Tax Laws Amendment (2010 Measures No. 4) Act 2010

No. 136, 2010

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/)

Contents

1 Short title 1
2 Commencement 2
3 Schedule(s) 3
4 Amendment of assessments 3

Schedule 1—Adjustments for third party payments 4

A New Tax System (Goods and Services Tax) Act 1999 4

Schedule 2—CGT treatment of water entitlements and termination fees 5

Part 1—CGT roll-over for water entitlements 5

Income Tax Assessment Act 1997 5

Part 2—CGT treatment of termination fees 15

Income Tax Assessment Act 1997 15

Part 3—Application and transitional provisions 16

Schedule 3—Taxation of financial arrangements 18

Part 1—Taxation of financial arrangements amendments 18

Income Tax Assessment Act 1936 18

Income Tax Assessment Act 1997 18

Tax Laws Amendment (2010 Measures No. 1) Act 2010 32

Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009 33

Part 2—Extension of debt and equity transitional arrangements for Upper Tier 2 capital instruments 34

Part 3—Foreign currency amendments 36

Income Tax Assessment Act 1997 36

Schedule 4—Scrip for scrip alignment 39

Part 1—Amendments 39

Income Tax Assessment Act 1997 39

Part 2—Application provision 41

Schedule 5—Medical expenses tax offset claim threshold 42

Income Tax Assessment Act 1936 42

Schedule 6—Deductible gift recipients 43

Income Tax Assessment Act 1997 43

Schedule 7—Extending gift deductibility to volunteer fire brigades 45

Income Tax Assessment Act 1997 45

Income Tax (Transitional Provisions) Act 1997 46

Tax Laws Amendment (2010 Measures No. 4) Act 2010

No. 136, 2010

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

[*Assented to 7 December 2010*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2010 Measures No. 4) Act 2010*.

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 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	7 December 2010
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	7 December 2010
3. Schedule 3, items 1 to 94	Immediately after the commencement of Part 1 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*.	26 March 2009
4. Schedule 3, item 95	The day this Act receives the Royal Assent.	7 December 2010
5. Schedule 3, items 96 to 130	Immediately after the commencement of Part 1 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*.	26 March 2009
6. Schedule 3, item 131	Immediately after the commencement of Part 2 of Schedule 3 to the *Tax Laws Amendment (Transfer of Provisions) Act 2010*.	1 July 2010
7. Schedule 3, item 132	Immediately after the commencement of section 2 of the *Tax Laws Amendment (2010 Measures No. 1) Act 2010.*	3 June 2010
8. Schedule 3, items 133 and 134	Immediately after the commencement of Part 1 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*.	26 March 2009
9. Schedule 3, Parts 2 and 3	The day this Act receives the Royal Assent.	7 December 2010

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
10. Schedules 4 and 5	The day this Act receives the Royal Assent.	7 December 2010
11. Schedule 6, item 1	1 April 2010.	1 April 2010
12. Schedule 6, items 2, 3 and 4	The day this Act receives the Royal Assent.	7 December 2010
13. Schedule 6, item 5	1 April 2010.	1 April 2010
14. Schedule 6, items 6 and 7	The day this Act receives the Royal Assent.	7 December 2010
15. Schedule 7	The day this Act receives the Royal Assent.	7 December 2010

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

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

4 Amendment of assessments

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:

(a) the assessment was made before the commencement of this section; and

(b) the amendment is made within 4 years after that commencement; and

(c) the amendment is made for the purpose of giving effect to Part 3 of Schedule 3 to this Act.

Schedule 1—Adjustments for third party payments

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

1 After subsection 134-5(1)

Insert:

(1A) However, subsection (1) does not apply if:

(a) the supply of the thing to the payee is a *GST-free supply, or is not *connected with Australia; or

(b) the Commissioner is required to make a payment to the payee, under Division 168 (about the tourist refund scheme), related to the payee's acquisition of the thing;

and you know, or have reasonable grounds to suspect, that the supply of the thing to the payee is a GST-free supply or is not connected with Australia, or that the Commissioner is so required.

2 After subsection 134-10(1)

Insert:

(1A) However, subsection (1) does not apply unless the supply of the thing by the payer:

(a) was a *taxable supply; or

(b) would have been a taxable supply but for any of the following:

(i) the payer and the entity that acquired the thing from the payer being *members of the same *GST group;

(ii) the payer and the entity that acquired the thing from the payer being members of the same *GST religious group;

(iii) the payer being the *joint venture operator for a *GST joint venture, and the entity that acquired the thing from the payer being a *participant in the GST joint venture.

3 Application provision

The amendments made by this Schedule apply, and are taken to have applied, in relation to payments made on or after 1 July 2010.

Schedule 2—CGT treatment of water entitlements and termination fees

Part 1—CGT roll-over for water entitlements

Income Tax Assessment Act 1997

1 After section 112-53B

Insert:

112-53C Water entitlement roll-overs

Roll-over for water entitlements			
Item	**In this situation:**	**Element affected:**	**See section:**
1	You replace one or more water entitlements with one or more new water entitlements	First element of cost base and reduced cost base	124-1120 and 124-1130
2	You have a reduction in one or more water entitlements that you own	First element of cost base and reduced cost base	124-1145 and 124-1150
3	A CGT event happens to an asset you own as a result of the replacement of water entitlements	First element of cost base and reduced cost base	124-1165

2 Section 112-115 (after table item 14BC)

Insert:

14BD	Water entitlements	Subdivision 124-R

3 Subsection 124-5(1)

Omit "124-Q", substitute "124-R".

4 Subsection 124-5(2) (at the end of the note)

Add "The consequences of a roll-over for water entitlements are set out in Subdivision 124-R.".

5 Subsection 124-140(1) (at the end of note 2)

Add "A separate roll-over for other water entitlements is provided in Subdivision 124-R of this Act.".

6 At the end of Division 124

Add:

Subdivision 124-R—Water entitlements

Guide to Subdivision 124-R

124-1100 What this Subdivision is about

There is a roll-over if a CGT event happens to you because of something occurring in relation to one or more water entitlements. You do not need to own water entitlements for the event to happen to you.

