Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013

No. 88, 2013

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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Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013

No. 88, 2013

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

[*Assented to 28 June 2013*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*.

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.	28 June 2013
2. Schedule 1, Part 1	The day this Act receives the Royal Assent.	28 June 2013
3. Schedule 1, Part 2	1 July 2013.	1 July 2013
4. Schedule 2	The later of: (a) immediately after the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 7 to the *Tax Laws Amendment (2012 Measures No. 6) Act 2013*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3	The day this Act receives the Royal Assent.	28 June 2013
8. Schedule 5, Part 1	The day after this Act receives the Royal Assent.	29 June 2013
9. Schedule 5, Part 2, Division 1	The day after this Act receives the Royal Assent.	29 June 2013
10. Schedule 5, Part 2, Divisions 2 and 3	1 July 2013.	1 July 2013
11. Schedule 5, items 28 to 34	The day after this Act receives the Royal Assent.	29 June 2013

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
12. Schedule 5, item 35	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 5 of Schedule 1 to the *Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Act 2013*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
13. Schedule 5, items 36 to 38	The day after this Act receives the Royal Assent.	29 June 2013
14. Schedule 6	The day after this Act receives the Royal Assent.	29 June 2013
15. Schedule 7, items 1 to 136	Immediately after the commencement of the *Minerals Resource Rent Tax Act 2012*.	1 July 2012
16. Schedule 7, item 137	Immediately after the commencement of Part 2 of Schedule 2 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012*.	29 September 2012
17. Schedule 7, items 138 to 193	Immediately after the commencement of the *Minerals Resource Rent Tax Act 2012*.	1 July 2012
18. Schedule 7, item 194	Immediately after the commencement of Schedule 2 to the *Clean Energy (Tax Laws Amendments) Act 2011*.	1 July 2012
19. Schedule 7, item 195	The day this Act receives the Royal Assent.	28 June 2013
20. Schedule 7, item 196	Immediately after the commencement of the *Excise Tariff Amendment (Condensate) Act 2011*.	24 November 2011
21. Schedule 7, items 197 to 223	The day this Act receives the Royal Assent.	28 June 2013

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
22. Schedule 7, item 224	Immediately after the commencement of item 1 of Schedule 2 to the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*.	31 January 2013
23. Schedule 7, items 225 to 228	The day this Act receives the Royal Assent.	
24. Schedule 7, item 229	Immediately after the commencement of item 14 of Schedule 1 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*.	22 March 2012
25. Schedule 7, items 230 to 233	Immediately after the commencement of Division 2 of Part 25 of Schedule 6 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*.	21 March 2012
26. Schedule 7, items 234 to 242	The day this Act receives the Royal Assent.	

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

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

3 Schedule(s)

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

4 Amendment of assessments

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

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

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

(c) the amendment is made for the purpose of giving effect to items 204 to 208 of Schedule 7 (Miscellaneous amendments) to this Act.

Schedule 1—Interest on unclaimed money

Part 1—Superannuation

Income Tax Assessment Act 1997

1 Subsection 295-190(1A)

Omit "section 20H", substitute "subsection 20H(2), (2AA) or (2A)".

2 Section 301-125

Omit "subsection 17(2) or section 20H or 24G", substitute "subsection 17(2), 20H(2), (2AA), (2A) or (3) or 24G(2)".

3 Subsections 301-170(2), (3) and (4)

Omit "section 20H", substitute "subsection 20H(2), (2AA), (2A) or (3)".

4 Subsection 307-5(1) (table item 5, column 2)

Omit "subsection 17(1) or (2) or 20F(1) or section 20H, 24E or 24G", substitute "subsection 17(1), (2) or (2AB), 20F(1) or 20H(2), (2AA) or (2A), section 24E or subsection 24G(2) or (3A)".

5 Subsection 307-5(1) (table item 5, column 3)

Omit "subsection 17(1) or (2) or section 20H or 24G", substitute "subsection 17(1), (2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or 24G(2), (3A) or (3B)".

6 Paragraph 307-120(2)(e)

Omit "subsection 17(2) or section 20H or 24G", substitute "subsection 17(2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or 24G(2), (3A) or (3B)".

7 Subsection 307-142(1)

Omit "subsection 17(2) or section 20H or 24G", substitute "subsection 17(2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or 24G(2), (3A) or (3B)".

8 Subsection 307-142(2)

After “as follows”, insert “(unless subsection (3B) or (3C) applies)”.

9 Subsection 307-142(2) (method statement, step 1, note)

Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

10 Subsection 307-142(2) (method statement, step 1, note)

Omit “section 24G”, substitute “subsection 24G(2)”.

11 After subsection 307-142(3A)

Insert:

(3B) The *tax free component is the amount of the benefit, if the *superannuation benefit is paid under subsection 17(2AB) or (2AC), 20H(2AA) or 24G(3A) or (3B) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (interest).

(3C) Despite subsection (3B), the *tax free component is nil, if the *superannuation benefit is paid under subsection 20H(2AA) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (interest) in respect of a person who:

(a) is a former temporary resident (within the meaning of that Act) when the payment is made; or

(b) if the person died before the payment is made—was a former temporary resident just before dying.

12 Subsection 307-220(4)

Omit “section 20H”, substitute “subsection 20H(2), (2AA) or (2A)”.

13 Subsection 307-300(1)

Omit “subsection 17(2) or section 20H or 24G”, substitute “subsection 17(2), 20H(2), (2AA), (2A) or (3) or 24G(2)”.

14 Subsection 307-300(2)

After “as follows”, insert “(unless subsection (3A) applies)”.

15 Subsection 307-300(2) (method statement, step 1, note)

Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

16 Subsection 307-300(2) (method statement, step 1, note)

Omit “section 24G”, substitute “subsection 24G(2)”.

17 After subsection 307-300(3)

Insert:

(3A) The ***element taxed in the fund*** is nil, if the *superannuation benefit is paid under subsection 20H(2AA) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (interest).

Note: The taxable component of a superannuation benefit paid by the Commissioner under subsection 17(2AB) or (2AC) or 24G(3A) or (3B) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, or under subsection 20H(2AA) in respect of a person who is not a former temporary resident, is nil: see subsections 307-142(3B) and (4) of this Act.

18 Subsection 307-350(2B)

Omit "subsection 17(2) and sections 20H and 24G", substitute "subsections 17(2), 20H(2), (2AA), (2A) and (3) and 24G(2)".

Superannuation (Departing Australia Superannuation Payments Tax) Act 2007

19 Subsection 5(2)

Omit "section 20H", substitute "subsection 20H(2), (2AA) or (2A)".

Superannuation (Unclaimed Money and Lost Members) Act 1999

20 Subsection 17(2A)

Omit "section 20H", substitute "subsection 20H(2) or (3)".

21 Subsection 17(2A) (note)

Omit "Section 20H provides", substitute "Subsections 20H(2) and (3) provide".

22 Subparagraph 20H(1)(b)(iii)

Omit "section 17", substitute "subsection 17(2)".

23 Subparagraph 20H(1)(b)(iv)

Omit "this section in respect of the person", substitute "subsections (2) and (3) of this section in respect of the person (disregarding an amount paid under subsection (3), to the extent the amount was attributable to interest that would have been payable under subsection (2A) apart from subsection (3))".

24 Subparagraph 20H(1)(b)(vi)

Omit "section 24G", substitute "subsection 24G(2)".

25 Paragraph 20H(2B)(a)

Omit "section 17, 24E or 24G", substitute "subsection 17(1) or (2), section 24E or subsection 24G(2)".

26 Paragraph 20M(1)(a)

Omit "section 20H", substitute "subsection 20H(2), (2AA) or (2A)".

27 Section 20P (paragraph (a) of the example)

Omit "section 20H", substitute "subsection 20H(2) or (3)".

28 Subsection 24E(5) (note 1)

Omit "section 17", substitute "subsection 17(1)".

29 Subsection 24G(4)

Omit "section 20H", substitute "subsection 20H(2) or (3)".

30 Subsection 24G(4) (note)

Omit "Section 20H provides", substitute "Subsections 20H(2) and (3) provide".

31 Paragraph 24L(1)(a)

Omit "section 24G", substitute "subsection 24G(2) or (3A)".

32 Subsection 29(4)

Omit "section 20H", substitute "subsection 20H(2), (2AA), (2A) or (3)".

Part 2—Other amendments

Income Tax Assessment Act 1997

33 Section 11-15 (at the end of the table item headed "interest")

Add:

unclaimed money and property 51-120

34 At the end of Division 51

Add:

51-120 Interest on unclaimed money and property

The following amounts are exempt from income tax:

(a) an amount of interest paid under paragraph 69(7AA)(b) of the *Banking Act 1959*;

Note: An amount of interest paid under paragraph 69(7AA)(a) of the *Banking Act 1959* is not ordinary income or statutory income.

(b) an amount of interest paid under subsection 1341(3A) of the *Corporations Act 2001*;

(c) an amount of interest paid under subsection 51C(1A) of the *First Home Saver Accounts Act 2008*;

(d) an amount an *FHSA provider contributes or pays under paragraph 51C(2)(b) of the *First Home Saver Accounts Act 2008* because it receives an amount under subsection 51C(1A);

(e) an amount of interest paid under paragraph 216(7A)(b) of the *Life Insurance Act 1995*.

Note: An amount of interest paid under paragraph 216(7A)(a) of the *Life Insurance Act 1995* is not ordinary income or statutory income.

