Tax Laws Amendment (2011 Measures No. 9) Act 2012

No. 12, 2012

An Act to amend the law relating to taxation and superannuation, and for other 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) 5
4 Amendment of assessments 5

Schedule 1—Form for portability of superannuation 7

Retirement Savings Accounts Act 1997 7

Superannuation Industry (Supervision) Act 1993 10

Schedule 2—Capital gains tax and certain business restructures 13

Part 1—Share and interest sale facilities for foreign interest holders in a restructure 13

Income Tax Assessment Act 1997 13

Part 2—CGT demerger relief 19

Income Tax Assessment Act 1997 19

Part 3—Roll-overs for change of incorporation 20

Division 1—Main amendments 20

Income Tax Assessment Act 1997 20

Division 2—Consequential amendments 30

Income Tax Assessment Act 1997 30

Division 3—Application of amendments 32

Income Tax (Transitional Provisions) Act 1997 32

Schedule 3—GST financial supply provisions 34

Part 1—Increasing financial acquisitions threshold 34

A New Tax System (Goods and Services Tax) Act 1999 34

Part 2—Treatment of borrowings 35

A New Tax System (Goods and Services Tax) Act 1999 35

Part 3—Hire purchase agreements 36

A New Tax System (Goods and Services Tax) Act 1999 36

Schedule 4—New residential premises 38

Part 1—Amendments 38
A New Tax System (Goods and Services Tax) Act 1999 38
Part 2—Application of amendments 41
Schedule 5—Deductible gift recipients 43
Income Tax Assessment Act 1997 43
Schedule 6—Miscellaneous amendments 44
Part 1—Corrections to cross-references 44
Division 1—Income Tax Assessment Act 1936 44
Division 2—Income Tax Assessment Act 1997 44
Division 3—Citizenship 44
Income Tax Assessment Act 1997 44
Tax Laws Amendment (2006 Measures No. 3) Act 2006 45
Division 4—Tax-related liabilities 45
Income Tax Assessment Act 1997 45
Part 2—Repeal of references to Cultural Bequests Program and redundant subsection numbers 46
Division 1—Cultural Bequests Program 46
Income Tax Assessment Act 1997 46
Income Tax (Transitional Provisions) Act 1997 47
Division 2—Redundant subsection numbers 47
A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 47
Superannuation Industry (Supervision) Act 1993 47
Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991 47
Part 3—List of tax offsets 48
Income Tax Assessment Act 1997 48
Part 4—Taxation Administration Act 1953 49
Part 5—Foreign superannuation funds 50
Division 1—Pensions and annuities 50
Income Tax Assessment Act 1936 50

Division 2—Superannuation lump sums 50
Income Tax (Transitional Provisions) Act 1997 50
Part 6—Asterisks 52
Division 1—A New Tax System (Wine Equalisation Tax) Act 1999 52
Division 2—Trading stock and revenue assets 52
Income Tax Assessment Act 1997 52
Division 3—Other amendments 54
Income Tax Assessment Act 1997 54
Part 7—References to Acts 56
A New Tax System (Goods and Services Tax) Act 1999 56
Income Tax Assessment Act 1997 56
Taxation Administration Act 1953 57
Part 8—Extensions of time 59
Income Tax Assessment Act 1997 59
Part 9—Cessation of membership of GST groups etc. 60
A New Tax System (Goods and Services Tax) Act 1999 60
Part 10—Small business participation percentage 61
Division 1—Companies 61
Income Tax Assessment Act 1997 61
Division 2—Discretionary trusts 61
Income Tax Assessment Act 1997 61
Part 11—Exempt income 64
Division 1—Repeal of spent provisions 64
Income Tax Assessment Act 1997 64
Division 2—Lists of exempt income 66
Income Tax Assessment Act 1997 66
Division 3—Australian Victim of Terrorism Overseas Payment 72
Income Tax Assessment Act 1997 72
Division 4—Amendments contingent on the Clean Energy (Household Assistance Amendments) Act 2011 72
Clean Energy (Household Assistance Amendments) Act 2011 72

Income Tax Assessment Act 1997 73

Part 12—Complying superannuation/FHSA life insurance policies 74

Division 1—Virtual PST life insurance policies 74

Income Tax (Transitional Provisions) Act 1997 74

Division 2—Complying superannuation/FHSA life insurance policies 74

Income Tax (Transitional Provisions) Act 1997 74

Part 13—Applications for tax file numbers 76

Income Tax Assessment Act 1936 76

Part 14—Taxable professional income 77

Income Tax Assessment Act 1997 77

Part 15—Consolidated groups 78

Division 1—Partnerships 78

Income Tax Assessment Act 1997 78

Division 2—Amendments applying from 1 July 2002 78

Income Tax Assessment Act 1997 78

Part 16—Demutualisation 79

Income Tax Assessment Act 1997 79

Part 17—Mining and quarrying definitions 80

Income Tax Assessment Act 1997 80

Part 18—BAS amount 82

Income Tax Assessment Act 1997 82

Part 19—Corporate tax rate 83

Income Tax Assessment Act 1997 83

Taxation Administration Act 1953 83

Part 20—UK wounds and disability pension 84

Income Tax Assessment Act 1997 84

Part 21—Repeal of redundant provisions 85

A New Tax System (Goods and Services Tax) Act 1999 85

Income Tax Rates Act 1986 85

Taxation Administration Act 1953 85

Part 22—Limited amendment period 86

Income Tax Assessment Act 1936 86

Part 23—Definition of managed investment trust 89

Tax Laws Amendment (2010 Measures No. 3) Act 2010 89

Part 24—Equivalent foreign collective investment vehicles 90

Taxation Administration Act 1953 90

Part 25—Self managed superannuation funds 91

Division 1—Definition of self managed superannuation fund 91

Superannuation Industry (Supervision) Act 1993 91

Division 2—References to self managed superannuation funds 93

Income Tax Assessment Act 1997 93

Superannuation Industry (Supervision) Act 1993 93

Taxation Administration Act 1953 94

Part 26—Untaxed plan cap 96

Income Tax Assessment Act 1997 96

Part 27—Correction of typographical errors 97

Income Tax Assessment Act 1997 97

Taxation Administration Act 1953 97

Part 28—Foreign income tax offset, Medicare levy and surcharge 98

Income Tax Assessment Act 1936 98

Income Tax Assessment Act 1997 100

Taxation Administration Act 1953 101

Taxation (Interest on Overpayments and Early Payments) Act 1983 102

Part 29—Adjusted tax 103

Taxation Administration Act 1953 103

Part 30—Section 109CA of the Income Tax Assessment Act 1936 104

Income Tax Assessment Act 1936 104

Part 31—Franking debits 105
Income Tax Assessment Act 1936 105

Tax Laws Amendment (2011 Measures No. 9) Act 2012

No. 12, 2012

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

[*Assented to 21 March 2012*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*.

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.	21 March 2012
2. Schedule 1	The day after this Act receives the Royal Assent.	22 March 2012
3. Schedule 2	The day this Act receives the Royal Assent.	21 March 2012
4. Schedule 3	1 July 2012.	1 July 2012
5. Schedules 4 and 5	The day this Act receives the Royal Assent.	21 March 2012
6. Schedule 6, Part 1, Divisions 1 and 2	The day this Act receives the Royal Assent.	21 March 2012
7. Schedule 6, item 7	At the same time as item 42 of Schedule 1 to the *Australian Citizenship (Transitionals and Consequentials) Act 2007* commences.	1 July 2007
8. Schedule 6, items 8 and 9	Immediately after the commencement of section 2 of the *Tax Laws Amendment (2006 Measures No. 3) Act 2006*.	30 June 2006
9. Schedule 6, Part 1, Division 4	At the same time as item 29 of Schedule 1 to the *Tax Laws Amendment (Transfer of Provisions) Act 2010* commences.	1 July 2010
10. Schedule 6, Parts 2 and 3	The day this Act receives the Royal Assent.	21 March 2012
11. Schedule 6, Part 4	Immediately after the commencement of item 1 of Schedule 1 to the *A New Tax System (Pay As You Go) Act 1999*.	22 December 1999
12. Schedule 6,	Immediately after the commencement of	15 March 2007

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
Part 5, Division 1	item 140 of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*.	
13. Schedule 6, Part 5, Division 2	The day this Act receives the Royal Assent.	21 March 2012
14. Schedule 6, Parts 6 to 8	The day this Act receives the Royal Assent.	21 March 2012
15. Schedule 6, Part 9	The day after this Act receives the Royal Assent.	22 March 2012
16. Schedule 6, Part 10, Division 1	The day after this Act receives the Royal Assent.	22 March 2012
17. Schedule 6, Part 10, Division 2	Immediately after the commencement of the provision(s) covered by table item 16.	22 March 2012
18. Schedule 6, Part 11, Division 1	The day this Act receives the Royal Assent.	21 March 2012
19. Schedule 6, Part 11, Division 2	Immediately after the commencement of the provision(s) covered by table item 18.	21 March 2012
20. Schedule 6, Part 11, Division 3	The later of: (a) immediately after the commencement of the provision(s) covered by table item 19; and (b) the commencement of item 17 of Schedule 1 to the *Social Security Amendment (Supporting Australian Victims of Terrorism Overseas) Act 2012*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
21. Schedule 6, item 144	Immediately after the commencement of item 16 of Schedule 10 to the *Clean Energy (Household Assistance Amendments) Act 2011*.	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
	However, the provision(s) do not commence at all if that item 16 commences before or at the same time as the provision(s) covered by table item 18.	
22. Schedule 6, item 145	Immediately after the commencement of item 2 of Schedule 10 to the *Clean Energy (Household Assistance Amendments) Act 2011*.	14 May 2012
23. Schedule 6, items 146 to 148	Immediately after the commencement of the provision(s) covered by table item 19. However, the provision(s) do not commence at all if item 2 of Schedule 10 to the *Clean Energy (Household Assistance Amendments) Act 2011* does not commence before that time.	
24. Schedule 6, Part 12, Division 1	The day this Act receives the Royal Assent.	21 March 2012
25. Schedule 6, Part 12, Division 2	Immediately after the commencement of the provision(s) covered by table item 24.	21 March 2012
26. Schedule 6, Part 13	The day after this Act receives the Royal Assent.	22 March 2012
27. Schedule 6, Parts 14 to 18	The day this Act receives the Royal Assent.	21 March 2012
28. Schedule 6, item 179	At the same time as item 169 of Schedule 3 to the *Tax Laws Amendment (2008 Measures No. 4) Act 2008* commences.	3 October 2008
29. Schedule 6, item 180	Immediately after the commencement of item 115 of Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 1) Act 2010*.	3 June 2010
30. Schedule 6, items 181 and 182	At the same time as item 169 of Schedule 3 to the *Tax Laws Amendment (2008 Measures No. 4) Act 2008* commences.	3 October 2008
31. Schedule 6,	The day this Act receives the Royal Assent.	21 March 2012

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
Parts 20 to 31		

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

(1) 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 Part 8 of Schedule 6 to this Act; and

(b) the amendment is made within 2 years after that commencement; and

(c) the amendment is made for the purpose of giving effect to that Part.

(2) 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 Division 1 of Part 10 of Schedule 6 to this Act; and

(b) the amendment is made within 2 years after that commencement; and

(c) the amendment is made for the purpose of giving effect to that Division.

(3) 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 Division 2 of Part 10 of Schedule 6 to this Act; and

(b) the amendment is made within 2 years after that commencement; and

(c) the amendment is made for the purpose of giving effect to that Division.

Schedule 1—Form for portability of superannuation

Retirement Savings Accounts Act 1997

1 Subparagraph 3(1)(a)(ii)

Repeal the subparagraph, substitute:

(ii) Division 4 of Part 4 (Other provisions relating to the operation of RSAs); and

2 Subparagraph 3(1)(a)(iii)

Omit "Divisions 2 and 4A", substitute "the provisions mentioned in subparagraph (e)(ii)".

3 Paragraph 3(1)(e)

Repeal the paragraph, substitute:

(e) the Commissioner of Taxation has the general administration of:

(i) Division 3 of Part 4 (Portability forms); and

(ii) Division 2 of Part 11, section 138A, Division 4A of Part 11 and subsection 144(1A) (about tax file numbers).

4 Subsection 3(1) (note)

Omit "paragraph (e) is that people who acquire information under Divisions 2 and 4A of Part 11", substitute "a provision being administered by the Commissioner of Taxation (see paragraph (e)) is that people who acquire information under the provision".

5 Section 16 (at the end of the definition of *Regulator*)

Add:

; and (d) the Commissioner of Taxation, if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by the Commissioner of Taxation.