Table of sections

Replacement case

124-1105 Replacement water entitlements roll-over
124-1110 Roll-over consequences—capital gain or loss disregarded
124-1115 Roll-over consequences—partial roll-over
124-1120 Roll-over consequences—all original entitlements post-CGT
124-1125 Roll-over consequences—all original entitlements pre-CGT
124-1130 Roll-over consequences—some original entitlements pre-CGT, others post-CGT

Reduction case

124-1135 Reduction in water entitlements roll-over
124-1140 Roll-over consequences—capital gain or loss disregarded
124-1145 Roll-over consequences—all original entitlements post-CGT
124-1150 Roll-over consequences—some original entitlements pre-CGT, others post-CGT

Variation to CGT asset case

124-1155 Roll-over for variation to CGT asset
124-1160 Roll-over consequences
124-1165 Roll-over consequences—partial roll-over

Replacement case

124-1105 Replacement water entitlements roll-over

Automatic roll-over for single water entitlements

(1) There is a roll-over if:

(a) your ownership of a *water entitlement (the ***original entitlement***) ends, resulting in a *CGT event happening; and

(b) as a result of your ownership of the original entitlement ending, you *acquire one or more water entitlements (each of which is a ***new entitlement***); and

(c) if you are a foreign resident just before your ownership of the original entitlement ends, or you are the trustee of a trust that is a *foreign trust for CGT purposes for the income year in which your ownership of the original entitlement ends:

(i) the original entitlement was *taxable Australian property just before you stopped owning it; and

(ii) if there is only one new entitlement—the new entitlement is taxable Australian property just after you acquire it; and

(iii) if there is more than one new entitlement—each new entitlement is taxable Australian property just after you acquire it; and

(d) you have not chosen a roll-over in relation to the original entitlement under subsection (2).

Elective roll-over for bundled water entitlements

(2) There is a roll-over if:

(a) your ownership of more than one *water entitlement (each of which is an ***original entitlement***) ends, resulting in a *CGT event happening; and

(b) as a result of your ownership of the original entitlements ending, you *acquire one or more water entitlements (each of which is a ***new entitlement***); and

(c) if you are a foreign resident just before your ownership of the original entitlements ends, or you are the trustee of a trust that is a *foreign trust for CGT purposes for the income year in which your ownership of the original entitlements ends:

(i) each original entitlement was *taxable Australian property just before you stopped owning it; and

(ii) if there is only one new entitlement—the new entitlement is taxable Australian property just after you acquire it; and

(iii) if there is more than one new entitlement—each new entitlement is taxable Australian property just after you acquire it; and

(d) you choose to obtain the roll-over.

Note: Section 103-25 tells you when the choice must be made.

No roll-over if Subdivision 124-C applies

(3) However, there is no roll-over in relation to a *water entitlement under this section if there is a roll-over in relation to the water entitlement under Subdivision 124-C (statutory licences).

*Meaning of **water entitlement***

(4) A ***water entitlement*** is a legal or equitable right that an entity owns that relates to water, including a right to:

(a) receive water; or

(b) take water from a water resource; or

(c) have water delivered; or

(d) deliver water;

and includes a right that must be owned by the entity in order to own a right covered by paragraph (a), (b), (c) or (d).

Example: Philip owns a share in Big Pump Irrigation Ltd. The share provides Philip with the right to receive dividends, to participate in the running of the company and to have a separate contractual agreement with Big Pump Irrigation Ltd for the delivery of 1 megalitre of water. Philip has such an agreement. Philip's agreement is a ***water entitlement***. Philip's share is also a ***water entitlement*** because he must own the share in order to have a contractual arrangement with Big Pump Irrigation Ltd for the delivery of water.

124-1110 Roll-over consequences—capital gain or loss disregarded

Disregard a *capital gain or *capital loss you make from each original entitlement that qualifies for a roll-over.

124-1115 Roll-over consequences—partial roll-over

(1) You can obtain only a partial roll-over in relation to an original entitlement if the *capital proceeds for that entitlement includes something (the ***ineligible proceeds***) other than a new entitlement or new entitlements. There is no roll-over for that part (the ***ineligible part***) of the entitlement for which you received the ineligible proceeds.

Note: If the roll-over is under subsection 124-1105(2), some or all of the original entitlements may each have an ineligible part.

(2) The *cost base of the ineligible part is that part of the cost base of the original entitlement as is reasonably attributable to the ineligible part.

(3) The *reduced cost base of the ineligible part is worked out similarly.

(4) In working out what is reasonably attributable to the ineligible part for the purposes of subsections (2) and (3), have regard to the *market value of the new entitlement relative to the market value of the ineligible proceeds.

(5) If the roll-over is under subsection 124-1105(2), for the purposes of sections 124-1120 and 124-1130, for each original entitlement that has an ineligible part:

(a) reduce the *cost base of that entitlement (just before you stopped owning it) by so much of that cost base as is attributable to that ineligible part; and

(b) reduce the *reduced cost base of that entitlement similarly.

124-1120 Roll-over consequences—all original entitlements post-CGT

(1) In a situation covered by subsection 124-1105(1), if you *acquired the original entitlement on or after 20 September 1985, the first element of the *cost base of the new entitlement (or of each of the new entitlements) is such amount as is reasonable having regard to:

(a) the cost base and *market value of the original entitlement; and

(b) the number and market value of the new entitlements; and

(c) any amount you paid to get the new entitlement (which can include giving property: see section 103-5).

(2) In a situation covered by subsection 124-1105(2), if you *acquired the original entitlements on or after 20 September 1985, the first element of the *cost base of the new entitlement (or of each of the new entitlements) is such amount as is reasonable having regard to:

(a) the total of the cost bases of all the original entitlements; and

(b) the number and *market value of the original entitlements; and

(c) the number and market value of the new entitlements; and

(d) any amount you paid to get the new entitlements (which can include giving property: see section 103-5).

(3) In the situation covered by subsection 124-1105(1) or (2), the first element of the *reduced cost base of the new entitlement (or of each of the new entitlements) is worked out similarly.

(4) For the purposes of paragraphs (1)(b) and (2)(c), the *market value of the new entitlements is their market value at the time you *acquired them.

124-1125 Roll-over consequences—all original entitlements pre-CGT

(1) In the situation covered by subsection 124-1105(1), if you *acquired the original entitlement before 20 September 1985, you are taken to have acquired the new entitlement (or all of the new entitlements) before that day.

(2) In the situation covered by subsection 124-1105(2), if you *acquired the original entitlements before 20 September 1985, you are taken to have acquired the new entitlement (or all of the new entitlements) before that day.