Note: For interest paid under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, see subsections 307-142(3B) and (3C).

Schedule 2—Airline transport fringe benefits

Fringe Benefits Tax Assessment Act 1986

1 Division 8 of Part III

Repeal the Division.

2 After paragraph 42(1)(aa)

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the stand-by airline travel value of the benefit at the time the transport starts; or

3 Paragraph 42(1)(a)

Omit "paragraph (aa) does not apply", substitute "neither paragraph (aa) nor (ab) applies".

4 Paragraph 42(1)(b)

Omit "neither paragraph (aa) nor (a)", substitute "none of the above paragraphs".

5 After paragraph 48(aa)

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the stand-by airline travel value of the benefit at the comparison time; or

6 Paragraph 48(a)

Omit "paragraph (aa) does not apply", substitute "neither paragraph (aa) nor (ab) applies".

7 After paragraph 49(aa)

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the

stand-by airline travel value of the benefit at the comparison time; or

8 Paragraph 49(a)

Omit "paragraph (aa) does not apply", substitute "neither paragraph (aa) nor (ab) applies".

9 Paragraph 58P(1)(b)

Repeal the paragraph.

10 Section 62 (heading)

Repeal the heading, substitute:

62 Reduction of aggregate taxable value of in-house fringe benefits

11 Subsection 62(1)

Omit "eligible fringe benefits", substitute "in-house fringe benefits".

12 Subsection 62(2)

Repeal the subsection, substitute:

(2) Subsection (1) does not apply to an in-house fringe benefit provided under a salary packaging arrangement.

13 Subsection 136(1) (definition of *airline operator*)

Repeal the definition.

14 Subsection 136(1) (definition of *airline transport benefit*)

Repeal the definition.

15 Subsection 136(1) (definition of *airline transport fringe benefit*)

Repeal the definition, substitute:

airline transport fringe benefit means an in-house property fringe benefit, or in-house residual fringe benefit, to the extent that the benefit:

(a) is the provision of transport in a passenger aircraft operated by a carrier and any incidental services on board the aircraft; and

(b) is provided subject to the stand-by restrictions that customarily apply in relation to the provision of airline transport to employees in the airline industry.

16 Subsection 136(1) (definition of *comparison time*)

Repeal the definition, substitute:

comparison time, in relation to a residual fringe benefit, means:

(a) if the fringe benefit is constituted by a benefit to which subsection 46(2) applies—the start of the billing period referred to in that subsection in relation to the benefit; or

(b) if the fringe benefit is a period residual fringe benefit—the time when the recipients overall benefit started to be provided; or

(c) if the fringe benefit is an airline transport fringe benefit—the time when the transport starts; or

(d) otherwise—the time when the benefit is provided.

17 Subsection 136(1) (definition of *domestic route*)

Repeal the definition.

18 Subsection 136(1) (definition of *exclusive employee airline transport benefit*)

Repeal the definition.

19 Subsection 136(1) (definition of *extended travel airline transport benefit*)

Repeal the definition.

20 Subsection 136(1) (definition of *international route*)

Repeal the definition.

21 Subsection 136(1) (definition of *providers published air fare*)

Repeal the definition.

22 Subsection 136(1) (definition of *qualifying air fare*)

Repeal the definition.

23 Subsection 136(1) (paragraph (a) of the definition of *recipients contribution*)

Omit "an airline transport fringe benefit,".

24 Subsection 136(1) (paragraph (a) of the definition of *recipients contribution*)

Omit "the recipients transport,".

25 Subsection 136(1) (definition of *recipients transport*)

Repeal the definition.

26 Subsection 136(1)

Insert:

> ***stand-by airline travel value***, in relation to an airline transport fringe benefit, means:
>
> (a) if the transport is over a domestic route—50% of the carrier's lowest standard single economy air fare:
>
> (i) for that route; and
>
> (ii) as publicly advertised during the year of tax; or
>
> (b) if the transport is over an international route—50% of the lowest of any carrier's standard single economy air fare:
>
> (i) for that route; and
>
> (ii) as publicly advertised during the year of tax.

27 Subsection 136(1) (definition of *stand-by value*)

Repeal the definition.

28 Subsection 136(1) (definition of *travel agent*)

Repeal the definition.

29 Subsection 136(1) (definition of *travel diary*)

Omit "an airline transport fringe benefit,".

30 Paragraph 138C(a)

Repeal the paragraph.

31 Application of amendments

The amendments made by this Schedule apply in relation to the provision after 7.30 pm, by legal time in the Australian Capital Territory, on 8 May 2012 of:

(a) transport in aircraft; and

(b) incidental services on board aircraft.

Schedule 3—Rural water use

Income Tax Assessment Act 1997

1 Section 11-55 (after table item headed "employment")

Insert:

environment

water infrastructure improvement payments..... 59-65

2 Section 12-5 (table item headed "water facilities")

Repeal the item, substitute:

water facilities

improvements..... 26-100

see also *capital allowances*

3 At the end of Division 26

Add:

26-100 Expenditure attributable to water infrastructure improvement payments

(1) You cannot deduct under this Act *SRWUIP expenditure if the matching *SRWUIP payment is, or is reasonably expected to be, *non-assessable non-exempt income (whether for you or for another entity) under section 59-65.

(2) ***SRWUIP expenditure***, in respect of a *SRWUIP program, is expenditure that:

(a) you incur that satisfies an obligation under an *arrangement under the program; and

(b) is, or is reasonably expected to be, matched by a *SRWUIP payment in respect of the program.

(3) However, treat the expenditure as if it had never been ***SRWUIP expenditure*** if it is no longer reasonable to expect that the expenditure will be matched by a *SRWUIP payment in respect of the program.

4 After section 40-220

Insert:

40-222 Cost reduced by water infrastructure improvement expenditure

The *cost of a *depreciating asset is reduced by any portion of it that consists of expenditure that you cannot deduct because of section 26-100.

5 Subsection 40-515(3)

Repeal the subsection, substitute:

Limit on deduction

(3) You cannot deduct more in total than:

(a) for a *water facility—the amount of capital expenditure (disregarding expenditure that you cannot deduct because of section 26-100 (about water infrastructure improvement expenditure)) incurred on the facility; or

(b) for a *horticultural plant—the amount of capital expenditure incurred on the plant.

6 Section 40-540 (definition of *expenditure*)

After "capital expenditure", insert "(disregarding expenditure that you cannot deduct because of section 26-100 (about water infrastructure improvement expenditure))".

7 At the end of subsection 43-70(2)

Add:

; or (i) expenditure that you cannot deduct because of section 26-100 (about water infrastructure improvement expenditure).

8 At the end of Division 59

Add:

59-65 Water infrastructure improvement payments

(1) A *SRWUIP payment, in respect of a *SRWUIP program, to an entity that is a participant in the program is not assessable income and is not *exempt income if:

(a) the entity has made a choice under subsection (2) for the program; and

(b) if the payment is an *indirect SRWUIP payment—the entity *derives the payment because it owns an asset (otherwise than under a *financial arrangement) to which the program relates.

Note: One of the requirements for a SRWUIP payment is for the SRWUIP program to be on the published list of SRWUIP programs for the day the payment is made (see subsection 59-67(5)).

(2) An entity may make a choice for a *SRWUIP program under this subsection if, in an income year:

(a) the entity *derives a *SRWUIP payment in respect of the program but has *not*, in an earlier income year:

(i) derived a SRWUIP payment in respect of the program; or

(ii) incurred *SRWUIP expenditure in respect of the program; or

(b) the entity incurs SRWUIP expenditure in respect of the program but has *not*, in an earlier income year:

(i) derived a SRWUIP payment in respect of the program; or

(ii) incurred SRWUIP expenditure in respect of the program.

Disregard subsection 26-100(3) (about expenditure that is never SRWUIP expenditure) for the purposes of this subsection.

(3) The choice must be:

(a) made in the *approved form; and

(b) made:

(i) unless subparagraph (ii) or (iii) applies—on or before the day the entity lodges its *income tax return for the income year; or

(ii) if the Commissioner makes an assessment of the entity's taxable income for the income year before the entity lodges its income tax return for the income year, and subparagraph (iii) does not apply—on or before the day the Commissioner makes that assessment; or

(iii) within such further time as the Commissioner allows.

The choice cannot be revoked.

Integrity rule

(4) Subsection (1) does not apply if, at the time the entity *derives the *SRWUIP payment in respect of a *SRWUIP program, it is reasonable to conclude that:

(a) the entity will not incur expenditure at least equal to the payment on works required by the program; and

(b) despite not incurring such expenditure, the entity will comply with the program because an *associate of the entity will incur expenditure on those works; and

(c) the associate has not made, and will not make, a choice under subsection (2) for the program.

59-67 Meaning of *SRWUIP program*, *SRWUIP payment*, *direct SRWUIP payment* and *indirect SRWUIP payment*

(1) A ***SRWUIP program*** is a program under the program administered by the Commonwealth known as the Sustainable Rural Water Use and Infrastructure program.

(2) A ***SRWUIP payment***, in respect of a *SRWUIP program, is:

(a) a *direct SRWUIP payment in respect of the program; or

(b) an *indirect SRWUIP payment in respect of the program.

(3) A ***direct SRWUIP payment*** is a payment by the Commonwealth to a participant in a *SRWUIP program to the extent that it is made under that program.