6 Before section 37

Insert:

Division 1—Object of Part

7 Before section 38

Insert:

Division 2—Operating standards

8 After section 39

Insert:

Division 3—Portability forms

39A Portability forms

(1) For the purposes of standards made under Division 2, and without limiting that Division, the regulations may prescribe a scheme under which:

(a) the holder of an RSA gives to the Commissioner of Taxation a request for the benefits held for the holder in the RSA to be rolled-over or transferred; and

(b) the Commissioner may pass the request on to the provider of the RSA.

Note: The standards may require the provider to act on the request. See paragraph 38(2)(h).

(2) The regulations may provide that the request must be given to the Commissioner in the approved form.

Note: The approved form may require the holder to set out his or her tax file number. See subsection 144(2A).

Division 4—Other provisions relating to the operation of RSAs

9 At the end of Division 3 of Part 11

Add:

138A Portability forms

Requesting tax file numbers

(1) The Commissioner of Taxation may request a holder of an RSA to quote the holder's tax file number to the Commissioner in connection with the operation, or the possible future operation, of a scheme prescribed for the purposes of section 39A (Portability forms).

(2) The holder is not obliged to comply with the request, but the regulations made for the purposes of that section may provide that failure to comply with the request affects whether the Commissioner may pass a request on to the provider of the RSA under the prescribed scheme.

Passing on tax file numbers

(3) The Commissioner of Taxation may inform the provider of an RSA of the tax file number of a holder of the RSA as part of the Commissioner passing on to the provider a request made by the holder under a scheme prescribed for the purposes of section 39A (Portability forms).

(4) If the Commissioner does so, the holder is:

(a) taken to have quoted the tax file number to the provider in connection with the operation or the possible future operation of this Act and the other Superannuation Acts; and

(b) taken to have quoted that tax file number at the time when the Commissioner of Taxation informs the provider of the tax file number.

10 After subsection 144(2)

Insert:

Portability forms

(2A) An approved form mentioned in subsection 39A(2) may require the tax file number of the holder making the relevant request to be set out in the request.

Superannuation Industry (Supervision) Act 1993

11 Subparagraph 6(1)(a)(xii)

Omit “(except Division 1)”.

12 Paragraph 6(1)(b)

After “paragraph (f)”, insert “or (g)”.

13 Paragraph 6(1)(g)

Repeal the paragraph, substitute:

(g) the Commissioner of Taxation also has the general administration of:

(i) Division 3 of Part 3 (Portability forms); and

(ii) Division 1 of Part 25A, section 299NA, Division 3A of Part 25A and subsection 299U(2A) (about tax file numbers).

14 Subsection 6(1) (note)

Omit “paragraphs (e), (f) and (g) is that people who acquire information under those provisions (to the extent that they relate to self-managed superannuation funds)”, substitute “a provision being administered by the Commissioner of Taxation (see paragraphs (e), (f) and (g)) is that people who acquire information under the provision”.

15 Before section 30

Insert:

Division 1—Object of Part

16 Before section 31

Insert:

Division 2—Operating standards

17 At the end of Part 3

Add:

Division 3—Portability forms

34A Portability forms

(1) For the purposes of standards made under Division 2, and without limiting that Division, the regulations may prescribe a scheme under which:

(a) a beneficiary of:

(i) a regulated superannuation fund; or

(ii) an approved deposit fund;

gives to the Commissioner of Taxation a request for the benefits held for the beneficiary in the fund to be rolled-over or transferred; and

(b) the Commissioner may pass the request on to the trustee of the fund.

Note: The standards may require the trustee to act on the request. See paragraphs 31(2)(i) and 32(2)(d).

(2) The regulations may provide that the request must be given to the Commissioner in the approved form.

Note: The approved form may require the beneficiary to set out his or her tax file number. See subsection 299U(2A).

18 At the end of Division 2 of Part 25A

Add:

299NA Portability forms

Requesting tax file numbers

(1) The Commissioner of Taxation may request a beneficiary of:

(a) a regulated superannuation fund; or

(b) an approved deposit fund;

to quote the beneficiary's tax file number to the Commissioner in connection with the operation, or the possible future operation, of a scheme prescribed for the purposes of section 34A (Portability forms).

(2) The beneficiary is not obliged to comply with the request, but the regulations made for the purposes of that section may provide that failure to comply with the request affects whether the

Commissioner may pass a request on to the trustee of the fund under the prescribed scheme.

Passing on tax file numbers

(3) The Commissioner of Taxation may inform the trustee of:
  (a) a regulated superannuation fund; or
  (b) an approved deposit fund;

of the tax file number of a beneficiary of the fund as part of the Commissioner passing on to the trustee a request made by the beneficiary under a scheme prescribed for the purposes of section 34A (Portability forms).

(4) If the Commissioner does so, the beneficiary is:
  (a) taken to have quoted the tax file number to the trustee in connection with the operation or the possible future operation of this Act and the other Superannuation Acts; and
  (b) taken to have quoted that tax file number at the time when the Commissioner informs the trustee of the tax file number.

19 After subsection 299U(2)

Insert:

Portability forms

(2A) An approved form mentioned in subsection 34A(2) may require the tax file number of the beneficiary making the relevant request to be set out in the request.

Schedule 2—Capital gains tax and certain business restructures

Part 1—Share and interest sale facilities for foreign interest holders in a restructure

Income Tax Assessment Act 1997

1 At the end of Subdivision 124-A

Add:

124-20 Share and interest sale facilities

Share and interest sale facilities

(1) An entity (the ***investor***) is treated as owning an *ownership interest (the ***roll-over interest***) in a company or trust (the ***issuer***) at a time (the ***deeming time***), if:

(a) the investor owned an ownership interest (the ***original interest***) in a company or trust; and

(b) a transaction happened in relation to the original interest; and

(c) because:

(i) a *foreign law impedes the ability of the issuer to issue or transfer the roll-over interest to the investor; or

(ii) it would be impractical or unreasonably onerous to determine whether a foreign law impedes the ability of the issuer to issue or transfer the roll-over interest to the investor;

it is *arranged that the issuer will issue or transfer the roll-over interest to another entity (the ***facility***) under the transaction instead of to the investor; and

(d) in accordance with that arrangement and as a result of the transaction, the facility:

(i) becomes the owner of the roll-over interest; and

(ii) owns the roll-over interest at the deeming time; and

(e) under the arrangement, the investor is entitled to receive from the facility:

(i) an amount equivalent to the *capital proceeds of any *CGT event that happens in relation to the roll-over interest (less expenses); or

(ii) if a CGT event happens in relation to the roll-over interest together with CGT events happening in relation to other ownership interests—an amount equivalent to the investor's proportion of the total capital proceeds of the CGT events (less expenses).

(2) The facility is treated as not owning the roll-over interest at the deeming time.

(3) This section applies for the purposes of:

(a) applying one of the following provisions (the ***roll-over provision***) in relation to the transaction:

(i) Subdivision 124-G (Exchange of shares in one company for shares in another company);

(ii) Subdivision 124-H (Exchange of units in a unit trust for shares in a company);

(iii) Subdivision 124-I (Change of incorporation);

(iv) Subdivision 124-N (Disposal of assets by a trust to a company);

(v) Subdivision 124-Q (Exchange of stapled ownership interests for ownership interests in a unit trust); and

(b) the following provisions, to the extent that they relate to a roll-over under the roll-over provision that involves the transaction:

(i) item 2 of the table in subsection 115-30(1);

(ii) sections 124-10 and 124-15.

Incorporated bodies

(4) Without limiting this section, it also has effect, in a case covered by subparagraph (3)(a)(iii) (about Subdivision 124-I), as if each reference in this section to an *ownership interest in a company or trust were a reference to:

(a) an interest in an incorporated body; and

(b) any rights relating to the body owned by the entity that owns that interest.

(5) This section applies, in a case covered by subparagraph (3)(a)(iii) (about Subdivision 124-I), in relation to rights as a *member of a company incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in the same way as it applies in relation to *shares in a company.

2 At the end of paragraphs 124-360(1)(c) and 124-370(1)(e)

Add:

Note: See section 124-20 if an exchanging member uses a share sale facility.

3 Subsections 124-382(3) and (4)

Repeal the subsections.

4 At the end of paragraphs 124-445(c) and 124-455(1)(e)

Add:

Note: See section 124-20 if an exchanging member uses a share sale facility.

5 Subsection 124-860(6) (note)

Omit “Note”, substitute “Note 1”.

6 At the end of subsection 124-860(6)

Add:

Note 2: See section 124-20 if an entity uses an interest sale facility.

7 At the end of paragraph 124-1045(1)(d)

Add:

Note: See section 124-20 if an exchanging member uses an interest sale facility.

8 Section 124-1065

Repeal the section.

9 At the end of Division 125

Add:

Subdivision 125-E—Miscellaneous

Table of sections

125-235 Share and interest sale facilities

125-235 Share and interest sale facilities

Share and interest sale facilities

(1) An entity (the ***investor***) is treated as owning an *ownership interest (the ***roll-over interest***) in a *demerged entity at a time (the ***deeming time***), if:

(a) the investor owned an ownership interest in a company or trust that was the *head entity of a *demerger group; and

(b) a *demerger happens to the demerger group; and

(c) because:

(i) a *foreign law impedes the ability of a member of the demerger group to issue or transfer the roll-over interest to the investor; or

(ii) it would be impractical or unreasonably onerous to determine whether a foreign law impedes the ability of a member of the demerger group to issue or transfer the roll-over interest to the investor;

it is *arranged that the member will issue or transfer the roll-over interest to another entity (the ***facility***) under the demerger instead of to the investor; and

(d) in accordance with that arrangement and as a result of the demerger, the facility:

(i) becomes the owner of the roll-over interest (which is a new or replacement interest in the demerged entity); and

(ii) owns the roll-over interest at the deeming time; and

(e) under the arrangement, the investor is entitled to receive from the facility:

(i) an amount equivalent to the *capital proceeds of any *CGT event that happens in relation to the roll-over interest (less expenses); or

(ii) if a CGT event happens in relation to the roll-over interest together with CGT events happening in relation to other ownership interests—an amount equivalent to

the investor's proportion of the total capital proceeds of the CGT events (less expenses).

(2) The facility is treated as not owning the roll-over interest at the deeming time.

(3) This section applies for the purposes of:
  (a) applying this Division in relation to the demerger; and
  (b) item 2 of the table in subsection 115-30(1), to the extent that it relates to a roll-over under this Division that involves the demerger.

10 At the end of Subdivision 126-G

Add:

126-265 Interest sale facilities

Interest sale facilities

(1) For the purposes of this Subdivision, an entity (the ***investor***) is treated as owning a *membership interest (the ***roll-over interest***) in the receiving trust at a time (the ***deeming time***), if:
  (a) the investor owned a membership interest in the transferring trust; and
  (b) a trust is created, or a transfer happens, (the ***transaction***) as mentioned in paragraph 126-225(1)(a) in relation to *CGT assets of the transferring trust; and
  (c) because:
    (i) a *foreign law impedes the ability of the receiving trust to issue or transfer the roll-over interest to the investor; or
    (ii) it would be impractical or unreasonably onerous to determine whether a foreign law impedes the ability of the receiving trust to issue or transfer the roll-over interest to the investor;

  it is *arranged that the receiving trust will issue or transfer the roll-over interest to another entity (the ***facility***) under the transaction instead of to the investor; and
  (d) in accordance with that arrangement and as a result of the transaction, the facility:
    (i) becomes the owner of the roll-over interest; and

(ii) owns the roll-over interest at the deeming time; and

(e) under the arrangement, the investor is entitled to receive from the facility:

(i) an amount equivalent to the *capital proceeds of any *CGT event that happens in relation to the roll-over interest (less expenses); or

(ii) if a CGT event happens in relation to the roll-over interest together with CGT events happening in relation to other membership interests—an amount equivalent to the investor's proportion of the total capital proceeds of the CGT events (less expenses).

(2) The facility is treated as not owning the roll-over interest at the deeming time.

11 Application of amendments

The amendments made by this Part apply to CGT events happening after 7.30 pm (by legal time in the Australian Capital Territory) on 11 May 2010.

Part 2—CGT demerger relief

Income Tax Assessment Act 1997

12 After subsection 125-65(2)

Insert:

(2A) Neither a corporation sole nor a *complying superannuation entity is a member of a *demerger group.

13 Paragraph 125-70(1)(g)

Omit "*superannuation fund", substitute "*non-complying superannuation fund".