124-1130 Roll-over consequences—some original entitlements pre-CGT, others post-CGT

(1) This section applies if:

(a) the roll-over is under subsection 124-1105(2); and

(b) you *acquired one or more of the original entitlements before 20 September 1985; and

(c) you acquired one or more of the original entitlements on or after that day.

(2) You are taken to have *acquired so many of your new entitlements before 20 September 1985 as is reasonable, having regard to:

(a) the number and *market value of your original entitlements; and

(b) the number and market value of your new entitlements.

(3) The first element of the *cost base of each of your new entitlements that are not taken by subsection (2) to have been *acquired before 20 September 1985 (your ***post-CGT entitlements***) is such amount as is reasonable having regard to:

(a) the total of the cost bases of the original entitlements you acquired on or after 20 September 1985; and

(b) the number and *market value of your post-CGT entitlements; and

(c) any amount you paid to get the new entitlements (which can include giving property: see section 103-5).

(4) The reduced cost base of each of your post-CGT entitlements is worked out similarly.

Reduction case

124-1135 Reduction in water entitlements roll-over

There is a roll-over if:

(a) you own more than one *water entitlement; and

(b) under an *arrangement:

(i) your ownership of one or more of the water entitlements (each of which is an ***original entitlement***) ends, resulting in a *CGT event happening; and

(ii) you do not receive anything for the original entitlement or entitlements; and

(iii) you retain one or more of your original entitlements (the ***retained entitlements***); and

(c) the total of the *market values of all of the retained entitlements immediately after the CGT event happens is substantially the same as the total of the market values of all

of the original entitlements immediately before the CGT event happened.

124-1140 Roll-over consequences—capital gain or loss disregarded

A *capital gain or *capital loss you make from your ownership of the original entitlements ending is disregarded.

124-1145 Roll-over consequences—all original entitlements post-CGT

(1) This section applies if you *acquired the original entitlement (or all of the original entitlements) on or after 20 September 1985.

(2) The first element of the *cost base of the retained entitlement (or of each of the retained entitlements) is such amount as is reasonable having regard to:
  (a) the total of the cost bases of all the original entitlements; and
  (b) the number and *market value of the original entitlements; and
  (c) the number and market value of the retained entitlements.

(3) The first element of the *reduced cost base of the retained entitlements is worked out similarly.

(4) For the purposes of paragraph (2)(c), the *market value of the retained entitlements is their market value just after the *CGT event referred to in section 124-1135 happens.

124-1150 Roll-over consequences—some original entitlements pre-CGT, others post-CGT

(1) This section applies if:
  (a) you *acquired one or more of the original entitlements before 20 September 1985; and
  (b) you acquired one or more of the original entitlements on or after that day.

(2) You are taken to have *acquired so many of your retained entitlements before 20 September 1985 as is reasonable, having regard to:

(a) the number and *market value of your original entitlements; and
(b) the number and market value of your retained entitlements.

(3) The first element of the *cost base of each of your retained entitlements that are not taken by subsection (2) to have been *acquired before 20 September 1985 (your ***post-CGT entitlements***) is such amount as is reasonable having regard to:
(a) the total of the cost bases of the original entitlements you acquired on or after 20 September 1985; and
(b) the number and *market value of the your post-CGT entitlements.

(4) The reduced cost base of each of your post-CGT entitlements is worked out similarly.

Variation to CGT asset case

124-1155 Roll-over for variation to CGT asset

There is a roll-over if:
(a) a *CGT event happens to a *CGT asset that you own; and
(b) the CGT event happens as a direct result of the circumstances that gave rise to a roll-over under section 124-1105; and
(c) you continue to be the owner of the asset (the ***retained asset***) immediately after the CGT event has happened.

124-1160 Roll-over consequences

A *capital gain or *capital loss you make from the *CGT event is disregarded.

124-1165 Roll-over consequences—partial roll-over

(1) You can obtain only a partial roll-over in relation to a *CGT asset if the *capital proceeds for that asset includes something (the ***ineligible proceeds***) other than your retained asset. There is no roll-over for that part (the ***ineligible part***) of the asset for which you received the ineligible proceeds.

(2) The *cost base of the ineligible part is that part of the cost base of the *CGT asset as is reasonably attributable to the ineligible part.

(3) The *reduced cost base of the ineligible part is worked out similarly.

(4) In working out what is reasonably attributable to the ineligible part for the purposes of subsections (2) and (3), have regard to the *market value of the retained asset relative to the market value of the ineligible proceeds.

7 Subsection 995-1(1)

Insert:

water entitlement has the meaning given by section 124-1105.

Part 2—CGT treatment of termination fees

Income Tax Assessment Act 1997

8 At the end of section 110-35 (after the note)

Add:

(11) The *tenth* is termination or other similar fees incurred as a direct result of your ownership of a *CGT asset ending.

Part 3—Application and transitional provisions

9 Application provision—amendments made by Part 1

Subject to item 10, the amendments made by Part 1 of this Schedule apply to CGT events that occur in the 2005-06 income year and later income years.

10 Transitional provisions—water entitlement roll-overs

(1) Subsection 124-1105(1) and section 124-1135 of the *Income Tax Assessment Act 1997*, as inserted by this Schedule, do not apply to you if:

(a) you stopped owning one or more water entitlements at any time in the period (the ***relevant period***):

(i) starting at the start of the 2005-06 income year; and

(ii) ending on the day on which this Schedule receives the Royal Assent; and

(b) you choose that those provisions do not apply to you.

(2) Section 124-1155 of the *Income Tax Assessment Act 1997*, as inserted by this Schedule, does not apply to you if:

(a) the CGT event happened at any time in the period (the ***relevant period***):

(i) starting at the start of the 2005-06 income year; and

(ii) ending on the day on which this Schedule receives the Royal Assent; and

(b) you choose that those provisions do not apply to you.

(3) A choice under subitem (1) or (2) must be made by the later of:

(a) 12 months after the day on which this Schedule receives the Royal Assent; and

(b) the time within which the Commissioner may, under section 170 of the *Income Tax Assessment Act 1936*, amend your assessment for the income year in which the relevant period occurred.

11 Application provision—amendments made by Part 2

Subject to item 12, the amendments made by Part 2 of this Schedule apply to CGT events happening on or after 1 July 2008.

