





# **Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012**

**No. 23, 2012**

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

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



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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	4
<b>Schedule 1—Entrepreneurs’ tax offset</b>		5
	<i>Income Tax Assessment Act 1997</i>	5
	<i>Income Tax (Transitional Provisions) Act 1997</i>	5
	<i>Taxation Administration Act 1953</i>	5
<b>Schedule 2—Increase to the small business instant asset write-off threshold</b>		7
Part 1—Amendments contingent on the Minerals Resource Rent Tax		7
	<i>Income Tax Assessment Act 1997</i>	7
	<i>Income Tax (Transitional Provisions) Act 1997</i>	14
Part 2—Amendments contingent on the Clean Energy package		15
	<i>Income Tax Assessment Act 1997</i>	15
<b>Schedule 3—Small business entities’ deductions for motor vehicles</b>		17
	<i>Income Tax Assessment Act 1997</i>	17
<b>Schedule 4—Low income superannuation contribution</b>		19
	<i>Superannuation (Government Co-contribution for Low Income Earners) Act 2003</i>	19
<b>Schedule 5—Deduction of employer contributions to superannuation funds</b>		23
	<i>Income Tax Assessment Act 1997</i>	23





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**No. 23, 2012**

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

*[Assented to 29 March 2012]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 March 2012
2. Schedule 1	The day this Act receives the Royal Assent.	29 March 2012
3. Schedule 2, Part 1	The latest of the following: (a) the day this Act receives the Royal Assent; (b) the day the <i>Minerals Resource Rent Tax Act 2012</i> receives the Royal Assent; (c) the day the <i>Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012</i> receives the Royal Assent; (d) the day the <i>Minerals Resource Rent Tax (Imposition—General) Act 2012</i> receives the Royal Assent; (e) the day the <i>Minerals Resource Rent Tax (Imposition—Customs) Act 2012</i> receives the Royal Assent; (f) the day the <i>Minerals Resource Rent Tax (Imposition—Excise) Act 2012</i> receives the Royal Assent.  However, the provision(s) do not commence at all unless all the events mentioned in paragraphs (a) to (f) occur.	29 March 2012
4. Schedule 2, Part 2	The later of: (a) immediately after the commencement of the provision(s) covered by table item 3;	

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
	and (b) the start of the day the <i>Clean Energy Act 2011</i> receives the Royal Assent.  However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	
5. Schedule 3	The day this Act receives the Royal Assent.	29 March 2012
6. Schedule 4	The latest of the following: (a) the day this Act receives the Royal Assent; (b) the day the <i>Minerals Resource Rent Tax Act 2012</i> receives the Royal Assent; (c) the day the <i>Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012</i> receives the Royal Assent; (d) the day the <i>Minerals Resource Rent Tax (Imposition—General) Act 2012</i> receives the Royal Assent; (e) the day the <i>Minerals Resource Rent Tax (Imposition—Customs) Act 2012</i> receives the Royal Assent; (f) the day the <i>Minerals Resource Rent Tax (Imposition—Excise) Act 2012</i> receives the Royal Assent.  However, the provision(s) do not commence at all unless all the events mentioned in paragraphs (a) to (f) occur.	29 March 2012
7. Schedule 5	At the same time as Schedule 1 to the <i>Superannuation Guarantee (Administration) Amendment Act 2012</i> commences.  However, if Schedule 1 to the <i>Superannuation Guarantee (Administration) Amendment Act 2012</i> does not commence, the provision(s) do not commence at all.	1 July 2013

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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.

## **Schedule 1—Entrepreneurs' tax offset**

### *Income Tax Assessment Act 1997*

**1 Section 13-1 (table item headed “entrepreneurs' tax offset”)**

Repeal the item.

**2 Section 13-1 (table item headed “small business entities”)**

Repeal the item.

**3 Subdivision 61-J**

Repeal the Subdivision.

**4 Subsection 328-10(2) (note)**

Repeal the note.

**5 Subsection 995-1(1) (definition of *net small business income*)**

Repeal the definition.

