Tax Laws Amendment (2009 Measures No. 2) Act 2009

No. 42, 2009

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

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

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Tax Laws Amendment (2009 Measures No. 2) Act 2009

No. 42, 2009

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

[*Assented to 23 June 2009*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2009 Measures No. 2) Act 2009*.

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.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	23 June 2009
2. Schedule 1	The day on which this Act receives the Royal Assent.	23 June 2009
3. Schedule 2, item 1	Immediately after the commencement of item 3 of Schedule 4 to the *Tax Laws Amendment (Small Business) Act 2007*.	21 June 2007
4. Schedule 2, items 2 to 39	The day on which this Act receives the Royal Assent.	23 June 2009
5. Schedule 2, item 40	Immediately before the commencement of item 52 of Schedule 4 to the *Tax Laws Amendment (2008 Measures No. 6) Act 2009.*	26 March 2009
6. Schedule 2, Part 3	The day on which this Act receives the Royal Assent.	23 June 2009
7. Schedule 3	1 July 2009.	1 July 2009
8. Schedule 4, Part 1	The day on which this Act receives the Royal Assent.	23 June 2009
9. Schedule 4, Part 2	1 July 2014.	1 July 2014
10. Schedule 5, Part 1	The day on which this Act receives the Royal Assent.	23 June 2009
11. Schedule 5, Part 2	Immediately before the commencement of Schedule 3 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*.	1 January 2008
12. Schedule 5,	The day on which this Act receives the	23 June 2009

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
Part 3	Royal Assent.	
13. Schedule 6, Part 1	The day on which this Act receives the Royal Assent.	23 June 2009
14. Schedule 6, Part 2	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
15. Schedule 7	1 July 2009.	1 July 2009
16. Schedule 8, Part 1	The day on which this Act receives the Royal Assent.	23 June 2009
17. Schedule 8, Part 2	1 July 2011.	1 July 2011.
18. Schedule 8, Part 3	The day on which this Act receives the Royal Assent.	23 June 2009

Note: This table relates only to the provisions of this Act as originally passed by both Houses of 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.

Schedule 1—Tax treatment of payments under financial claims scheme

Banking Act 1959

1 After section 16AH

Insert:

16AHA Giving information about payments in a financial year

(1) This section applies if one or more amounts are paid to, or applied for the benefit of, one or more account-holders in a financial year to meet (wholly or partly) the account-holders' entitlements under this Subdivision.

Giving each account-holder an annual statement

(2) Within 14 days after the end of the financial year, APRA must give each of those account-holders a statement about the amounts paid to, or applied for the benefit of, the account-holder in the financial year. The statement must:

(a) be in the approved form; and

(b) name the account-holder; and

(c) state the account-holder's tax file number, if APRA knows it; and

(d) state the total of the amounts and the total of the amounts (if any) withheld from them under the *Taxation Administration Act 1953*; and

(e) specify the financial year to which the statement relates.

Giving the Commissioner of Taxation an annual report

(3) Within 4 months after the end of the financial year, APRA must give the Commissioner a report in the approved form about all the amounts described in subsection (1).

Provisions about statements and reports in approved forms

(4) Division 388 in Schedule 1 to the *Taxation Administration Act 1953* applies as if this section were a taxation law for the purposes of that Act.

Note: That Division sets out rules about approved forms and when they can be given.

This section does not limit the Taxation Administration Act 1953

(5) Subsection (4) does not limit the operation of the *Taxation Administration Act 1953* in relation to APRA.

2 Application of section 16AHA

Section 16AHA of the *Banking Act 1959* applies in relation to amounts paid or applied before, on or after the commencement of the section.

3 After paragraph 16AK(4)(e)

Insert:

(ea) preparing or giving a statement or report required by section 16AHA;

(eb) complying with an obligation under a law relating to taxation;

First Home Saver Accounts Act 2008

4 At the end of subsection 15(1)

Add:

Note: If the person has or had an entitlement arise under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* in relation to an FHSA, section 128A of this Act affects this section.

5 At the end of subsection 19(3)

Add:

Note: Section 128A prevents this section from applying to the opening of an FHSA on a person's behalf by APRA or a liquidator under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959*.

6 At the end of subsection 20(5)

Add:

Note: Section 128A extends the operation of this section in relation to an FHSA opened on a person's behalf by APRA or a liquidator under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959*.

7 Subsection 31(1) (note)

Omit "Note:", substitute "Note 1:".

8 At the end of subsection 31(1)

Add:

Note 2: If an entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* arises in connection with the FHSA, this section does not prevent a payment from the FHSA connected with the right to be paid that section 16AI of that Act gives APRA in relation to the FHSA (see section 128A of this Act).

9 After section 128

Insert:

128A Special provisions applying if financial claims scheme entitlements arise in relation to FHSAs

Application

(1) This section applies if an entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* arises in connection with an FHSA (the ***old FHSA***) held by a person.

Some contributions treated as transfers from old FHSA

(2) If a contribution to another FHSA is made for the purposes of:
   (a) meeting the entitlement (wholly or partly); or
   (b) paying a distribution attributable to the old FHSA from the liquidation of the provider of the old FHSA;

   this Act applies as if the contribution were by way of a transfer from the old FHSA to the other FHSA.

Note: The effects of this include the contribution being covered by paragraph 11(3)(a), so that the contribution is not a personal FHSA contribution, does not count against the limit on contributions set by

section 27 and does not count for working out the amount of a Government FHSA contribution for the person under section 38.

Old FHSA does not affect whether person meets FHSA eligibility requirements

(3) For the purposes of determining whether the person meets the FHSA eligibility requirements after the entitlement arises, disregard the old FHSA for the purposes of paragraphs 15(1)(e) and (f).

Note: This ensures that the holding and closure of the old FHSA after the entitlement arises cannot prevent the person from meeting the FHSA eligibility requirements.

Opening of new FHSA to meet entitlement

(4) Subsection 19(1) does not apply to the opening of an FHSA:

(a) under section 16AH of the *Banking Act 1959* for the purposes of meeting the entitlement (wholly or partly); or

(b) under section 16AR of that Act for the purposes of paying a distribution attributable to the old FHSA from the liquidation of the provider of the old FHSA.

Note: A defendant in a prosecution for an offence against section 19 bears an evidential burden in relation to the matter in subsection (4) of this section: see subsection 13.3(3) of the *Criminal Code*.

Notice of person not meeting the FHSA eligibility requirements

(5) If:

(a) an FHSA (the ***new FHSA***) is opened:

(i) under section 16AH of the *Banking Act 1959* for the purposes of meeting the entitlement (wholly or partly); or

(ii) under section 16AR of that Act for the purposes of paying a distribution attributable to the old FHSA from the liquidation of the provider of the old FHSA; and

(b) before the new FHSA was opened, circumstances arose resulting in the person not meeting the FHSA eligibility requirements; and

(c) after the opening of the new FHSA, the person continues not to meet the FHSA eligibility requirements;

section 20 applies to the person as the holder of the new FHSA in relation to the provider of the new FHSA, but so as to require the person to give notice within 30 days after notice is sent to the person of the opening of the new FHSA.

Payment connected with right given to APRA by the Banking Act 1959

(6) Nothing in this Act or the regulations prevents the provider of the old FHSA from paying an amount out of the FHSA in connection with a right to be paid an amount by the provider that APRA had in connection with the old FHSA because of section 16AI of the *Banking Act 1959*.

Note: Section 16AI of the *Banking Act 1959* gives APRA the right (or part of the right) the holder of the old FHSA had to be paid an amount by the provider of the old FHSA in connection with the old FHSA.

10 Application

The amendments of the *First Home Saver Accounts Act 2008* made by this Schedule apply in relation to entitlements arising under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* after 17 October 2008.

Note: Division 2AA of Part II of the *Banking Act 1959* commenced on 18 October 2008.

Income Tax Assessment Act 1936

11 At the end of subsection 393-15(3) in Schedule 2G

Add:

Note: Section 393-80 affects the unrecouped FMD deduction of a new deposit linked to an old farm management deposit in relation to which there arose an entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959*.

12 At the end of subsection 393-15(4) in Schedule 2G

Add:

Note 3: Section 393-85 limits the operation of subsection (4) of this section if:

(a) the farm management deposit is with an ADI that becomes a declared ADI under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959*; and

(b) an amount equal to the deposit has not been paid to you as an entitlement under that Division, or in liquidation of the ADI, by the end of the year of income.

13 Section 393-25 in Schedule 2G

Insert:

ADI has the same meaning as in the *Banking Act 1959*.

14 Section 393-25 in Schedule 2G (paragraph (a) of the definition of *financial institution*)

Omit "(authorised deposit-taking institution) for the purposes of the *Banking Act 1959*".

15 At the end of Division 393 in Schedule 2G

Add:

Subdivision 393-D—Special rules relating to financial claims scheme for account-holders with insolvent ADIs

Guide to Subdivision 393-D

393-75 What this Subdivision is about

A deposit (the ***new deposit***) arising from:

(a) an entitlement under Division 2AA of Part II of the *Banking Act 1959* relating to a farm management deposit with an ADI; or

(b) a distribution from liquidation of the ADI that is attributable to a farm management deposit;

is treated as a transfer of the farm management deposit that does not give rise to new assessable income or deductions.