(4) An ***indirect SRWUIP payment*** is a payment to a participant in a *SRWUIP program to the extent that it is reasonably attributable to a payment by the Commonwealth under that program.

(5) For the purposes of subsections (3) and (4), treat a payment as being made under a *SRWUIP program only if that SRWUIP program is on the published list of SRWUIP programs (see section 59-70) for the day the payment is made.

(6) However, treat a payment as if it had never been made under a *SRWUIP program to the extent that the Commonwealth seeks to recover the payment.

Example: The Commonwealth seeks to recover half of a payment made under a SRWUIP program. The remaining half is still a payment made under the SRWUIP program.

59-70 List of SRWUIP programs

(1) The *Water Secretary must keep a list of *SRWUIP programs. The list must:

(a) specify the days for which each program is on the list; and

(b) be published on the *Water Department's website.

Example: A program could be listed for each day on or after 1 July 2011.

Entering SRWUIP programs on the list

(2) The *Water Secretary must enter on the list each *SRWUIP program (and its days) in accordance with a direction under subsection (3).

(3) The Minister and the *Water Minister may jointly direct the *Water Secretary to enter a program (and its days) on the list only if the Water Minister has notified the Minister in writing that the Water Minister is satisfied that the program:

(a) is a *SRWUIP program; and

(b) will generate efficiencies in water use through infrastructure improvements.

(4) A direction under subsection (3) must be in writing and specify the days for which the *SRWUIP program is to be on the list. Some or all of those days may be before the day the direction is given.

Changing the days for which a SRWUIP program is listed

(5) The Minister and the *Water Minister may jointly direct the *Water Secretary to change the list to specify:

(a) additional days (including days before the day the direction is given) for which a *SRWUIP program is on the list; or

(b) the final day (which must be after the day the direction is given) for which a SRWUIP program is on the list.

The *Water Secretary must change the list accordingly.

(6) A direction under subsection (5) must be in writing.

Giving directions

(7) The Minister and the *Water Minister must have regard to the policies and budgetary priorities of the Commonwealth Government in deciding whether to give a direction under subsection (3) or (5).

59-75 Commissioner to be kept informed

The *Water Secretary must notify the Commissioner about each payment described in subsection 59-67(6) that the Commonwealth seeks to recover.

59-80 Amending assessments

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment for the purpose of giving effect to an outcome that is consequential on any or all of the following events:

(a) the inclusion of a *SRWUIP program on the published list of SRWUIP programs (see section 59-70);

(b) the publication of a change to a SRWUIP program's listing on the published list of SRWUIP programs;

(c) the Commonwealth seeking to recover a payment described in subsection 59-67(6);

(d) the making of a choice under subsection 59-65(2);

(e) the event that causes subsection 26-100(3) to treat expenditure as if it had never been *SRWUIP expenditure;

if the amendment is made at any time during the period of 2 years starting immediately after that event.

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

9 At the end of section 110-38

Add:

(7) Expenditure does not form part of any element of the ***cost base*** to the extent that section 26-100 prevents it being deducted.

Note: Section 26-100 denies deductions for certain expenditure on water infrastructure improvements.

10 After subsection 110-55(9F)

Insert:

(9G) Expenditure does not form part of the ***reduced cost base*** to the extent that section 26-100 prevents it being deducted.

Note: Section 26-100 denies deductions for certain expenditure on water infrastructure improvements.

11 After paragraph 118-37(1)(g)

Insert:

(ga) a *water entitlement, to the extent that the CGT event happens because an entity *derives a *SRWUIP payment that is *non-assessable non-exempt income under section 59-65;

(gb) a *SRWUIP payment you derive that is non-assessable non-exempt income under section 59-65;

12 Subsection 995-1(1)

Insert:

direct SRWUIP payment has the meaning given by subsection 59-67(3).

13 Subsection 995-1(1)

Insert:

indirect SRWUIP payment has the meaning given by subsection 59-67(4).

14 Subsection 995-1(1)

Insert:

SRWUIP expenditure has the meaning given by subsections 26-100(2) and (3).

15 Subsection 995-1(1)

Insert:

SRWUIP payment has the meaning given by subsection 59-67(2).

16 Subsection 995-1(1)

Insert:

SRWUIP program has the meaning given by subsection 59-67(1).

17 Subsection 995-1(1)

Insert:

Water Secretary means the Secretary of the *Water Department.

18 Application of amendments

The amendments made by this Schedule apply in relation to payments made on or after 1 April 2010 by the Commonwealth under a SRWUIP program.

19 Transitional provision—time for making choices

(1) This item applies if, apart from this item, a choice under subsection 59-65(2) of the *Income Tax Assessment Act 1997* must be made on or before the day this Schedule commences.

(2) Despite paragraph 59-65(3)(b) of that Act, the choice must be made and given to the Commissioner:

(a) within the 2 year period starting at that commencement; or

(b) within such further time as the Commissioner allows.

Note: The requirements for making the choice must still be satisfied (see subsection 59-65(2) of that Act). This item does not change the income years referred to in that subsection.

Schedule 5—Loss carry back

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Section 67-23 (after table item 13)

Insert:

13A	corporate losses	*loss carry back tax offset under Division 160

2 Before Division 164

Insert:

Division 160—Corporate loss carry back tax offset

Table of Subdivisions

Guide to Division 160
160-A Object of this Division
160-B Entitlement to and amount of loss carry back tax offset
160-C Loss carry back choice

Guide to Division 160

160-1 What this Division is about

A corporate tax entity can choose to "carry back" a tax loss it has for the current year, or for the preceding income year, against the income tax liability it had for either of the 2 income years preceding the current year.

The entity gets a refundable tax offset for the current year that is a proxy for the tax the entity would save if it deducted the loss in the income year to which the loss is "carried back".

The refundable tax offset is capped at the lesser of $1,000,000 multiplied by the corporate tax rate, and the entity's franking account balance.

Subdivision 160-A—Object of this Division

Table of sections

160-5 Object of this Division

160-5 Object of this Division

The object of this Division is to reduce the tax disincentive for corporate tax entities to take sensible investment risks. The Division does this by allowing such entities to offset their tax losses against their income tax liabilities for the 2 previous income years through a refundable tax offset.

Subdivision 160-B—Entitlement to and amount of loss carry back tax offset

Table of sections

160-10 Entitlement to loss carry back tax offset
160-15 Amount of loss carry back tax offset

160-10 Entitlement to loss carry back tax offset

An entity is entitled to a *tax offset (the ***loss carry back tax offset***) for the *current year if the following conditions are satisfied:

(a) the entity is a *corporate tax entity throughout the current year;

Note: See also section 160-25.

(b) either or both of the following income years were *loss years:
  (i) the current year;
  (ii) the income year just before the current year (the ***middle year***);

(c) the entity had an *income tax liability for either or both of the following income years:
  (i) the middle year;

(ii) the income year just before the middle year (the ***earliest year***);

(d) any of the following requirements are satisfied for the current year and each of the 5 income years before the current year:

(i) the entity has lodged its *income tax return for the year;

(ii) the entity was not required to lodge an income tax return for the year;

(iii) the Commissioner has made an assessment of the entity's income tax for the year;

(e) the entity makes a *loss carry back choice for the current year in accordance with Subdivision 160-C.

Note 1: The entity is entitled to only one loss carry back tax offset for the current year. However, that offset has 2 components, one relating to the earliest year and one relating to the middle year: see section 160-15.

Note 2: The loss carry back tax offset is a refundable tax offset: see section 67-23.

160-15 Amount of loss carry back tax offset

(1) The amount of the entity's *loss carry back tax offset for the *current year is the least of the following amounts:

(a) the sum of the *loss carry back tax offset components for the earliest year and the middle year;

(b) the entity's *franking account balance at the end of the current year;

(c) $1,000,000 multiplied by the *corporate tax rate for the current year.

(2) For the purposes of working out the amount of the entity's *loss carry back tax offset for the *current year, the entity's ***loss carry back tax offset component*** for an income year is worked out as follows:

Method statement

Step 1. Start with the amount of the *tax loss the entity *carries back to the income year (or the sum of the amounts of the tax losses the entity carries back to the income year).

Note: If no amount is carried back to the income year, the step 1 amount, and the ***loss carry back tax offset component*** for the income year, are nil.

Step 2. Reduce the step 1 amount by the entity's *net exempt income for the income year.

Note: Do not reduce the step 1 amount by the entity's net exempt income to the extent the net exempt income has already been utilised: see section 960-20.

Step 3. Multiply the step 2 amount by the *corporate tax rate for the *current year.

Step 4. The entity's ***loss carry back tax offset component*** for the income year is so much of the entity's *income tax liability for the income year as does not exceed the step 3 amount.

Example: Redom Pty Ltd has at the end of the 2013-14 income year:

(a) a tax loss of $900,000 for that year and a franking account balance of $280,000; and

(b) for the 2011-12 income year—an income tax liability of $120,000 and net exempt income of $5,000; and

(c) for the 2012-13 income year—an income tax liability of $210,000.

Redom chooses to carry back $405,000 of its tax loss for the 2013-14 year to the 2011-12 year and $495,000 of that loss to the 2012-13 year.

Redom's loss carry back tax offset for the 2013-14 year is $268,500, worked out as follows:

(a) an offset component for the 2011-12 income year of $120,000, calculated by starting with the $405,000 carried back, reducing that at step 2 by $5,000, and multiplying the result by 30%.