**6 Subsection 995-1(1) (definition of *small business entity turnover*)**

Repeal the definition.

### *Income Tax (Transitional Provisions) Act 1997*

**7 Paragraph 328-111(2)(c)**

Repeal the paragraph.

**8 Paragraph 328-112(3)(c)**

Repeal the paragraph.

### *Taxation Administration Act 1953*

**9 Section 45-340 in Schedule 1 (method statement, step 1, paragraph (c))**

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Repeal the paragraph.

**10 Application of amendments**

The amendments made by this Schedule apply in relation to the 2012-13 income year and later income years.

## **Schedule 2—Increase to the small business instant asset write-off threshold**

### **Part 1—Amendments contingent on the Minerals Resource Rent Tax**

#### *Income Tax Assessment Act 1997*

##### **1 Paragraph 328-5(a)**

Omit “a long life pool or a general pool and treat each pool”, substitute  
“a general pool and treat the pool”.

##### **2 Section 328-170**

Omit “Broadly, a”, substitute “Broadly, the”.

##### **3 Section 328-170**

Omit “for most depreciating assets, and 5% for depreciating assets that  
have an effective life of 25 years or more”.

##### **4 Section 328-170**

Omit “an immediate deduction for low-cost assets”, substitute “a  
deduction for assets whose cost is less than \$5,000 in the income year in  
which you start to use the asset or have it installed ready for use”.

##### **5 Subsection 328-175(1) (note)**

Omit “small business pools”, substitute “general small business pool”.

##### **6 Subsection 328-175(8)**

Omit “a pool”, substitute “your \*general small business pool”.

##### **7 Subsection 328-175(10) (note 2)**

Omit “small business pools”, substitute “general small business pool”.

##### **8 Section 328-180 (heading)**

Repeal the heading, substitute:

**328-180 Assets costing less than \$5,000**

**9 Paragraph 328-180(1)(b)**

Omit “\*low-cost asset”, substitute “depreciating asset whose \*cost as at the end of the income year in which you start to use it, or have it installed ready for use, for a taxable purpose is less than \$5,000”.

**10 Subsection 328-180(2)**

Omit “a \*low-cost asset”, substitute “an asset”.

**11 Paragraph 328-180(2)(a)**

Omit “\$1,000”, substitute “\$5,000”.

**12 Subsection 328-180(3)**

Omit “A \*low-cost asset”, substitute “An asset”.

**13 Paragraph 328-180(3)(a)**

Omit “\$1,000”, substitute “\$5,000”.

**14 Subsection 328-185(1)**

Omit “\*low-cost”.

**15 Subsection 328-185(2)**

Repeal the subsection, substitute:

- (2) There is a *general small business pool* to which \*depreciating assets are allocated.

**16 Paragraph 328-185(3)(c)**

Omit “or \*long life small business pool”.

**17 Subsection 328-185(3)**

Omit “or long life small business pool according to its \*effective life”.

**18 Subsection 328-185(4)**

Omit “appropriate”, substitute “\*general small business”.

**19 Subsection 328-185(5) (heading)**

Repeal the heading, substitute:

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*Exception for assets used or installed before 1 July 2001*

**20 Subsection 328-185(5)**

Omit “a \*long life small business pool to which it would otherwise have been allocated”, substitute “the \*general small business pool”.

**21 Subsection 328-185(7)**

Omit “or \*long life small business pool”.

**22 Subsection 328-185(7) (note)**

Omit “small business pools”, substitute “general small business pool”.

**23 Subsection 328-185(7) (example)**

Repeal the example.

**24 Subsection 328-190(1)**

Omit “each pool”, substitute “your \*general small business pool”.

**25 Subsection 328-190(1) (formula)**

Repeal the formula, substitute:

\*Opening pool balance × 30%

**26 Subsection 328-190(1)**

Omit “where:”.

**27 Subsection 328-190(1) (definition of *pool rate*)**

Repeal the definition.