14 Application of amendments

The amendments made by this Part apply to CGT events happening after 7.30 pm (by legal time in the Australian Capital Territory) on 11 May 2010.

Part 3—Roll-overs for change of incorporation

Division 1—Main amendments

Income Tax Assessment Act 1997

15 Subdivision 124-I

Repeal the Subdivision, substitute:

Subdivision 124-I—Change of incorporation

Guide to Subdivision 124-I

124-510 What this Subdivision is about

> Roll-over relief is available for members of a body that is incorporated under one law and is converted to, or replaced with, a body incorporated under another law.

Table of sections

Object of this Subdivision

124-515 Object of this Subdivision

Change of incorporation without change of entity

124-520 Change of incorporation without change of entity

Old corporation wound up

124-525 Old corporation wound up

Special consequences of some roll-overs

124-530 Shares in company replacing pre-CGT and post-CGT mix of interest and rights in body

124-535 Rights as member of Indigenous corporation replacing pre-CGT and post-CGT mix of interest and rights in body

Object of this Subdivision

124-515 Object of this Subdivision

The object of this Subdivision is to ensure that CGT considerations for *members of a body incorporated under a law do not impede a change of incorporation involving converting the body to, or replacing it with, a company incorporated under:

(a) the *Corporations Act 2001* or a similar *foreign law; or

(b) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

Note: Subdivision 620-A provides a roll-over for the assets of the body.

Change of incorporation without change of entity

124-520 Change of incorporation without change of entity

(1) This section applies if:

(a) you are a *member of a body incorporated under a law described in column 1 of an item of the table; and

(b) the body is converted into a company incorporated under a law described in column 2 of the item, without creating a new legal entity; and

(c) it is reasonable to conclude that there is no significant difference:

(i) between the ownership of the body, and of rights relating to the body held by entities that owned the body, just before the conversion and the ownership of the company just after the conversion; or

(ii) between the mix of ownership of the body, and of rights relating to the body held by entities that owned the body, just before the conversion and the mix of ownership of the company just after the conversion.

Note: See section 124-20 if an entity uses a share or interest sale facility.

Laws the body and company are incorporated under		
	Column 1 **Body incorporated under this law**	**Column 2** **Company incorporated under this law**
1	A law other than the *Corporations Act 2001* and a similar *foreign law relating to companies	The *Corporations Act 2001* or a similar foreign law relating to companies
2	A law other than the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*	The *Corporations (Aboriginal and Torres Strait Islander) Act 2006*

(2) You can choose to obtain a roll-over if:

(a) as a result of the conversion you are issued with *shares in the company and you receive nothing else; and

(b) either you are an Australian resident at the time of the conversion or, if you are a foreign resident at that time:

(i) each of your interest and your other rights (if any) relating to the body was *taxable Australian property just before that time; and

(ii) the shares are taxable Australian property when they are issued.

Note 1: The roll-over consequences are set out in Subdivision 124-A and section 124-530.

Note 2: Section 103-25 tells you when you have to make the choice.

(3) If the company is incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, subsection (2) applies in relation to rights as a *member of the company in the same way as that subsection applies to *shares in a company.

Note: This may allow you to choose to obtain a roll-over. The roll-over consequences are set out in Subdivision 124-A and section 124-535.

Exception for demutualisation of certain bodies

(4) This section does not apply to demutualisation of a body if Division 326 in Schedule 2H to the *Income Tax Assessment Act 1936* applies to the demutualisation.

Note: That Division deals with demutualisation of entities other than insurance companies and health insurers.

Old corporation wound up

124-525 Old corporation wound up

(1) This section applies if:

(a) a body is incorporated under a law described in column 1 of an item of the table; and

(b) a company is incorporated under a law described in column 2 of the item; and

(c) the body ceases to exist, but the company continues to exist, after the time (the ***switch time***) the *members of the body receive *shares in the company, or rights as members of it if it is incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, on account of:

(i) their interests in the body; and

(ii) their other rights (if any) relating to the body; and

(d) the members of the body do not receive anything else on account of the expected ending of those interests and rights; and

(e) it is reasonable to conclude that there is no significant difference:

(i) between the ownership of the body, and of rights relating to the body held by entities that owned the body, just before the switch time and the ownership of the company just after the switch time; or

(ii) between the mix of ownership of the body, and of rights relating to the body held by entities that owned the body, just before the switch time and the mix of ownership of the company just after the switch time; and

Note: See section 124-20 if an entity uses a share or interest sale facility.

(f) the body *disposes of all its *CGT assets to the company, except any assets expected to be needed to meet the body's existing or expected liabilities before it ceases to exist.

Laws the body and company are incorporated under		
	Column 1 **Body incorporated under this law**	**Column 2** **Company incorporated under this law**
1	A law other than the *Corporations Act 2001* and a similar *foreign law relating to companies	The *Corporations Act 2001* or a similar foreign law relating to companies
2	A law other than the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*	The *Corporations (Aboriginal and Torres Strait Islander) Act 2006*

(2) You can choose to obtain a roll-over if:

(a) you were a *member of the body just before the switch time; and

(b) your ownership of your interest in the body ends at a time (the ***end time***) after the switch time; and

(c) at the end time you have the *shares in the company that you received at the switch time; and

(d) either you are an Australian resident at the end time or, if you are a foreign resident at the end time:

(i) each of your interest in the body and your other rights (if any) relating to the body was *taxable Australian property just before the end time; and

(ii) the shares in the company that you received at the switch time are taxable Australian property at the end time.

Note 1: The roll-over consequences are set out in Subdivision 124-A and section 124-530.

Note 2: Section 103-25 tells you when you have to make the choice.

(3) If the company is incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, subsection (2) applies in relation to rights as a *member of the company in the same way as that subsection applies to *shares in a company.

Note: This may allow you to choose to obtain a roll-over. The roll-over consequences are set out in Subdivision 124-A and section 124-535.

Special consequences of some roll-overs

124-530 Shares in company replacing pre-CGT and post-CGT mix of interest and rights in body

(1) This section applies if:

(a) you choose to obtain a roll-over under section 124-520 or 124-525 relating to *shares you have in the company on account of the following (your ***original assets***):

(i) your interest in the body mentioned in that section;

(ii) your other rights relating to the body mentioned in that section; and

(b) you *acquired some of your original assets before 20 September 1985 and the rest of them on or after that day.

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

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

(b) the number and market value of the shares.

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

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

(b) the number and *market value of your post-CGT shares.

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

(5) This section has effect despite subsections 124-15(5) and (6).

124-535 Rights as member of Indigenous corporation replacing pre-CGT and post-CGT mix of interest and rights in body

(1) This section applies if:

(a) you choose to obtain a roll-over under section 124-520 or 124-525 relating to rights (the ***replacement rights***) you have as a *member of a company incorporated under the

Corporations (Aboriginal and Torres Strait Islander) Act 2006 on account of the following (your ***original assets***):

(i) your interest in the body mentioned in that section;

(ii) your other rights relating to the body mentioned in that section; and

(b) you *acquired any of your original assets before 20 September 1985.

(2) You are taken to have *acquired the replacement rights before 20 September 1985.

(3) This section has effect despite subsection 124-15(5).

16 Before Part 3-90

Insert:

Part 3-80—Roll-overs applying to assets generally

Division 620—Assets of wound-up corporation passing to corporation with not significantly different ownership

Table of Subdivisions

620-A Corporations covered by Subdivision 124-I

Subdivision 620-A—Corporations covered by Subdivision 124-I

Guide to Subdivision 620-A

620-5 What this Subdivision is about

> There are tax-neutral consequences of a body, that is incorporated under one law and ceases to exist, disposing of an asset to a company incorporated under another law, if the ownership of the company is not significantly different from the ownership of the body.

Table of sections

Application and object of this Subdivision

620-10 Application
620-15 Object

CGT consequences

620-20 Disregard body's capital gains and losses from CGT assets
620-25 Cost base and pre-CGT status of CGT asset for company

Consequences for depreciating assets

620-30 Roll-over relief for balancing adjustment events

Consequences for trading stock

620-40 Body taken to have sold trading stock to company

Consequences for revenue assets

620-50 Body taken to have sold revenue assets to company

Application and object of this Subdivision

620-10 Application

This Subdivision applies to a body that is incorporated under one law and ceases to exist, and to a company incorporated under another law, if section 124-525 applies in relation to the body and the company.

Note: That section applies if the ownership of the company is not significantly different from the ownership of the body and rights relating to the body.

620-15 Object

The object of this Subdivision is to ensure tax-neutral consequences when the body ceases to hold an asset and also if the asset becomes held by the company.

CGT consequences

620-20 Disregard body's capital gains and losses from CGT assets

(1) This section applies if:

(a) the body *disposes of a *CGT asset to the company because the body ceases to exist; or

(b) another *CGT event happens to a CGT asset of the body because the body ceases to exist.

(2) A *capital gain or a *capital loss the body makes from the *CGT asset is disregarded.

620-25 Cost base and pre-CGT status of CGT asset for company

(1) This section applies to a *CGT asset if the body *disposes of it to the company because the body ceases to exist.

(2) The first element of the *CGT asset's *cost base for the company is equal to the asset's cost base for the body in connection with the *disposal.

(3) The first element of the *CGT asset's *reduced cost base for the company is worked out similarly.

(4) If the body *acquired the *CGT asset before 20 September 1985, the company is taken to have acquired the CGT asset before that day.

Consequences for depreciating assets

620-30 Roll-over relief for balancing adjustment events

(1) This section applies if:

(a) there is a *balancing adjustment event because the body disposes of a *depreciating asset in an income year to the company because the body ceases to exist; and

(b) the disposal involves a *CGT event.

(2) This Act applies as if:

(a) there were roll-over relief under subsection 40-340(1) for the *balancing adjustment event; and

(b) the body were the transferor mentioned in that subsection and subsection 328-243(1A); and

(c) the company were the transferee mentioned in that subsection and subsection 328-243(1A).

Note: Some effects of this are as follows:

(a) the balancing adjustment event does not affect the body's assessable income or deductions (see subsection 40-345(1));
(b) the company can deduct for the decline in value of the asset on the same basis as the body did (see subsection 40-345(2));
(c) Division 45 (Disposal of leases and leased plant) applies to the company as if it had done the things the body did (see subsection 40-350(1)).

(3) Disregard paragraph 328-243(1A)(c) in determining whether subsection 328-243(1A) applies.

Consequences for trading stock

620-40 Body taken to have sold trading stock to company

(1) This subsection applies to each item of *trading stock that the body disposes of to the company because the body ceases to exist.

(2) The body is taken to have sold, and the company is taken to have bought, the item (in the ordinary course of *business and dealing with each other at arm's length), at the time of the disposal (or just before that time if the disposal occurred when the body ceased to exist), for:
(a) the *cost of the item for the body; or
(b) if the body held the item as *trading stock at the start of the income year, the *value of the item for the body then.

(3) The company is taken to have held the item as *trading stock when it bought the item.

Consequences for revenue assets

620-50 Body taken to have sold revenue assets to company

Disposal

(1) Subsections (2) and (3) apply to a *CGT asset:
(a) that the body *disposes of to the company because the body ceases to exist; and
(b) that is a *revenue asset of the body just before the disposal.

Note: Trading stock and depreciating assets are not revenue assets. See section 977-50.

(2) The body is taken to have disposed of the *revenue asset to the company for an amount such that the body would not make a profit or a loss on the disposal.

(3) For the purpose of calculating any profit or loss on a future disposal of, cessation of owning, or other realisation of, the *revenue asset, the company is taken to have paid the body that amount for the disposal of the revenue asset to the company.

Ceasing to own or other realising

(4) Subsection (5) applies to a *CGT asset:

(a) that the body ceases to own, or otherwise realises, because the body ceases to exist; and

(b) that is a *revenue asset of the body just before the cessation or realisation.

Note: Trading stock and depreciating assets are not revenue assets. See section 977-50.

(5) The body is taken to have disposed of the *revenue asset for an amount such that the body would not make a profit or a loss on the disposal.

Division 2—Consequential amendments

Income Tax Assessment Act 1997

17 Subsection 40-340(1) (note)

Omit “Note:”, substitute “Note 1:”.

18 At the end of subsection 40-340(1)

Add:

Note 2: This Act also applies as if there were roll-over relief under this subsection in the circumstances set out in section 620-30 (which is about a body incorporated under one law ceasing to exist and disposing of its assets to a company incorporated under another law that has not significantly different ownership).