(b) an offset component for the 2012-13 income year of $148,500, calculated by starting with the $495,000 carried back and multiplying the result by 30%.

The sum of the 2 components is $268,500 (which is less than Redom's $280,000 franking account balance at the end of the 2013-14 year). If that sum had exceeded that balance, the amount of the offset would have been limited under paragraph (1)(b) to that balance.

Income tax liability for earliest year already utilised

(3) For the purposes of applying step 4 of the method statement in subsection (2) to work out the entity's *loss carry back tax offset

component for the earliest year, disregard so much of the entity's *income tax liability for the earliest year as has previously been included (for the purpose of working out the entity's entitlement to a *loss carry back tax offset for the middle year) in a loss carry back tax offset component.

Foreign residents

(4) Paragraph (1)(b) does not apply if the entity was a foreign resident (other than an *NZ franking company) for:
  (a) if the entity *carries back an amount to the earliest year—more than half of the earliest year; and
  (b) if the entity carries back an amount to the middle year—more than half of the middle year.

Subdivision 160-C—Loss carry back choice

Table of sections

160-20 Loss carry back choice
160-25 Entity must have been a corporate tax entity during relevant years
160-30 Transferred tax losses etc. not included
160-35 Integrity rule—no loss carry back tax offset if scheme entered into

160-20 Loss carry back choice

(1) The entity may make a ***loss carry back choice*** for the *current year that specifies:
  (a) how much of the entity's *tax loss for the current year (if any) is to be carried back to the earliest year; and
  (b) how much of the entity's tax loss for the middle year (if any) is to be carried back to the earliest year; and
  (c) how much of the entity's tax loss for the current year (if any) is to be carried back to the middle year.

(2) The choice must be made in the *approved form by:
  (a) the day the entity lodges its *income tax return for the *current year; or
  (b) such later day as the Commissioner allows.

160-25 Entity must have been a corporate tax entity during relevant years

(1) The entity cannot *carry back an amount of a *tax loss to the earliest year unless the entity was a *corporate tax entity throughout the earliest year (disregarding any period when the entity was not in existence) and the middle year.

(2) The entity cannot *carry back an amount of a *tax loss to the middle year unless the entity was a *corporate tax entity throughout the middle year (disregarding any period when the entity was not in existence).

Note: The entity must be a corporate tax entity throughout the current year: see paragraph 160-10(a).

160-30 Transferred tax losses etc. not included

The entity cannot *carry back an amount of a *tax loss for an income year, to the extent that the loss:

(a) was transferred to or from the entity under Division 170 or Subdivision 707-A (about certain company groups); or

(b) exceeds the amount that would be the entity's tax loss for the year if section 36-55 (about excess franking offsets) were disregarded.

160-35 Integrity rule—no loss carry back tax offset if scheme entered into

No loss carry back tax offset if scheme entered into

(1) The *corporate tax entity cannot *carry back an amount of a *tax loss to an income year (the ***gain year***) if:

(a) there is a *scheme for a disposition of *membership interests, or an *interest in membership interests, in:

(i) the corporate tax entity; or

(ii) an entity that has a direct or indirect interest in the corporate tax entity; and

(b) the scheme is entered into or carried out during the period:

(i) starting at the start of the gain year; and

(ii) ending at the end of the *current year; and

(c) the disposition results in a change in who controls, or is able to control, (whether directly, or indirectly through one or more interposed entities) the voting power in the corporate tax entity; and

(d) another entity receives, in connection with the scheme, a *financial benefit calculated by reference to one or more *loss carry back tax offsets to which it was reasonable, at the time the scheme was entered into or carried out, to expect the corporate tax entity would be entitled; and

(e) having regard to the relevant circumstances of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme or any part of the scheme did so for a purpose (whether or not the dominant purpose but not including an incidental purpose) of enabling the corporate tax entity to get a loss carry back tax offset.

Relevant circumstances

(2) For the purposes of paragraph (1)(e), the relevant circumstances of the *scheme for a disposition include the following:

(a) the extent to which the *corporate tax entity continued to conduct the same activities after the scheme as it did before the scheme;

(b) if the corporate tax entity continued to use the same assets after the scheme as it did before the scheme—the extent to which those assets were assets for which equivalents were not readily available at the time of the scheme;

(c) the matters referred to in subparagraphs 177D(b)(i) to (viii) of the *Income Tax Assessment Act 1936* (applying subparagraph 177D(b)(iv) as if the reference to Part IVA of that Act were instead a reference to this section).

Application of this section to non-share equity interests

(3) This section:

(a) applies to a *non-share equity interest in the same way as it applies to a *membership interest; and

(b) applies to an *equity holder in the same way as it applies to a *member.

3 Subsection 995-1(1)

Insert:

income tax liability, of an entity for an income year, is the amount assessed as being the amount of income tax that the entity owes (as mentioned in step 4 of the method statement in subsection 4-10(3)) for the financial year applicable to the entity under subsection 4-10(2).

4 Subsection 995-1(1)

Insert:

interest in membership interests has the same meaning as in section 177EA of the *Income Tax Assessment Act 1936*.

5 Subsection 995-1(1)

Insert:

scheme for a disposition, in relation to *membership interests or an *interest in membership interests, has the same meaning as in section 177EA of the *Income Tax Assessment Act 1936*.

Income Tax (Transitional Provisions) Act 1997

6 Before Division 165

Insert:

Division 160—Loss carry back tax offset

Table of Subdivisions

160-A Application of Division 160 of the Income Tax Assessment Act 1997

Subdivision 160-A—Application of Division 160 of the Income Tax Assessment Act 1997

Table of sections

160-1 Application of Division 160 of the *Income Tax Assessment Act 1997*
160-5 Modification for 2012-13 income year—no carry back to 2010-11 income year

160-1 Application of Division 160 of the *Income Tax Assessment Act 1997*

Division 160 of the *Income Tax Assessment Act 1997* applies to assessments for the 2012-13 income year and later income years.

160-5 Modification for 2012-13 income year—no carry back to 2010-11 income year

(1) This section applies to assessments for the 2012-13 income year.

(2) Despite subsection 160-15(2) of the *Income Tax Assessment Act 1997*, an entity's loss carry back tax offset component for the 2010-11 income year is treated as being nil.

Part 2—Ascertainment of totals of tax offset refunds

Division 1—Amendments relating to the 2012-13 income year

Income Tax Assessment Act 1997

7 Section 355-700

Repeal the section.

8 Application of amendment

The amendment made by item 7 does not apply in relation to an objection made before the commencement of this item.

9 Subsection 995-1(1)

Insert:

> ***tax offset refund***, of yours for an income year, means a refund you can get as mentioned in item 40 of the table in subsection 63-10(1) (refundable tax offsets) for the income year.

Income Tax (Transitional Provisions) Act 1997

10 At the end of Part 2-20

Add:

Division 67—Refundable tax offset rules

Table of Subdivisions

67-L Notices of totals of tax offset refunds for 2012-13 income year

Subdivision 67-L—Notices of totals of tax offset refunds for 2012-13 income year

Table of sections

Giving notices

67-100 Notices of total of tax offset refunds
67-105 Deemed notices
67-110 Requests for notices
67-115 Effect of notices

Amending notices

67-120 Amendment of notices

Validity of notices, evidence and review

67-125 Validity of notices
67-130 Evidence
67-135 Review of notices

Giving notices

67-100 Notices of total of tax offset refunds

(1) The Commissioner may at any time give you a notice specifying:
  (a) the amount the Commissioner has ascertained as being the total of your tax offset refunds for the 2012-13 income year; or
  (b) that the Commissioner has ascertained that you can get no such refunds for the 2012-13 income year.

(2) The notice may be included in any notice the Commissioner gives to you, including a notice of assessment.

(3) The Commissioner may give you the notice electronically if you are required to lodge, or have lodged, your income tax return for the income year electronically.

67-105 Deemed notices

(1) This section applies if:
  (a) an entity is a self-assessment entity for the 2012-13 income year; and
  (b) the entity lodges its income tax return for the 2012-13 income year at a particular time; and
  (c) just before that time, the Commissioner has not already given the entity a notice under section 67-100.

(2) The Commissioner is taken:
  (a) to have ascertained, in accordance with what the entity specified in the return:
    (i) an amount as being the total of the entity's tax offset refunds for the income year; or
    (ii) that the entity can get no such refunds for the income year; and
  (b) to have given the entity a notice to that effect under section 67-100 on the day on which the entity lodges the return.

67-110 Requests for notices

(1) You may request the Commissioner in the approved form to give you a notice under this Subdivision.

(2) The Commissioner must comply with the request if:
  (a) the Commissioner has not already given you a notice under this Subdivision; and
  (b) you make the request on or after:
    (i) the day you lodge your income tax return for the income year; or
    (ii) if you were not required to lodge an income tax return for the income year—the day after the end of the income year; and
  (c) you make the request before the end of:
    (i) if the Commissioner has given or gives you a notice of assessment for the income year—the period within which you may object against the assessment under paragraph 14ZW(1)(aa) of the *Taxation Administration Act 1953*; or
    (ii) otherwise—2 years after the end of the income year; or
    (iii) in any case—such further period as the Commissioner allows.

(3) The Commissioner is treated, for the purposes of section 67-135, as having given you, on the 60th day after you make the request, a notice specifying that the Commissioner has ascertained that you can get no tax offset refunds for the income year, if the Commissioner has not complied with the request by that 60th day.