**28 Subsection 328-190(2)**

Repeal the subsection, substitute:

- (2) Your deduction for each \*depreciating asset that you start to use, or have \*installed ready for use, for a \*taxable purpose during an income year for which you are a \*small business entity and choose to use this Subdivision is 15% of the \*taxable purpose proportion of its \*adjustable value.

**29 Subsection 328-190(4)**

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

- (4) The amount you can deduct is 15% of the \*taxable purpose proportion of the cost addition amount.

**30 Subsections 328-195(1) and (2)**

Omit “a pool”, substitute “your \*general small business pool”.

**31 Subsection 328-195(2) (note)**

Omit “small business pools”, substitute “general small business pool”.

**32 Subsection 328-195(3)**

Omit “a pool”, substitute “your \*general small business pool”.

**33 Section 328-200**

Omit “a pool” substitute “your \*general small business pool”.

**34 Section 328-200 (method statement, steps 1 and 2)**

Omit “that pool”, substitute “the pool”.

**35 Paragraph 328-205(1)(a)**

Omit “or \*long life small business pool”.

**36 Paragraph 328-205(4)(b)**

Omit “and the asset is allocated to a \*general small business pool”.

**37 Subparagraph 328-205(4)(b)(ii)**

Omit “pool; or”, substitute “pool.”.

**38 Paragraph 328-205(4)(c)**

Repeal the paragraph.

**39 Subsection 328-205(4) (example)**

Repeal the example, substitute:

Example: When Bria’s computer was allocated to her general small business pool for the 2012-13 income year, she estimated that it would be used 50% for her florist business. Due to increasing business, Bria estimates the computer’s use to be 70% for the 2013-14 year, and 90% for the 2014-15 year. She makes an adjustment under section 328-225 for both those years.

Bria sells the computer for \$1,000 at the start of the 2016-17 income year. She must now average the business use estimates for the computer for the year it was allocated to the pool and the next 3 years to work out the taxable purpose proportion of its termination value. The average is worked out as follows:

- 50% (original estimate); plus
- 70% (2013-14 estimate); plus
- 90% (2014-15 estimate); plus
- 90% (no change on previous year);

$$=300\% \div 4 = 75\%$$

The taxable purpose proportion of the computer's termination value is, therefore:

$$75\% \text{ of } \$1,000 = \$750$$

#### **40 Subsection 328-210(1)**

Omit "or \*long life small business pool".

#### **41 Subsection 328-210(1)**

Omit "\$1,000", substitute "\$5,000".

#### **42 Subsection 328-210(2)**

Omit "that pool" (wherever occurring), substitute "the pool".

#### **43 Subsection 328-210(3) (example)**

Repeal the example, substitute:

Example: Amanda's Graphics is a small business entity for the 2012-13 income year and chooses to use this Subdivision for that year. The business has an opening pool balance of \$7,000 for its general small business pool for that year.

During that year, Amanda acquired a new computer for \$8,000. The taxable purpose proportion of its adjustable value is:

$$\$8,000 \times 85\% \text{ business use estimate} = \$6,800$$

Amanda also sold her business car for \$9,600 during that year. The car was used 100% in the business.

To work out whether she can deduct an amount under this section, Amanda uses this calculation:

$$\$7,000 + \$6,800 - \$9,600 = \$4,200$$

Because the result is less than \$5,000, Amanda can deduct the \$4,200 for the income year. The pool's closing balance for the year is zero.

#### **44 Subsection 328-215(2)**

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Omit “a pool”, substitute “your \*general small business pool”.

**45 Subsection 328-215(4)**

Omit “low-cost assets”, substitute “assets costing less than \$5,000”.

**46 Subsection 328-220(1)**

Omit “and \*long life small business pool”.

**47 Subsection 328-220(2)**

Omit “a pool”, substitute “your \*general small business pool”.

**48 Subsection 328-225(2)**

Omit “or \*long life small business pool”.

**49 Subsection 328-225(3) (paragraph (b) of the definition of asset value)**

Omit “or a \*long-life small business pool”.

