transactions

#### *Records of transactions*

(1) You must:

- (a) keep records that record and explain all transactions and other acts you engage in that are relevant to a \*supply, importation, acquisition, dealing, manufacture or entitlement to which this subsection applies; and
- (b) retain those records for at least 5 years after the completion of the transactions or acts to which they relate.

(2) Subsection (1) applies to:

- (a) a \*taxable supply, \*taxable importation, \*creditable acquisition or \*creditable importation made by you; or
- (b) a \*supply made by you that is \*GST-free or \*input taxed; or
- (c) a \*wine taxable dealing on which you are liable for \*wine tax; or
- (d) any other assessable dealing within the meaning of the \*Wine Tax Act made by you; or
- (e) your entitlement to a \*wine tax credit; or
- (f) a \*taxable supply of a luxury car, or a \*taxable importation of a luxury car, made by you; or
- (g) your entitlement to a special credit under the *A New Tax System (Goods and Services Tax Transition) Act 1999* or the *A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999*; or
- (h) if you are entitled to a \*fuel tax credit for fuel that you acquire, manufacture or import—the acquisition, manufacture or importation; or
- (i) if you are liable, as a recipient of a taxable supply, to pay the \*GST on a taxable supply because of section 15C of the *A New Tax System (Goods and Services Tax Transition) Act 1999*—the taxable supply.

- (3) If you give the Commissioner a return that takes into account:
- (a) an \*input tax credit that is attributable to a \*tax period under subsection 29-10(4) of the \*GST Act; or
  - (b) a \*fuel tax credit that is attributable to a tax period or \*fuel tax return period under subsection 65-5(4) of the *Fuel Tax Act 2006*;

you must:

- (c) keep records that record and explain all transactions and other acts you engage in that are relevant to the acquisition or importation in question; and
- (d) retain those records for at least 5 years after the return was given to the Commissioner.

*Records of elections, choices, estimates, determinations and calculations*

- (4) If you make any election, choice, estimate, determination or calculation under an \*indirect tax law, you must:
- (a) keep records containing particulars of:
    - (i) the election, choice, estimate, determination or calculation; and
    - (ii) in the case of an estimate, determination or calculation—the basis on which, and the method by which, the estimate, determination or calculation was made; and
  - (b) retain those records:
    - (i) if the indirect tax law specifies circumstances in which the election, choice, estimate, determination or calculation ceases to have effect—for at least 5 years after the election, choice, estimate, determination or calculation ceased to have effect; or
    - (ii) in any other case—for at least 5 years after the election, choice, estimate, determination or calculation was made.
- (5) This section requires a record of an \*arrangement entered into under section 153-50 of the \*GST Act to be kept and retained by the party entering into the arrangement as principal. It does not require such a record to be kept or retained by the party entering into the arrangement as agent.

- (6) This section requires records of a notice given under subsection 153-65(2) of the \*GST Act to be kept and retained by both the entity giving the notice and the entity receiving it.
- (7) Without limiting subsection (4), if you choose to apply Division 63 (non-profit sub-entities) of the \*GST Act, you must:
- (a) keep records that record:
    - (i) your choice to apply that Division; and
    - (ii) each branch that is treated as a separate entity for the purposes of the \*GST law; and
    - (iii) each branch that has ceased to be treated as a separate entity for the purposes of the GST law; and
  - (b) retain those records for at least 5 years after you revoke the choice.

*Requirements of records*

- (8) The records must be:
- (a) in English, or readily accessible and easily convertible into English; and
  - (b) such as to enable your liabilities and entitlements under an \*indirect tax law to be readily ascertained.

*Offence*

- (9) An entity commits an offence if:
- (a) the entity is required to keep or retain a record under this section; and
  - (b) the entity does not keep or retain the record in accordance with this section.

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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

Note 3: Section 288-25 imposes an administrative penalty if an entity does not keep or retain records as required by this section.

- (10) Subsection (9) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

*Defence*

- (11) Subsection (9) does not apply if:
- (a) the Commissioner notifies the entity that the entity does not need to retain the record; or
  - (b) the entity is a company that has been finally dissolved.

Note: A defendant bears an evidential burden in relation to the matters in subsection (10): see subsection 13.3(3) of the *Criminal Code*.

- (12) For the purposes of section 288-25, this section does not require an entity to retain a record if:
- (a) the Commissioner notifies the entity that the entity does not need to retain the record; or
  - (b) the entity is a company that has been finally dissolved.