12 Transitional provision—termination fees

(1) Subsection 110-35(11) of the *Income Tax Assessment Act 1997*, as inserted by this Schedule, does not apply to you if:

(a) your ownership of the CGT asset ended:

(i) after 1 July 2008; and

(ii) before the start of the day on which this Schedule receives the Royal Assent; and

(b) you choose that those provisions do not apply to you.

(2) A choice under subitem (1) must be made by the later of:

(a) 12 months after the day on which this Schedule receives the Royal Assent; and

(b) the time within which the Commissioner may, under section 170 of the *Income Tax Assessment Act 1936*, amend your assessment for the income year in which your ownership of the CGT asset ended.

Schedule 3—Taxation of financial arrangements

Part 1—Taxation of financial arrangements amendments

Income Tax Assessment Act 1936

1 Before paragraph 102AAW(2)(a)

Insert:

(aa) Division 230 of the *Income Tax Assessment Act 1997*; and

2 Paragraph 102AAW(2)(b)

Omit "that Division", substitute "a Division mentioned in paragraph (aa) or (a)".

Income Tax Assessment Act 1997

3 Section 118-27 (heading)

Repeal the heading, substitute:

118-27 Division 230 financial arrangements and financial arrangements to which Subdivision 250-E applies

4 At the end of section 118-27

Add:

(4) A *capital gain or *capital loss you make from a *CGT asset is disregarded if, at the time of the *CGT event, the asset is, or is part of, a *financial arrangement to which Subdivision 250-E applies.

5 Subparagraph 230-5(2)(a)(ii)

After "superannuation entity", insert "or fund".

6 After subsection 230-15(4)

Insert:

(4A) A *dividend on a *debt interest is a loss you can deduct to the extent to which it would have been a deductible loss under subsection (2) if:

(a) the payment of the amount of the dividend were the incurring of a liability to pay the same amount as interest; and

(b) that interest were incurred in respect of the finance raised by you and in respect of which the dividend was paid or provided; and

(c) the debt interest retained its character as a debt interest for the purposes of subsection (4).

7 Paragraph 230-45(3)(c)

Repeal the paragraph, substitute:

(c) subsection (4) or (5) is satisfied.

(4) This subsection is satisfied if, for the recipient of the *financial benefit, the amount of the money or *money equivalent referred to in paragraph (3)(a) is not subject to a substantial risk of substantial decrease in value.

(5) This subsection is satisfied if your purpose, or one of your purposes, for entering into the arrangement under which you are to receive or provide the *financial benefit, is to receive or deliver the financial benefit:

(a) to raise or provide finance; or

(b) if paragraph (a) does not apply—so that it may be converted or liquidated into money or a money equivalent (other than as part of your expected purchase, sale or usage requirements).

8 Paragraph 230-70(1)(b)

Omit "*ceases", substitute "ceases".

9 Paragraph 230-75(1)(b)

Omit "*ceases", substitute "ceases".

10 Paragraph 230-110(1)(c)

Omit "*ceases", substitute "ceases".

11 Subsection 230-115(1)

Repeal the subsection, substitute:

(1) In deciding for the purposes of this Subdivision whether it is sufficiently certain at a particular time that you will make a gain or loss from a *financial arrangement:

(a) have regard only to:

(i) *financial benefits that you are sufficiently certain to receive; and

(ii) financial benefits that you are sufficiently certain to provide; and

(b) have regard to those financial benefits only to the extent that the amount or value of the benefits is, at that time, fixed or determinable with reasonable accuracy.

Note: The particular time may be the time at which you start to have the arrangement.

12 Subsection 230-115(8)

Repeal the subsection, substitute:

(8) If all of the *financial benefits provided and received under the *financial arrangement are denominated in a particular *foreign currency, those financial benefits are not to be translated into:

(a) your *applicable functional currency; or

(b) if you do not have an applicable functional currency—Australian currency;

for the purposes of applying subsection (2) to the arrangement.

13 Subparagraph 230-130(5)(b)(ii)

Omit "*ceasing", substitute "ceasing".

14 Subsection 230-145(5)

Repeal the subsection.

15 Subparagraph 230-150(1)(a)(i)

Omit "*accounting standards", substitute "*accounting principles".

16 Subparagraph 230-150(1)(a)(ii)

Omit "those standards", substitute "the accounting principles".

17 Subparagraph 230-150(1)(a)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

18 Subparagraph 230-150(1)(b)(i)

Omit "*auditing standards", substitute "*auditing principles".

19 Subparagraph 230-150(1)(b)(ii)

Omit "auditing standards" (first occurring), substitute "auditing principles".

20 Subparagraph 230-150(1)(b)(ii)

Omit "comparable auditing standards", substitute "comparable standards for auditing".

21 Subsection 230-155(5)

Repeal the subsection.

22 Subparagraph 230-185(2)(e)(i)

Omit "*accounting standards", substitute "*accounting principles".

23 Subparagraph 230-185(2)(e)(ii)

Omit "those standards", substitute "the accounting principles".

24 Subparagraph 230-185(2)(e)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

25 Paragraph 230-185(2)(e)

Omit "those standards", substitute "those principles or standards".

26 Subsection 230-190(8)

Omit "*accounting standards", substitute "*accounting principles".

27 Subparagraph 230-210(2)(a)(i)

Omit "*accounting standards", substitute "*accounting principles".

28 Subparagraph 230-210(2)(a)(ii)

Omit "those standards", substitute "the accounting principles".

29 Subparagraph 230-210(2)(a)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

30 Subparagraph 230-210(2)(b)(i)

Omit "*auditing standards", substitute "*auditing principles".

31 Subparagraph 230-210(2)(b)(ii)

Omit "auditing standards" (first occurring), substitute "auditing principles".

32 Subparagraph 230-210(2)(b)(ii)

Omit "comparable auditing standards", substitute "comparable standards for auditing".

33 Subsection 230-210(2) (note)

Omit "Australian accounting and auditing standards", substitute "Australian accounting and auditing principles".

34 Subparagraph 230-220(1)(c)(i)

Omit "*accounting standards", substitute "*accounting principles".

35 Subparagraph 230-220(1)(c)(ii)

Omit "those standards", substitute "the accounting principles".

36 Subparagraph 230-220(1)(c)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

37 Paragraph 230-230(1)(a)

Omit "the standards", substitute "the principles or standards".

38 Paragraph 230-230(1)(b)

Omit "the standards", substitute "the principles or standards".

39 Paragraph 230-230(1)(c)

Omit "the standards", substitute "the principles or standards".