19 At the end of subsection 70-80(1)

Add:

Note: An incorporated body is treated as disposing of an item of its trading stock in the ordinary course of business if the body ceases to exist and

disposes of the asset to a company that has not significantly different ownership: see Division 620.

20 After section 112-53AA

Insert:

112-53AB Change of incorporation

Change of incorporation			
Item	**In this situation:**	**Element affected:**	**See section:**
1	Shares in company that has changed its incorporation or has ownership not significantly different from that of a former body incorporated under another law	First element of cost base and reduced cost base	124-530

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

Add:

35	A CGT asset is held by a company that has ownership not significantly different from that of a former body that held the asset and was incorporated under another law	First element of cost base and reduced cost base	Section 620-25

22 Section 112-115 (cell at table item 11, column headed "For the rules about this roll-over:")

Repeal the cell, substitute:

Change of incorporation

23 Section 112-150 (at the end of the table)

Add:

11	Corporations covered by Subdivision 124-I	sections 620-10, 620-15, 620-20 and 620-25

Division 3—Application of amendments

Income Tax (Transitional Provisions) Act 1997

24 At the end of Division 124

Add:

Subdivision 124-I—Change of incorporation

Table of sections

124-510 Application of Subdivision 124-I of the *Income Tax Assessment Act 1997*

124-510 Application of Subdivision 124-I of the *Income Tax Assessment Act 1997*

Subdivision 124-I of the *Income Tax Assessment Act 1997*, as amended by Schedule 2 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*, applies to CGT events happening after 7.30 pm (by legal time in the Australian Capital Territory) on 11 May 2010.

25 After Part 3-45

Insert:

Part 3-80—Roll-overs applying to assets generally

Division 620—Assets of wound-up corporation passing to corporation with not significantly different ownership

Table of Subdivisions

620-A Corporations covered by Subdivision 124-I

Subdivision 620-A—Corporations covered by Subdivision 124-I

Table of sections

620-10 Application of Subdivision 620-A of the *Income Tax Assessment Act 1997*

620-10 Application of Subdivision 620-A of the *Income Tax Assessment Act 1997*

Subdivision 620-A of the *Income Tax Assessment Act 1997* applies in relation to the cessation of existence of bodies corporate occurring after 7.30 pm (by legal time in the Australian Capital Territory) on 11 May 2010.

Schedule 3—GST financial supply provisions

Part 1—Increasing financial acquisitions threshold

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

1 Paragraphs 189-5(1)(a) and (2)(a)

Omit “$50,000”, substitute “$150,000”.

2 Paragraphs 189-10(1)(a) and (2)(a)

Omit “$50,000”, substitute “$150,000”.

3 Application of amendments

The amendments made by this Part apply for working out whether you exceed the financial acquisitions threshold at a time during July 2012 or a later month.

Part 2—Treatment of borrowings

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

4 Paragraph 11-15(5)(a)

After "borrowing", insert "(other than through a *deposit account you make available)".

5 Section 195-1

Insert:

deposit account: an account is a ***deposit account*** if:

(a) the account is made available by an Australian ADI (within the meaning of the *Corporations Act 2001*) in the course of carrying on a banking business (within the meaning of the *Banking Act 1959*); and

(b) amounts credited to the account represent money taken by the ADI on deposit (other than as part-payment for identified goods or services); and

(c) amounts credited to the account do not relate to a debenture (as defined in section 9 of the *Corporations Act 2001*) of the ADI.

6 Application of amendments

The amendments made by this Part apply in relation to acquisitions made on or after 1 July 2012.

Part 3—Hire purchase agreements

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

7 Section 29-39 (after table item 8A)

Insert:

8AA	Hire purchase agreements	Division 158

8 Section 29-69 (at the end of the table)

Add:

2	Hire purchase agreements	Division 158

9 After section 156-22

Insert:

156-23 Certain supplies or acquisitions under hire purchase agreements treated as not on progressive or periodic basis

For the purposes of this Division, a supply or acquisition of goods or credit under a *hire purchase agreement is treated as not being a supply or acquisition made on a progressive or periodic basis.

10 After Division 157

Insert:

Division 158—Hire purchase agreements

158-1 What this Division is about

> If you account on a cash basis, you are treated as if you do not account on a cash basis for any acquisition made under a hire purchase agreement.

158-5 Treat as not accounting on a cash basis

(1) This section applies if you *account on a cash basis.

(2) This Act and the regulations apply in relation to:

(a) an acquisition you make under a *hire purchase agreement; or

(b) an input tax credit to which you are entitled, or an *adjustment you have, under subsection 58-10(1) for an acquisition made under a hire purchase agreement;

as if you do not *account on a cash basis.

11 Application of amendments

The amendments made by this Part apply in relation to hire purchase agreements entered into on or after 1 July 2012.

Schedule 4—New residential premises

Part 1—Amendments

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

1 Before subsection 40-75(1)

Insert:

When premises are new residential premises

2 At the end of subsection 40-75(1)

Add:

Paragraphs (b) and (c) have effect subject to paragraph (a).

Note 1: For example, residential premises will be new residential premises if they are created as described in paragraph (b) or (c) to replace earlier premises that had ceased to be new residential premises because of paragraph (a).

Note 2: However, premises that are new residential premises because of paragraph (b) or (c) will cease to be new residential premises once they are sold, or supplied by way of long-term lease, as residential premises (see paragraph (a)).

Note 3: Premises created because of the registration of, for example, a strata title plan, or a plan to subdivide land, may not become new residential premises (see subsection (2AA)).

3 Subsection 40-75(2)

Omit "premises are not new residential premises", substitute "*residential premises are not ***new residential premises***".

4 Paragraph 40-75(2)(a)

Omit "*residential premises", substitute "residential premises".

5 After subsection 40-75(2)

Insert:

Subdivisions etc. may not result in new residential premises

(2AA) Despite subsection (1), the *residential premises are not ***new residential premises*** if:

(a) they are created from residential premises that became the subject of a *property subdivision plan; and

(b) the residential premises referred to in paragraph (a) were not new residential premises immediately before they became the subject of that plan.

This subsection has effect subject to paragraphs (1)(b) and (c).

6 Before subsection 40-75(2A)

Insert:

Disregard certain supplies of the premises

7 Subsection 40-75(2A)

Omit "premises is disregarded as a sale", substitute "*residential premises is disregarded as a sale or supply".

8 After subsection 40-75(2A)

Insert:

(2B) A supply (the ***wholesale supply***) of the *residential premises is disregarded as a sale or supply for the purposes of applying paragraph (1)(a) if:

(a) the premises from which the residential premises were created had earlier been supplied to the *recipient of the wholesale supply or one or more of its *associates; and

(b) an arrangement (including an agreement) was made by:

(i) the supplier of the earlier supply, or one or more associates of the supplier; and

(ii) the recipient of the earlier supply, or one or more associates of the recipient; and

(c) under the arrangement, the wholesale supply was conditional on:

(i) specified building or renovation work being undertaken by the recipient of the earlier supply, or by one or more associates of the recipient; or

(ii) circumstances existing as specified in regulations made for the purposes of this subparagraph.

Note 1: The premises referred to in paragraph (a) could be vacant land.

Note 2: For subparagraph (c)(ii), circumstances may be specified by class (see subsection 13(3) of the *Legislative Instruments Act 2003*).

Note 3: This subsection does not apply to a supply if certain commercial commitments were in place before 27 January 2011 (see item 12 of Schedule 4 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*).

(2C) A supply of the *residential premises is disregarded as a sale or supply for the purposes of applying paragraph (1)(a) if it is made because a *property subdivision plan relating to the premises was lodged for registration (however described) by the *recipient of the supply or the recipient's *associate.

Note: This subsection does not apply to a supply if the plan was lodged for registration before 27 January 2011 (see item 13 of Schedule 4 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*).

9 Before subsection 40-75(3)

Insert:

New residential premises include associated land

10 Section 195-1

Insert:

property subdivision plan means a plan:

(a) for the division of *real property; and

(b) that is registered (however described) under an *Australian law.

Note: Examples are strata title plans and plans to subdivide land.

Part 2—Application of amendments

11 Application of amendments

(1) The amendments made by this Schedule (other than item 2) apply in relation to supplies of residential premises on or after 27 January 2011.

(2) Subitem (1) has effect subject to items 12 and 13.

(3) The amendment made by item 2 applies in relation to supplies of residential premises on or after the day after this Schedule commences.

12 Exception—arrangements made before 27 January 2011 to develop premises

(1) Subsection 40-75(2B) of the *A New Tax System (Goods and Services Tax) Act 1999* (as inserted by this Schedule) does not apply to a supply (the ***wholesale supply***) of residential premises if:

(a) the wholesale supply happens:

(i) on or after 27 January 2011; or

(ii) before 27 January 2011, and the next supply of the residential premises happens on or after 27 January 2011; and

(b) subitem (2) is satisfied in relation to the wholesale supply.

(2) This subitem is satisfied in relation to the wholesale supply if:

(a) the premises from which the residential premises were created had earlier been supplied to the recipient of the wholesale supply or one or more of its associates; and

(b) immediately before 27 January 2011, the recipient of the wholesale supply or one or more of its associates were commercially committed to an arrangement; and

(c) under the arrangement, the wholesale supply was conditional on specified building or renovation work being undertaken by the recipient of the wholesale supply or by one or more of its associates; and

(d) no GST return (as amended) given to the Commissioner reports a net amount for a tax period that includes amounts equivalent to the input tax credits that the recipient of the wholesale supply would have been entitled to if its

acquisitions relating to the next sale or long term lease of the residential premises were creditable acquisitions.

Note: The premises referred to in paragraph (a) could be vacant land.

(3) In this item:

arrangement includes an agreement.

commercially committed: to be ***commercially committed***, in relation to an arrangement, means:

(a) to be a party to the arrangement, where the arrangement is legally binding; or

(b) to be the preferred tenderer (however described) in the final step in a bidding or tendering process relating to the arrangement; or

(c) to have directly made (with associates) acquisitions, having a total GST exclusive value of at least $200,000, in relation to the arrangement; or

(d) to have directly incurred (with associates) internal direct costs, of at least $200,000, in relation to the arrangement.

13 Exception—property subdivision plans lodged for registration before 27 January 2011

Subsection 40-75(2C) of the *A New Tax System (Goods and Services Tax) Act 1999* (as inserted by this Schedule) does not apply to a supply of residential premises on or after 27 January 2011 if the supply is made because a property subdivision plan relating to the premises was lodged for registration (however described) before 27 January 2011 by the recipient of the supply or the recipient's associate.

Schedule 5—Deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-70(2) (cell at table item 8.2.12, column headed "Fund, authority or institution")

Repeal the cell, substitute:

Playgroup Australia Limited

2 Subsection 30-80(2) (at the end of the table)

Add:

9.2.24	Rhodes Trust in Australia	the gift must be made after 21 October 2011

3 Subsection 30-315(2) (cell at table item 86AA, column without a heading)

Repeal the cell, substitute:

Playgroup Australia Limited

4 Subsection 30-315(2) (after table item 97)

Insert:

97AAA	Rhodes Trust in Australia	item 9.2.24

5 Application of amendments

(1) The amendments made by items 1 and 3 of this Schedule apply to gifts made after 25 October 2010.

(2) The amendments made by items 2 and 4 of this Schedule apply to gifts made after 21 October 2011.

Schedule 6—Miscellaneous amendments

Part 1—Corrections to cross-references

Division 1—Income Tax Assessment Act 1936

1 Paragraph 102MA(2)(a)

Repeal the paragraph.

2 After paragraph 102MA(2)(b)

Insert:

(ba) an arrangement to which Division 242 (about leases of luxury cars) of the *Income Tax Assessment Act 1997* applies; or

Division 2—Income Tax Assessment Act 1997

3 Subsection 207-59(1)

Omit “Subsection (3)”, substitute “Subsection (2)”.

4 Subsections 230-380(2) and (3)

Omit “subsection (1)”, substitute “subsection (1A)”.

5 Paragraph 230-380(6)(a)

Omit “subsection (1)”, substitute “subsection (1A)”.

6 Subsection 995-1(1) (definition of *non-arm’s length limited recourse debt*)

Omit “subsection 243-20(6)”, substitute “subsection 243-20(7)”.

Division 3—Citizenship

Income Tax Assessment Act 1997

7 Paragraph 30-37(a)

Omit “*Australian Citizenship Act 1948*”, substitute “*Australian Citizenship Act 2007*”.

Tax Laws Amendment (2006 Measures No. 3) Act 2006

8 Subsection 2(1) (table item 10)

Repeal the item.

Note: This item and item 9 repeal provisions made redundant by item 7.