Note: Section 288-25 imposes an administrative penalty if an entity does not keep or retain records as required by this section.

## **52 Division 444 in Schedule 1**

Repeal the Division, substitute:

### **Division 444—Obligations of entities on behalf of other entities**

#### **Table of Subdivisions**

Guide to Division 444

- 444-A Unincorporated associations and bodies and companies
- 444-B Partnerships
- 444-C Superannuation funds
- 444-D Incapacitated entities
- 444-E Indirect tax specific entities

#### **Guide to Division 444**

##### **444-1 What this Division is about**

This Division imposes onto other entities the liabilities of unincorporated associations or bodies, companies, partnerships,

superannuation funds, incapacitated entities and various indirect tax specific entities.

## Subdivision 444-A—Unincorporated associations and bodies and companies

### Table of sections

444-5	Unincorporated associations and bodies
444-10	Public officers of companies
444-15	Liability of directors and officers of a company

### 444-5 Unincorporated associations and bodies

- (1) Obligations that would be imposed under this Schedule or an \*indirect tax law on an unincorporated association or body of entities are imposed on each member of the committee of management of the association or body, but may be discharged by any of those members.
- (2) Any offence against this Schedule or an \*indirect tax law that is committed by the association or body is taken to have been committed by each member of its committee of management.
- (3) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (2), it is a defence if the entity proves that the entity:
  - (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3): see section 13.4 of the *Criminal Code*.

### 444-10 Public officers of companies

- (1) The individual who is the public officer of a company for the purposes of the *Income Tax Assessment Act 1936* is also the public officer of the company for the purposes of an \*indirect tax law. The

public officer's address for service under that Act is also the public officer's address for service for the same purposes.

- (2) The public officer is answerable for doing everything required to be done by the company under an \*indirect tax law, and in case of default is liable to the same penalties.
- (3) A proceeding under an \*indirect tax law that is brought against the public officer is taken to have been brought against the company, and the company is liable jointly with the public officer for any penalty imposed on the public officer.
- (4) Everything done by the public officer that the public officer is required to do in that capacity is taken to have been done by the company.
- (5) Service of a notice or other document on the public officer or at the public officer's address for service is sufficient service on the company for the purposes of an \*indirect tax law. If at any time there is no public officer, service on an individual who is acting or appears to be acting in the business of the company is sufficient.
- (6) This section does not, by implication, reduce any of the obligations or liabilities of the company.

#### **444-15 Liability of directors and officers of a company**

- (1) Any notice, process or proceeding that may be given to, served on or taken against a company or its public officer under an \*indirect tax law may, if the Commissioner considers it appropriate, be given to, served on, or taken against an entity (the *representative*) who is:
  - (a) a director, secretary or other officer of the company; or
  - (b) an attorney or agent of the company.
- (2) The representative has the same liability in respect of the notice, process or proceeding as the company or public officer would have had if it had been given to, served on or taken against the company or public officer.
- (3) This section does not, by implication, reduce any of the obligations or liabilities of the company or public officer.

## Subdivision 444-B—Partnerships

### Table of sections

444-30 Partnerships

### 444-30 Partnerships

- (1) Obligations that are imposed under this Schedule or an \*indirect tax law on a partnership are imposed on each partner, but may be discharged by any of the partners.
- (2) The partners are jointly and severally liable to pay any amount that is payable under this Schedule or an \*indirect tax law by the partnership.
- (3) Any offence against this Schedule or an \*indirect tax law that is committed by a partnership is taken to have been committed by each of the partners.
- (4) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (3), it is a defence if the entity proves that the entity:
  - (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (4) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (4): see section 13.4 of the *Criminal Code*.

## Subdivision 444-C—Superannuation funds

### Table of sections

444-50 Superannuation funds

### 444-50 Superannuation funds

If a superannuation fund does not have a trustee of the fund, this Schedule applies to the fund as if:

- (a) the entity that manages the fund were the trustee of the fund;  
or
- (b) each of the entities that manage the fund were a trustee of the fund.

Note: The trustee of a superannuation fund is taken to be an entity: see subsection 960-100(2) of the *Income Tax Assessment Act 1997*.