Table of sections

Operative provisions

393-80 Farm management deposits arising from farm management deposits with ADIs subject to financial claims scheme

393-85 Repayment if owner of farm management deposit with insolvent ADI is bankrupt, dies or ceases to be a primary producer

Operative provisions

393-80 Farm management deposits arising from farm management deposits with ADIs subject to financial claims scheme

Application

(1) This section applies if an entitlement arises under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* in connection with an account containing a farm management deposit (the ***old farm management deposit***) with an ADI (the ***old ADI***) and either:

(a) an amount (the ***new deposit***) is deposited into one of the following to meet, in whole or part, so much of the entitlement as relates to the old farm management deposit:

(i) an existing account for a farm management deposit;

(ii) an account established under section 16AH of that Act for the purposes of meeting (wholly or partly) the entitlement; or

(b) an amount (also the ***new deposit***) is deposited by a liquidator of the old ADI into one of the following as so much of a distribution from the liquidation of the old ADI as relates to the old farm management deposit:

(i) an existing account for a farm management deposit;

(ii) an account established under section 16AR of that Act for the payment of the distribution.

Note: If an amount is deposited in connection with an account with the old ADI containing 2 or more old farm management deposits, the amount is to be apportioned between each old farm management deposit, so that so much of the amount as is attributable to a particular old farm management deposit is regarded as a distinct new deposit relating to that old farm management deposit.

New deposit is a farm management deposit

(2) This Division (except this section) applies to the new deposit as if it were a transfer of the old farm management deposit in accordance with a requirement of the agreement for the old farm management deposit as mentioned in subsection 393-40(5). To

avoid doubt, this Division applies in that way as if the amount transferred were the amount of the new deposit, even if that is more or less than the amount of the old farm management deposit.

Note 1: The effects of this include the following:

(a) the applicable depositing day for the old farm management deposit is maintained under paragraph 393-37(7)(c) or (d) for the new deposit (which affects whether a withdrawal of the new deposit prevents it from being a farm management deposit);

(b) the new deposit is not regarded as a repayment of the old farm management deposit that is assessable income (see subsection 393-50(5));

(c) the making of the new deposit does not give rise to a deduction (see subsection 393-50(5)).

Note 2: Also, the unrecouped FMD deduction in respect of the new deposit is the same as the unrecouped FMD deduction in respect of the old farm management deposit (see subsection 393-50(5)), unless subsection (6) or (7) of this section applies because the new deposit is less than the old farm management deposit.

(3) Subsection 393-35(5) does not apply in relation to either of the following to prevent it from being a farm management deposit:

(a) the new deposit;

(b) a deposit made later directly by the transfer of the new deposit in accordance with a requirement of the agreement for the new deposit as mentioned in subsection 393-40(5).

Note: This means that the new deposit, or a deposit made as a direct result of the transfer of the new deposit, can be a farm management deposit (despite subsection 393-45(1)) even if it is less than $1,000.

(4) For the purposes of subsection 393-35(7), disregard the old farm management deposit in determining whether a deposit made after the entitlement arises is a farm management deposit.

Note: This means that a deposit made with a financial institution other than the old ADI after the entitlement arises can be a farm management deposit (despite subsection 393-45(1)) even though the owner of the deposit still has the old farm management deposit with the old ADI.

(5) Subsection 393-35(7) does not apply to the new deposit to prevent it from being a farm management deposit.

Note: This ensures that the new deposit can be a farm management deposit (despite subsection 393-45(1)) even though the owner of the new deposit has other farm management deposits with other financial institutions when the new deposit is made.

Unrecouped FMD deduction for new deposit less than old farm management deposit

(6) Despite subsection (2) and paragraph 393-50(5)(c), if the new deposit is less than the old farm management deposit at the time (the ***declaration time***) the old ADI became a declared ADI under the *Banking Act 1959*, the unrecouped FMD deduction in respect of the new deposit is the amount worked out using the formula:

$$\text{Unrecouped FMD deduction in respect of old farm management deposit just before declaration time} \times \frac{\text{New deposit}}{\text{Old farm management deposit just before declaration time}}$$

Note: The new deposit could be less than the old farm management deposit if the entitlement is paid in instalments (each of which will be a separate new deposit).

(7) However, if the amount worked out under subsection (6) is more than the difference (if any) between:

(a) the unrecouped FMD deduction in respect of the old farm management deposit just before the declaration time; and

(b) the total of the amounts worked out under all previous applications of subsection (6) in relation to that old farm management deposit;

the unrecouped FMD deduction in respect of the new deposit is equal to the difference (if any).

Note: This ensures that when new deposits linked to the old farm management deposit are repaid, the total amount included in assessable income will not exceed the unrecouped FMD deduction in respect of the old farm management deposit.

Relationship with other provisions

(8) This section has effect despite Division 253 of the *Income Tax Assessment Act 1997* (which is about tax treatment of entitlements under the financial claims scheme for insolvent ADIs).

393-85 Repayment if owner of farm management deposit with insolvent ADI dies, is bankrupt or ceases to be a primary producer

(1) This section applies if:

(a) you are the owner of a farm management deposit with an ADI that becomes repayable during a year of income in accordance with a requirement of the agreement concerned to the effect mentioned in subsection 393-40(3) (which covers death, bankruptcy and ceasing to be a primary producer); and

(b) during the year of income the ADI becomes a declared ADI under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959*; and

(c) at the end of the year of income, you have either or both of the following:

(i) an unmet entitlement under that Division connected with the account for the farm management deposit;

(ii) an unmet claim against the ADI, or an unpaid debt owed to you by the ADI, in the winding up of the ADI that is a claim or debt that is connected with the account for the farm management deposit.

(2) Subsection 393-15(4) does not apply in relation to so much of the farm management deposit as is equal to the sum of the amounts described in subparagraphs (1)(c)(i) and (ii).

16 Application

The amendments of Schedule 2G to the *Income Tax Assessment Act 1936* made by this Schedule apply to assessments for the year of income including 18 October 2008 and later years of income.

Note: Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* commenced on 18 October 2008.

Income Tax Assessment Act 1997

17 At the end of subsection 104-10(5)

Add:

Note 4: A capital gain or loss you make because of section 16AI of the *Banking Act 1959* is disregarded: see section 253-10 of this Act. Section 16AI of the *Banking Act 1959*:

(a) reduces your right to be paid an amount by an ADI in connection with an account to the extent of your entitlement under Division 2AA of Part II of that Act to be paid an amount by APRA; and

(b) provides that, to the extent of the reduction, the right becomes a right of APRA.

Note 5: A capital gain or loss you make because, under section 62ZZL of the *Insurance Act 1973*, you dispose of a CGT asset consisting of your rights against a general insurance company to APRA is disregarded: see section 322-30 of this Act.

18 At the end of subsection 104-25(5)

Add:

Note 7: A capital gain or loss you make from the meeting of your entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* or Part VC (Financial claims scheme for account-holders with insolvent general insurers) of the *Insurance Act 1973* is disregarded: see sections 253-10 and 322-30 of this Act.

19 Section 112-97 (at the end of the table)

Add:

31	An entitlement arises under Division 2AA of Part II of the *Banking Act 1959* in connection with an account-holder's account with an ADI	The total cost base, and reduced cost base, of the entitlement and of the remainder (if any) of the right to be paid by the ADI in connection with the account	Section 253-15

20 At the end of Part 3-10

Add:

Division 253—Financial claims scheme for account-holders with insolvent ADIs

Table of Subdivisions

253-A Tax treatment of entitlements under financial claims scheme

Subdivision 253-A—Tax treatment of entitlements under financial claims scheme

Guide to Subdivision 253-A

253-1 What this Subdivision is about

This Act applies to a payment of an entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* as if the payment were made by the ADI under the agreement for the account concerned.

Special rules prevent the arising and payment of such an entitlement from creating inappropriate capital gains or losses affecting assessable income.

Table of sections

Operative provisions

253-5 Payment of entitlement under financial claims scheme treated as payment from ADI

253-10 Disposal of rights against ADI to APRA and meeting of financial claims scheme entitlement have no CGT effects

253-15 Cost base of financial claims scheme entitlement and any remaining part of account that gave rise to entitlement

Operative provisions

253-5 Payment of entitlement under financial claims scheme treated as payment from ADI

(1) This Act applies to you as if an amount paid to you, or applied for your benefit, to meet your entitlement under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* connected with an account with an *ADI had been paid to you by the ADI under the terms and conditions of the agreement for keeping the account.

Note: This section has effect subject to more detailed provisions about:

(a) entitlements relating to retirement savings accounts (see section 306-25); and

(b) entitlements relating to farm management deposits (see Subdivision 393-D in Schedule 2G to the *Income Tax Assessment Act 1936*).

(2) To avoid doubt, subsection (1) does not affect the operation of Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: Division 21 in Schedule 1 to the *Taxation Administration Act 1953* contains special provisions about how Part 2-5 in that Schedule operates in relation to the meeting of entitlements under Division 2AA of Part II of the *Banking Act 1959*.

253-10 Disposal of rights against ADI to APRA and meeting of financial claims scheme entitlement have no CGT effects

Disregard a *capital gain or *capital loss you make:

(a) because of the operation of section 16AI of the *Banking Act 1959*; or

(b) because your entitlement under Subdivision C of Division 2AA of Part II of that Act is met.

Note: Section 16AI of the *Banking Act 1959* reduces the right of an account-holder who has a protected account with a declared ADI to be paid an amount by the ADI, by the account-holder's entitlement under Subdivision C of Division 2AA of Part II of that Act to be paid an amount by APRA in connection with the account.

253-15 Cost base of financial claims scheme entitlement and any remaining part of account that gave rise to entitlement

(1) This section applies if an entitlement arises under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* in connection with an account-holder's account with an *ADI.

(2) The *cost base and *reduced cost base of the *CGT asset consisting of the entitlement are each the amount of the entitlement.

(3) The *cost base of the *CGT asset representing the part (if any) of the account-holder's right to be paid an amount by the *ADI in connection with the account that remains after the reduction of that right by section 16AI of the *Banking Act 1959* (by the amount of the entitlement) is the difference (if any) between:

(a) the cost base of the right as it was immediately before the reduction; and

(b) the amount of the entitlement.

The *reduced cost base is worked out similarly.