9 Item 3 of Schedule 11

Repeal the item.

Division 4—Tax-related liabilities

Income Tax Assessment Act 1997

10 Paragraph 721-25(1A)(a)

Omit “item 25”, substitute “item 3”.

Part 2—Repeal of references to Cultural Bequests Program and redundant subsection numbers

Division 1—Cultural Bequests Program

Income Tax Assessment Act 1997

11 Subsection 30-5(1)

Omit “, or a testamentary gift under the Cultural Bequests Program”.

12 Subsection 30-5(1) (note 1)

Repeal the note.

13 Subsection 30-5(1) (note 2)

Omit “Note 2”, substitute “Note”.

14 Subsection 30-15(2) (note 1)

Repeal the note.

15 Subsection 30-15(2) (note 2)

Omit “Note 2”, substitute “Note”.

16 Section 30-115

Omit “, 30-B or 30-D”, substitute “or 30-B”.

17 Subdivision 30-D

Repeal the Subdivision.

18 Section 30-315 (table item 41)

Repeal the item.

19 Paragraph 104-185(2)(c)

Repeal the paragraph.

20 Subsection 118-60(1)

Omit “under the Cultural Bequests Program or”.

Income Tax (Transitional Provisions) Act 1997

21 Sections 30-10, 30-15 and 30-20

Repeal the sections.

Division 2—Redundant subsection numbers

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

22 Subsection 11(1)

Omit “(1)”.

Superannuation Industry (Supervision) Act 1993

23 Subsection 252(1)

Omit “(1)”.

Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991

24 Subsection 7(1)

Omit “(1)”.

Part 3—List of tax offsets

Income Tax Assessment Act 1997

25 Section 13-1 (after table item headed "farm help income support")

Insert:

film

..... Division 376

26 Section 13-1 (after table item headed "life assurance")

Insert:

life insurance company

subsidiary joining consolidated group ..... 713-545(5)

Part 4—Taxation Administration Act 1953

27 Subsection 2(1)

Insert:

approved form has the meaning given by Schedule 1.

28 After subsection 3AA(1)

Insert:

Definitions in Schedule 1 do not apply to rest of Act

(1A) So far as a provision in Schedule 1 gives an expression a particular meaning, the provision does *not* also have effect for the purposes of this Act (other than Schedule 1), except as provided in this Act (other than Schedule 1).

29 Paragraph 8C(1)(a)

Omit “to furnish an approved form or any information”, substitute “to give any information or document”.

Part 5—Foreign superannuation funds

Division 1—Pensions and annuities

Income Tax Assessment Act 1936

30 Paragraph 603(1)(h)

Before “Division 82”, insert “section 27H of this Act,”.

31 Application of amendment

The amendment made by this Division applies to the 2007-08 income year and later income years.

Division 2—Superannuation lump sums

Income Tax (Transitional Provisions) Act 1997

32 After Division 304

Insert:

Division 305—Superannuation benefits paid from non-complying superannuation plans

Table of Subdivisions

305-B Superannuation benefits from foreign superannuation funds

Subdivision 305-B—Superannuation benefits from foreign superannuation funds

Table of sections

305-80 Lump sums paid into complying superannuation plans post-FIF abolition

305-80 Lump sums paid into complying superannuation plans post-FIF abolition

(1) You are entitled to a deduction for an income year (the ***deduction year***) if:

(a) you have an interest in a FIF (within the meaning of Part XI of the *Income Tax Assessment Act 1936*, as in force just before the commencement of item 37 of Schedule 1 to the *Tax Laws Amendment (Foreign Source Income Deferral) Act (No. 1) 2010*) (the ***paying fund***); and

(b) Subdivision 305-B of the *Income Tax Assessment Act 1997* applies in relation to the paying fund (see section 305-55 of that Act); and

(c) the paying fund transfers an amount to a complying superannuation fund in respect of you during the deduction year; and

(d) you choose under section 305-80 of the *Income Tax Assessment Act 1997* that the amount, or part of the amount, is to be treated as assessable income of the complying superannuation fund; and

(e) immediately before the transfer happens, there is a post-FIF abolition surplus (within the meaning of the *Income Tax Assessment Act 1936*) for the paying fund in relation to you; and

(f) the deduction year is the 2010-11 income year or a later income year.

(2) The amount of the deduction is the lesser of:

(a) the post-FIF abolition surplus; and

(b) the amount covered by your choice mentioned in paragraph (1)(d).

Part 6—Asterisks

Division 1—A New Tax System (Wine Equalisation Tax) Act 1999

33 Paragraph 19-20(1)(a)

Omit “ITAA 1997”, substitute “*ITAA 1997”.

34 Section 33-1 (definition of *connected with*)

Omit “ITAA 1997”, substitute “*ITAA 1997”.

Division 2—Trading stock and revenue assets

Income Tax Assessment Act 1997

35 Subsection 28-170(3) (table item 2, column 2)

Omit “trading stock”, substitute “*trading stock”.

36 Paragraph 28-175(3)(b)

Omit “trading stock”, substitute “*trading stock”.

37 Subsection 70-30(5)

Omit “*trading stock” (second occurring), substitute “trading stock”.

38 Paragraph 70-35(1)(b)

Omit “*trading stock”, substitute “trading stock”.

39 Paragraphs 70-100(6)(b) and (10)(b)

Omit “*trading stock”, substitute “trading stock”.

40 Subsection 165-115BB(2) (paragraph (a) of the definition of *previous capital losses, deductions or trading stock losses*)

Omit “trading stock losses”, substitute “*trading stock losses”.

41 Subsections 165-115F(3) and (4)

Omit “trading stock”, substitute “*trading stock”.

42 Subparagraph 385-135(3)(b)(ii)

Omit “trading stock”, substitute “*trading stock”.

43 Subsection 715-145(2) (table item 2, column headed “If:”)

Omit “*trading stock” (second occurring), substitute “trading stock”.

44 Paragraph 723-50(2)(a)

Omit “trading stock” (first occurring), substitute “*trading stock”.

45 Paragraph 723-50(2)(b)

Omit “revenue asset”, substitute “*revenue asset”.

46 Subsection 725-225(5)

Omit “trading stock or revenue assets”, substitute “*trading stock or *revenue assets”.

47 Section 725-245 (table item 1, column headed “Up interests”)

Omit “**revenue assets nor your *trading stock*”, substitute “*revenue assets nor your trading stock*”.

48 Section 725-245 (table item 2, column headed “Up interests”)

Omit “**trading stock* or **revenue assets*”, substitute “*trading stock* or *revenue assets*”.

49 Section 725-245 (table item 3, column headed “Up interests”)

Omit “**revenue assets* or *your *trading stock*”, substitute “*revenue assets* or *your trading stock*”.

50 Subsection 725-310(2)

Omit “trading stock”, substitute “*trading stock”.

51 Section 725-315

Omit “trading stock” (first occurring), substitute “*trading stock”.

52 Paragraph 725-315(a)

Omit "*trading stock", substitute "trading stock".

53 Subsection 725-335(2)

Omit "trading stock and revenue assets" (first occurring), substitute "*trading stock and *revenue assets".

54 Subsection 725-335(3) (table item 2, column headed "To:")

Omit "**revenue assets* or *your *trading stock*", substitute "*revenue assets* or *your trading stock*".

55 Subsection 725-335(3) (table items 4 and 5, column headed "To:")

Omit "**revenue assets nor your *trading stock*", substitute "*revenue assets nor your trading stock*".

56 Subsection 725-335(3) (table item 6, column headed "To:")

Omit "**trading stock* or **revenue assets*", substitute "*trading stock* or *revenue assets*".

57 Paragraphs 977-25(3)(b) and 977-35(2)(b)

Omit "trading stock", substitute "*trading stock".

58 Subsection 995-1(1) (paragraph (b) of the definition of *apportionable deductions*)

Omit "trading stock", substitute "*trading stock".

59 Subsection 995-1(1) (paragraph (b) of the definition of *consideration receivable*)

Omit "trading stock", substitute "*trading stock".

Division 3—Other amendments

Income Tax Assessment Act 1997

60 Section 36-25 (table relating to tax losses of companies, item 5)

Omit "*life insurance company", substitute "life insurance company".

61 Section 36-25 (table relating to tax losses of corporate tax entities, item 1)

Omit "*corporate tax entity that has an amount of *excess franking offsets for an income year: it works out its *tax loss", substitute "corporate tax entity that has an amount of excess franking offsets for an income year: it works out its tax loss".

62 Section 36-25 (table relating to tax losses of entities that become foreign hybrids, item 1)

Omit "*foreign hybrid", substitute "foreign hybrid".

63 Paragraph 70-80(3)(a)

Omit "*business", substitute "business".

64 Subsection 115-228(1) (definition of *net financial benefit*)

Omit "capital gain" (first occurring), substitute "*capital gain".

65 Paragraph 124-445(a)

Omit "member", substitute "*member".

66 Paragraph 216-10(1)(b)

Omit "*securities lending arrangement", substitute "securities lending arrangement".

67 Section 216-30

Omit "*securities lending arrangements", substitute "securities lending arrangements".

Part 7—References to Acts

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

68 Paragraph 9-20(1)(d)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

69 Subsection 113-5(1)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

70 Paragraph 177-12(4)(b)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

71 Section 195-1 (definition of *non-cash benefit*)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

72 Section 195-1 (definition of *withholding payment* covered by a particular provision in Schedule 1 to the *Taxation Administration Act 1953*)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

73 Section 195-1 (definition of *withholding payment*)

Omit "*Income Tax Assessment Act 1997*", substitute "*ITAA 1997".

Income Tax Assessment Act 1997

74 Subsection 995-1(1) (definition of *annual tax period election*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

75 Subsection 995-1(1) (definition of *fund-raising event*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

76 Subsection 995-1(1) (definition of *precious metal*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

77 Subsection 995-1(1) (definition of *pre-school course*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

78 Subsection 995-1(1) (definition of *primary course*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

79 Subsection 995-1(1) (definition of *residential premises*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

80 Subsection 995-1(1) (definition of *retirement village*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

81 Subsection 995-1(1) (definition of *secondary course*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

82 Subsection 995-1(1) (definition of *tertiary course*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

83 Subsection 995-1(1) (definition of *untaxed Commonwealth entity*)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

Taxation Administration Act 1953

84 Section 426-1 in Schedule 1

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

85 Paragraph 426-5(a) in Schedule 1

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

86 Paragraph 426-5(b) in Schedule 1

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

87 Subsection 426-40(1) in Schedule 1 (paragraph (a) of note 1)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

88 Subsection 426-55(1) in Schedule 1 (paragraph (a) of the note)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

89 Paragraph 426-65(1)(a) in Schedule 1

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

90 Paragraph 426-65(1)(b) in Schedule 1

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

91 Subsection 446-5(6) in Schedule 1 (table items 9 and 10, column headed "If the resolution affects the operation of …")

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "*GST Act".

92 Paragraph 850-100(8)(a) in Schedule 1 (example)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

93 Paragraph 850-100(8)(b) in Schedule 1 (example)

Omit "*A New Tax System (Goods and Services Tax) Act 1999*", substitute "GST Act".

Part 8—Extensions of time

Income Tax Assessment Act 1997

94 Subsection 118-195(1) (at the end of the cell at table item 1, column headed "And also one of these items")

Add ", or within a longer period allowed by the Commissioner".

95 Subsection 118-200(3)

Repeal the subsection (not including the notes), substitute:

(3) However, you can adjust the formula by ignoring any *non-main residence days* and *total days* in the period from the deceased's death until your *ownership interest ended, if:

(a) the deceased *acquired the ownership interest *on or after* 20 September 1985; and

(b) your ownership interest ends within:

(i) 2 years of the deceased's death; or

(ii) a longer period allowed by the Commissioner; and

(c) you get a more favourable result by doing so.

96 Application of amendments

The amendments made by this Part apply in relation to CGT events that happen in the 2008-09 income year and later income years.

Part 9—Cessation of membership of GST groups etc.

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

97 Subsection 48-110(1)

Omit "*cease", substitute "cease".

98 Paragraph 48-115(1)(b)

Omit "*cease", substitute "cease".

99 Paragraph 48-115(2)(b)

Omit "*ceased", substitute "ceased".

100 Subsection 51-110(1)

Omit "*cease", substitute "cease".

101 Paragraph 51-115(1)(b)

Omit "*cease", substitute "cease".

102 Paragraph 51-115(2)(b)

Omit "*ceased", substitute "ceased".

103 Section 195-1 (definition of *cease to be a member of a GST group*)

Repeal the definition.