40 Subsection 230-230(3)

Omit "the standards", substitute "the principles or standards".

41 Subparagraph 230-255(2)(a)(i)

Omit "*accounting standards", substitute "*accounting principles".

42 Subparagraph 230-255(2)(a)(ii)

Omit "those standards", substitute "the accounting principles".

43 Subparagraph 230-255(2)(a)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

44 Subparagraph 230-255(2)(b)(i)

Omit "*auditing standards", substitute "*auditing principles".

45 Subparagraph 230-255(2)(b)(ii)

Omit "auditing standards" (first occurring), substitute "auditing principles".

46 Subparagraph 230-255(2)(b)(ii)

Omit "comparable auditing standards", substitute "comparable standards for auditing".

47 Subsection 230-255(2) (note)

Omit "Australian accounting and auditing standards", substitute "Australian accounting and auditing principles".

48 Subsections 230-275(1) and (2)

Repeal the subsections, substitute:

(1) If you make a *foreign exchange retranslation election under subsection 230-255(3) in relation to a *financial arrangement after you start to have the arrangement, you must make a balancing adjustment under subsection (2).

49 Subsection 230-275(3)

Renumber as subsection (2).

50 Subsection 230-300(5)

Omit "section 230-305", substitute "subsection 230-305(1)".

51 Subsection 230-300(6)

Repeal the subsection.

52 Subsection 230-300(11)

Omit "section 230-305", substitute "subsection 230-305(1)".

53 Section 230-305

Before "For the purposes of", insert "(1)".

54 Section 230-305 (after table item 2)

Insert:

2A	(a) you cease to have one or more (but not all) of the *hedged items; or (b) you cease to expect that one or more (but not all) of the hedged items will come into existence; or (c) you cease to expect that you will have one or more (but not all) of the hedged items	(a) to the extent to which the gain or loss is reasonably attributable to those one or more hedged items—to the income year in which the event occurs; and (b) to the extent to which the gain or loss is reasonably attributable to the remaining hedged item or items—over income years according to the basis determined under subsection 230-360(1).

55 At the end of section 230-305

Add:

(2) For the purposes of item 2A of the table in subsection (1), determine the extent to which the gain or loss is reasonably attributable to a particular *hedged item having regard to the following:

(a) the fair value of the hedged item;

(b) the length of the period over which you have held the hedged item;

(c) commercially accepted valuation principles;

(d) any other relevant factors.

56 Subsection 230-310(4) (cell at table item 12, column headed "For a hedged item that is or produces...")

Omit "*accounting standards", substitute "*accounting principles".

57 Paragraph 230-310(5)(a)

Omit "*accounting standards", substitute "*accounting principles".

58 Subparagraph 230-315(2)(a)(i)

Omit "*accounting standards", substitute "*accounting principles".

59 Subparagraph 230-315(2)(a)(ii)

Omit "those standards", substitute "the accounting principles".

60 Subparagraph 230-315(2)(a)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

61 Subparagraph 230-315(2)(b)(i)

Omit "*auditing standards", substitute "*auditing principles".

62 Subparagraph 230-315(2)(b)(ii)

Omit "auditing standards" (first occurring), substitute "auditing principles".

63 Subparagraph 230-315(2)(b)(ii)

Omit "comparable auditing standards", substitute "comparable standards for auditing".

64 Subsection 230-315(2) (note)

Omit "Australian accounting and auditing standards", substitute "Australian accounting and auditing principles".

65 Paragraph 230-335(1)(a)

After "*hedged item", insert "or items".

66 Paragraph 230-335(1)(b)

Omit "the standards", substitute "the principles or standards".

67 Subparagraph 230-335(1)(c)(ii)

Omit "foreign currency", substitute "*foreign currency".

68 Subparagraph 230-335(1)(c)(ii)

Before "the financial report", insert "your financial report or".

69 Subparagraph 230-335(3)(c)(i)

Omit "the standards", substitute "the principles or standards".

70 Paragraph 230-335(5)(b)

Omit "the standards", substitute "the principles or standards".

71 Subsection 230-335(8)

Omit "the standards", substitute "the principles or standards".

72 Subsection 230-335(9)

Omit "the standards", substitute "the principles or standards".

73 Paragraph 230-335(10)(c)

Omit "*accounting standards", substitute "*accounting principles".

74 Paragraph 230-335(10)(d)

Omit "accounting standards", substitute "accounting principles".

75 Paragraph 230-335(10)(e)

Omit "accounting standards", substitute "accounting principles".

76 Section 230-340 (heading)

Repeal the heading, substitute:

230-340 Generally whole arrangement must be hedging financial arrangement

77 Paragraph 230-355(1)(b)

Omit "*accounting standards", substitute "*accounting principles".

78 Subparagraph 230-355(5)(a)(ii)

Omit "the standards", substitute "the principles or standards".

79 Paragraph 230-365(a)

Omit "the standards", substitute "the principles or standards".

80 Subparagraph 230-365(c)(i)

Omit "*accounting standards", substitute "*accounting principles".

81 Paragraph 230-365(c)

Omit "the standards", substitute "the principles or standards".

82 Subsection 230-380(1)

Repeal the subsection, substitute:

Commissioner may determine that requirement met

(1) If (apart from this section) the requirements of sections 230-355 to 230-365 are not met in relation to a *hedging financial arrangement that you have, treat those requirements as having been so met if the Commissioner makes a determination under subsection (1A) in relation to the arrangement.

(1A) The Commissioner may make the determination if the Commissioner considers that this is appropriate, having regard to:

(a) the respects in which the arrangement does not meet those requirements; and

(b) the extent to which it does not meet those requirements; and

(c) the reasons why it does not meet those requirements; and

(d) if the Commissioner is considering whether to impose conditions under subsection (2)—the likelihood that you will comply with those conditions; and

(e) the objects of this Subdivision.

83 Subparagraph 230-395(2)(a)(i)

Omit "*accounting standards", substitute "*accounting principles".

84 Subparagraph 230-395(2)(a)(ii)

Omit "those standards", substitute "the accounting principles".

85 Subparagraph 230-395(2)(a)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

86 Subparagraph 230-395(2)(b)(i)

Omit "*auditing standards", substitute "*auditing principles".

87 Subparagraph 230-395(2)(b)(ii)

Omit "auditing standards" (first occurring), substitute "auditing principles".