**50 Paragraph 328-225(5)(a)**

Repeal the paragraph, substitute:

- (a) you do not need to make an estimate or an adjustment under this section for a \*depreciating asset for an income year that is at least 3 income years after the income year in which the asset was allocated; and

**51 Paragraph 328-243(2)(b)**

Omit “or \*long life small business pool”.

**52 Subsection 328-247(1)**

Omit “and \*long life small business pool”.

**53 Subsection 328-247(1) (example)**

Omit “subsection 328-190(1)”, substitute “section 328-210”.

**54 Subsection 328-247(2)**

Omit “or \*long life small business pool”.

**55 Subsection 328-250(1)**

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Omit “low-cost assets”, substitute “assets costing less than \$5,000”.

**56 Subsection 328-250(3) (example)**

Omit “a low-cost asset”, substitute “an asset”.

**57 Subsection 328-250(4) (heading)**

Repeal the heading, substitute:

*Special rule for assets costing less than \$5,000*

**58 Paragraph 328-250(4)(a)**

Omit “a \*low-cost asset”, substitute “an asset of a kind mentioned in paragraph 328-180(1)(b)”.

**59 Subsection 328-253(4) (heading)**

Repeal the heading, substitute:

*Special rule for expenditure on assets costing less than \$5,000*

**60 Paragraph 328-253(4)(a)**

Omit “a \*low-cost asset”, substitute “an asset of a kind mentioned in paragraph 328-180(1)(b)”.

**61 Paragraph 328-255(1)(a)**

Omit “or \*long life small business pool”.

**62 Paragraph 328-255(1)(b)**

Omit “that pool”, substitute “the pool”.

**63 Subsection 995-1(1) (paragraph (b) of the definition of *closing pool balance*)**

Omit “or a \*long life small business pool”.

**64 Subsection 995-1(1) (definition of *long life small business pool*)**

Repeal the definition.

## ***Income Tax (Transitional Provisions) Act 1997***

### **65 After section 328-195**

Insert:

#### **328-200 General small business pool for the 2012-13 income year**

- (1) This section applies for the purposes of applying Subdivision 328-D of the *Income Tax Assessment Act 1997* for the 2012-13 income year and later income years.
- (2) A depreciating asset that had been allocated to your long life small business pool is treated as being allocated to your general small business pool.
- (3) The opening pool balance of your general small business pool for the 2012-13 income year is taken to be the sum of:
  - (a) the closing pool balance of your general small business pool for the 2011-12 income year, reduced or increased by any adjustment required under section 328-225 of that Act; and
  - (b) the closing pool balance of your long life small business pool for the 2011-12 income year, reduced or increased by any adjustment required under that section.

### **66 Application of amendments**

The amendments made by this Part of this Schedule apply in relation to the 2012-13 income year and later income years.

## **Part 2—Amendments contingent on the Clean Energy package**

### *Income Tax Assessment Act 1997*

#### **67 Section 328-170**

Omit “\$5,000”, substitute “\$6,500”.

#### **68 Section 328-180 (heading)**

Repeal the heading, substitute:

**328-180 Assets costing less than \$6,500**

#### **69 Paragraphs 328-180(1)(b), (2)(a) and (3)(a)**

Omit “\$5,000”, substitute “\$6,500”.

#### **70 Subsection 328-210(1)**

Omit “\$5,000”, substitute “\$6,500”.

#### **71 Subsection 328-210(3) (example)**

Omit “\$5,000”, substitute “\$6,500”.

#### **72 Subsections 328-215(4) and 328-250(1)**

Omit “\$5,000”, substitute “\$6,500”.

#### **73 Subsection 328-250(4) (heading)**

Repeal the heading, substitute:

*Special rule for assets costing less than \$6,500*

#### **74 Subsection 328-253(4) (heading)**

Repeal the heading, substitute:

*Special rule for expenditure on assets costing less than \$6,500*

#### **75 Application of amendments**

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**Schedule 2** Increase to the small business instant asset write-off threshold  
**Part 2** Amendments contingent on the Clean Energy package

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The amendments made by this Part of this Schedule apply in relation to the 2012-13 income year and later income years.