104 Section 195-1 (definition of *cease to be a participant of a GST joint venture*)

Repeal the definition.

105 Application of amendments

The amendments made by this Part apply to tax periods starting on or after the commencement of this item.

Part 10—Small business participation percentage

Division 1—Companies

Income Tax Assessment Act 1997

106 Before subsection 152-70(2)

Insert:

Companies

107 Subsection 152-70(2)

Omit "in", substitute "of".

108 At the end of section 152-70

Add:

(3) Paragraph (a) of item 1 of the table does not apply if the entity holds the legal and equitable interests in the *shares jointly with another entity.

109 Application of amendments

The amendments made by this Division apply to CGT events that happen in the 2006-07 income year or later income years.

Division 2—Discretionary trusts

Income Tax Assessment Act 1997

110 Subsection 152-70(1) (paragraph (a) of the cell at table item 3, column headed "Is:")

Omit "(the ***current year***)", substitute "(the ***relevant year***)".

111 Subsection 152-70(1) (paragraph (b) of the cell at table item 3, column headed "Is:")

Omit "current year", substitute "relevant year".

112 At the end of section 152-70

Add:

Discretionary trusts

(4) Subsections (5) and (6) apply for the purpose of working out the *direct small business participation percentage in an entity in connection with a *CGT event that happened in an income year (the ***CGT event year***), if:

(a) the entity is a trust (where entities do not have entitlements to all the income and capital of the trust); and

(b) during the relevant year mentioned in item 3 of the table in subsection (1) (disregarding subsection (5)), the trustee mentioned in that item:

(i) does not make a distribution of income; and

(ii) does not make a distribution of capital.

(5) Treat the references in that item to the relevant year as being references to:

(a) if the trustee made a distribution of income or capital during the CGT event year—the CGT event year; or

(b) otherwise—the last income year before the CGT event year in which the trustee did make a distribution of income or capital.

(6) Despite subsection (5), an entity holds a ***direct small business participation percentage*** of 0% in the trust at the relevant time if either:

(a) the trust:

(i) had a *net income for the relevant year; and

(ii) did not have a *tax loss for the relevant year; or

(b) the trustee did not make a distribution of income or capital at any time before the end of the CGT event year.

113 Paragraph 152-105(c) (note)

Repeal the note.

114 Paragraph 152-110(1)(c) (note)

Repeal the note.

115 Section 152-120

Repeal the section.

116 Application of amendments

(1) The amendments made by items 110 to 112 apply in relation to CGT events that happen in:

(a) the 2006-07 income year; and

(b) later income years.

(2) The amendments made by items 113 to 115 apply in relation to CGT events that happen on or after the commencement of this item.

Part 11—Exempt income

Division 1—Repeal of spent provisions

Income Tax Assessment Act 1997

117 Section 11-15 (table item headed "family assistance")

Omit:

one-off payment to families 52-150

payments to families under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*..... 52-150

118 Section 11-15 (table item headed "social security or like payments")

Omit:

2008 one-off payment to older Australians under the *Veterans' Entitlements Act 1986* 52-65

payments under the scheme determined under item 2 of Schedule 2 to the *Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008*..... 52-65

119 Paragraph 52-10(1)(b)

Repeal the paragraph.

120 Subsections 52-10(1B) and (1C)

Repeal the subsections.

121 Paragraphs 52-65(1)(bb) and (c)

Repeal the paragraphs.

122 Subsections 52-65(1B) and (1C)

Repeal the subsections.

123 Section 52-75 (table item 1C)

Repeal the item.

124 Section 52-75 (cell at table item 1, column headed "Payment made because of a person's death")

Repeal the cell, substitute:

Division 12A of Part IIIB

125 Section 52-75 (cell at table item 3, column headed "Payment made because of a person's death")

Repeal the cell, substitute:

Division 12A of Part IIIB

126 Section 52-75 (cell at table item 6, column headed "Payment made because of a person's death")

Repeal the cell, substitute:

Division 12A of Part IIIB

127 Section 52-75 (cell at table item 7, column headed "Payment made because of a person's death")

Repeal the cell, substitute:

Division 12A of Part IIIB

128 Section 52-75 (cell at table item 9, column headed "Payment made because of a person's death")

Repeal the cell, substitute:

Division 12A of Part IIIB

129 Subsection 52-150(1)

Omit "(1)".

130 Subsection 52-150(1)

Omit "one-off payment to families,".

131 Subsection 52-150(2)

Repeal the subsection.

Division 2—Lists of exempt income

Income Tax Assessment Act 1997

132 Subsection 6-20(1) (note)

Omit “, 11-10”.

133 Section 11-1

Omit “3 main classes”, substitute “2 main classes”.

134 Paragraphs 11-1(b) and (c)

Repeal the paragraphs, substitute:

(b) ordinary or statutory income of a kind that is exempt (see table in section 11-15).

135 Section 11-10

Repeal the section.

136 Section 11-15 (heading)

Repeal the heading, substitute:

11-15 Ordinary or statutory income which is exempt

137 Section 11-15 (after table item headed “defence”)

Insert:

dividends or shares	
pooled development fund company dividend	**124ZM**
pooled development fund company shares, income from sale of	**124ZN**

138 Section 11-15 (table items headed “family assistance” and “foreign aspects of income taxation”)

Repeal the items, substitute:

family assistance	
baby bonus	52-150
back to school bonus or single income family bonus	52-150
child care benefit	52-150
child care rebate	52-150

economic security strategy payment to families 52-150
families, payments to, under the scheme determined under Schedule 4 to the *Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008* 52-160
family tax benefit 52-150
Household Stimulus Package Act (No. 2) 2009, payments under scheme determined under Schedule 4 to the 52-165
maternity immunisation allowance 52-150

financial arrangements
gains related to exempt income 230-30

financial transactions
infrastructure borrowings, income in relation to **159GZZZZE**
pooled development fund company dividends **124ZM**
pooled development fund company shares, income from sale of **124ZN**

foreign aspects of income taxation
approved overseas project, income from **23AF**
Australian-American Education Foundation, grant from 51-10
Commonwealth of Nations country officer, official salary and foreign income 768-100
consul and official staff member, official salary and foreign income 768-100
Defence Force member, foreign resident, pay and allowances of 842-105
Defence Force member, pay and allowances from being on eligible duty **23AD**
Defence Force member, pay and allowances from performing duties in operational areas **23AC**
defence of Australia, overseas person's income from assisting in Australia's defence 842-105
diplomat and official staff member, official salary and foreign income 768-100
educational, scientific, religious or philanthropic society, income of a visiting representative of 842-105
expert, foreign resident, remuneration of 842-105
foreign society or association representative, income of 842-105
forex realisation gains, certain 775-20

government representative and members of the entourage, foreign resident, income of 842-105
OBU investment trusts for overseas charitable institutions ..... **121EL(2)**
OBU off-shore investment trusts, income to which subsection **121D(6)** applies **121EL**
overseas charitable institutions, income from OBUs ..... **121ELA(1)**
overseas employment income, resident, income of **23AG**
persecution victim, payments to 768-105
press representative, foreign, income of 842-105
resistance fighter and victim of wartime persecution, payments to 768-105
Territory resident company or trust, income from sources outside Australia **24F**
Territory resident, income from sources in a prescribed Territory **24G**
United Nations, income from service with **23AB**
United States projects, income from approved overseas projects **23AA**

139 Section 11-15 (after table item headed "health")

Insert:

interest

judgement debt, personal injury 51-57

140 Section 11-15 (after table item headed "life-insurance companies")

Insert:

non-cash benefits

business benefit ..... **23L(2)**
exempt fringe benefit ..... **23L(1A)**

prizes

Prime Minister's Literary Awards 51-60
Prime Minister's Prize for Australian History 51-60
Prime Minister's Prize for Science 51-60

141 Section 11-15 (table item headed "social security or like payments")

Repeal the item, substitute:

social security or like payments

ABSTUDY scheme, payment under ..... Subdivision 52-E

Better Start for Children with Disability initiative, Outer Regional and Remote payment under 52-172

carer adjustment payment 53-10

carers, 2005 one-off payment to, (carer payment related), 2005 one-off payment to carers (carer service pension related) or 2005 one-off payment to carers (carer allowance related)..... 52-10

carers, 2006 one-off payment to, (carer payment related), 2006 one-off payment to carers (wife pension related), 2006 one-off payment to carers (partner service pension related), 2006 one-off payment to carers (carer service pension related) or 2006 one-off payment to carers (carer allowance related) 52-10

carers, 2007 one-off payment to, (carer payment related), 2007 one-off payment to carers (wife pension related), 2007 one-off payment to carers (partner service pension related), 2007 one-off payment to carers (carer service pension related) or 2007 one-off payment to carers (carer allowance related)..... 52-10

carers, 2008 one-off payment to, (carer payment related), 2008 one-off payment to carers (wife pension related), 2008 one-off payment to carers (partner service pension related), 2008 one-off payment to carers (carer service pension related) or 2008 one-off payment to carers (carer allowance related)..... 52-10

carers, one-off payment to, (carer allowance related) or one-off payment to carers (carer payment related) 52-10

carers, payments to, under the scheme determined under Schedule 3 to the *Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004*..... 52-10

carer supplement. 52-10

child disability assistance..... Subdivision 52-A

Commonwealth education or training payment ..... Subdivision 52-F

DFISA bonus and DFISA bonus bereavement payment.. 52-65

disability services payment 53-10

economic security strategy payment under the *Social Security Act 1991* 52-10
economic security strategy payment under the *Veterans' Entitlements Act 1986* 52-65
education entry payment supplement under the *Social Security Act 1991* 52-10
exceptional circumstances relief, payment for ..... 53-10 and 53-15
farmers hardship bonus under the *Social Security Act 1991* 52-10
farm help income support ..... 53-10 and 53-15
Helping Children with Autism package, Outer Regional and Remote payment under 52-170
Household Stimulus Package Act (No. 2) 2009, payments under the scheme determined under Schedule 4 to the 52-165
matched savings scheme (income management) payment under the *Social Security Act 1991* 52-10
older Australians, 2006 one-off payment to, under the *Social Security Act 1991* 52-10
older Australians, 2007 one-off payment to, under the *Social Security Act 1991* 52-10
older Australians, 2008 one-off payment to, under the *Social Security Act 1991* 52-10
pension bonus and pension bonus bereavement payment ..... 52-10 and 52-65
persecution victim, payments to 768-105
private health insurance 52-125
resistance fighter and victim of wartime persecution, payments to 768-105
Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008, payments under the scheme determined under Schedule 4 to the 52-160
Social Security and Veterans' Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Act 2007, payments under a scheme determined under item 1 of Schedule 2 to the 52-10
Social Security and Veterans' Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Act 2007, payments under the scheme determined under Schedule 4 to the 52-10

Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008, payments under a scheme determined under item 1 of Schedule 2 to the	52-10
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008, payments under the scheme determined under Schedule 4 to the	52-10
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Act 2006, payments under the scheme determined under item 1 of Schedule 2 to the	52-10
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Act 2006, payments under the scheme determined under Schedule 4 to the	52-10
Social Security Legislation Amendment (One-off Payments for Carers) Act 2005, payments under the scheme determined under Schedule 2 to the	52-10
social security payments	Subdivision 52-A
training and learning bonus under the *Social Security Act 1991*	52-10
travelling expenses for Australian participants in British nuclear tests	Subdivision 52-CB
veteran, Australian and United Kingdom, payment to	53-20
veteran, payment to	Subdivisions 52-B and 52-C
Veterans' Entitlements Act 1986, lump sum payment under section 198N of the	52-65
voluntary income management incentive payment under the *Social Security Act 1991*	52-10
wounds and disability pension	53-10
see also *welfare*	

142 Section 11-15 (table item headed "superannuation and related business")

After:

approved deposit fund, non-reversionary bonuses on policies of life assurance	295-335 (table item 1)

insert:

benefits from non-complying funds 305-5

Division 3—Australian Victim of Terrorism Overseas Payment

Income Tax Assessment Act 1997

143 Section 11-15 (table item headed "social security or like payments")

After:

ABSTUDY scheme, payment under ..... Subdivision 52-E

insert:

Australian Victim of Terrorism Overseas Payment 52-10

Division 4—Amendments contingent on the Clean Energy (Household Assistance Amendments) Act 2011

Clean Energy (Household Assistance Amendments) Act 2011

144 Item 16 of Schedule 10 (heading)

Omit "**Subsection 52-150(1)**", substitute "**Section 52-150**".