(4) This section has effect despite:
  (a) Division 110 (Cost base and reduced cost base); and
  (b) subsections 112-30(2), (3), (4) and (5) (which are about apportioning a *cost base if a *CGT event happens to only part of a *CGT asset).

21 At the end of Division 306

Add:

306-25 Payments connected with financial claims scheme to RSAs

(1) This section applies if:
  (a) a person is the holder of an *RSA (the ***old RSA***) of which an *ADI is the *RSA provider; and
  (b) an entitlement of the person arises under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* in connection with the old RSA; and
  (c) either:
    (i) the entitlement, so far as it relates to the old RSA, is met wholly or partly by the making of a payment to another RSA (the ***new RSA***) that the person is the holder of (whether or not the new RSA was established under section 16AH of the *Banking Act 1959*); or
    (ii) a liquidator of the ADI pays a distribution from the liquidation of the ADI, so far as the distribution is attributable to the old RSA, to another RSA (also the ***new RSA***) that the person is the holder of (whether or not the new RSA was established under section 16AR of the *Banking Act 1959*).

(2) This Part (except this section), and the other provisions of this Act (except this section) so far as they relate to this Part, apply in relation to the payment to the new RSA as if:
  (a) the payment were made from the old RSA to the new RSA; and
  (b) the entity that made the payment (rather than the *ADI) were the *RSA provider of the old RSA.

Note: The effects of this include:

(a) the payment is a superannuation member benefit of the person (because of sections 307-5 and 307-15); and

(b) the payment is a superannuation lump sum under Subdivision 307-B (unless regulations prevent this); and

(c) the payment is a roll-over superannuation benefit under section 306-10 (unless regulations prevent this); and

(d) reporting obligations (such as those in section 390-10 in Schedule 1 to the *Taxation Administration Act 1953*) apply to the entity that made the payment as if it were the RSA provider of the old RSA.

(3) However, for the purposes of section 307-125, determine the *value of the *superannuation interest, and the amount of each of the *tax free component and the *taxable component of the interest:

(a) when the entitlement arose; or

(b) if a *superannuation income stream benefit had been paid from the old RSA before that time—at the time the relevant *superannuation income stream commenced.

(4) Subsection (3) has effect despite:

(a) subsection 307-125(3) (as it applies because of subsection (2) of this section); and

(b) paragraph 307-125(3)(a) of the *Income Tax (Transitional Provisions) Act 1997*.

(5) This section has effect despite:

(a) Division 253; and

(b) Division 21 in Schedule 1 to the *Taxation Administration Act 1953*.

22 Application

(1) Section 306-25 of the *Income Tax Assessment Act 1997* applies in relation to entitlements arising under Division 2AA (Financial claims scheme for account-holders with insolvent ADIs) of Part II of the *Banking Act 1959* after 17 October 2008.

Note: Division 2AA of Part II of the *Banking Act 1959* commenced on 18 October 2008.

(2) However, this item does not:

(a) require a person to do anything the person would have been required by Division 390 in Schedule 1 to the *Taxation Administration Act 1953* to do before the commencement of

this item had section 306-25 of the *Income Tax Assessment Act 1997* commenced on 18 October 2008; or

(b) make a person liable to a criminal or administrative penalty for an omission occurring before the commencement of this item.

23 Division 322 (heading)

Repeal the heading, substitute:

Division 322—Assistance for policyholders with insolvent general insurers

24 At the end of section 322-1

Add "and deals with the tax treatment of entitlements under Part VC (Financial claims scheme for policyholders with insolvent general insurers) of the *Insurance Act 1973*".

25 Group heading before section 322-5

Repeal the heading, substitute:

Subdivision 322-A—HIH rescue package

26 At the end of Division 322

Add:

Subdivision 322-B—Tax treatment of entitlements under financial claims scheme

Guide to Subdivision 322-B

322-20 What this Subdivision is about

This Act applies to a payment of an entitlement under Part VC (Financial claims scheme for policyholders with insolvent general insurers) of the *Insurance Act 1973* as if the payment were made by the insurer under the insurance policy concerned.

Disregard a capital gain or loss from:

(a) the disposal to APRA under that Part of rights against the insurer under an insurance policy; or

(b) the payment of an entitlement under that Part.

Table of sections

Operative provisions

322-25 Payment of entitlement under financial claims scheme treated as payment from insurer

322-30 Disposal of rights against insurer to APRA and meeting of financial claims scheme entitlement have no CGT effects

Operative provisions

322-25 Payment of entitlement under financial claims scheme treated as payment from insurer

(1) This Act applies to you as if an amount paid to you, or applied for your benefit, to meet your entitlement under Part VC (Financial claims scheme for policyholders with insolvent general insurers) of the *Insurance Act 1973* relating to a *general insurance policy issued by a *general insurance company had been paid to you by the company under the terms and conditions of the policy.

(2) To avoid doubt, subsection (1) does not affect the operation of Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: Division 21 in Schedule 1 to the *Taxation Administration Act 1953* contains special provisions about how Part 2-5 in that Schedule operates in relation to the meeting of entitlements under Part VC of the *Insurance Act 1973*.

322-30 Disposal of rights against insurer to APRA and meeting of financial claims scheme entitlement have no CGT effects

Disregard a *capital gain or *capital loss you make because:

(a) under section 62ZZL of the *Insurance Act 1973*, you *dispose of a *CGT asset consisting of your rights against a *general insurance company to *APRA; or

(b) your entitlement under Division 3 of Part VC of that Act is met.

Note 1: Section 62ZZL of the *Insurance Act 1973* causes you to cease to be the owner, and APRA to become the owner, of rights against a general insurance company relating to a general insurance policy when your entitlement arises under Part VC of that Act in relation to the policy.

Note 2: Division 3 of Part VC of the *Insurance Act 1973* entitles persons with valid claims based on general insurance policies issued by certain general insurance companies that have since become insolvent to be paid the amount of those claims by APRA.

Income Tax (Transitional Provisions) Act 1997

27 At the end of Part 3-10

Add:

Division 253—Financial claims scheme for account-holders with insolvent ADIs

Table of Subdivisions

253-A Tax treatment of entitlements under financial claims scheme

Subdivision 253-A—Tax treatment of entitlements under financial claims scheme

Table of sections

253-5 Application of section 253-5 of the *Income Tax Assessment Act 1997*
253-10 Application of sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997*

253-5 Application of section 253-5 of the *Income Tax Assessment Act 1997*

Section 253-5 of the *Income Tax Assessment Act 1997* applies to amounts paid or applied before, on or after the commencement of that section to meet entitlements arising under Division 2AA of Part II of the *Banking Act 1959* after 17 October 2008.

Note: Division 2AA of Part II of the *Banking Act 1959* commenced on 18 October 2008.

253-10 Application of sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997*

Sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997* apply to CGT events happening after 17 October 2008.

28 Part 3-35 (heading)

Repeal the heading, substitute:

Part 3-35—Insurance business

29 At the end of Part 3-35

Add:

Division 322—Assistance for policyholders with insolvent general insurers

Table of Subdivisions

322-B Tax treatment of entitlements under financial claims scheme

Subdivision 322-B—Tax treatment of entitlements under financial claims scheme

Table of sections

322-25 Application of section 322-25 of the *Income Tax Assessment Act 1997*
322-30 Application of section 322-30 of the *Income Tax Assessment Act 1997*

322-25 Application of section 322-25 of the *Income Tax Assessment Act 1997*

Section 322-25 of the *Income Tax Assessment Act 1997* applies to amounts paid or applied before, on or after the commencement of that section to meet entitlements arising under Part VC of the *Insurance Act 1973* after 17 October 2008.

Note: Part VC of the *Insurance Act 1973* commenced on 18 October 2008.

322-30 Application of section 322-30 of the *Income Tax Assessment Act 1997*

Section 322-30 of the *Income Tax Assessment Act 1997* applies to CGT events happening after 17 October 2008.

Insurance Act 1973

30 After section 62ZZK

Insert:

62ZZKA Giving information about payments in a financial year

(1) This section applies if one or more amounts are paid to, or applied for the benefit of, one or more persons (the ***recipients***) in a financial year to meet (wholly or partly) the recipients' entitlements under this Division.

Giving each recipient an annual statement

(2) Within 14 days after the end of the financial year, APRA must give each of the recipients a statement about the amounts paid to, or applied for the benefit of, the recipient in the financial year. The statement must:

(a) be in the approved form; and

(b) name the recipient; and

(c) state the recipient's tax file number, if APRA knows it; and

(d) state the total of the amounts and the total of the amounts (if any) withheld from them under the *Taxation Administration Act 1953*; and

(e) specify the financial year to which the statement relates.

Giving the Commissioner of Taxation an annual report

(3) Within 4 months after the end of the financial year, APRA must give the Commissioner a report in the approved form about all the amounts described in subsection (1).

Provisions about statements and reports in approved forms

(4) Division 388 in Schedule 1 to the *Taxation Administration Act 1953* applies as if this section were a taxation law for the purposes of that Act.

Note: That Division sets out rules about approved forms and when they can be given.

This section does not limit the Taxation Administration Act 1953

(5) Subsection (4) does not limit the operation of the *Taxation Administration Act 1953* in relation to APRA.

31 Application of section 62ZZKA

Section 62ZZKA of the *Insurance Act 1973* applies in relation to amounts paid or applied before, on or after the commencement of the section.

32 At the end of subsection 62ZZM(1)

Add "under the terms and conditions of the policy".