67-115 Effect of notices

(1) Your entitlement to a tax offset refund, and the time by which the refund must be applied in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953*, do not depend on, and are not in any way affected by, the giving of a notice under this Subdivision.

(2) An ascertainment mentioned in subsection 67-100(1) is not an assessment for the purposes of the income tax law.

Amending notices

67-120 Amendment of notices

The Commissioner may amend a notice at any time. An amended notice is a notice for all purposes of this Subdivision.

Validity of notices, evidence and review

67-125 Validity of notices

The validity of a notice is not affected by non-compliance with the provisions of this Act or of any other taxation law.

67-130 Evidence

(1) The production of:
  (a) a notice given under this Subdivision; or
  (b) a document under the hand of the Commissioner, a Second Commissioner, or a Deputy Commissioner, purporting to be a copy of a notice given under this Subdivision;

  is, except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the notice, conclusive evidence that the notice was given and of the particulars in it.

(2) The production of a document under the hand of the Commissioner, a Second Commissioner, or a Deputy Commissioner, purporting to be a copy of or extract from a notice given under this Subdivision is evidence of the matters set out in

the document to the same extent as the original would have been evidence of those matters.

67-135 Review of notices

(1) You may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a notice given to you under this Subdivision if you are dissatisfied with the notice.

(2) Section 14ZV of the *Taxation Administration Act 1953* applies to an amended notice in the same way as it applies to an amended determination.

(3) Despite subsection 14ZW(1) of that Act (and without limiting subsections 14ZW(2) and (3)), you must lodge the objection with the Commissioner before the end of:
   (a) if the Commissioner gives you a notice of assessment for the income year—the period within which you may object against the assessment; or
   (b) if the Commissioner does not give you a notice of assessment—the period within which you may have objected against an assessment under subsection 14ZW(1) if the Commissioner had given you notice of the assessment on the day the Commissioner gave you the notice under this Subdivision.

Division 2—Amendments applying from the 2013-14 year of income

Income Tax Assessment Act 1936

11 Subsection 6(1) (paragraphs (a) to (d) of the definition of *assessment*)

Repeal the paragraphs, substitute:
   (a) the ascertainment:
      (i) of the amount of taxable income (or that there is no taxable income); and
      (ii) of the tax payable on that taxable income (or that no tax is payable); and

(iii) of the total of a taxpayer's tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

Note 1: A taxpayer does not have a taxable income if the taxpayer's deductions equal or exceed the taxpayer's assessable income: see subsection 4-15(1) of the *Income Tax Assessment Act 1997*.

Note 2: A taxpayer may have no tax payable on an amount of taxable income if that income is below the tax-free threshold or if the taxpayer's tax offsets reduce the taxpayer's basic income tax liability to nil.

(b) for a taxpayer that is the trustee of a unit trust that is a corporate unit trust (within the meaning of section 102J)—the ascertainment:

(i) of the net income of the trust (within the meaning of section 102D) (or that there is no net income); and

(ii) of the tax payable on that net income (or that no tax is payable); and

(iii) of the total of the taxpayer's tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

(c) for a taxpayer that is the trustee of a unit trust that is a public trading trust (within the meaning of section 102R)—the ascertainment:

(i) of the net income of the trust (within the meaning of section 102M) (or that there is no net income); and

(ii) of the tax payable on that net income (or that no tax is payable); and

(iii) of the total of a taxpayer's tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

(d) for a taxpayer that is the trustee of a trust estate (other than a trustee to which paragraph (b) or (c) applies or the trustee of a complying superannuation fund, a non-complying superannuation fund, a complying approved deposit fund, a non-complying approved deposit fund or a pooled superannuation trust)—the ascertainment:

(i) of so much of the net income of the trust estate as is net income in respect of which the trustee is liable to pay tax (or that there is no net income in respect of which the trustee is so liable); and

(ii) of the tax payable on that net income (or that no tax is payable); and

(iii) of the total of a taxpayer's tax offset refunds for a year of income (or that the taxpayer can get no such refunds for the year of income); or

12 Subsection 6(1)

Insert:

tax offset refund has the meaning given by the *Income Tax Assessment Act 1997*.

13 After paragraph 161AA(b)

Insert:

(ba) the total of its tax offset refunds for that year of income (or that it can get no such refund for that year of income); or

14 Section 166

Repeal the section, substitute:

166 Assessment

From the returns, and from any other information in the Commissioner's possession, or from any one or more of these sources, the Commissioner must make an assessment of:

(a) the amount of the taxable income (or that there is no taxable income) of any taxpayer; and

(b) the amount of the tax payable thereon (or that no tax is payable); and

(c) the total of the taxpayer's tax offset refunds (or that the taxpayer can get no such refunds).

15 Paragraph 166A(3)(c)

Repeal the paragraph, substitute:

(c) the Commissioner is taken to have made an assessment of:

(i) the taxable income or net income (or an assessment that there is no taxable income or net income); and

(ii) the tax payable on that income (or that no tax is payable); and

(iii) the total of the taxpayer's tax offset refunds for the year of income (or that the taxpayer can get no such refunds);

in accordance with what the taxpayer specified in the return;

16 Subsection 168(1)

Repeal the subsection, substitute:

(1) The Commissioner may at any time during any year, or after its expiration, make an assessment of:
  (a) the taxable income derived (or that there is no taxable income) in that year or any part of it by any taxpayer; and
  (b) the tax payable thereon (or that no tax is payable); and
  (c) the total of the taxpayer's tax offset refunds for that year or that part of it (or that the taxpayer can get no such refunds).

17 After section 172

Insert:

172A Consequences of amendment of assessments of tax offset refunds

Amendment increases total of tax offset refunds

(1) If, by reason of an amendment of an assessment, the total of a person's tax offset refunds is increased, the Commissioner must apply the amount of the increase in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953*.

Note: Interest on the amount of the increase may be payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*.

Amendment reduces total of tax offset refunds

(2) If:
  (a) by reason of an amendment of an assessment, the total of a person's tax offset refunds is reduced; and
  (b) as a result, an amount applied in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953* before the amendment was excessive;

the person is liable to pay to the Commonwealth the amount of the excess. The amount is due 21 days after the Commissioner gives the person notice of the amended assessment.

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

(3) If any of the amount (the ***overpayment***) the person is liable to pay under subsection (2) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) starts at the beginning of the day on which the overpayment was due to be paid; and

(b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:

(i) the overpayment;

(ii) general interest charge on any of the overpayment.

Note: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*.

18 Paragraph 175A(2)(b)

Omit "payable;", substitute "payable.".

19 Subsection 175A(2)

Omit "unless the taxpayer is seeking an increase in the taxpayer's liability".

20 At the end of section 175A

Add:

(3) Subsection (2) does not prevent the taxpayer from objecting against an assessment if the taxpayer is seeking an increase in:

(a) the taxpayer's liability; or

(b) the total of the taxpayer's tax offset refunds.

Income Tax (Transitional Provisions) Act 1997

21 At the end of subsection 67-100(1)

Add:

Note: The total of your tax offset refunds for later income years is included in your assessment for those years: see Part IV of the *Income Tax Assessment Act 1936*.

Taxation Administration Act 1953

22 Subsection 8AAB(4) (after table item 10)

Insert:

10A	172A	*Income Tax Assessment Act 1936*	repayments of excessive tax offset refunds

23 Subsection 250-10(1) in Schedule 1 (after table item 50)

Insert:

70	excessive tax offset refunds	172A(2)

24 Application of amendments

The amendments made by this Division apply to assessments made on or after 1 July 2013 for the 2013-14 income year or later income years.

Division 3—Taxation Administration Act 1953

25 Paragraph 14ZZK(b)

Repeal the paragraph, substitute:

(b) the applicant has the burden of proving:

(i) if the taxation decision concerned is an assessment—that the assessment is excessive or otherwise incorrect and what the assessment should have been; or

(ii) in any other case—that the taxation decision concerned should not have been made or should have been made differently.

26 Paragraph 14ZZO(b)

Repeal the paragraph, substitute:

(b) the appellant has the burden of proving:

(i) if the taxation decision concerned is an assessment—that the assessment is excessive or otherwise incorrect and what the assessment should have been; or

(ii) in any other case—that the taxation decision should not have been made or should have been made differently.

27 Application of amendments

The amendments made by this Division apply to an assessment if:

(a) the assessment is made on or after 1 July 2013; and

(b) in the case of an assessment that relates to an income year or other accounting period:

(i) the income year is the 2013-14 income year or a later income year; or

(ii) the other accounting period commences on or after 1 July 2013.

Part 3—Anti-avoidance

Income Tax Assessment Act 1936

28 Subsection 6(1)

Insert:

> ***loss carry back tax offset*** has the same meaning as in the *Income Tax Assessment Act 1997*.