## **Subdivision 444-D—Incapacitated entities**

### **Table of sections**

444-70 Representatives of incapacitated entities

### **444-70 Representatives of incapacitated entities**

- (1) If there are 2 or more \*representatives of the same \*incapacitated entity, the representatives are jointly and severally liable to pay any amount that is payable under an \*indirect tax law by any of the representatives in relation to that same incapacitated entity.
- (2) If there are 2 or more \*representatives of the same \*incapacitated entity, any offence against an \*indirect tax law that is committed by one of the representatives is taken to have been committed by each of the representatives.
- (3) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (2), it is a defence if the entity proves that the entity:
  - (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3): see section 13.4 of the *Criminal Code*.

## **Subdivision 444-E—Indirect tax specific entities**

### **Table of sections**

444-80 GST joint ventures

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444-85 Non-profit sub-entities  
444-90 GST groups

#### **444-80 GST joint ventures**

- (1) The \*participants in a \*GST joint venture are jointly and severally liable to pay any amount that is payable under an \*indirect tax law by the \*joint venture operator for the joint venture, to the extent that the amount relates to the joint venture.
- (2) Any offence against an \*indirect tax law that:
  - (a) is committed by the \*joint venture operator for a \*GST joint venture; and
  - (b) relates to the joint venture;is taken to have been committed by each of the \*participants in the joint venture.
- (3) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (2), it is a defence if the entity proves that the entity:
  - (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3): see section 13.4 of the *Criminal Code*.

#### **444-85 Non-profit sub-entities**

- (1) Obligations that would be imposed under the \*GST law or the \*fuel tax law on a \*non-profit sub-entity are imposed on each entity who is responsible, to entities or bodies outside the sub-entity, for the management of the sub-entity, but may be discharged by any entity who is so responsible.
- (2) The entities who are so responsible in respect of the sub-entity are jointly and severally liable to pay any amount that is payable under the \*GST law or the \*fuel tax law by the sub-entity.

- (3) Any offence against the \*GST law or the \*fuel tax law that is committed by the sub-entity is taken to have been committed by each entity who is responsible, to entities or bodies outside the sub-entity, for the management of the sub-entity.
- (4) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (3), it is a defence if the entity proves that the entity:
  - (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (4) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (4): see section 13.4 of the *Criminal Code*.

#### **444-90 GST groups**

- (1) The \*members of a \*GST group are jointly and severally liable to pay any amount that is payable under an \*indirect tax law by the \*representative member for the group.
- (2) Subsection (1) does not apply to a \*member of a \*GST group if an \*Australian law has the effect of prohibiting the member from entering into any \*arrangement under which the member becomes subject to the liability referred to in that subsection.
- (3) However, a \*member to which subsection (2) applies remains liable for any amount payable under an \*indirect tax law by the \*representative member for the group, to the extent that the liability arises from an act or omission of the member to which subsection (2) applies.
- (4) Any offence against an \*indirect tax law that is committed by the \*representative member for a \*GST group is taken to have been committed by each of the \*members of the group.
- (5) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (4), it is a defence if the entity proves that the entity:

- (a) did not aid, abet, counsel or procure the relevant act or omission; and
- (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (5) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (5): see section 13.4 of the *Criminal Code*.

### **53 Transitional—rulings about Part VI of the *Taxation Administration Act 1953***

If:

- (a) immediately before the commencement of this item, a ruling (within the meaning of section 37 of the *Taxation Administration Act 1953*) about a provision (the *old law*) of Part VI of the *Taxation Administration Act 1953* is in force; and
- (b) the provision is re-enacted or remade by this Schedule (with or without modifications);

the ruling is, on the commencement of this item, taken also to be a ruling about the provision as re-enacted or remade (the *new law*), but only so far as the new law expresses the same ideas as the old law.

Note: Ideas in the *Taxation Administration Act 1953* are not necessarily different just because different forms of words are used: see section 15AC of the *Acts Interpretation Act 1901*.

### **54 Transitional—section 40 of the *Taxation Administration Act 1953***

- (1) This item applies if, immediately before the commencement of this item, a person is liable, under section 40 of the *Taxation Administration Act 1953*, to pay the general interest charge on an unpaid amount (the *liability*) of any indirect tax.
- (2) On the commencement of this item, that section ceases to apply to the liability.
- (3) From the commencement of this item, section 105-80 in Schedule 1 to that Act applies to the liability as if:
  - (a) the liability remains unpaid at that time; and

- (b) so much of the charge under section 40 of that Act as remains unpaid at that time had been imposed under section 105-80 in that Schedule and remains unpaid at that time.