33 After paragraph 62ZZP(4)(d)

Insert:

(da) preparing or giving a statement or report required by section 62ZZKA;

(db) complying with an obligation under a law relating to taxation;

Taxation Administration Act 1953

34 At the end of Part 2-5 in Schedule 1

Add:

Division 21—Entitlements relating to insolvent ADIs and general insurers

Table of Subdivisions

Guide to Division 21

21-A Treatment of some payments by APRA

Guide to Division 21

21-1 What this Division is about

This Part applies in relation to a payment by APRA under:

(a) Division 2AA of Part II of the *Banking Act 1959* applying in relation to an account with an ADI; or

(b) Part VC of the *Insurance Act 1973* applying in relation to a general insurance policy issued by a general insurance company;

in a way corresponding to the way this Part would have applied if the payment had been made by the ADI or company in connection with the account or policy.

Subdivision 21-A—Treatment of some payments by APRA

Table of sections

21-5 APRA treated like ADI or general insurance company

21-5 APRA treated like ADI or general insurance company

(1) This section applies if:

(a) an entity's entitlement under Division 2AA of Part II of the *Banking Act 1959* to be paid an amount by *APRA in connection with the entity's account with an *ADI is met wholly or partly; or

(b) an entity's entitlement under Part VC of the *Insurance Act 1973* to be paid an amount in connection with a *general insurance policy issued by a *general insurance company is met wholly or partly.

Note 1: Division 2AA of Part II of the *Banking Act 1959* entitles entities that have certain accounts with certain insolvent ADIs to be paid amounts by APRA worked out by reference to the balance of those accounts.

Note 2: Part VC of the *Insurance Act 1973* entitles entities with valid claims against certain insolvent general insurance companies under certain general insurance policies issued by those companies to be paid amounts by APRA.

(2) This Part applies in relation to *APRA and the meeting of the entitlement in a way corresponding to the way in which this Part would have applied in relation to the *ADI or *general insurance company doing, in connection with the account or policy, whatever was done in meeting the entitlement.

Example: APRA (or APRA's agent or delegate) pays an entity an amount of the entity's entitlement relating to an account with an ADI. This Part applies in relation to APRA and the payment in a way corresponding to the way in which this Part would have applied in relation to the ADI had the ADI made a payment at that time of that amount under the arrangements for keeping the account.

35 Application of Division 21 in Schedule 1 to the *Taxation Administration Act 1953*

(1) Division 21 in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to things done before, on or after the commencement of the Division to meet entitlements arising after 17 October 2008 under the following provisions:

(a) Division 2AA of Part II of the *Banking Act 1959*;

(b) Part VC of the *Insurance Act 1973*.

Note: Division 2AA of Part II of the *Banking Act 1959* and Part VC of the *Insurance Act 1973* commenced on 18 October 2008.

(2) However, this item does not:

(a) require APRA to do anything APRA would have been required by Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953* to do before the commencement of this item had Division 21 in that Schedule commenced on 18 October 2008; or

(b) make APRA liable to a criminal or administrative penalty for an omission occurring before the commencement of this item.

Schedule 2—CGT concessions for small business

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Subparagraph 152-10(1)(c)(iii)

After “asset is an”, insert “interest in an”.

2 At the end of paragraph 152-10(1)(c) (before the note)

Add:

(iv) the conditions mentioned in subsection (1A) or (1B) are satisfied in relation to the CGT asset in the income year;

3 Paragraph 152-10(1)(c) (note)

Repeal the note, substitute:

Note: For determining whether an entity is a ***small business entity***, see Subdivision 328-C (as affected by section 152-48).

4 After subsection 152-10(1)

Insert:

Passively held assets—affiliates and entities connected with you

(1A) The conditions in this subsection are satisfied in relation to the *CGT asset in the income year if:

(a) your *affiliate, or an entity that is *connected with you, is a *small business entity for the income year; and

(b) you do not carry on a *business in the income year (other than in partnership); and

(c) if you carry on a business in partnership—the CGT asset is not an interest in an asset of the partnership; and

(d) in any case—the small business entity referred to in paragraph (a) is the entity that, at a time in the income year, carries on the business (as referred to in subparagraph 152-40(1)(a)(ii) or (iii) or paragraph 152-40(1)(b)) in relation to the CGT asset.

Note 1: For determining whether an entity is a ***small business entity***, see Subdivision 328-C (as affected by section 152-48).

Note 2: For businesses that are winding up, see section 152-49 and subsection 328-110(5).

Passively held assets—partnerships

(1B) The conditions in this subsection are satisfied in relation to the *CGT asset in the income year if:

(a) you are a partner in a partnership in the income year; and

(b) the partnership is a *small business entity for the income year; and

(c) you do not carry on a *business in the income year (other than in partnership); and

(d) the CGT asset is not an interest in an asset of the partnership; and

(e) the business you carry on as a partner in the partnership referred to in paragraph (a) is the business that you, at a time in the income year, carry on (as referred to in subparagraph 152-40(1)(a)(i) or paragraph 152-40(1)(b)) in relation to the CGT asset.

Note 1: For determining whether an entity is a ***small business entity***, see Subdivision 328-C (as affected by section 152-48).

Note 2: For businesses that are winding up, see section 152-49 and subsection 328-110(5).

5 Before subsection 152-10(2)

Insert:

Additional basic conditions for shares in a company or interests in a trust

6 Before subsection 152-10(3)

Insert:

Extra conditions for some concessions

7 Before subsection 152-10(4)

Insert:

Special rules for certain CGT events

8 Paragraphs 152-40(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) you own the asset (whether the asset is tangible or intangible) and it is used, or held ready for use, in the course of carrying on a *business that is carried on (whether alone or in partnership) by:

(i) you; or

(ii) your *affiliate; or

(iii) another entity that is *connected with you; or

(b) if the asset is an intangible asset—you own it and it is inherently connected with a business that is carried on (whether alone or in partnership) by you, your affiliate, or another entity that is connected with you.

9 Subsection 152-40(1) (note 2)

Omit "subparagraph (1)(a)(ii)", substitute "subparagraph (1)(a)(iii)".

10 At the end of subsection 152-40(1)

Add:

Note 3: An example of an asset that is inherently connected with a business is goodwill or the benefit of a restrictive covenant.

Note 4: For businesses that are winding up, see section 152-49 and subsection 328-110(5).

11 Subsection 152-40(1A)

Repeal the subsection.

12 Subsection 152-40(2)

Omit "or (1A)".

13 Subsection 152-42(1)

Omit "subparagraph 152-40(1)(a)(ii)", substitute "subparagraph 152-40(1)(a)(iii)".

14 After section 152-45

Insert:

Treatment of passively held CGT assets

152-47 Spouses or children taken to be affiliates for certain passively held CGT assets

(1) This section applies if:

(a) one entity (the ***asset owner***) owns a *CGT asset (whether the asset is tangible or intangible); and

(b) either:

(i) the asset is used, or held ready for use, in the course of carrying on a *business in an income year by another entity (the ***business entity***); or

(ii) the asset is inherently connected with a business that is carried on in an income year by another entity (the ***business entity***); and

(c) the business entity is not (apart from this section) an *affiliate of, or *connected with, the asset owner.

(2) For the purposes of this Subdivision, in determining whether the business entity is an *affiliate of, or is *connected with, the asset owner, take the following to be affiliates of an individual:

(a) a *spouse of the individual;

(b) a *child of the individual, being a child who is under 18 years.

(3) If an entity is an *affiliate of, or *connected with, another entity as a result of subsection (2), then the *spouse or *child mentioned in that subsection is, in addition, taken to be an affiliate of the individual for the purposes of this Subdivision, and for the purposes of sections 328-110 to 328-125 to the extent that they relate to this Subdivision.

Example: The spouse or child mentioned in subsection (2) is taken to be an affiliate of the individual for the purposes of working out which entities are affiliates of or connected with entities under section 152-48.

(4) To avoid doubt, subsection (2) applies:

(a) for the purposes of reducing or disregarding, under this Division, any *capital gain from any *CGT asset; but

(b) only while:

(i) a *spouse remains a spouse; or

(ii) a *child remains a child who is under 18 years.

152-48 Working out an entity's aggregated turnover for passively held CGT assets

(1) This section applies for the purposes of section 328-115 to determine whether an entity (the ***test entity***) is a *small business entity for the purposes of subsection 152-10(1A) or (1B).

(2) An entity (the ***deemed entity***) is taken to be an *affiliate of, or *connected with, the test entity (as the case requires) if:

(a) the deemed entity is an affiliate of, or connected with, the entity that owns the *CGT asset referred to in subsection 152-10(1A) or (1B); and

(b) the deemed entity is not (apart from this section) an affiliate of, or connected with, the test entity.

(3) If:

(a) the entity that owns the *CGT asset referred to in subsection 152-10(1B) is a partner in 2 or more partnerships; and

(b) the asset is:

(i) used, or held ready for use, in the course of carrying on a *business that is carried on by at least 2 of those partnerships; or

(ii) inherently connected with businesses that are carried on by at least 2 of those partnerships;

then, each partnership referred to in paragraph (b) that is not (apart from this section) *connected with the test entity is taken to be connected with the test entity.

152-49 Businesses that are winding up

(1) This section applies to an entity in an income year (the ***CGT event year***) if:

(a) a *business that the entity previously carried on (including in partnership) is being wound up in that year; and

(b) either:

(i) the asset was used, or held ready for use, in the course of carrying on the business at a time in the income year in which the business stopped being carried on; or

(ii) if the asset is an intangible asset—the asset was inherently connected with the business that was carried on at a time in the income year in which the business stopped being carried on.

(2) For the purposes of paragraphs 152-40(1)(a) and (b) as they apply for the purposes of paragraphs 152-10(1A)(d) and (1B)(e):

(a) the entity is taken to carry on the *business at a time in the CGT event year; and

(b) either:

(i) the *CGT asset is taken to be used, or held ready for use, in the course of carrying on the business at that time; or

(ii) if the asset is an intangible asset—the CGT asset is taken to be inherently connected with the business at that time.