88 Subparagraph 230-395(2)(b)(ii)

Omit "comparable auditing standards", substitute "comparable standards for auditing".

89 Subsection 230-395(2) (note 1)

Omit "Australian accounting and auditing standards", substitute "Australian accounting and auditing principles".

90 Paragraph 230-405(2)(a)

Omit "standards", substitute "principles or standards".

91 Paragraph 230-405(2)(b)

Omit "standards", substitute "principles or standards".

92 Subparagraph 230-410(1)(d)(i)

Omit "*accounting standards", substitute "*accounting principles".

93 Subparagraph 230-410(1)(d)(ii)

Omit "those standards", substitute "the accounting principles".

94 Subparagraph 230-410(1)(d)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

95 Subparagraph 230-410(1)(e)(ii)

Omit "subsection (1)", substitute "this subsection".

96 Subsection 230-410(2)

Omit "the standards", substitute "the principles or standards".

97 Subsection 230-410(5)

Omit "paragraph (3)(b)", substitute "subsection (3)".

98 Subsection 230-410(6)

Omit "paragraph (3)(b)", substitute "subsection (3)".

99 Paragraph 230-420(1)(a)

Omit "the standards", substitute "the principles or standards".

100 Paragraph 230-420(1)(b)

Omit "the standards", substitute "the principles or standards".

101 Paragraph 230-420(1)(c)

Omit "the standards", substitute "the principles or standards".

102 Subsection 230-420(3)

Omit "the standards", substitute "the principles or standards".

103 Paragraph 230-430(4)(a)

Omit "the standards", substitute "the principles or standards".

104 Paragraph 230-430(4)(c)

Omit "those standards", substitute "those principles or standards".

105 Subsection 230-435(5)

Omit "*cease", substitute "cease".

106 Subparagraph 230-455(1)(a)(ii)

After "a superannuation entity (within the meaning of section 10 of the *Superannuation Industry (Supervision) Act 1993*),", insert "a *superannuation fund that is not such an entity,".

107 Paragraph 230-455(5)(b)

Omit "accounting standards", substitute "*accounting principles".

108 Subsection 230-460(4)

Repeal the subsection, substitute:

(4) Subsection (3) does not apply if, assuming that the *financial arrangement were a *Division 230 financial arrangement, a *fair value election, or an *election to rely on financial reports, would apply to it.

109 Paragraph 230-460(8)(a)

Repeal the paragraph, substitute:

(a) assuming that the *financial arrangement were a *Division 230 financial arrangement, it would be the subject of a *fair value election or an *election to rely on financial reports; or

110 Section 230-495 (heading)

Repeal the heading, substitute:

230-495 Effect of change of accounting principles or standards

111 Paragraph 230-495(1)(b)

Omit "the relevant standards", substitute "the relevant principles or standards".

112 Paragraph 230-495(1)(d)

Omit "those standards", substitute "those principles or standards".

113 Paragraph 230-500(a)

Omit "*accounting standards", substitute "*accounting principles".

114 Paragraph 230-500(b)

Omit "*auditing standards", substitute "*auditing principles".

115 Paragraph 230-520(1)(b)

Omit "*value shift", substitute "*direct value shift".

116 Paragraph 230-520(1)(d)

Omit "723,".

117 Subsection 230-520(2)

Omit "or (d)".

118 Subsection 230-530(1)

Omit "foreign currency", substitute "*foreign currency".

119 Subparagraph 230-530(3)(d)(i)

Omit "*accounting standards", substitute "*accounting principles".

120 Subparagraph 230-530(3)(d)(ii)

Omit "those standards", substitute "the accounting principles".

121 Subparagraph 230-530(3)(d)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

122 Subparagraph 230-530(4)(e)(i)

Omit "*accounting standards", substitute "*accounting principles".

123 Subparagraph 230-530(4)(e)(ii)

Omit "those standards", substitute "the accounting principles".

124 Subparagraph 230-530(4)(e)(ii)

Omit "comparable accounting standards", substitute "comparable standards for accounting".

125 Paragraph 775-295(1)(c)

Omit "paragraph 230-255(1)(a)", substitute "paragraph 230-255(2)(a)".

126 Paragraph 775-305(1)(b)

Omit "paragraph 230-255(1)(a)", substitute "paragraph 230-255(2)(a)".

127 Subsection 775-305(2)

Omit "an amount in profit", substitute "an amount of gain in profit or loss".

128 Subsection 775-305(3)

Omit "an amount in loss", substitute "an amount of loss in profit or loss".

129 Subsection 995-1(1)

Insert:

auditing principles: a matter is in accordance with ***auditing principles*** if it is in accordance with:

(a) *auditing standards; or

(b) if there are no auditing standards applicable to the matter—authoritative pronouncements of the Auditing and Assurance Standards Board that apply to the preparation of financial statements.

130 Subsection 995-1(1) (paragraph (aa) of the definition of *special accrual amount*)

Repeal the paragraph, substitute:

(aa) Subdivision 250-E of this Act if all the *financial benefits provided and received under the *financial arrangement concerned are denominated in a particular *foreign currency;

(ab) Subdivision 230-A of this Act (which deals with gains and losses from financial arrangements) if:

(i) the accruals method provided for in Subdivision 230-B of this Act is applied to take account of the gain or loss concerned; and

(ii) all the *financial benefits provided and received under the financial arrangement concerned are denominated in a particular foreign currency;

131 Subsection 995-1(1) (after paragraph (d) of the definition of *special accrual amount*)

Insert:

(da) Subdivision 250-E of this Act if all the financial benefits provided and received under the financial arrangement concerned are denominated in a particular foreign currency;

Tax Laws Amendment (2010 Measures No. 1) Act 2010

132 Subsection 2(1) (table item 11)

Repeal the item, substitute:

11. Schedule 5, Part 7	The day this Act receives the Royal Assent.	
11A. Schedule 5, items 90 to 110	The day this Act receives the Royal Assent.	
11B. Schedule 5, item 111	Immediately after the commencement of Part 1 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*.	26 March 2009

11C. Schedule 5, items 112 to 113	The day this Act receives the Royal Assent.
11D. Schedule 5, Parts 9 to 18	The day this Act receives the Royal Assent.

Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009

133 Subitem 104(7) of Schedule 1

Omit "paragraph 230-160(1)(b)", substitute "paragraphs 230-160(1)(b) and 230-165(1)(b)".