**55 Transitional—section 62 of the *Taxation Administration Act 1953***

If:

- (a) an application has been made for the review of a decision that was:
  - (i) a reviewable GST decision; or
  - (ii) a reviewable wine tax decision; or
  - (iii) a reviewable indirect tax decision; or
  - (iv) a reviewable GST transitional decision; (within the meaning of section 62 of the *Taxation Administration Act 1953* as in force immediately before the commencement of this item); and
- (b) the review has not been completed before the commencement of this item;

the review may continue to be dealt with, on and after the commencement of this item, as if it had been sought under Part 3-10 in Schedule 1 to the *Taxation Administration Act 1953* as amended by this Part.

**56 Transitional—section 70 of the *Taxation Administration Act 1953***

If, immediately before the commencement of this item, you must keep and retain a record under section 70 of the *Taxation Administration Act 1953*:

- (a) despite the repeal of that section by this Schedule, that section continues to apply to the record; and
- (b) section 382-5 in Schedule 1 to that Act does not apply to the record.

**57 Application—sections 105-40, 110-50 and 111-50 in Schedule 1 to the *Taxation Administration Act 1953***

- (1) Section 105-40 in Schedule 1 to the *Taxation Administration Act 1953* applies to:

- (a) a reviewable indirect tax decision (within the meaning of section 62 of the *Taxation Administration Act 1953* as in force immediately before the commencement of this item) if an application for the review of the decision had not been made before the commencement of this item; or
  - (b) a reviewable indirect tax decision (within the meaning of section 105-40 in that Schedule) made after the commencement of this item.
- (2) Sections 110-50 and 111-50 in Schedule 1 to the *Taxation Administration Act 1953* apply to a decision made before or after the commencement of this item.

**58 Transitional—instruments**

- (1) The following table has effect:

<b>Instruments in force immediately before commencement</b>		
<b>Item</b>	<b>If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...</b>	<b>the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...</b>
1	an instrument approving a form for the purposes of subsection 23(1)	subsection 105-10(1) in Schedule 1.
2	an instrument allowing a further period for the purposes of paragraph 23(2)(b)	paragraph 105-10(2)(b) in Schedule 1.
3	a notice for the purposes of paragraph 35(a)	paragraph 105-50(a) in Schedule 1.
4	a notice, other than a notice of assessment, for the purposes of paragraph 36(1)(f)	paragraph 105-55(1)(b) in Schedule 1.
5	a determination covering an acquisition for the purposes of paragraph 62B(1)(a)	paragraph 105-120(1)(b) in Schedule 1.
6	a determination covering a visiting force, a member of a visiting force or another person, for the purposes of paragraph 62B(1)(a)	paragraph 105-120(1)(c) in Schedule 1.

<b>Instruments in force immediately before commencement</b>		
<b>Item</b>	<b>If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...</b>	<b>the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...</b>
7	a determination covering a use for the purposes of paragraph 62B(1)(b)	paragraph 105-120(1)(d) in Schedule 1.
8	a determination of a class of persons for the purposes of subsection 62B(1)	paragraph 105-120(1)(a) in Schedule 1.
9	an instrument approving a form for the purposes of subsection 62B(3)	paragraph 105-120(1)(e) in Schedule 1.
10	a determination for the purposes of subsection 62B(4)	subsection 105-120(2) in Schedule 1.
11	regulations specifying a kind of entity for the purposes of subsection 62C(1)	paragraph 105-125(1)(a) in Schedule 1.
12	regulations specifying a kind of acquisition for the purposes of subsection 62C(1)	paragraph 105-125(1)(b) in Schedule 1.
13	a determination of a class of persons for the purposes of subsection 62C(1)	subsection 105-125(1) in Schedule 1.
14	an instrument approving a form for the purposes of subsection 62C(3)	paragraph 105-125(1)(c) in Schedule 1.
15	regulations for the purposes of subsection 62C(4)	subsection 105-125(2) in Schedule 1.
16	a direction for the purposes of subsection 65(1)	subsection 353-10(1) in Schedule 1.
17	an authorisation for the purposes of paragraph 65(1)(b)	paragraph 353-10(1)(b) in Schedule 1.
18	an authorisation for the purposes of section 66	section 353-15 in Schedule 1.
19	an authorisation for the purposes of paragraph 68(3)(d) or (e)	subparagraph 355-5(5)(a)(iii) in Schedule 1.
20	regulations prescribing an office for the purposes of the definition of <i>State or Territory officer</i> in subsection 68(6)	item 7 in the table in subsection 355-5(5) in Schedule 1.