Note: The entity might also be taken to be a small business entity in the CGT event year (see subsection 328-110(5)).

15 At the end of subsection 328-115(1)

Add:

Note: For small business relief purposes, additional entities may be treated as being connected with you or your affiliate under section 152-48.

16 At the end of section 328-130 (before the example)

Add:

Note: For small business relief purposes, a spouse or a child under 18 years may also be an affiliate under section 152-47.

Part 2—Other amendments

Income Tax Assessment Act 1936

17 At the end of subsection 109(1)

Add:

Note: This section does not apply to an amount if the amount is paid to a CGT concession stakeholder under subsection 152-325(1) of the *Income Tax Assessment Act 1997* (see subsection 152-325(11)).

18 Subsection 109C(1) (note 1)

Repeal the note, substitute:

Note 1: Some payments do not give rise to dividends under Subdivision D. This section also does not give rise to a dividend if the amount is paid to a CGT concession stakeholder under subsection 152-325(1) of the *Income Tax Assessment Act 1997* (see subsection 152-325(11)).

Income Tax Assessment Act 1997

19 Section 11-55 (after table item headed "bonds")

Insert:

capital gains tax

payments made by an interposed entity in relation to the small business retirement exemption ..... 152-310(3)

20 At the end of subsection 104-197(1)

Add:

Note: You do not have to satisfy the basic conditions in Subdivision 152-A for the gain in relation to CGT event J5 (see subsection 152-305(4)).

21 At the end of subsection 104-198(1)

Add:

Note: You do not have to satisfy the basic conditions in Subdivision 152-A for the gain in relation to CGT event J6 (see subsection 152-305(4)).

22 Section 152-5

Omit:

> There are limitations on the availability of the small business concessions for CGT events J2, J5 and J6.

Substitute:

> There are limitations on the availability of the small business concessions for CGT events J2, J5 and J6.
>
> You do not need to satisfy the basic conditions for the retirement exemption in relation to CGT events J5 and J6.

23 Subsection 152-10(4) (note)

Omit "Note", substitute "Note 1".

24 At the end of subsection 152-10(4)

Add:

Note 2: This Subdivision does not apply to CGT events J5 and J6 in relation to the retirement exemption (see subsection 152-305(4)).

25 Paragraph 152-20(2)(a)

After "first-mentioned entity" (second occurring), insert ", but include any liabilities related to any such shares, units or interests".

26 Paragraph 152-40(4)(e)

Omit "in the course of carrying on the *business mentioned in subsection (1)", substitute "by you".

27 After subsection 152-40(4)

Insert:

(4A) For the purposes of paragraph (4)(e), in determining the main use of an asset:

(a) disregard any personal use or enjoyment of the asset by you; and

(b) treat any use by your *affiliate, or an entity that is *connected with you, as your use.

28 Group heading before section 152-80

Repeal the heading, substitute:

CGT event happens to asset or interest within 2 years of an individual's death

29 Section 152-80 (heading)

Repeal the heading, substitute:

152-80 CGT event happens to an asset or interest within 2 years of individual's death

30 Paragraphs 152-80(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) a *CGT asset:

(i) forms part of the estate of a deceased individual; or

(ii) was owned by joint tenants and one of them dies; and

(b) any of the following applies:

(i) the asset devolves to the individual's *legal personal representative;

(ii) the asset *passes to a beneficiary of the individual;

(iii) an interest in the asset is *acquired by the surviving joint tenant or tenants (as the case may be) as mentioned in section 128-50;

(iv) the asset devolves to a trustee of a trust established by the will of the individual; and

31 Paragraph 152-80(1)(c)

Omit "the individual", substitute "the deceased individual referred to in subparagraph (a)(i) or (ii)".

32 Subsection 152-80(2)

Repeal the subsection, substitute:

(2) A person mentioned in subsection (2A) is entitled to reduce or disregard a *capital gain under this Division in the same way as the deceased individual would have been entitled to as if:

(a) paragraph 152-105(d) only required the deceased individual to have been 55 or over, or permanently incapacitated, at the

time of the *CGT event referred to in paragraph (1)(c) of this section; and

(b) paragraph 152-305(1)(b) did not apply.

(2A) The following persons (as the case requires) are entitled to reduce or disregard a *capital gain under this Division in accordance with subsection (2):

(a) the *legal personal representative of the individual;

(b) the beneficiary of the individual;

(c) the surviving joint tenant or tenants;

(d) the trustee or a beneficiary of the trust.

33 Section 152-300

Omit:

> You may choose not to apply the concession in section 152-205 (small business 50% reduction) before this one. For an additional concession, see also Subdivision 152-E (small business roll-over).

Substitute:

> You may choose not to apply the concession in section 152-205 (small business 50% reduction) before this one. For an additional concession, see also Subdivision 152-E (small business roll-over).
>
> You do not need to satisfy the basic conditions for this exemption in relation to CGT events J5 and J6.

34 After subsection 152-305(1)

Insert:

(1A) If you receive the *capital proceeds from the *CGT event in instalments, paragraphs (1)(b) and (c) apply to each instalment in succession (up to the asset's *CGT exempt amount).

35 At the end of section 152-305

Add:

(4) Paragraphs (1)(a) and (2)(a) do not apply if the *capital gain arose from *CGT event J5 or J6.

36 Subsection 152-310(3)

Repeal the subsection, substitute:

Additional consequences in relation to interposed entities

(3) If:

(a) an entity (the ***paying entity***) receives a payment (whether directly or indirectly through one or more interposed entities) that a company or trust makes to comply with section 152-325; and

(b) the paying entity passes on the payment to the *CGT concession stakeholder or another interposed entity;

then:

(c) the payment cannot be deducted from the paying entity's assessable income; and

(d) the payment received by the paying entity is not assessable income and is not *exempt income.

37 Subsection 152-325(1)

After "payment", insert "(whether directly or indirectly through one or more interposed entities)".

38 Subsection 152-325(9)

Repeal the subsection, substitute:

Payments are not dividends or frankable distributions

(9) Subsection (10) applies if:

(a) a company makes a payment to comply with subsection (1) to:

(i) a *CGT concession stakeholder; or

(ii) an interposed entity, in relation to a CGT concession stakeholder; or

(b) both of the following apply:

(i) an interposed entity receives a payment (whether directly or indirectly through one or more interposed entities) that a company or trust makes to comply with subsection (1), in relation to a CGT concession stakeholder;

(ii) the interposed entity passes on the payment to the CGT concession stakeholder or another interposed entity.

(10) This Act applies to the payment, to the extent that it is less than or equal to the amount mentioned in subsection (3) for the stakeholder, as if:

(a) it were not a *dividend; and

(b) it were not a *frankable distribution.

(11) Subsection (10) applies in relation to the payment despite section 109 and Division 7A of Part III of the *Income Tax Assessment Act 1936*.

39 At the end of section 328-110

Add:

Partners in a partnership

(6) A person who is a partner in a partnership in an income year is not, in his or her capacity as a partner, a ***small business entity*** for the income year.

Tax Laws Amendment (2008 Measures No. 6) Act 2009

40 Item 52 of Schedule 4 (table item 8)

Repeal the table item.

Part 3—Application provisions

41 Application of amendments made by Part 1

(1) The amendments made by Part 1 of this Schedule apply to CGT events (other than CGT events to which subitem (2) applies) happening in the 2007-08 income year and later income years.

(2) Subitem (1) does not apply in relation to a CGT event (the ***excluded event***) if:

(a) the excluded event happens in relation to a CGT asset before the day on which the Bill for this Act is introduced into the Parliament; and

(b) an entity makes a capital gain from the excluded event; and

(c) the basic conditions in Subdivision 152-A of the *Income Tax Assessment Act 1997* (as in force immediately before Part 1 of this Schedule commences) are satisfied for the gain; and

(d) the basic conditions would not be satisfied for the gain if:

(i) subsection 152-40(1A) of that Act (as in force immediately before Part 1 of this Schedule commences) did not apply to the entity; or

(ii) section 152-47 of that Act (as in force immediately after Part 1 of this Schedule commences) applied to the entity.

(3) The amendments made by Part 1 of this Schedule apply to excluded events happening on or after the day on which the Bill for this Act is introduced into the Parliament.

42 Application of amendments made by items 25 to 27

The amendments made by items 25 to 27 of this Schedule apply to CGT events that happen on or after the day on which this Act receives the Royal Assent.

43 Application of amendments made by items 30 to 32

The amendments made by items 30 to 32 of this Schedule apply to CGT events happening in the 2006-07 income year and later income years.

44 Application of amendment made by item 34

The amendment made by item 34 applies to proceeds received in the 2007-08 income year and later income years.

45 Application of amendment made by item 35

The amendment made by item 35 of this Schedule applies to CGT events happening in the 2006-07 income year and later income years.

46 Application of amendments made by items 36 to 38

The amendments made by items 36 to 38 of this Schedule apply to payments that are made (whether by a company or trust to comply with section 152-325 of the *Income Tax Assessment Act 1997* or by an interposed entity) on or after the day on which this Act receives the Royal Assent.

47 Application of amendment made by item 39

The amendment made by item 39 of this Schedule applies to assessments for the 2007-08 income year and later income years.

48 Transitional: choice

(1) Subitem (2) applies in relation to:

(a) a CGT event that happened before the day on which this Act receives the Royal Assent; and

(b) an entity who becomes eligible to make a choice under Division 152 of the *Income Tax Assessment Act 1997* in relation to that event because of this Schedule.

(2) Despite subsection 103-25(1) of the *Income Tax Assessment Act 1997*, any such choice must be made by the entity by the latest of:

(a) the day the entity lodges its income tax return for the income year in which the relevant CGT event happened; and

(b) 12 months after the day on which this Act receives the Royal Assent; and

(c) a later day allowed by the Commissioner of Taxation.