29 After paragraph 177C(1)(ba)

Insert:

(baa) a loss carry back tax offset being allowable to the taxpayer where the whole or a part of that loss carry back tax offset would not have been allowable, or might reasonably be expected not to have been allowable, to the taxpayer if the scheme had not been entered into or carried out; or

30 After paragraph 177C(1)(e)

Insert:

(ea) in a case where paragraph (baa) applies—the amount of the whole of the loss carry back tax offset or of the part of the loss carry back tax offset, as the case may be, referred to in that paragraph; and

31 After paragraph 177C(2)(c)

Insert:

(ca) a loss carry back tax offset being allowable to the taxpayer the whole or a part of which would not have been, or might reasonably be expected not to have been, allowable to the taxpayer if the scheme had not been entered into or carried out, where:

(i) the allowance of the loss carry back tax offset to the taxpayer is attributable to the making of a declaration, agreement, election, selection or choice, the giving of a notice or the exercise of an option by any person, being a declaration, agreement, election, selection, choice, notice or option expressly provided for by this Act; and

(ii) the scheme was not entered into or carried out by any person for the purpose of creating any circumstance or state of affairs the existence of which is necessary to enable the declaration, agreement, election, selection, choice, notice or option to be made, given or exercised, as the case may be; or

32 Subsection 177C(3)

After "(c)(i)", insert ", (ca)(i)".

33 After paragraph 177C(3)(c)

Insert:

(caa) the allowance of a loss carry back tax offset to a taxpayer; or

34 After paragraph 177C(3)(f)

Insert:

(fa) the loss carry back tax offset would not have been allowable; or

35 After paragraph 177CB(1)(c)

Insert:

(ca) the whole or a part of a loss carry back tax offset not being allowable to the taxpayer;

36 At the end of paragraph 177F(1)(c)

Add "or".

37 After paragraph 177F(1)(c)

Insert:

(ca) in the case of a tax benefit that is referable to a loss carry back tax offset, or a part of a loss carry back tax offset, being allowable to the taxpayer—determine that the whole or a part of the loss carry back tax offset, or the part of the loss carry back tax offset, as the case may be, is not to be allowable to the taxpayer; or

38 After paragraph 177F(3)(c)

Insert:

(ca) if, in the opinion of the Commissioner:

(i) an amount would have been allowed, or would be allowable, to the relevant taxpayer as a loss carry back tax offset if the scheme had not been entered into or carried out, being an amount that was not allowed or would not, apart from this subsection, be allowable, as the case may be, as a loss carry back tax offset to the relevant taxpayer; and

(ii) it is fair and reasonable that the amount, or a part of the amount, should be allowable as a loss carry back tax offset to the relevant taxpayer;

determine that that amount or that part, as the case may be, should have been allowed or is allowable, as the case may be, as a loss carry back tax offset to the relevant taxpayer; or

Schedule 6—Loss carry back consequential amendments

Part 1—Concepts and definitions

Income Tax Assessment Act 1936

1 Subsection 45B(8)

After "of a scheme include", insert "the following".

2 Paragraph 45B(8)(c)

Omit "carried forward to a later", substitute "unutilised (within the meaning of the *Income Tax Assessment Act 1997*) at the end of the relevant".

Income Tax Assessment Act 1997

3 Subsection 4-15(1) (note)

Omit "deduct in", substitute "utilise in that or".

4 Subsection 26-47(8)

Omit "so much of your *net exempt income as is not applied for that income year under section 35-15 (about non-commercial business activities) or section 36-10 or 36-15 (about tax losses)", substitute "your *net exempt income for that year (after *utilising the net exempt income under section 35-15 (about non-commercial business activities) or section 36-10 or 36-15 (about tax losses))".

5 Subsection 35-15(2)

Omit "so much of your *net exempt income as is not applied for that income year under section 36-10 or 36-15 (about tax losses)", substitute "your *net exempt income for that year (after *utilising the net exempt income under section 36-10 or 36-15 (about tax losses))".

6 Section 36-1

Omit "which you may be able to deduct in a later income year".

7 At the end of section 36-1

Add:

Note: You may be able to utilise the tax loss in that or a later income year.

8 Subsection 36-15(1) (note)

After "Note", insert "1".

9 At the end of subsection 36-15(1)

Add:

Note 2: A tax loss can be deducted only to the extent that it has not already been utilised: see subsection 960-20(1).

10 Subsections 36-15(6) and (7)

Repeal the subsections (including the note).

11 At the end of subsection 36-17(1)

Add:

Note 1: A tax loss can be deducted under this section only to the extent that it has not already been utilised: see subsection 960-20(1).

Note 2: A corporate tax entity may also be able to carry a loss back to an earlier income year: see Division 160.

12 Subsections 36-17(8) and (9)

Repeal the subsections (including the note).

13 Paragraph 36-17(10)(a)

Omit "deduct", substitute "*utilise".

14 Paragraph 36-45(1)(b)

Omit "deducted", substitute "*utilised".

15 Section 65-10

Omit "using certain losses that are carried forward", substitute "utilising certain losses of earlier income years".

16 Subsection 102-10(2) (note)

Repeal the note.

17 Section 102-15

Repeal the section, substitute:

102-15 How to apply net capital losses

In working out if you have a *net capital gain, your *net capital losses are applied in the order in which you made them.

Note 1: A net capital loss can be applied only to the extent that it has not already been utilised: see subsection 960-20(1).

Note 2: For applying a net capital loss for the 1997-98 income year or an earlier income year, see section 102-15 of the *Income Tax (Transitional Provisions) Act 1997*.

18 Section 165-114 (note 1)

Repeal the note.

19 Section 165-114 (note 2)

Omit "Note 2", substitute "Note".

20 Paragraph 165-115R(3)(a)

Omit "an undeducted *tax loss or undeducted", substitute "a *tax loss or".

21 Paragraph 165-115R(3)(b)

Omit "an unapplied *net capital loss or unapplied", substitute "a *net capital loss or".

22 Paragraph 165-115R(4)(a)

Omit "an undeducted *tax loss or unapplied", substitute "a *tax loss or".

23 Subsection 170-20(2)

Omit "deduct", substitute "*utilise".

24 Subsection 170-45(1)

Repeal the subsection, substitute:

Loss company can only transfer what it cannot use itself

(1) The amount transferred cannot exceed what would be the amount of the *loss company's *unutilised *tax loss at the end of the

*deduction year if the loss company utilised the tax loss to the greatest extent possible.

25 Subsection 170-115(2)

Omit "apply", substitute "*utilise".

26 Subsection 170-145(1)

Omit "the amount of the loss company's *net capital loss that, apart from the transfer, the loss company would carry forward to the next income year after the application year", substitute "what would be the amount of the *loss company's *unutilised *net capital loss at the end of the application year if the loss company utilised the net capital loss to the greatest extent possible".

27 Subsection 170-145(1) (note)

Omit "loss company would carry forward the *whole* of the net capital loss", substitute "*whole* of the net capital loss would be unutilised".

28 Subdivision 707-A (heading)

Repeal the heading, substitute:

Subdivision 707-A—Transfer of losses to head company

29 Section 707-100

Omit "but not utilised".

30 Subsection 707-110(1)

Omit "(1)".

31 Subsection 707-110(2)

Repeal the subsection.

32 Subsection 707-115(1)

Omit "(1)".

33 Subsection 707-115(2)

Repeal the subsection.

34 Before Subdivision 960-C

Insert:

Subdivision 960-B—Utilisation of tax attributes

Table of sections

960-20 Utilisation

960-20 Utilisation

(1) None of the following can be *utilised, to the extent it has already been utilised:
  (a) a *tax loss;
  (b) a *net capital loss;
  (c) *net exempt income.

Utilisation of losses

(2) A *tax loss is ***utilised*** to the extent that:
  (a) it is deducted from an amount of assessable income or *net exempt income; or
  (b) it is reduced by applying a *total net forgiven amount; or
  (c) it is *carried back.

(3) A *net capital loss is ***utilised*** to the extent that:
  (a) it is applied to reduce an amount of *capital gains; or
  (b) it is reduced by applying a *total net forgiven amount.

Utilisation of net exempt income

(4) *Net exempt income for an income year is ***utilised*** to the extent that:
  (a) it is subtracted:
    (i) from deductions; or
    (ii) under subsection 268-60(4) in Schedule 2F to the *Income Tax Assessment Act 1936* or subsection 165-70(4) or 175-35(4) of this Act;

    in determining a *tax loss for the income year; or
  (b) because of it, the extent to which a tax loss can be deducted in that income year is reduced; or

(c) because of it, an amount is reduced under subsection 35-15(2) (about deferral of deductions from non-commercial business activities); or

(d) because of it, a quarantined amount is reduced under subsection 26-47(8); or

(e) it is reduced under subsection 65-35(3) because of a *tax offset carried forward; or

(f) because of it, an amount is reduced under step 2 of the method statement in subsection 160-15(2) (which is a step in calculating a loss carry back tax offset component).

35 Subsection 995-1(1)

Insert:

carry back: you ***carry back*** to an income year so much of a *tax loss for a later income year as you specify in a *loss carry back choice to be carried back to the earlier income year.

36 Subsection 995-1(1) (definition of *current year*)

Repeal the definition, substitute:

current year means the income year for which you are working out your assessable income, deductions and *tax offsets.

37 Subsection 995-1(1)

Insert:

loss carry back choice has the meaning given by section 160-20.

38 Subsection 995-1(1)

Insert:

loss carry back tax offset has the meaning given by section 160-10.

39 Subsection 995-1(1)

Insert:

loss carry back tax offset component has the meaning given by subsection 160-15(2).

40 Subsection 995-1(1)

Insert:

> ***unutilised*** means not *utilised.

41 Subsection 995-1(1) (definition of *utilise*)

Repeal the definition, substitute:

> ***utilise***, a *tax loss, a *net capital loss or *net exempt income, has the meaning given by section 960-20.