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**Instruments in force immediately before commencement**

<b>Item</b>	<b>If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...</b>	<b>the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...</b>
21	a notice for the purposes of paragraph 70(3)(a)	paragraphs 382-5(11)(a) and (12)(a) in Schedule 1.
22	an authorisation for the purposes of paragraph 353-10(1)(b) in Schedule 1	paragraph 353-10(1)(b) in Schedule 1.
23	regulations prescribing a scale of expenses for the purposes of subsection 353-10(3) in Schedule 1	subsection 353-10(3) in Schedule 1.

(2) The following table has effect:

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**Actions before commencement**

<b>Item</b>	<b>If, before the commencement of this subitem, the following action...</b>	<b>was done for the purposes of the following provision of the <i>Taxation Administration Act 1953</i>...</b>	<b>the action is, on the commencement of this subitem, taken to have been done for the purposes of the following provision of that Act...</b>
1	making an assessment	Division 2 of Part VI	Subdivision 105-A in Schedule 1.
2	requesting an assessment	subsection 23(1)	subsection 105-10(1) in Schedule 1.
3	notifying	paragraph 36(1)(e)	paragraph 105-55(1)(a) in Schedule 1.

## Part 2—Amendments conditional on the Tax Laws Amendment (2005 Measures No. 4) Act 2005

### *Taxation Administration Act 1953*

#### 59 Subsection 111-50(2) in Schedule 1

Repeal the subsection, substitute:

(2) Each of the following decisions is a *reviewable wine tax decision*:

<b>Reviewable wine tax decisions</b>		
<b>Item</b>	<b>Decision</b>	<b>Provision of Wine Tax Act under which decision is made</b>
1	disallowing the whole or a part of your claim for a * wine tax credit	section 17-45
2	deciding the date of effect of your approval as a New Zealand participant	section 19-7
3	refusing to approve you as a New Zealand participant	section 19-7
4	revoking your approval as a New Zealand participant	section 19-8
5	deciding the date of effect of revocation of your approval as a New Zealand participant	section 19-8

#### 60 Transitional—subsection 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953*

If:

- (a) an application has been made for the review of a decision that was a reviewable wine tax decision within the meaning of subsection 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953* as in force immediately before the commencement of this item; and
- (b) the review has not been completed before the commencement of this item;

the review may continue to be dealt with, on and after the commencement of this item, as if it had been sought under subsection 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953* as amended by this Part.

***Tax Laws Amendment (2005 Measures No. 4) Act 2005***

**61 Part 1 of Schedule 4 (heading)**

Repeal the heading.

**62 Part 2 of Schedule 4**

Repeal the Part.

## **Part 3—Consequential amendments**

### *Administrative Decisions (Judicial Review) Act 1977*

#### **63 Paragraph (e) of Schedule 1**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

### *A New Tax System (Commonwealth-State Financial Arrangements) Act 1999*

#### **64 At the end of subsection 10(1)**

Add:

Note: Paragraph B3(ii) of Appendix B to the agreement, as set out in Schedule 2, refers to section 39 of the *Taxation Administration Act 1953*. That section has been remade as section 105-65 in Schedule 1 to that Act.

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

#### **65 Section 2-30 (heading)**

Repeal the heading, substitute:

#### **2-30 Administration, collection and recovery provisions in the *Taxation Administration Act 1953***

#### **66 Section 2-30**

Omit “Part VI of the *Taxation Administration Act 1953* contains”, substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation Administration Act 1953* contain”.

#### **67 Subsection 25-5(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

#### **68 Subsection 25-5(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**69 Subsection 25-10(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**70 Subsection 25-55(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**71 Subsection 25-55(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**72 Subsection 25-57(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**73 Subsection 25-60(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**74 Subsection 27-15(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**75 Subsection 27-15(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**76 Subsection 27-22(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**77 Subsection 27-22(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**78 Subsection 27-25(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**79 Subsection 27-25(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**80 Subsection 27-30(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**81 Subsection 27-37(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**82 Subsection 27-38(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**83 Subsection 27-38(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**84 Subsection 29-45(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**85 Subsection 29-45(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**86 Subsection 29-50(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**87 Subsection 29-50(4) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**88 Section 33-1 (notes)**

Repeal the notes, substitute:

Note 1: For the penalties for failing to comply with these obligations, see the *Taxation Administration Act 1953*.