Schedule 3—Tax benefits and capital gains tax

Income Tax Assessment Act 1997

1 Paragraph 118-37(1)(h)

Repeal the paragraph, substitute:

(h) a right or entitlement to a *tax offset, a *deduction, or a similar benefit under an *Australian law, a *foreign law or a law of part of a foreign country;

2 Application

The amendment made by this Schedule applies in relation to a CGT event happening in:

(a) the 2009-10 income year; or

(b) a later income year.

Schedule 4—National Urban Water and Desalination Plan

Part 1—Main amendments

Income Tax Assessment Act 1936

1 Subsection 73I(4) (note)

Omit “section 67-25”, substitute “section 67-23”.

Income Tax Assessment Act 1997

2 Section 13-1 (after table item headed “unit trusts”)

Insert:

water

urban water tax offset ..... Subdivision 402-W

3 After section 67-20

Insert:

67-23 Refundable tax offsets

The following *tax offsets are subject to the refundable tax offset rules:

Refundable tax offsets		
Item	**Subject matter**	**Tax offset**
5	private health insurance	private health insurance tax offsets under Subdivision 61-G, other than those arising under subsection 61-205(2)
10	children	first child tax offsets under Subdivision 61-I
15	no-TFN contributions income	the *tax offset available under Subdivision 295-J
20	films	the *tax offsets available under Division 376
25	National Urban Water and	urban water tax offset under

Refundable tax offsets		
Item	**Subject matter**	**Tax offset**
	Desalination Plan	Subdivision 402-W
30	life insurance company's subsidiary joining consolidated group	the *tax offset available under subsection 713-545(5)
35	research and development	the *tax offset available under section 73I of the *Income Tax Assessment Act 1936*

Note 1: Subsection 61-205(2) of this Act deals with tax offsets for trustees who are assessed and liable to pay tax under section 98 of the *Income Tax Assessment Act 1936*.

Note 2: For the tax offsets available under Division 207 and Subdivision 210-H (franked distributions), see section 67-25.

4 Section 67-25 (heading)

Repeal the heading, substitute:

67-25 Refundable tax offsets—franked distributions

5 Subsection 67-25(1) (heading)

Repeal the heading.

6 Subsections 67-25(2) to (6)

Repeal the subsections.

7 Subsection 376-10(1) (note)

Omit "subsection 67-25(2A)", substitute "section 67-23".

8 Subsection 376-35(1) (note)

Omit "subsection 67-25(2A)", substitute "section 67-23".

9 Subsection 376-55(1) (note)

Omit "subsection 67-25(2A)", substitute "section 67-23".

10 After Division 396

Insert:

Division 402—Environment protection expenditure

Table of Subdivisions

Guide to Division 402
402-W Urban water tax offset

Guide to Division 402

402-1 What this Division is about

This Division provides for certain tax measures in relation to environment protection.

Subdivision 402-W—Urban water tax offset

Guide to Subdivision 402-W

402-750 What this Subdivision is about

A company may get a refundable tax offset under the National Urban Water and Desalination Plan for a project that the Water Minister certifies as being eligible for the tax offset.

The amount of the urban water tax offset is specified in the certificate.

The urban water tax offset is only available for the income years 2009-10 to 2012-13.

Note: This Subdivision will be repealed on 1 July 2014: see Part 2 of Schedule 4 to the *Tax Laws Amendment (2009 Measures No. 2) Act 2009*.

Table of sections

402-755 Entitlement to urban water tax offset
402-760 Certificates
402-765 Amount of urban water tax offset
402-770 Revoking certificates
402-775 AAT review
402-780 Guidelines

402-755 Entitlement to urban water tax offset

(1) A company is entitled to a *tax offset for a project for an income year if the *Water Minister certifies under section 402-760 that the project is eligible for the tax offset for the year.

(2) The amount of the *tax offset is the amount specified in the certificate.

Note: The tax offset is subject to the refundable tax offset rules: see section 67-23.

402-760 Certificates

Issuing certificates

(1) The *Water Minister may certify, in writing, to a company that a project is eligible for the urban water tax offset for an income year, if:

(a) the eligible up-front capital costs of the project (within the meaning given by the guidelines made under section 402-780) are:

(i) in the case of a stormwater harvesting project—$4 million or more; or

(ii) in any other case—$30 million or more; and

(b) the other requirements specified in those guidelines are met.

(2) The *Water Minister may only issue certificates for the following income years:

(a) the 2009-10 income year;

(b) the 2010-11 income year;

(c) the 2011-12 income year;

(d) the 2012-13 income year.

(3) In deciding whether to issue a certificate, the *Water Minister must comply with the guidelines made under section 402-780.

(4) If the *Water Minister issues a certificate under this section, he or she must, within 30 days, give a copy to the Commissioner.

Refusal to issue certificates

(5) If the *Water Minister refuses to issue a certificate to a company under this section, he or she must, within 30 days, give written notice of the refusal to the company.

(6) The notice must explain that the company may apply to the *AAT for review of the *Water Minister's refusal to issue a certificate to the company (see section 402-775).

402-765 Amount of urban water tax offset

(1) A certificate issued under section 402-760 must specify the amount of the *tax offset.

(2) In specifying an amount, the *Water Minister must comply with the guidelines made under section 402-780.

(3) The total of the amounts specified in certificates issued to a company for a stormwater harvesting project for one or more income years:
   (a) must not exceed 50% of the eligible up-front capital costs of the project (within the meaning given by the guidelines made under section 402-780); and
   (b) must not exceed $20 million.

(4) The total of the amounts specified in certificates issued to a company for a project (other than a stormwater harvesting project) for one or more income years:
   (a) must not exceed 10% of the eligible up-front capital costs of the project (within the meaning given by the guidelines made under section 402-780); and
   (b) must not exceed $100 million.

(5) A certificate issued to a company under section 402-760 must explain that the company may apply to the *AAT for review of the amount specified in the certificate (see section 402-775).

402-770 Revoking certificates

Revoking certificates

(1) The *Water Minister may revoke a certificate issued to a company under section 402-760.

(2) However, the *Water Minister may only do so in the circumstances provided for in the guidelines made under section 402-780.

(3) If the *Water Minister revokes the certificate, he or she must, within 30 days, give to the company and to the Commissioner:
   (a) written notice of the revocation; and
   (b) written reasons for the decision to revoke the certificate.

(4) The notice given to the company must explain that the company may apply to the *AAT for review of the *Water Minister's revocation of the certificate (see section 402-775).

Revoked certificates taken never to have been issued

(5) If the *Water Minister revokes a certificate under this section, the certificate is taken, for the purposes of this Subdivision, never to have been issued.

(6) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment for the purpose of giving effect to this Subdivision for an income year if:
   (a) a certificate issued to a company is revoked under this section after the time the company lodged its *income tax return for the income year; and
   (b) the amendment is made at any time during the period of 4 years starting immediately after the revocation of the certificate.

Note: Section 170 of the *Income Tax Assessment Act 1936* specifies the usual period within which assessments may be amended.

Certificates cannot be varied

(7) A certificate issued under section 402-760 cannot be varied.

402-775 AAT review

A company may apply to the *AAT for review of a decision of the *Water Minister under this Subdivision:

(a) to refuse to issue a certificate to the company; or

(b) to specify a particular amount in a certificate issued to the company; or

(c) to revoke a certificate issued to the company.

402-780 Guidelines

(1) The *Water Minister must, by legislative instrument, make guidelines about issuing and revoking certificates under this Subdivision.

(2) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, the guidelines may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time if:

(a) the instrument or other writing is issued by the *Water Minister or by the *Water Department; and

(b) the instrument or other writing, as in force or existing from time to time, is publicly available.

(3) A legislative instrument made under subsection (1) does not take effect before the end of the period in which it could be disallowed in either House of the Parliament.

11 Subsection 995-1(1)

Insert:

Water Department means the Department that:

(a) deals with matters arising under section 1 of the *Water Act 2007*; and

(b) is administered by the *Water Minister.

12 Subsection 995-1(1)

Insert:

Water Minister means the Minister administering section 1 of the *Water Act 2007*.

Taxation (Interest on Overpayments and Early Payments) Act 1983

13 Subsection 3(1) (note at the end of the definition of *income tax crediting amount*)

Omit “Section 67-25”, substitute “Division 67”.

14 Subsection 8E(1) (note)

Omit “Section 67-25”, substitute “Division 67”.

15 Subsection 8G(1) (note)

Omit “Section 67-25”, substitute “Division 67”.

Part 2—Sunsetting on 1 July 2014

Income Tax Assessment Act 1997

16 Section 13-1 (table item headed "water")

Repeal the item.

17 Section 67-23 (table item 25)

Repeal the item.

18 Subdivision 402-W

Repeal the Subdivision.

19 Transitional—revoking certificates

Revoking certificates

(1) Subject to subitem (3) and despite the repeal of section 402-770 of the *Income Tax Assessment Act 1997* by this Part, that section continues to apply, after the commencement of this Part, to a certificate issued under former section 402-760 of that Act until the end of the period of 10 years starting on the day the certificate was issued.

(2) For the purposes of subitem (1), a reference in section 402-770 of the *Income Tax Assessment Act 1997* to guidelines made under section 402-780 of that Act is taken, from the commencement of this Part, to be a reference to those guidelines as in force immediately before that commencement.

(3) Despite the repeal of subsection 402-770(6) of the *Income Tax Assessment Act 1997* by this Part, that subsection continues to apply, after the commencement of this Part, in relation to the revocation of a certificate occurring before or after that commencement.

AAT review

(4) Despite the repeal of section 402-775 of the *Income Tax Assessment Act 1997* by this Part, that section continues to apply, after the commencement of this Part, in relation to a decision to revoke a certificate made before or after that commencement.