Income Tax (Transitional Provisions) Act 1997

42 Subdivision 707-A (heading)

Repeal the heading, substitute:

Subdivision 707-A—Transfer of losses to head company

43 Subsection 770-30(2) (note)

Omit "undeducted tax loss may be deducted", substitute "tax loss may be utilised".

Taxation Administration Act 1953

44 Paragraph 45-330(1)(c) in Schedule 1

Omit "you can carry it forward to the next income year", substitute "it is *unutilised at the end of the base year".

45 Subparagraph 45-330(2A)(c)(i) in Schedule 1

Omit "you can carry it forward to the next income year", substitute "it is *unutilised at the end of the base year".

46 Subsection 45-330(3) in Schedule 1 (paragraph (a) of step 3 of the method statement)

Omit "the company can carry them forward to the next income year", substitute "they are *unutilised at the end of the *base year".

47 Subsection 45-330(3) in Schedule 1 (paragraph (a) of step 6 of the method statement)

Omit "the company can carry them forward to the next income year", substitute "they are *unutilised at the end of the *base year".

48 Subsection 45-480(2) in Schedule 1 (paragraph (c) of the definition of *adjusted net income of the trust*)

Omit "can be carried forward for working out the trust's net income for the next income year", substitute "is *unutilised at the end of the *base year".

Part 2—Other amendments

Income Tax Assessment Act 1936

49 Subsection 92A(3)

After "Division 36", insert "or 160".

Income Tax Assessment Act 1997

50 Section 13-1 (after table item headed "long service leave")

Insert:

losses

loss carry back ..... Division 160

51 Section 36-25 (at the end of the table item dealing with tax losses of corporate tax entities)

Add:

See also Division 160 (loss carry back tax offset)

52 Section 36-25 (table dealing with tax losses of pooled development funds (PDFs), item 1)

Repeal the item, substitute:

1.	A company is a pooled development fund (PDF) at the end of an income year for which it has a tax loss: it can only: (a) deduct the loss while it is a PDF; or (b) carry back the loss to an income year in which it was a PDF.	Sections 195-5 and 195-37

53 Section 36-25 (table dealing with tax losses of pooled development funds (PDFs), item 2)

Omit "deducted in a later income year", substitute "utilised".

54 Section 36-25 (table dealing with tax losses of VCLPs, ESVCLPs, AFOFs and VCMPs, item 1)

Repeal the item, substitute:

1.	A limited partnership that has a tax loss becomes a VCLP, an ESVCLP, an AFOF or a VCMP: it cannot: (a) deduct the loss while it is a VCLP, an ESVCLP, an AFOF or a VCMP; or (b) carry back the loss to an income year in which it was not a VCLP, an ESVCLP, an AFOF or a VCMP.	Subdivision 195-B

55 At the end of paragraph 195-15(5)(b)

Add "and".

56 After paragraph 195-15(5)(b)

Insert:

(c) section 195-37 does *not* prevent the company from *carrying back its tax loss for the purpose of working out the amount of the company's *loss carry back tax offset for an income year;

57 At the end of Subdivision 195-A

Add:

Working out a PDF's loss carry back tax offset

195-37 PDF cannot carry back tax loss

A company that:

(a) has a *tax loss for an income year; and

(b) is a *PDF at the end of the income year;

cannot *carry back the loss to an earlier income year for the purposes of working out the amount of the company's *loss carry back tax offset for an income year (the ***offset year***) unless the company is a PDF throughout the earlier income year and the offset year.

58 After section 195-70

Insert:

195-72 Tax losses cannot be carried back to before ceasing to be a VCLP, an ESVCLP, an AFOF or a VCMP

A *limited partnership's *tax loss for a *loss year cannot be *carried back to an income year during which the partnership was a *VCLP, an *ESVCLP, an *AFOF or a *VCMP.

59 Subsection 205-30(1) (after table item 2)

Insert:

2A	the entity *receives a *tax offset refund; and the entity does not satisfy the *residency requirement for the income year to which the refund relates; and the entity was a *franking entity during the whole or part of the income year to which the refund relates; and the entity's *franking account is in *surplus on the day on which the refund is received	the lesser of: (a) that part of the refund that is attributable to the period during which the entity was a franking entity; and (b) the amount of the *franking surplus	on the day on which the refund is received

60 Subparagraph 205-35(1)(b)(ii)

After "applying", insert "a *loss carry back tax offset, or".

61 Subparagraph 205-35(1)(b)(ii)

After "(about R&D)", insert ",".

62 Subsection 219-30(1)

Omit "item 2", substitute "items 2 and 3".

63 Subsection 219-30(2) (at the end of the table)

Add:

3	the company *receives a *tax offset refund; and the company does not satisfy the *residency requirement for the income year to which the refund relates; and the company was a *franking entity for the whole or part of that income year; and the company's *franking account is in *surplus on the day on which the refund is received	the lesser of: (a) that part of the refund that is attributable to: (i) the *shareholders' share of the income tax liability of the company for that income year; and (ii) the period during which the company was a franking entity; and (b) the amount of the *franking surplus	on the day on which the refund is received

64 After paragraph 320-149(2)(a)

Insert:

(aa) Division 160 (Corporate loss carry back tax offset);

65 At the end of subsection 830-65(3)

Add "or 160".

Taxation Administration Act 1953

66 Section 45-340 in Schedule 1 (after paragraph (db) of step 1 of the method statement)

Insert:

(dc) Division 160 of the *Income Tax Assessment Act 1997* (the loss carry back tax offset);

Schedule 7—Miscellaneous amendments

Part 1—Resource rent taxation

Income Tax Assessment Act 1997

1 Subsections 721-10(4) and (5)

Repeal the subsections, substitute:

(4) The following only apply in relation to tax-related liabilities that are due and payable because a choice has been made, under section 215-10 of the *Minerals Resource Rent Tax Act 2012*, to apply Division 215 of that Act in relation to the *consolidated group:

(a) items 75, 80 and 85 of the table in subsection (2);

(b) items 40 and 65 of that table to the extent that it relates to tax-related liabilities to which the items referred to in paragraph (a) apply.

(5) The following only apply in relation to tax-related liabilities that are due and payable because a choice has been made, under section 58N of the *Petroleum Resource Rent Tax Assessment Act 1987*, to apply Division 8 of Part V of that Act in relation to the *consolidated group:

(a) items 95, 100, 105 and 110 of the table in subsection (2);

(b) items 40 and 65 of that table to the extent that they relate to tax-related liabilities to which the items referred to in paragraph (a) apply.

(6) Without limiting subsections (4) and (5), in the application of this section in relation to a *MEC group because of section 719-2, the items referred to in those subsections also apply in relation to tax-related liabilities of the *provisional head company of the MEC group.

2 Subsection 995-1(1)

Insert:

petroleum resource rent tax law means:

(a) the *Petroleum Resource Rent Tax Assessment Act 1987*; and

(b) any Act that imposes *petroleum resource rent tax; and
(c) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) and (b); and
(d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and
(e) regulations under an Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

3 Subsection 995-1(1)

Insert:

resource rent tax amount means any debt or credit that arises directly under the *resource rent tax provisions.

4 Subsection 995-1(1)

Insert:

resource rent tax provisions means:
(a) the *MRRT law; and
(b) the *petroleum resource rent tax law;
other than *BAS provisions.

Minerals Resource Rent Tax Act 2012

5 Subsection 30-25(7)

Repeal the subsection, substitute:

(7) Operations or activities are ***resource marketing operations***, for a mining project interest, to the extent that the operations or activities involve marketing, selling, shipping or delivering of:
(a) *taxable resources in relation to which a *mining revenue event mentioned in paragraph 30-15(1)(a) or (b) happens; or
(b) things produced using taxable resources in relation to which a mining revenue event mentioned in paragraph 30-15(1)(c) happens.

6 At the end of subsection 30-40(2)

Add:

Note: The amount of that mining expenditure is adjusted if an adjustment arises under Division 160 in relation to that mining expenditure: see subsection 160-15(5).

7 Section 30-55

Before "An amount", insert "(1)".

8 At the end of section 30-55

Add:

(2) However, subsection (1) does not apply if the only reason the amount does not relate to a particular *mining revenue event is that paragraph 30-20(2)(a) prevents the supply from being an *initial supply.

9 Subsection 35-5(1) (note)

Repeal the note, substitute:

Note: Most of the amounts are covered by this section. However, the following amounts may also be included in a miner's mining expenditure:

(a) amounts arising as a result of adjustments to take account of changes in circumstances (see Division 160);

(b) amounts arising as a result of changed use of starting base assets (see section 165-55).

10 Subsection 45-10(1) (formula)

Repeal the formula, substitute:

$$\left(\left(\left(\begin{array}{c}\$75\\ \text{million}\end{array} - \begin{array}{c}\text{Taper}\\ \text{amount}\end{array}\right) \times \frac{3}{2}\right) - \begin{array}{c}\text{Miner's group}\\ \text{MRRT}\\ \text{allowances}\end{array}\right) \times \begin{array}{c}\text{Miner's share}\\ \text{of group mining}\\ \text{profit}\end{array}$$

11 Subsection 45-10(2) (example)

Repeal the example, substitute:

Example: For the 2013-14 MRRT year, Pinder Mines Ltd has a total mining profit of $80 million, a group mining profit of $100 million, group MRRT allowances of $10 million and a taper amount of $50 million ($100 million - $50 million). The amount worked out using the formula in subsection (1) is $22 million:((($75 million - $50 million) × 3/2) - $10 million) × 4/5. Multiplying this amount by the MRRT rate gives Pinder Mines Ltd an offset for the year of $4.95 million.