Note 2: For provisions about collection and recovery of GST, see Subdivision 105-C, and Part 4-15, in Schedule 1 to the *Taxation Administration Act 1953*.

Note 3: Payments of GST on importations of goods are dealt with separately in section 33-15 of this Act.

**89 Section 35-5 (note 1)**

Omit “and section 39 of”, substitute “of, and section 105-65 in Schedule 1 to,”.

**90 Section 35-99 (note)**

Omit “Section 39 of”, substitute “Section 105-65 in Schedule 1 to”.

**91 Subsection 40-165(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**92 Section 48-5 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**93 Subsection 48-70(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**94 Subsection 48-70(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**95 Subsection 48-75(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**96 Subsection 48-75(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**97 Section 48-85 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**98 Section 49-5 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**99 Subsection 49-70(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**100 Subsection 49-70(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**101 Subsection 49-75(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**102 Subsection 49-75(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**103 Section 49-85 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**104 Section 51-5 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**105 Subsection 51-52(5) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**106 Section 51-60 (note 1)**

Omit “and section 39 of”, substitute “of, and section 105-65 in Schedule 1 to,”.

**107 Subsection 51-70(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**108 Subsection 51-70(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**109 Subsection 51-75(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**110 Subsection 51-75(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**111 Section 51-85 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**112 Section 54-5 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**113 Section 54-10 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**114 Section 54-65 (note 1)**

Omit “and section 39 of”, substitute “of, and section 105-65 in Schedule 1 to,”.

**115 Subsection 54-75(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**116 Subsection 54-75(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**117 Section 54-80 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**118 Subsection 57-25(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**119 Subsection 57-35(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**120 Subsection 57-35(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**121 Subsection 63-35(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**122 Subsection 75-5(1A) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**123 Subsection 131-10(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**124 Subsection 131-20(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**125 Subsection 147-10(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**126 Subsection 151-10(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**127 Subsection 151-20(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**128 Subsection 151-25(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**129 Subsection 162-15(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**130 Subsection 162-25(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**131 Subsection 162-30(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**132 Section 165-40 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**133 Subsection 165-45(3) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**134 Subsection 165-45(5) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

**135 Subsection 184-5(1) (note)**

Omit “Section 50 of”, substitute “Section 444-30 in Schedule 1 to”.

**136 Subsection 184-5(2) (note)**

Omit “Section 52 of”, substitute “Section 444-5 in Schedule 1 to”.

**137 Section 195-1 (definition of *reviewable GST decision*)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

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

**138 Section 151A**

Omit “Subsection 36(1) of”, substitute “Section 105-55 in Schedule 1 to”.

Note: The heading to section 151A is altered by omitting “**section 36 of**” and substituting “**section 105-55 in Schedule 1 to**”.

**139 Subsection 24B(5) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in Schedule 1 to”.

***A New Tax System (Luxury Car Tax) Act 1999***

**140 Section 2-25 (heading)**

Repeal the heading, substitute:

**2-25 Administration, collection and recovery provisions in the  
*Taxation Administration Act 1953***

**141 Section 2-25**

Omit “Part VI of the *Taxation Administration Act 1953* contains”, substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation Administration Act 1953* contain”.

**142 Subsection 13-20(1) (note 2)**

Omit “Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* and Division 3 of Part VI of that Act”, substitute “Subdivision 105-C, and Part 4-15, in Schedule 1 to the *Taxation Administration Act 1953*”.

***A New Tax System (Wine Equalisation Tax) Act 1999***

**143 Section 2-35 (heading)**

Repeal the heading, substitute:

**2-33 Administration, collection and recovery provisions in the  
*Taxation Administration Act 1953***

**144 Section 2-35**

Omit “Part VI of the *Taxation Administration Act 1953* contains”, substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation Administration Act 1953* contain”.

**145 Section 17-25 (note)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

**146 Subsection 17-30(3) (note)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

**147 Subsection 17-35(3) (note)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

**148 Subsection 17-37(2) (note)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

**149 Section 17-45 (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in Schedule 1 to”.

**150 Subsection 19-25(4) (note)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

**151 Subsection 23-5(1) (note 2)**

Omit “Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* and Division 3 of Part VI of that Act”, substitute “Subdivision 105-C, and Part 4-15, in Schedule 1 to the *Taxation Administration Act 1953*”.