## **Schedule 3—Small business entities' deductions for motor vehicles**

### *Income Tax Assessment Act 1997*

#### **1 After subsection 328-190(2)**

Insert:

- (2A) Subsection (2) does not apply to a \*depreciating asset that is a \*motor vehicle if section 328-237 applies to the asset for the income year.

#### **2 Section 328-200 (method statement, step 2, paragraph (c))**

After “328-190(2)”, insert “, and subsection 328-237(2) (if relevant),”.

#### **3 After section 328-235**

Insert:

### **Special rules for certain motor vehicles**

#### **328-237 Special deduction for certain motor vehicles**

- (1) This section applies to a \*depreciating asset that is a \*motor vehicle if:
- (a) in an income year (the *start year*) you start to use the asset, or have it \*installed ready for use, for a \*taxable purpose; and
  - (b) you were a \*small business entity for the start year and the income year in which you started to \*hold the asset; and
  - (c) you chose to use this Subdivision for each of those years; and
  - (d) subsection 328-180(1) does not provide for your deduction for the depreciating asset for the start year.

#### *Deduction for the start year*

- (2) You deduct for the \*depreciating asset for the start year the amount worked out under whichever of subsections (3) and (4) applies.

- (3) The amount of your deduction is the \*taxable purpose proportion of the \*adjustable value of the \*depreciating asset at the end of the start year if that proportion of that value is \$5,000 or less.
- (4) If that proportion of that value is more than \$5,000, the amount of your deduction is the sum of:
- (a) \$5,000; and
  - (b) 15% of the amount worked out using the formula:  
$$\left( \begin{array}{l} \text{*Taxable} \\ \text{purpose} \\ \text{proportion} \end{array} \times \begin{array}{l} \text{*Adjustable value of} \\ \text{the *depreciating asset at} \\ \text{the end of the start year} \end{array} \right) - \$5,000$$

*Special deduction denied if low pool value*

- (5) Subsection (2) does not apply if section 328-210 sets your deduction for a \*general small business pool for the start year.

### Special rules about roll-overs

#### 4 Subsection 328-250(1)

Omit “or subsection 328-190(2) (assets that will be pooled)”, substitute “, subsection 328-190(2) (assets that will be pooled) or subsection 328-237(2) (certain motor vehicles)”.

#### 5 Subsection 328-250(2)

Omit “or subsection 328-190(2)”, substitute “, 328-190(2) or 328-237(2)”.

#### 6 Paragraph 328-250(3)(b)

Omit “or 328-190(2)”, substitute “, 328-190(2) or 328-237(2)”.

### 7 Application of amendments

The amendments made by this Schedule apply in relation to entities and depreciating assets the entities started to hold (as defined in section 40-40 of the *Income Tax Assessment Act 1997*) in the 2012-13 income year and later income years.

## **Schedule 4—Low income superannuation contribution**

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **1 Subsection 5(2) (after the paragraph relating to Part 2)**

Insert:

- Part 2A (sections 12B to 12E) tells you who are the people entitled to a low income superannuation contribution. It also tells you how much the low income superannuation contribution is.

#### **2 After Part 2**

Insert:

### **Part 2A—Low income superannuation contribution**

#### **12B Reference to Government co-contribution includes reference to low income superannuation contribution**

- (1) A law of the Commonwealth applies in relation to a low income superannuation contribution in the same way as it applies in relation to a Government co-contribution.
- (2) Subsection (1) does not apply to:
  - (a) the following provisions:
    - (i) Part 2 of this Act (other than section 12);
    - (ii) this Part;
    - (iii) section 54 of this Act; and
  - (b) any other law of the Commonwealth, to the extent that the other law relates to a provision mentioned in paragraph (a) of this subsection.