145 Item 2 of Schedule 10

Repeal the item, substitute:

1A Section 11-15 (table item headed "family assistance")

After:

child care rebate 52-150

insert:

clean energy advance 52-150

2 Section 11-15 (at the end of the table item headed "family assistance")

Add:

single income family supplement 52-150

Income Tax Assessment Act 1997

146 Section 11-15 (table item headed "family assistance")

After:

child care rebate 52-150

insert:

clean energy advance 52-150

147 Section 11-15 (at the end of the table item headed "family assistance")

Add:

single income family supplement 52-150

148 Section 11-15 (table item headed "social security or like payments")

After:

child disability assistance ..... Subdivision 52-A

insert:

clean energy advance under the *Farm Household Support Act 1992*..... 53-10

clean energy payment under the *Social Security Act 1991* 52-10

clean energy payment under the *Veterans' Entitlements Act 1986* 52-65

clean energy payment under the *Military Rehabilitation and Compensation Act 2004* 52-114

Part 12—Complying superannuation/FHSA life insurance policies

Division 1—Virtual PST life insurance policies

Income Tax (Transitional Provisions) Act 1997

149 At the end of Subdivision 320-F

Add:

320-180 Deferred annuities purchased before 1 July 2007

(1) Subsection (3) applies for the purposes of subparagraph (b)(i) of the definition of ***virtual PST life insurance policy*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, as in force just after the commencement of item 259 of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*.

(3) Treat an annuity as having been purchased out of a superannuation lump sum or an employment termination payment, if the annuity was purchased:

(a) before 1 July 2007; and

(b) out of an eligible termination payment (within the meaning of the *Income Tax Assessment Act 1997*, as in force just before the commencement mentioned in subsection (1) of this section).

150 Application of amendment

The amendment made by this Division applies to the 2007-08 income year and later income years.

Division 2—Complying superannuation/FHSA life insurance policies

Income Tax (Transitional Provisions) Act 1997

151 After subsection 320-180(1)

Insert:

(2) Subsection (3) also applies for the purposes of subparagraph (b)(i) of the definition of ***complying superannuation/FHSA life insurance policy*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, as in force just after the commencement of item 47 of Schedule 7 to the *First Home Saver Accounts (Consequential Amendments) Act 2008*.

152 Application of amendment

The amendment made by this Division applies from 26 June 2008.

Part 13—Applications for tax file numbers

Income Tax Assessment Act 1936

153 Section 202A (definition of *approved form*)

Repeal the definition.

154 Subsection 202B(2)

Repeal the subsection, substitute:

(2) An application must be in the approved form. The approved form may require the application to include documentary evidence of the applicant's identity.

155 Application of amendments

The amendments made by this Part apply to applications made on or after the commencement of this item.

156 Saving provision—approved forms

A form that, just before the commencement of this item:

(a) had been approved by the Commissioner for the purposes of subsection 202B(2) of the *Income Tax Assessment Act 1936*; and

(b) was in force;

has effect, from that commencement, as if it had been approved for the purposes of that subsection as amended by this Part.

Part 14—Taxable professional income

Income Tax Assessment Act 1997

157 Section 405-45 (formula in step 2 of the method statement)

Repeal the formula, substitute:

$$\text{*Apportionable deductions} \times \frac{\left(\text{*Assessable professional income} - \text{Sum from Step 1}\right)}{\text{Taxable income} + \text{*Apportionable deductions}}$$

158 Application of amendment

The amendment made by this Part applies for the purposes of assessments for the 1998-99 income year and later income years.

Part 15—Consolidated groups

Division 1—Partnerships

Income Tax Assessment Act 1997

159 Section 713-265 (heading)

Repeal the heading, substitute:

713-265 Partnership leaves group—adjustments to allocable cost amount of partner who also leaves group

Division 2—Amendments applying from 1 July 2002

Income Tax Assessment Act 1997

160 Subsection 715-90(2)

Omit “has effect as if it”, substitute “and paragraph 165-115BA(5)(c) have effect as if they”.

161 Application of amendment

The amendment made by this Division applies on and after 1 July 2002.

Part 16—Demutualisation

Income Tax Assessment Act 1997

162 Subsection 316-155(2)

Omit "the scheme approved by a court for the demutualisation provides for a trust (the ***lost policy holders trust***) to exist", substitute ", under the demutualisation, a trust (the ***lost policy holders trust***) exists".

163 Application of amendment

The amendment made by this Part applies in relation to demutualisations occurring on or after 1 July 2008.

Part 17—Mining and quarrying definitions

Income Tax Assessment Act 1997

164 Subparagraph 40-80(1)(c)(i)

Omit "*mining operations", substitute "mining operations".

165 Paragraph 40-95(11)(b)

Omit "petroleum field", substitute "*petroleum field".

166 Subsection 40-110(3B)

Omit "petroleum field", substitute "*petroleum field".

167 Paragraph 40-740(1)(d)

Omit "petroleum", substitute "*petroleum".

168 Paragraphs 124-710(1)(a) and 855-20(b)

Omit "minerals", substitute "*minerals".

169 Section 995-1 (definition of *exploration or prospecting*)

Repeal the definition, substitute:

> ***exploration or prospecting*** has a meaning affected by subsection 40-730(4).

170 Subsection 995-1(1) (paragraph (b) of the definition of *housing and welfare*)

Repeal the paragraph, substitute:

(b) health, education, recreation or similar facilities, or facilities for meals; or

Note: This item fixes a misspelling.

171 Section 995-1 (definition of *minerals*)

Repeal the definition, substitute:

> ***minerals*** has a meaning affected by subsection 40-730(5).

172 Subsection 995-1(1) (definition of *mining operations*)

Omit “section 40-730”, substitute “subsection 40-730(7)”.

173 Subsection 995-1(1) (definition of *mining, quarrying or prospecting information*)

Omit “section 40-730”, substitute “subsection 40-730(8)”.

174 Subsection 995-1(1) (paragraph (a) of the definition of *mining, quarrying or prospecting right*)

Omit “minerals”, substitute “*minerals”.

175 Subsection 995-1(1) (definition of *natural resource*)

Omit “minerals”, substitute “*minerals”.

176 Subsection 995-1(1) (definition of *petroleum*)

Omit “section 40-730”, substitute “subsection 40-730(6)”.

Part 18—BAS amount

Income Tax Assessment Act 1997

177 Subsection 995-1(1)

Insert:

> ***BAS amount*** means any debt or credit that arises directly under the *BAS provisions.
>
> Note: BAS stands for Business Activity Statement.

178 Subsection 995-1(1) (definition of *BAS amounts*)

Repeal the definition.

Part 19—Corporate tax rate

Income Tax Assessment Act 1997

179 Subsection 705-115(1) (formula)

Repeal the formula, substitute:

$$\text{Owned deductions} + \left[\text{Acquired deductions} \times {}^{*}\text{Corporate tax rate}\right]$$

180 Subsection 711-35(1)

Omit "*general company tax rate", substitute "*corporate tax rate".

181 Subsection 711-45(3) (formula)

Repeal the formula, substitute:

$$\left[\text{Deduction} \times {}^{*}\text{Corporate tax rate}\right] - \text{Double-counting adjustment}$$

Taxation Administration Act 1953

182 Subsection 288-80(3) in Schedule 1 (formula)

Repeal the formula, substitute:

$${}^{*}\text{Corporate tax rate} \times \begin{array}{c}\text{Excess mentioned}\\ \text{in paragraph (1)(c)}\end{array} \times \frac{\begin{array}{c}\text{Australian membership}\\ \text{interests}\end{array}}{\begin{array}{c}\text{Total membership}\\ \text{interests}\end{array}}$$

Part 20—UK wounds and disability pension

Income Tax Assessment Act 1997

183 Section 53-10 (paragraph (a) of the cell at table item 5, column headed "... is exempt subject to these exceptions and special conditions:")

Omit "subsection 315(2) of the Income and Corporation Taxes Act 1988 of the United Kingdom", substitute "section 641 of the Income Tax (Earnings and Pensions) Act 2003 of the United Kingdom".

Part 21—Repeal of redundant provisions

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

184 Section 195-1 (definition of *electronic signature*)

Repeal the definition.

Income Tax Rates Act 1986

185 Section 22

Repeal the section.

Taxation Administration Act 1953

186 Paragraph 45-910(3)(c) in Schedule 1

Repeal the paragraph.

187 Subsection 45-910(3) in Schedule 1 (note)

Omit “(c),”.

Part 22—Limited amendment period

Income Tax Assessment Act 1936

188 After section 170

Insert:

170A Amendment of assessments—interaction with other Acts

Scope

(1) This section applies if a law other than section 170 or this section provides that section 170 does not prohibit the amendment of an assessment if the amendment is made:
  (a) for a particular purpose; and
  (b) within a particular period (the ***later amendment period***).

Extensions—applications by taxpayer

(2) Section 170 does not prevent the Commissioner amending the assessment even though the later amendment period has ended if the taxpayer applies:
  (a) before the end of the later amendment period; and
  (b) in the approved form mentioned in subsection 170(5);

for an amendment for the purpose mentioned in paragraph (1)(a) of this section. The Commissioner may amend the assessment to give effect to the decision on the application.

Extensions—giving effect to private rulings

(3) The Commissioner may amend an assessment even though the later amendment period has ended if:
  (a) the taxpayer applies for a private ruling under Division 359 in Schedule 1 to the *Taxation Administration Act 1953*:
    (i) before the end of the later amendment period; and
    (ii) for the purpose mentioned in paragraph (1)(a); and
  (b) the Commissioner makes a private ruling under that Division because of the application.

The Commissioner may amend the assessment to give effect to the ruling.

Extensions—Federal Court orders or taxpayer consent

(4) If:

(a) the Commissioner has started to examine the affairs of a taxpayer in relation to an assessment for the purpose mentioned in paragraph (1)(a); and

(b) the Commissioner has not completed the examination before the end of the later amendment period or that period as extended;

the later amendment period may be extended as follows:

Extensions of later amendment period

	In this case:	The position is:
1	The Commissioner, before the end of the later amendment period or that period as extended, applies to the Federal Court of Australia for an order extending the later amendment period	The Court may order an extension of the later amendment period for a specified period if it is satisfied that it was not reasonably practicable, or it was inappropriate, for the Commissioner to complete the examination within the later amendment period, or that period as extended, because of: (a) any action taken by the taxpayer; or (b) any failure of the taxpayer to take action that would have been reasonable for the taxpayer to take.
2	The Commissioner, before the end of the later amendment period or that period as extended, requests the taxpayer to consent to extending the later amendment period	The taxpayer may, by notice in writing, consent to extending the later amendment period for a specified period.

(5) The later amendment period for an assessment may be extended more than once under subsection (4).

189 Application of amendment

The amendment made by this Part applies in relation to laws that:

(a) provide that section 170 of the *Income Tax Assessment Act 1936* does not prohibit the amendment of an assessment as mentioned in subsection 170A(1) of that Act (as inserted by this Part); and

(b) commence no earlier than 2 years before the commencement of this item.

Part 23—Definition of managed investment trust

Tax Laws Amendment (2010 Measures No. 3) Act 2010

190 After subitem 7(1) of Schedule 5

Insert:

(1A) Without limiting subitem (1), this item also applies for the purposes of Division 275 of the *Income Tax Assessment Act 1997* (Australian managed investment trusts) if:

(a) apart from this item, a trust is not a managed investment trust in relation to an income year; and

(b) the income year is the 2008-09 or 2009-10 income year.

Part 24—Equivalent foreign collective investment vehicles

Taxation Administration Act 1953

191 Paragraph 12-402(3)(e) in Schedule 1

Repeal the paragraph, substitute:

(e) an entity:

(i) that is recognised under a *foreign law as being used for collective investment by pooling the contributions of its members as consideration to acquire rights to benefits produced by the entity; and

(ii) that has at least 50 members; and

(iii) the contributing members of which do not have day-to-day control over the entity's operation;

192 Application of amendment

Item 6 of Schedule 5 to the *Tax Laws Amendment (2010 Measures No. 3) Act 2010* applies in relation to the amendment made by this Part in the same way as that item applies in relation to the amendments made by that Schedule.

Part 25—Self managed superannuation funds

Division 1—Definition of self managed superannuation fund

Superannuation Industry (Supervision) Act 1993

193 Subsection 10(1) (definition of *self managed superannuation fund*)

Omit "section 17A", substitute "sections 17A and 17B".

194 Section 17A (heading)

Repeal the heading, substitute:

17A Definition of *self managed superannuation fund*

195 At the end of subsection 17A(1)

Add:

Note: Section 17B contains exceptions to paragraphs (1)(f) and (g).