***Crimes (Taxation Offences) Act 1980***

**152 Subsection 4(5)**

Omit “Section 68 of”, substitute “Section 355-5 in Schedule 1 to”.

***Freedom of Information Act 1982***

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### **153 Schedule 3**

Omit “*Taxation Administration Act 1953*, section 68”, substitute  
“*Taxation Administration Act 1953*, section 355-5 in Schedule 1”.

### ***Income Tax Assessment Act 1936***

#### **154 Subsection 98A(2) (note)**

Omit “and section 39 of”, substitute “of, and section 105-65 in  
Schedule 1 to,”.

#### **155 Paragraph 251L(6)(d)**

Omit “Part VI of the *Taxation Administration Act 1953*”, substitute  
“subsection 995-1(1) of the *Income Tax Assessment Act 1997*”.

### ***Income Tax Assessment Act 1997***

#### **156 Paragraph 27-15(2)(a)**

Omit “*A New Tax System (Wine Equalisation Tax) Act 1999*”, substitute  
“\*Wine Tax Act”.

#### **157 Paragraph 27-15(2)(b)**

Omit “*A New Tax System (Luxury Car Tax) Act 1999*”, substitute  
“\*Luxury Car Tax Act”.

#### **158 Paragraph 27-15(2)(c)**

Omit “*A New Tax System (Luxury Car Tax) Act 1999*”, substitute  
“Luxury Car Tax Act”.

#### **159 Subsection 995-1(1) (paragraph (b) of the definition of *BAS provisions*)**

Repeal the paragraph, substitute:

(b) the \*indirect tax law; and

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

#### **160 Subsection 3C(9) (definition of *this Act*)**

Omit “Part VI”, substitute “Part 3-10, and Divisions 355 and 382, in  
Schedule 1”.

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**161 Subsection 8AAB(5) (table item 17AA)**

Repeal the item.

**162 Subsection 8AAB(5) (after table item 17J)**

Insert:

17K 105-80 in *Taxation Administration Act 1953*  
Schedule 1

**163 Paragraph 8J(2)(pa)**

Repeal the paragraph, substitute:

(pa) paragraph 353-10(1)(c) in Schedule 1 to this Act; or

**164 Subsection 14ZW(1AAA)**

Omit “decision mentioned in item 1 of the table in subsection 62(3) of this Act”, substitute “reviewable indirect tax decision (within the meaning of section 105-40 in Schedule 1)”.

**165 Subparagraph 284-145(1)(b)(ii) in Schedule 1**

Omit “A *New Tax System (Goods and Services Tax) Act 1999*”, substitute “\*GST Act or Division 75 of the *Fuel Tax Act 2006*”.

***Taxation (Interest on Overpayments and Early Payments) Act 1983***

**166 Subsection 3(1) (paragraph (q) of the definition of *relevant tax*)**

Omit “subsection 20(1) of the *Taxation Administration Act 1953*”, substitute “subsection 995-1(1) of the *Income Tax Assessment Act 1997*”.

**167 Subsection 3(1) (paragraph (r) of the definition of *relevant tax*)**

Omit “Division 4 of Part VI of”, substitute “Subdivision 105-D in Schedule 1 to”.

***Tax Laws Amendment (Retirement Villages) Act 2004***

**168 Paragraph 15(3)(b) of Schedule 1**

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Repeal the paragraph, substitute:

- (b) section 105-55 in Schedule 1 to the *Taxation Administration Act 1953* (which is about the time limit on refunds and credits).

**169 Item 16 of Schedule 1**

Omit “Section 36 of”, substitute “Section 105-55 in Schedule 1 to”.

Note: The heading to item 16 of Schedule 1 is altered by omitting “**section 36 of**” and substituting “**section 105-55 in Schedule 1 to**”.

## **Part 4—Consequential amendments conditional on the Tax Laws Amendment (2005 Measures No. 4) Act 2005**

### *A New Tax System (Wine Equalisation Tax) Act 1999*

#### **170 Subsection 19-7(4) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in Schedule 1 to”.

#### **171 Subsection 19-7(6) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in Schedule 1 to”.

#### **172 Subsection 19-8(1) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in Schedule 1 to”.

#### **173 Subsection 19-8(2) (note)**

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in Schedule 1 to”.

#### **174 Subsection 19-25(5)**

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

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*[Minister's second reading speech made in—  
House of Representatives on 29 March 2006  
Senate on 14 June 2006]*

(23/06)