134 After subitem 104(7) of Schedule 1

Insert:

(7A) An election that you make under section 230-150 of the *Income Tax Assessment Act 1997* extends to a financial arrangement referred to in subitem (2) only if:

(a) that election is made on or before the first lodgment date that occurs after the start of the first applicable income year; and

(b) for financial arrangements to which section 230-160 of that Act applies:

(i) at the time you make the election, you made determinations that satisfy the requirements of subsections 230-160(3) and (4) (other than paragraphs 230-160(3)(b) and (4)(b)); and

(ii) at, or soon after, the time you make the election, you have in place records in relation to the arrangement that satisfy the requirements of paragraphs 230-160(3)(b) and (4)(b); and

(c) for financial arrangements to which section 230-165 of that Act applies:

(i) at the time you make the election, you made determinations that satisfy the requirements of subsections 230-165(3) and (4) (other than paragraphs 230-165(3)(b) and (4)(b)); and

(ii) at, or soon after, the time you make the election, you have in place records in relation to the arrangement that satisfy the requirements of paragraphs 230-165(3)(b) and (4)(b).

Part 2—Extension of debt and equity transitional arrangements for Upper Tier 2 capital instruments

135 Extension of debt and equity transitional arrangements for Upper Tier 2 capital instruments

Definitions

(1) In this item:

CGT amendments has the same meaning as in item 118 of Schedule 1 to the *New Business Tax System (Debt and Equity) Act 2001*.

debt and equity test amendments means the amendments made by Schedule 1 to the *New Business Tax System (Debt and Equity) Act 2001* (other than the CGT amendments), as amended from time to time.

Upper Tier 2 capital instruments

(2) This item applies to an interest:

(a) that is issued before 1 July 2001; and

(b) that is an instrument known as an Upper Tier 2 capital instrument; and

(c) to which an election under paragraph 118(6)(b) of the *New Business Tax System (Debt and Equity) Act 2001* does not apply.

(3) For the purposes of subitem (2), an interest is taken to be issued on or after 1 July 2001 if:

(a) the interest is issued on or after that date; or

(b) the interest is issued before that date, and:

(i) the terms of the interest are altered on or after that date; or

(ii) the interest is rolled over on or after that date; or

(iii) the original term of the interest is extended on or after that date.

In applying subparagraph (b)(i), disregard:

(c) minor alterations that do not affect rights and obligations in relation to the interest; and

(d) alterations that permit or require any deferred payments under the interest to accumulate.

Application of debt and equity test amendments

(4) Despite paragraph 118(6)(a) of the *New Business Tax System (Debt and Equity) Act 2001*, the debt and equity test amendments apply only to transactions that take place in relation to the interest on or after 1 July 2010 if the issuer of the interest does not make an election under paragraph 118(6)(b) of that Act.

(5) If subitem (4) applies to an interest:

(a) the interest is disregarded for the purposes of paragraph 164-10(1)(b) and subsection 164-15(3) of the *Income Tax Assessment Act 1997*; and

(b) section 164-15 of the *Income Tax Assessment Act 1997* applies to the interest as if references in paragraph 164-15(3)(b) and subsection 164-15(4) to 1 July 2001 were references to 1 July 2010.

(6) A reference in this item to a ***transaction*** includes a reference to:

(a) making a return; and

(b) paying a dividend or unit trust dividend; and

(c) making a distribution in relation to a unit trust; and

(d) paying, crediting or lending an amount; and

(e) making a non-share distribution; and

(f) forgiving a debt; and

(g) redeeming, cancelling or buying back an interest; and

(h) converting an interest.

Part 3—Foreign currency amendments

Income Tax Assessment Act 1997

136 Section 11-10 (at the end of the table item headed "foreign aspects of income taxation")

Add:

certain forex realisation gains	775-20

137 Section 11-55 (table item headed "foreign aspects of income taxation")

Before:

dividend from a foreign country, non-portfolio	**23AJ**

Insert:

certain forex realisation gains	775-25

138 Paragraph 775-15(2)(b) (table item 1, column headed "You make the forex realisation gain as a result of this event...")

After "forex realisation event 1", insert "or 2".

139 Section 775-20

Omit "exempt income" (first occurring), substitute "*exempt income".

140 Section 775-25

Omit "non-assessable non-exempt income" (first occurring), substitute "*non-assessable non-exempt income".

141 After section 775-25

Insert:

775-27 Certain forex realisation gains are non-assessable non-exempt income

Sections 775-20 and 775-25 apply to a *forex realisation gain only if, had it been a *forex realisation loss, it would have been disregarded under section 775-35.

142 Subsection 775-35(1)

Omit "exempt income", substitute "*exempt income or *non-assessable non-exempt income".

143 Paragraph 775-35(2)(a)

Omit "exempt income or non-assessable non-exempt income", substitute "*exempt income or *non-assessable non-exempt income".

144 At the end of paragraph 775-50(1)(b)

Add:

; (iii) an obligation, or a part of an obligation, under an option to sell foreign currency.

145 At the end of paragraph 775-55(1)(b)

Add:

; (xi) the obligation, or the part of the obligation, is under an option to buy foreign currency.

146 Paragraph 775-55(4)(a)

Omit "sell", substitute "buy".

147 At the end of paragraph 775-60(1)(b)

Add:

; (iii) a right, or a part of a right, under an option to sell foreign currency.

148 After section 775-165

Insert:

775-168 Exception—disposal or redemption of traditional securities

A *forex realisation gain or *forex realisation loss you make as a result of forex realisation event 2 is disregarded if the event happened because of a disposal or redemption covered by:

(a) subsection 26BB(4) or (5) of the *Income Tax Assessment Act 1936*; or

(b) subsection 70B(2B) or (2C) of that Act.

149 Application provision

The amendments made by this Part apply on and after 17 December 2003.

Schedule 4—Scrip for scrip alignment

Part 1—Amendments

Income Tax Assessment Act 1997

1 Paragraph 124-780(1)(b)

After "subsection (2)", insert "or (2A)".

2 After subsection 124-780(2)

Insert:

Conditions for arrangement—takeover bids and arrangements

(2A) The *arrangement must:

(a) satisfy paragraph (2)(a); and

(b) be, be part of, or include one or more of the following:

(i) a takeover bid (within the meaning of the *Corporations Act 2001*) for the original interests by the acquiring entity that is not carried out in contravention of the provisions mentioned in paragraphs 612(a) to (g) of that Act;

Note: For exemption and modification of provisions by ASIC (and review by the takeovers panel) see Part 6.10 of the *Corporations Act 2001*. For Court declarations excusing contraventions see section 1325D of that Act.