196 At the end of subsection 17A(2)

Add:

Note: Section 17B contains exceptions to paragraphs (2)(c) and (d).

197 Paragraph 17A(3)(c)

Repeal the paragraph, substitute:

(c) if a member of the fund is under a legal disability because of age and does not have a legal personal representative:

(i) the parent or guardian of the member is a trustee of the fund in place of the member; or

(ii) if the trustee of the fund is a body corporate—the parent or guardian of the member is a director of the body corporate in place of the member; or

198 After section 17A

Insert:

17B Definition of *self managed superannuation fund*—remuneration of trustees etc.

(1) Paragraphs 17A(1)(f) and (2)(c) do not apply to remuneration for any duties or services performed by a trustee of a fund, if:
  (a) the trustee performs the duties or services other than in the capacity of trustee; and
  (b) the trustee is appropriately qualified, and holds all necessary licences, to perform the duties or services; and
  (c) the trustee performs the duties or services in the ordinary course of a business, carried on by the trustee, of performing similar duties or services for the public; and
  (d) the remuneration is no more favourable to the trustee than that which it is reasonable to expect would apply if the trustee were dealing with the relevant other party at arm's length in the same circumstances.

(2) Paragraphs 17A(1)(g) and (2)(d) do not apply to remuneration for any duties or services performed by a director of a body corporate that is a trustee of a fund, if:
  (a) the director performs the duties or services other than:
    (i) in the capacity of director; and
    (ii) in connection with the body corporate's capacity of trustee; and
  (b) the director is appropriately qualified, and holds all necessary licences, to perform the duties or services; and
  (c) the director performs the duties or services in the ordinary course of a business, carried on by the director, of performing similar duties or services for the public; and
  (d) the remuneration is no more favourable to the director than that which it is reasonable to expect would apply if the director were dealing with the relevant other party at arm's length in the same circumstances.

199 Application of amendments

(1) Item 197 applies from 8 October 1999.

(2) Subsection 17B(1) of the *Superannuation Industry (Supervision) Act 1993*, inserted by this Division, applies from 8 October 1999.

(3) Subsection 17B(2) of the *Superannuation Industry (Supervision) Act 1993*, inserted by this Division, applies to the 2007-2008 income year and later income years.

Division 2—References to self managed superannuation funds

Income Tax Assessment Act 1997

200 Subparagraph 210-70(1)(b)(i)

Omit "self managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*)", substitute "*self managed superannuation fund".

201 Subparagraph 210-70(1)(b)(ii)

Omit "self managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*)", substitute "self managed superannuation fund".

202 Paragraph 210-170(2)(a)

Omit "self managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*)", substitute "*self managed superannuation fund".

203 Paragraph 210-170(2)(b)

Omit "self managed superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*)", substitute "self managed superannuation fund".

Superannuation Industry (Supervision) Act 1993

204 Subsection 6(1) (note)

Omit "self-managed superannuation funds", substitute "self managed superannuation funds".

205 Subsection 17A(6) (notes 1 and 2)

Omit "self-managed superannuation fund", substitute "self managed superannuation fund".

206 Subsection 29N(1A)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

207 Section 35B (heading)

Repeal the heading, substitute:

35B Accounts and statements (self managed superannuation funds only)

208 Section 35D (heading)

Repeal the heading, substitute:

35D Trustee to lodge annual returns (self managed superannuation funds only)

209 Subparagraph 229(1)(aa)(i)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

210 Subsections 229(3) and 231(3)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

211 Paragraph 327 (paragraph (aa) of the definition of *modifiable provision*)

Omit “self-managed superannuation funds”, substitute “self managed superannuation funds”.

Taxation Administration Act 1953

212 Subsection 355-65(3) in Schedule 1 (paragraph (a) of the cell at table item 8, column headed “and the record or disclosure …”)

Omit “self-managed superannuation fund”, substitute “*self managed superannuation fund”.

213 Subsection 355-65(3) in Schedule 1 (paragraphs (b) and (c) of the cell at table item 8, column headed "and the record or disclosure …")

Omit "self-managed superannuation fund", substitute "self managed superannuation fund".

Part 26—Untaxed plan cap

Income Tax Assessment Act 1997

214 Subsection 307-350(2)

Repeal the subsection, substitute:

Reductions and increases

(1A) Subsection (2) applies if:

(a) you receive one or more *superannuation member benefits from a *superannuation plan at a time; and

(b) the benefit, or one or more of the benefits:

(i) is a *superannuation lump sum; and

(ii) includes an *element untaxed in the fund.

(2) Reduce your ***untaxed plan cap amount*** just after that time:

(a) if the total of the *elements untaxed in the fund of the *superannuation member benefits to which paragraph (1A)(b) applies falls short of your untaxed plan cap amount at that time—by that total; or

(b) otherwise—to nil.

215 Subsection 307-350(2A)

Omit “subsection (2)”, substitute “subsections (1A) and (2)”.

216 Application of amendments

The amendments made by this Part apply on and after 1 July 2007.

Part 27—Correction of typographical errors

Income Tax Assessment Act 1997

217 Subparagraph 775-205(c)(i)

Omit “set-off”, substitute “set off”.

Taxation Administration Act 1953

218 Paragraph 16-153(2)(c) in Schedule 1

Omit “*reportable fringe benefit amount”, substitute “*reportable fringe benefits amount”.

Part 28—Foreign income tax offset, Medicare levy and surcharge

Income Tax Assessment Act 1936

219 Subsection 6(1)

Insert:

> ***Medicare levy*** means Medicare levy imposed as such by any Act as assessed under this Act.

220 Subsection 6(1)

Insert:

> ***Medicare levy (fringe benefits) surcharge*** has the meaning given by the *Income Tax Assessment Act 1997*.

221 Subsections 251R(1) and (1A)

Repeal the subsections.

222 Subsections 251R(2), (2A) and (6A)

Omit “levy”, substitute “Medicare levy”.

223 Paragraphs 251R(6B)(c), (6C)(d) and (6D)(d) and (f)

Omit “levy”, substitute “Medicare levy”.

224 Subsection 251R(7)

Omit “levy payable in accordance with this Part and surcharge”, substitute “Medicare levy payable in accordance with this Part and Medicare levy (fringe benefits) surcharge”.

225 Subsection 251S(1) (note)

Repeal the note, substitute:

> Note 1: Subdivision 61-L (tax offset for Medicare levy surcharge (lump sum payments in arrears)) of the *Income Tax Assessment Act 1997* might provide a tax offset for a person if Medicare levy surcharge (within the meaning of that Act) is payable by the person.

Note 2: The tax offset for foreign income tax under Division 770 of the *Income Tax Assessment Act 1997* can be applied against your liability to pay Medicare levy or Medicare levy (fringe benefits) surcharge: see item 22 of the table in subsection 63-10(1) of that Act.

226 Section 251T (heading)

Repeal the heading, substitute:

251T Medicare levy (other than Medicare levy surcharge) not payable by prescribed persons or by certain trustees

227 Subsections 251U(1) to (3)

Omit "levy" (wherever occurring), substitute "Medicare levy".

228 Section 251V (heading)

Repeal the heading, substitute:

251V Subsections 251R(4), (5), (6B), (6C) and (6D) not to apply to Medicare levy surcharge

229 Subsection 251V(2)

Omit "the levy", substitute "the Medicare levy".

230 Section 251VA (heading)

Repeal the heading, substitute:

251VA Subsection 251U(3) not to apply for Medicare levy surcharge

231 Subsection 251VA(2)

Omit "the levy", substitute "the Medicare levy".

232 Subsection 251W(1)

Omit "levy or surcharge", substitute "Medicare levy or Medicare levy (fringe benefits) surcharge".

233 Section 251X

Omit "levy or surcharge", substitute "Medicare levy or Medicare levy (fringe benefits) surcharge".

234 Section 251Z (heading)

Repeal the heading, substitute:

251Z Administration of Medicare levy (fringe benefits) surcharge Act

Income Tax Assessment Act 1997

235 Subsection 63-10(1) (cell at table item 22, column headed "What happens to any excess")

Repeal the cell, substitute:

Apply it against your liability (if any) to pay *Medicare levy for the income year.
To the extent that an amount of it remains, apply it against your liability (if any) to pay *Medicare levy (fringe benefits) surcharge for the income year.
To the extent that an amount of it remains, you cannot get a refund of it, you cannot transfer it and you cannot carry it forward to a later income year

236 At the end of section 770-5

Add:

Note 1: This Division applies in relation to Medicare levy and Medicare levy (fringe benefits) surcharge in the same way as it applies to Australian income tax. See section 90-1 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: The tax offset under this Division can be applied against your Medicare levy and Medicare levy (fringe benefits) surcharge liability for the year, if an amount of it remains after you apply it against your basic income tax liability. See item 22 of the table in subsection 63-10(1).

237 Subsection 995-1(1) (paragraph (b) of the definition of *income tax law*)

Omit "Medicare levy", substitute "*Medicare levy".

238 Subsection 995-1(1)

Insert:

> ***Medicare levy*** has the meaning given by the *Income Tax Assessment Act 1936*.

239 Subsection 995-1(1)

Insert:

> ***Medicare levy (fringe benefits) surcharge*** means Medicare levy surcharge imposed by the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*.

240 Subsection 995-1(1) (definition of *Medicare levy surcharge*)

Repeal the definition, substitute:

> ***Medicare levy surcharge*** means:
>
> (a) an amount (other than a nil amount) of *Medicare levy that is payable by you only because of section 8B, 8C, 8D, 8E, 8F or 8G of the *Medicare Levy Act 1986*; or
>
> (b) *Medicare levy (fringe benefits) surcharge.

Taxation Administration Act 1953

241 Paragraphs 11-1(b), 15-30(b) and 45-5(1)(b) in Schedule 1

Omit “Medicare levy”, substitute “*Medicare levy”.

242 Section 45-340 in Schedule 1 (method statement, step 2)

Omit “Medicare levy” (first occurring), substitute “*Medicare levy”.

243 Section 45-375 in Schedule 1 (method statement, step 2)

Omit “Medicare levy” (first occurring), substitute “*Medicare levy”.

244 Paragraphs 90-1(a) and (b) in Schedule 1

Repeal the paragraphs, substitute:

(a) *Medicare levy;

(b) *Medicare levy (fringe benefits) surcharge.

245 Paragraphs 340-10(1)(c) and (d) in Schedule 1

Repeal the paragraphs, substitute:

(c) *Medicare levy;

(d) *Medicare levy (fringe benefits) surcharge;

246 Paragraph 357-55(b) in Schedule 1

Omit "Medicare levy", substitute "*Medicare levy".

Taxation (Interest on Overpayments and Early Payments) Act 1983

247 Subsection 3(1) (paragraph (b) of the definition of *income tax*)

Omit "levy", substitute "Medicare Levy".

248 Application of amendments

The amendments made by this Part apply to income years starting on or after 1 July 2008.

Part 29—Adjusted tax

Taxation Administration Act 1953

249 Section 45-340 in Schedule 1 (method statement, step 4)

Omit “, and reduced by what would have been your *FTB amount (if any) for the *base year if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year”.

250 Section 45-375 in Schedule 1 (method statement, step 4)

Omit “, and reduced by what would have been your *FTB amount (if any) for the variation year if your taxable income for that year had been your *adjusted assessed taxable income for that year”.

251 Application of amendments

The amendments made by this Part apply to a base year that is:

(a) the 2009-10 income year; or

(b) a later income year.

Part 30—Section 109CA of the Income Tax Assessment Act 1936

Income Tax Assessment Act 1936

252 Subparagraph 109CA(7)(d)(i)

Repeal the subparagraph, substitute:

(i) starting on the start of 1 July 2009; and

253 Application of amendment

The amendment made by this Part applies in relation to payments made on or after 1 July 2009.

Part 31—Franking debits

Income Tax Assessment Act 1936

254 Paragraph 45C(3)(b)

Repeal the paragraph, substitute:

(b) the amount of the franking debit is the amount that, if the company had:

(i) paid a dividend of an amount equal to the amount of the capital benefit, or the part of the capital benefit, at the time when it was provided; and

(ii) fully franked the dividend;

would have been the amount of the franking credit of the company that would have arisen as a result of the dividend.

255 Application of amendment

The amendment made by this Part applies in relation to notices of determination served as mentioned in paragraph 45C(3)(a) of the *Income Tax Assessment Act 1936* on or after 1 July 2002.

[*Minister's second reading speech made in—*
House of Representatives on 23 November 2011
Senate on 27 February 2012]