Schedule 5—Deductible gift recipients

Part 1—Amendments commencing on Royal Assent

Income Tax Assessment Act 1997

1 Subsection 30-20(2) (at the end of the table)

Add:

1.2.18	The Australasian College for Emergency Medicine	the gift must be made after 2 February 2009

2 Subsection 30-25(2) (table item 2.2.34)

Omit “1 July 2008”, substitute “1 July 2009”.

3 Subsection 30-40(2) (at the end of the table)

Add:

3.2.11	Grattan Institute	the gift must be made after 4 March 2009 and before 5 March 2011

4 Subsection 30-45(2) (after table item 4.2.31)

Insert:

4.2.31 A	ACT Region Crime Stoppers Limited	the gift must be made after 12 February 2009

5 Section 30-105 (table item 13.2.8)

Omit “1 January 2008”, substitute “1 January 2011”.

6 Section 30-105 (table item 13.2.12) (the item 13.2.12 dealing with the Bunbury Diocese Cathedral Rebuilding Fund)

Repeal the item, substitute:

13.2.14 A	Bunbury Diocese Cathedral Rebuilding Fund	the gift must be made after 18 December 2006 and before 19 December 2010

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

Add:

13.2.17	PWR Melbourne 2009 Limited	the gift must be made after 2 February 2009 and before 1 January 2010

8 Section 30-315 (after table item 2AAA)

Insert:

2AAB	ACT Region Crime Stoppers Limited	item 4.2.31A

9 Section 30-315 (after table item 9AA)

Insert:

9AB	Australasian College for Emergency Medicine	item 1.2.18

10 Section 30-315 (table item 28ABA)

Omit “item 13.2.12”, substitute “13.2.14A”.

11 Section 30-315 (after table item 52)

Insert:

52A	Grattan Institute	item 3.2.11

12 Section 30-315 (after table item 93)

Insert:

94	PWR Melbourne 2009 Limited	item 13.2.17

Part 2—Other amendments

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006

13 Item 14 of Schedule 3 (heading)

Omit “13.2.8”, substitute “13.2.9”.

14 Item 15 of Schedule 3 (heading)

Omit “, 110AA and 112AF”, substitute “ and 110AA”.

Part 3—Application provision

15 Application of Part 1 amendments

The amendments made by Part 1 of this Schedule apply in relation to assessments for:

(a) the 2007-08 income year; and

(b) later income years.

Schedule 6—ABN changes

Part 1—Amendments commencing on Royal Assent

A New Tax System (Australian Business Number) Act 1999

1 Subsection 9(1)

After "apply", insert "to the *Registrar".

2 Subsections 9(2) and (3)

Repeal the subsections, substitute:

(2) *Your application must be in the *approved form.

(3) That form may request, but not compel, *you to provide your *TFN or that of an *associate.

Note: Including a TFN in an application will not be an offence against subsection 8WB(1) of the *Taxation Administration Act 1953* (see paragraph 8WB(1A)(a) of that Act).

3 After paragraph 10(1)(c)

Insert:

(ca) if details about an *associate of yours were requested in the *approved form for registration—the Registrar is satisfied that the identity of the associate has been established; and

4 Paragraph 10(2)(b)

After "your identity", insert ", or that of an *associate referred to in paragraph (1)(ca),".

5 At the end of subsection 11(1)

Add:

Note: A decision setting the date of effect of your registration is a reviewable ABN decision.

6 Subsection 11(3) (note)

Omit "a registered entity", substitute "an entity registered under this section".

7 At the end of subsection 12(1)

Add:

Note: This subsection applies only to entities registered under section 11.

8 Subsection 13(1) (note)

Repeal the note, substitute:

Note: A decision refusing to register you is a reviewable ABN decision.

9 Paragraph 14(2)(b)

Repeal the paragraph, substitute:

(b) must be in the *approved form.

10 Subsection 14(2) (note)

Repeal the note.

11 Section 15

Repeal the section, substitute:

15 Obligation to give Registrar information if requested

(1) The *Registrar may request an *entity to give the Registrar information in accordance with the following table. The entity must comply with the request.

Entities that can be requested to give information		
Item	**These entities ...**	**can be requested to give this information ...**
1	*You, if you are registered in the *Australian Business Register	information that is relevant to: (a) your entitlement to be registered; or (b) confirming your identity; or (c) the details entered in relation to you in the Register
2	*Your *associate (if any) entered in the *Australian Business Register in relation to you	information relevant to confirming the associate's identity

Note: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. If an entity fails to comply with this

subsection, the entity commits an offence against section 8C of that Act.

(2) A request under subsection (1) to an *entity:

(a) is to be made by notice in writing to the entity; and

(b) may ask the entity to give the information in writing; and

(c) must specify:

(i) the information the entity is to give; and

(ii) the period within which the entity is to give the information.

The period specified under subparagraph (c)(ii) must end at least 14 days after the notice is given.

Note: Section 12 deals with giving notice to an entity registered under section 11.

(3) If the request asks the *entity to give the information in writing, the information:

(a) must be lodged with the *Registrar; and

(b) must be in the *approved form.

12 Subsection 17(1) (note)

Omit “a registered entity”, substitute “an entity registered under section 11”.

13 Subsection 18(1) (note)

Omit “Note”, substitute “Note 1”.

14 At the end of subsection 18(1)

Add:

Note 2: A decision to cancel your registration is a reviewable ABN decision.

15 Subsection 18(2) (note 1)

Repeal the note, substitute:

Note 1: A decision setting the date of effect of a cancellation is a reviewable ABN decision.

16 Subsection 18(2) (note 2)

Omit “a registered entity”, substitute “an entity registered under section 11”.

17 Subsection 18(4)

Repeal the subsection, substitute:

At your request

(4) The *Registrar may cancel *your registration if you apply to the Registrar for cancellation of the registration in the *approved form.

Note: A decision to refuse to cancel your registration is a reviewable ABN decision.

18 Subsection 18(5) (note)

Repeal the note, substitute:

Note 1: Section 12 deals with giving notice to an entity registered under section 11.

19 At the end of subsection 18(5)

Add:

Note 2: A decision setting the date of effect of a cancellation is a reviewable ABN decision.

20 Subsection 19(2) (note)

Omit "a registered entity", substitute "an entity registered under section 11".

21 Division 7

Repeal the Division.

22 Division 8

Repeal the Division, substitute:

Division 8—Review of reviewable ABN decisions

21 Review of reviewable ABN decisions

(1) *You may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a decision you are dissatisfied with that is a *reviewable ABN decision.

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

Reviewable ABN decisions		
Item	**Decision**	**Provision under which decision is made**
1	Setting the date of effect of *your registration	subsection 11(1)
2	Refusing to register *you	section 13
3	Cancelling *your registration	subsection 18(1)
4	Refusing to cancel *your registration	subsection 18(4)
5	Setting the date of effect of a cancellation	subsection 18(2) or (5)
6	Refusing an application not to disclose details	subsection 26(4) or 27(7)

(3) Part IVC of the *Taxation Administration Act 1953* applies in relation to a *reviewable ABN decision as if references in that Part to the Commissioner of Taxation were references to the *Registrar.

23 After paragraph 25(2)(a)

Insert:

(aa) details about the entity's *associates that were requested in the *approved form for registration in that Register;

24 At the end of subsection 26(4)

Add:

Note: A decision refusing an application not to disclose details is a reviewable ABN decision.

25 At the end of subsection 27(7)

Add:

Note: A decision refusing an application not to disclose details is a reviewable ABN decision.

26 Division 10A

Repeal the Division.

27 After section 29

Insert:

29A Adjustments to details

(1) This section applies if the *Registrar is satisfied that details entered in relation to an *entity in the *Australian Business Register are incorrect and the Registrar has access to details that the Registrar believes to be the correct ones.

(2) The *Registrar may adjust the details accordingly.

28 Section 41

Insert:

approved form has the same meaning as in the *ITAA 1997.

29 Section 41 (definition of *electronic signature*)

Repeal the definition.

30 Section 41 (definition of *lodged electronically*)

Repeal the definition.

31 Section 41

Insert:

reviewable ABN decision has the meaning given by section 21.

32 Application

(1) The amendments made by items 1, 2, 3, 4, 23 and 28 of this Schedule apply in relation to applications made under section 9 of the *A New Tax System (Australian Business Number) Act 1999* after the commencement of those items.

(2) The amendments made by items 9 and 10 of this Schedule apply in relation to changes in circumstances, for the purposes of paragraph 14(1)(c) of that Act, happening after the commencement of those items.

(3) The amendment made by item 11 of this Schedule applies in relation to requests given under subsection 15(1) of that Act after the commencement of that item.

(4) The amendment made by item 17 of this Schedule applies in relation to applications made under subsection 18(4) of that Act after the commencement of that item.

Product Grants and Benefits Administration Act 2000

33 Paragraph 57(1)(a)

After "address shown in the Register", insert "under subsection 25(2) of the *A New Tax System (Australian Business Number) Act 1999*".

Taxation Administration Act 1953

34 Paragraph 105-140(1)(a) in Schedule 1

After "address shown in the Register", insert "under subsection 25(2) of the *A New Tax System (Australian Business Number) Act 1999*".

Part 2—Amendments commencing on Proclamation

A New Tax System (Australian Business Number) Act 1999

35 Before subsection 3(1)

Insert:

Main object

36 Before subsection 3(3)

Insert:

Reducing registration and reporting requirements

37 At the end of section 3

Add:

Multi-agency dealings

(4) The objects of this Act also include allowing the *Registrar to register and maintain details about representatives of *businesses that are registered under this Act, for the purpose of facilitating electronic dealings by those businesses with *government entities.