(ii) a compromise or arrangement entered into by the original entity under Part 5.1 of the *Corporations Act 2001*, approved by order of a court made for the purposes of paragraph 411(4)(b) of that Act.

3 Paragraph 124-781(1)(c)

After "subsection (2)", insert "or (2A)".

4 After subsection 124-781(2)

Insert:

Conditions for arrangement—takeover bids

(2A) The *arrangement must:

(a) satisfy paragraph (2)(a); and

(b) be, be part of, or include a takeover bid (within the meaning of the *Corporations Act 2001*) for the original interests by the acquiring entity that is not carried out in contravention of the provisions mentioned in paragraphs 612(a) to (g) of that Act.

Note: For exemption and modification of provisions by ASIC (and review by the takeovers panel) see Part 6.10 of the *Corporations Act 2001*. For Court declarations excusing contraventions see section 1325D of that Act.

Part 2—Application provision

5 Application provision

The amendments made by this Schedule apply to CGT events that happen on or after 6 January 2010.

Schedule 5—Medical expenses tax offset claim threshold

Income Tax Assessment Act 1936

1 Subsection 159HA(1)

Omit "and 159L" and substitute ", 159L and 159P".

Note: The heading to section 159HA is replaced by the heading "**Indexation for the purposes of sections 159J, 159L and 159P**".

2 Subsection 159HA(7) (after paragraph (c) of the definition of *indexable amount*)

Insert:

or (d) an amount specified in paragraph 159P(3A)(b);

3 Paragraph 159P(3A)(b)

Omit "$1,500", substitute "$2,000".

4 Application provision

(1) The amendments made by items 1 and 2 of this Schedule apply to assessments for the 2011-2012 year of income and later years of income.

(2) The amendment made by item 3 of this Schedule applies to assessments for the 2010-2011 year of income and later years of income.

Schedule 6—Deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-25(2) (cell at table item 2.2.32, column headed "Fund, authority or institution")

Repeal the cell, substitute:

Clontarf Foundation

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

Add:

2.2.38	One Laptop per Child Australia Ltd	the gift must be made after 26 May 2010 and before 1 July 2012

3 Subsection 30-80(2) (cell at table item 9.2.17, column headed "Special conditions")

Omit "21 July 2009", substitute "1 January 2011".

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

Add:

13.2.18	Mary MacKillop Canonisation Gift Fund	the gift must be made after 4 August 2010 and before 1 July 2011

5 Section 30-315 (cell at table item 31B, column without a heading)

Repeal the cell, substitute:

Clontarf Foundation

6 Section 30-315 (before table item 70A)

Insert:

70AA	Mary MacKillop Canonisation Gift Fund	item 13.2.18

7 Section 30-315 (before table item 82)

Insert:

81A	One Laptop per Child Australia Ltd	item 2.2.38

Schedule 7—Extending gift deductibility to volunteer fire brigades

Income Tax Assessment Act 1997

1 Section 30-102

Repeal the section, substitute:

30-102 Fire and emergency services

This table sets out general categories of fire and emergency services recipients.

Fire and emergency services—General		
Item	**Fund, authority or institution**	**Special conditions**
12A.1.1	a *government entity that has statutory responsibility for the coordination of volunteer fire brigades or State Emergency Services	the gift or contribution must be made for the purposes of supporting the coordination of volunteer fire brigades or State Emergency Services
12A.1.2	a public fund which satisfies all of the following requirements: (a) the fund is established and maintained by a *government entity covered by item 12A.1.1; (b) the fund is established and maintained solely for the purpose of supporting the volunteer based emergency service activities of non-profit entities or of government entities; (c) the principal activity of the entities mentioned	none

Fire and emergency services—General		
Item	**Fund, authority or institution**	**Special conditions**
	in paragraph (b) is the provision of volunteer based emergency services that are regulated by a *State law or a *Territory law	
12A.1.3	a public fund which satisfies all of the following requirements: (a) the fund is established and maintained by a non-profit entity or *government entity; (b) the principal activity of the entity is the provision of volunteer based emergency services that are regulated by a *State law or a *Territory law; (c) the fund is established and maintained solely for the purpose of supporting the volunteer based emergency service activities of the entity	none

2 Section 30-315 (table items 2AB, 2AC, 30A, 40AA, 49C, 94AA, 112AB, 112AC, 112AD, 112AE, 112E and 121B)

Repeal the items.

Income Tax (Transitional Provisions) Act 1997

3 After section 30-25

Insert:

30-102 Fund, authorities and institutions taken to be endorsed

(1) The authorities and institutions listed in this table are taken to have been endorsed by the Commissioner of Taxation for the purposes of item 12A.1.1 of the table in section 30-102 of the *Income Tax Assessment Act 1997* under paragraph 30-120(a) of that Act.

Item	Fund, authority or institution	Established under legislation of the following State or Territory
1	State Emergency Service	New South Wales
2	Country Fire Authority	Victoria
3	Victoria State Emergency Service	Victoria
4	Queensland Fire and Rescue Service	Queensland
5	State Emergency Service	Queensland
6	Fire and Emergency Services Authority of Western Australia	Western Australia
7	State Emergency Service South Australia	South Australia
8	Tasmania Fire Service	Tasmania
9	State Emergency Service	Tasmania
10	ACT Rural Fire Service	Australian Capital Territory
11	ACT State Emergency Service	Australian Capital Territory

(2) The fund listed in this table is taken to have been endorsed by the Commissioner of Taxation for the purposes of item 12A.1.2 of section 30-102 of the *Income Tax Assessment Act 1997* under paragraph 30-120(b) of that Act.

Item	Fund, authority or institution	Established under legislation of the following State or Territory
1	CFA & Brigades Donations Fund	Victoria

(3) The funds, authorities and institutions referred to in subsections (1) and (2) are taken to have been endorsed on the day on which Schedule 7 to the *Tax Laws Amendment (2010 Measures No. 4) Act 2010* commences.

4 Application provision

The amendments made by this Schedule apply in relation to gifts or contributions made on or after the commencement of this Schedule.

[*Minister's second reading speech made in—*
House of Representatives on 29 September 2010
Senate on 18 November 2010]

(195/10)