- (3) Paragraph 14(1)(a) (Commissioner to have regard to income tax return) does not apply in relation to a determination under section 13 if:
- (a) the determination relates to the payability of a low income superannuation contribution in respect of a person for an income year; and
  - (b) the person was not required to lodge an income tax return for the income year.
- (4) Subsections 24(3) and (4) have an operation in respect of low income superannuation contributions that is separate to their operation in respect of Government co-contributions.

### **12C Person entitled to low income superannuation contribution**

A low income superannuation contribution is payable under this Act in respect of a person for an income year of the person if:

- (a) one or more superannuation contributions covered by section 12D are made during the income year by or for the person; and
- (b) the person's adjusted taxable income for the income year (worked out in accordance with Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* (disregarding clauses 3 and 3A of that Schedule)) does not exceed \$37,000; and
- (c) the requirement in paragraph 6(1)(b) is satisfied in respect of the person in relation to the income year; and
- (d) the requirement in paragraph 6(1)(f) is satisfied in respect of the person in relation to the income year.

### **12D Contributions that attract matching low income superannuation contribution**

A contribution made by or for a person is covered by this section if:

- (a) the contribution was or is made on or after 1 July 2012; and
- (b) the contribution is a concessional contribution (within the meaning of the *Income Tax Assessment Act 1997*) for the financial year that corresponds to the income year in which the contribution was or is made; and

- (c) the contribution was or is made for the purpose of providing superannuation benefits for the person (regardless of whether the benefits are payable to the person's dependants if the person dies before or after becoming entitled to receive the benefits).

**12E Amount of low income superannuation contribution**

- (1) This section applies if a person is entitled to a low income superannuation contribution for an income year of the person under section 12C.
- (2) The amount of the person's low income superannuation contribution for the income year is:
  - (a) unless paragraph (b) or (c) applies—15% of the total of the superannuation contributions covered by section 12D made by or for the person during the income year; or
  - (b) if the amount worked out under paragraph (a) exceeds \$500—\$500; or
  - (c) if the amount worked out under paragraph (a) falls short of \$20—nil.

**3 At the end of subsection 14(1)**

Add:

; and (d) any other information that:

- (i) is held or was obtained by the Commissioner under or for the purposes of a taxation law (within the meaning of the *Income Tax Assessment Act 1997*); and
- (ii) the Commissioner considers is reasonably necessary to make the determination.

**4 At the end of section 55**

Add:

Note: The regulations may relate to the Government co-contribution and the low income superannuation contribution (see section 12B).

**5 Subsection 49(1)**

After "Part 2", insert ", Part 2A".

**6 Section 56**

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Insert:

*low income superannuation contribution* means a low income superannuation contribution payable under this Act.

## **7 Application of amendments**

The amendments made by this Schedule apply to the 2012-13 income year and later income years.

## **Schedule 5—Deduction of employer contributions to superannuation funds**

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

#### **1 Subsection 290-80(1)**

Omit “, either”.

#### **2 At the end of subsection 290-80(1)**

Add:

; or (c) the contribution must reduce your charge percentage under section 22 or 23 of the *Superannuation Guarantee (Administration) Act 1992* in respect of the employee.

#### **3 After subsection 290-80(2)**

Insert:

(2A) If only paragraph (1)(c) applies, you can deduct only the amount of the contribution that reduces your charge percentage under section 22 or 23 of the *Superannuation Guarantee (Administration) Act 1992* in respect of the employee.

(2B) If both paragraphs (1)(b) and (c) apply and paragraph (1)(a) does not apply, you can deduct only the greater of the following amounts (or only one of them if they are equal):

- (a) the amount of the contribution that is required by the industrial award, determination or notional agreement preserving State awards;
- (b) the amount of the contribution that reduces your charge percentage under section 22 or 23 of the *Superannuation Guarantee (Administration) Act 1992* in respect of the employee.

Note: If paragraph (1)(a) applies, you can deduct the whole of the contribution (whether or not paragraph (1)(b) or (1)(c) also applies).

#### **4 Application**

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

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*[Minister's second reading speech made in—  
House of Representatives on 2 November 2011  
Senate on 7 February 2012]*

(236/11)

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24 *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012*  
No. 23, 2012