38 Section 9 (heading)

Repeal the heading, substitute:

9 Applying for an ABN

39 After section 9

Insert:

9A Applying for registration of representatives

(1) If *you are registered in the *Australian Business Register, or you are applying to be so registered, you may make an application to the *Registrar requesting the Registrar to register details about a

nominated representative (who is an individual) for the purpose of facilitating your electronic dealings with *government entities.

(2) An application must be in the *approved form.

(3) That form may request, but not compel, the provision of:
  (a) the *TFN of the representative; and
  (b) the TFN of the individual (the ***nominating individual***) who is to sign the declaration in the form.

Note: Including a TFN in an application will not be an offence against subsection 8WB(1) of the *Taxation Administration Act 1953* (see paragraph 8WB(1A)(a) of that Act).

40 After section 10

Insert:

10A Registrar must register your representative if conditions met

(1) The *Registrar must register *your representative in the *Australian Business Register if:
  (a) an application has been made under section 9A; and
  (b) the Registrar is satisfied that the identity of the nominating individual (see paragraph 9A(3)(b)) has been established; and
  (c) if the representative is to be authorised to nominate other representatives of yours—the Registrar is satisfied that the identity of the representative has been established; and
  (d) the representative's details are not already registered in the *Australian Business Register in relation to you.

(2) If *your proposed representative is to be authorised to nominate other representatives of yours, the *Registrar may request you or your proposed representative to give the Registrar specified information or a specified document the Registrar needs to be satisfied that the identity of the proposed representative is established.

41 Subsection 11(1)

After "*you", insert "(for an application under section 9)".

42 After section 11

Insert:

11A Steps taken by Registrar to register your representative

The *Registrar registers *your representative (for an application under section 9A) by entering in the *Australian Business Register in relation to you:

(a) the name of the representative; and

(b) the representative's email address; and

(c) the date of effect of the registration.

43 Subsection 13(1)

After "for registration", insert "under section 9 or your application for registration of your representative under section 9A".

44 Subsection 13(1) (note)

After "register you", insert "or your representative".

45 Subsection 13(2)

After "for registration", insert "under section 9, or your application for registration of your representative under section 9A,".

46 Subsection 13(4)

Repeal the subsection, substitute:

(4) For the purposes of measuring the 28 days mentioned in subsection (2) for *your application under section 9, disregard each period (if any):

(a) starting on the day when the *Registrar requests you under subsection 10(2) to give the Registrar specified information or a specified document; and

(b) ending at the end of the day you give the Registrar the specified information or document.

(5) For the purposes of measuring the 28 days mentioned in subsection (2) for *your application under section 9A, disregard each period (if any):

(a) starting on the day when the *Registrar requests you, or your proposed representative, under subsection 10A(2) to give the Registrar specified information or a specified document; and

(b) ending at the end of the day you give the Registrar the specified information or document.

47 Subsection 15(1) (at the end of the table)

Add:

3	Either: (a) *your representative (if any) registered in the *Australian Business Register in relation to you; or (b) you	information relevant to: (a) confirming the representative's identity; or (b) the details entered in relation to the representative in the Register

48 After subsection 18(1)

Insert:

(1A) The *Registrar may cancel the registration of *your representative in the *Australian Business Register if satisfied that:

(a) your registration is cancelled under subsection (1); or

(b) the representative no longer represents you; or

(c) the representative is registered under an identity that is not the representative's true identity; or

(d) the representative's identity is no longer satisfactorily established.

Note: A decision to cancel the registration of your representative is a reviewable ABN decision.

49 Subsection 18(4)

Repeal the subsection, substitute:

At your request

(4) The *Registrar may:

(a) cancel *your registration if you apply to the Registrar for cancellation of the registration in the *approved form; or

(b) cancel the registration of your representative, if you apply to the Registrar for cancellation of the registration in the approved form.

Note: A decision to refuse to cancel your registration or that of your representative is a reviewable ABN decision.

50 Subsection 19(1)

After "*your registration", insert ", or the registration of your representative,".

51 Subsection 21(2)

Repeal the subsection, substitute:

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

Reviewable ABN decisions		
Item	**Decision**	**Provision under which decision is made**
1	Setting the date of effect of *your registration	subsection 11(1)
2	Refusing to register *you or your representative	section 13
3	Cancelling *your registration	subsection 18(1)
4	Cancelling the registration of *your representative	subsection 18(1A)
5	Refusing to cancel *your registration or that of your representative	subsection 18(4)
6	Setting the date of effect of a cancellation	subsection 18(2) or (5)
7	Refusing an application not to disclose details	subsection 26(4) or 27(7)

52 Division 9 (heading)

Repeal the heading, substitute:

Division 9—Offences

53 Section 23 (heading)

Repeal the heading, substitute:

23 Identification offences

54 At the end of section 23

Add:

(3) *You commit an offence if:

(a) you purport to identify yourself as being registered under this Act as the representative of an *entity; and

(b) you are not the registered representative of the entity.

Penalty: Imprisonment for 2 years.

55 At the end of section 25 (before the notes)

Add:

(3) Under section 11A, the *Registrar enters in the *Australian Business Register in relation to each representative registered in the Register:

(a) the representative's name; and

(b) the representative's email address; and

(c) the date of effect of the registration.

(4) The *Registrar must also enter in the *Australian Business Register in relation to a representative the details prescribed in the regulations.

56 Subsection 29A(1)

Repeal the subsection, substitute:

(1) This section applies if the *Registrar is satisfied that:

(a) details entered in relation to an *entity in the *Australian Business Register; or

(b) details entered in relation to an entity's representative in that Register;

are incorrect and the Registrar has access to details that the Registrar believes to be the correct ones.

57 At the end of subsection 30(3)

Add:

; (e) the entrusted person is the Registrar and the disclosure:

(i) is of information relating to an individual who is, or who has been, registered as an *entity's representative in the *Australian Business Register; and

(ii) is for the purposes of facilitating the entity's electronic dealings with *government entities or for maintaining details in the Register.

Note: A disclosure under paragraph (3)(e) could, for example, be for the purpose of administering or cancelling the representative's registration.

Schedule 7—Fuel tax

Part 1—Fuel Tax Act 2006

1 Section 41-5 (note 1)

Omit “Subdivisions 41-B and 45-A”, substitute “Subdivision 41-B”.

2 Section 44-1 (note)

Repeal the note.

3 Division 45

Repeal the Division.

4 Subsection 60-5(1) (note 1 at the end of the definition of *Total fuel tax credits*)

Repeal the note.

5 Subsection 60-5(1) (note 2 at the end of the definition of *Total fuel tax credits*)

Omit “2”.

6 Subsection 65-5(5)

Repeal the subsection.

7 Subsection 65-10(1)

Omit “(1)”.

8 Subsection 65-10(2)

Repeal the subsection.

9 Section 110-5 (paragraph (a) of the definition of *decreasing fuel tax adjustment*)

Omit “and subsection 45-5(2)”.

10 Section 110-5 (definition of *Environment Minister*)

Repeal the definition.

11 Section 110-5 (definition of *Environment Secretary*)

Repeal the definition.

12 Section 110-5 (definition of *Greenhouse Challenge Plus Programme*)

Repeal the definition.

Part 2—Fuel Tax (Consequential and Transitional Provisions) Act 2006

13 Item 35 of Schedule 3 (heading)

Omit "**Subsection 65-10(1)**", substitute "**Section 65-10**".

14 Item 40 of Schedule 3 (heading)

Omit "**Subsection 65-10(1)**", substitute "**Section 65-10**".

15 Item 41 of Schedule 3

Omit "and subsection 45-5(2)".

Part 3—Application provisions

16 Application of Part 1 amendments

*Meaning of **programme end time***

(1) In this Part:

programme end time means the time occurring just before the commencement of Part 1 of this Schedule.

Application

(2) The amendments made by Part 1 of this Schedule apply in relation to tax periods ending in financial years commencing on or after 1 July 2009.

(3) To avoid doubt, despite the repeal of subsection 65-5(5) of the *Fuel Tax Act 2006* by that Part, subsection 65-5(4) of that Act continues not to apply in respect of the whole or a part of a fuel tax credit that, just before the programme end time, you were not entitled to take into account under subsection 45-5(1) of that Act.

Decreasing fuel tax adjustment

(4) Subitem (5) applies if, at the programme end time, you were not a member of a programme mentioned in subsection 45-5(1) of the *Fuel Tax Act 2006*.

(5) The *Fuel Tax Act 2006* is taken to have had effect, at the programme end time, as if you became a member of such a programme at that time.

Schedule 8—Government grants for businesses in relation to 2009 Victorian bushfires

Part 1—Amendments commencing on Royal Assent

Income Tax Assessment Act 1997

1 Section 11-55 (after table item headed "demutualisation of private health insurers")

Insert:

disasters

2009 Victorian bushfires—Clean-up and Restoration Grants for primary producers	59-50
2009 Victorian bushfires—Clean-up and Restoration Grants for small businesses	59-50

2 At the end of Division 59

Add:

59-50 Clean-up and Restoration Grants for 2009 Victorian bushfires

The following payments administered by the Rural Finance Corporation of Victoria in relation to the Victorian bushfires of 2009 are not assessable income and are not *exempt income:

(a) Clean-up and Restoration Grants for primary producers;

(b) Clean-up and Restoration Grants for small businesses.

Part 2—Sunsetting on 1 July 2011

Income Tax Assessment Act 1997

3 Section 11-55 (table item headed "disasters")

Repeal the item.

4 Section 59-50

Repeal the section.

Part 3—Application provision

5 Application of Part 1 amendments

The amendments made by Part 1 of this Schedule apply in relation to:

(a) the 2008-09 income year; and

(b) the 2009-10 income year.

[*Minister's second reading speech made in—*
House of Representatives on 19 March 2009
Senate on 15 June 2009]