12 Subsection 70-35(1) (note)

Repeal the note, substitute:

Note: Most of the amounts are covered by this Division. However, the following amounts may also be included in a miner's pre-mining expenditure:

(a) amounts arising as a result of adjustments to take account of changes in circumstances (see Division 160);

(b) amounts arising as a result of changed use of starting base assets (see section 165-55).

13 Subsection 80-25(1)

Omit "a mining project interest that a miner had at that time", substitute "the mining project interest".

14 Subparagraphs 80-25(3)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

(i) a valid choice has not been made under section 85-5 specifying the valuation approach for the mining project interest; or

(ii) a starting base assessment (within the meaning of subitem 15(3) of Schedule 4 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*) does not cover the property or right; or

(iii) immediately before 1 July 2012, the property or right was not *held by the *entity that, at that time, had the mining project interest (or held the *pre-mining project interest from which the mining project interest *originated); or

(iv) the property or right did not exist before 1 July 2012.

15 After subsection 80-25(3)

Insert:

(3A) For the purposes of subparagraphs (3)(b)(iii) and (iv), if:

(a) the asset is, or includes, the rights and interests that constitute the mining project interest; and

(b) the mining project interest did not exist immediately before 1 July 2012; and

(c) the mining project interest *originates from one or more *pre-mining project interests, or one or more parts of

pre-mining project interests, that existed immediately before 1 July 2012;

assume that the mining project interest is a continuation of the pre-mining project interest.

16 Subsection 80-40(1)

Omit "in which a *starting base loss arises", substitute "for which a *starting base loss arises".

17 Subsection 80-45(1) (paragraph (b) of the definition of *uplift factor*)

Repeal the paragraph, substitute:

(b) if, under Division 85, the market value approach is the valuation approach for the mining project interest:

$$\frac{\text{Sum of the *index numbers for the quarters in the year ending on 31 March just before the start of the relevant financial year}}{\text{Sum of the *index numbers for the quarters in the year ending on the previous 31 March}}$$

where:

relevant financial year is:

(i) if the *MRRT year is a *financial year—the MRRT year; or

(ii) if the MRRT year is not a financial year—the financial year corresponding to the MRRT year.

18 Paragraph 80-50(1)(b)

Omit "starting base losses for the mining project interest in the year", substitute "starting base losses for the mining project interest for the year".

19 At the end of subsection 90-25(1)

Add:

Note: Initial base values are separately assessed under Division 155 in Schedule 1 to the *Taxation Administration Act 1953*. Those assessed values are used in working out starting base allowances in all assessments of MRRT liabilities: see item 15 of Schedule 4 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*.

20 At the end of subsection 90-40(1)

Add:

Note 3: Initial base values are separately assessed under Division 155 in Schedule 1 to the *Taxation Administration Act 1953*. Those assessed values are used in working out starting base allowances in all assessments of MRRT liabilities: see item 15 of Schedule 4 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*.

21 Subsection 90-45(1)

Omit all the words after "assume that", substitute "the mining project interest is a continuation of the pre-mining project interest".

22 After subsection 90-45(1)

Insert:

(1A) Without limiting subsection (1), assume also that the *market value of the asset on 1 May 2010 was an amount equal to the market value, on that day, of the rights and interests that constitute the *pre-mining project interest or pre-mining project interests, or the part or parts, from which the mining project interest *originates.

23 Subsection 90-45(2)

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

24 After subsection 90-55(5)

Insert:

(5A) For the purposes of subsections (4) and (5), if:

(a) the asset is, or includes, the rights and interests that constitute the mining project interest; and

(b) the mining project interest did not exist on 1 May 2010; and

(c) the mining project interest *originates from one or more *pre-mining project interests, or one or more parts of pre-mining project interests, that existed just before 2 May 2010;

assume that the mining project interest is a continuation of the pre-mining project interest.

25 Subsection 90-65(5)

Repeal the subsection (including the note), substitute:

(5) However, if one or more of the following applies:

(a) there have been reductions to a *starting base loss relating to the *starting base asset, for that *MRRT year or an earlier MRRT year, under subsection 80-40(3) or (4);

(b) there have been reductions to a starting base loss relating to the asset, for that MRRT year or an earlier MRRT year, under paragraph 115-15(2)(b);

(c) there has been no starting base loss for that MRRT year, or no starting base loss for an earlier MRRT year, for the mining project interest to which the asset relates, because of paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) or (c);

the amount included in the miner's *mining revenue under subsection (4) is reduced by the following:

$$\text{Excess amount} \times \frac{\text{Sum of reductions}}{\text{Total decline}}$$

where:

excess amount is the amount of the excess mentioned in subsection (4).

sum of reductions is the sum of:

(a) any reductions to a *starting base loss relating to the *starting base asset, for that *MRRT year or an earlier MRRT year, under subsection 80-40(3) or (4); and

(b) any reductions to a starting base loss relating to the asset, for that MRRT year or an earlier MRRT year, under paragraph 115-15(2)(b); and

(c) any starting base losses, for that MRRT year or an earlier MRRT year, that paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) extinguished, or paragraph 200-5(c) prevented from arising, to the extent that they related (or would have related) to the asset.

total decline is the sum of the declines in value of the asset that have happened during that *MRRT year or any earlier MRRT year.

Note 1: Reductions happen under subsection 80-40(3) or (4) if the asset is used, installed for use, or constructed for use:

(a) for a purpose other than carrying on upstream mining operations relating to the mining project interest; or

(b) in connection with excluded expenditure.

Note 2: Starting base losses are reduced under paragraph 115-15(2)(b) if a miner chooses to treat a mining project interest as having combined with another despite non-compliance with section 115-35.

Note 3: Starting base losses are extinguished, or prevented from arising, if:

(a) under paragraph 115-15(2)(a), a miner chooses to treat a mining project interest as having combined with another despite non-compliance with section 115-35; or

(b) under paragraph 130-15(a) or (b), the suspension day for the mining project interest happens; or

(c) under paragraph 200-5(b) or (c), a miner chooses to use the simplified MRRT method.

26 Paragraph 95-20(2)(a)

Omit "has", substitute "*holds".

27 Subsection 95-25(1)

After "cannot be applied", insert "under that section".

28 Paragraphs 95-30(1)(a) and (2)(a)

Omit "entity", substitute "*entity".

29 Paragraph 115-15(2)(b)

Repeal the paragraph, substitute:

(b) the starting base loss for the combined interest for an *MRRT year is reduced by the amount of any declines in value, for the year, of *starting base assets that:

(i) relate to a constituent interest; and

(ii) do not comply with section 115-35.

30 At the end of section 115-15

Add:

(3) However, if:

(a) an existing pre-mining loss does not comply with section 115-25 because section 95-25 or 115-55 partly prevents the existing pre-mining loss from being applied in working out a *transferred pre-mining loss allowance; and

(b) there is no other reason why the loss does not comply with section 115-25;

the loss is extinguished under paragraph (2)(a) only to the extent that section 95-25 or 115-55 prevents the existing pre-mining loss from being so applied.

31 After paragraph 115-25(a)

Insert:

(aa) section 95-25 (cap on available pre-mining losses) does not wholly or partly prevent the existing pre-mining loss from being so applied; and

32 Paragraph 115-25(b)

After "section 115-55 does not", insert "wholly or partly".

33 Subsections 115-55(1) and (2)

Repeal the subsections, substitute:

(1) If:

(a) a *pre-mining loss relates to:

(i) a mining project interest other than the combined interest (or any of the constituent interests); or

(ii) a *pre-mining project interest; and

(b) the loss arose in relation to an *MRRT year preceding the combined interest coming into existence; and

(c) in relation to at least one of the constituent interests—section 95-25 (cap on available pre-mining losses) would have, to any extent, prevented the loss from being applied in working out a *transferred pre-mining loss allowance for the constituent interest for the year (if the combined interest had not existed);

the loss cannot be applied in working out a transferred pre-mining loss allowance for the combined interest for an MRRT year to the extent that that section would have prevented the loss from being so applied in working out transferred pre-mining loss allowances for all the constituent interests for the year (if the combined interest had not existed).

(2) If:

(a) a *pre-mining loss relates to the combined interest (or any of the constituent interests); and

(b) the loss arose in relation to an *MRRT year preceding the combined interest coming into existence; and

(c) in relation to at least one of the constituent interests—section 95-25 (cap on available pre-mining losses) would have, to any extent, prevented the loss from being applied in working out a *transferred pre-mining loss allowance for another mining project interest (other than the combined interest or any of the constituent interests) for the year if:

(i) the combined interest had not existed; and

(ii) the loss had related to the constituent interest;

the loss cannot be applied in working out a transferred pre-mining loss allowance for the other interest for an MRRT year to the extent that that section would have prevented the loss from being so applied in working out transferred pre-mining loss allowances for all the constituent interests for the year (if the combined interest had not existed).

34 At the end of subsection 120-10(4)

Add:

; (e) if the transfer happens because of the operation of section 120-25—the amount of the *pre-mining loss cap (if any) for the original interest.

35 Subsection 120-10(4) (note)

Repeal the note, substitute:

Note 1: Under section 120-25, the start of a mining venture may be taken to be a mining project transfer.

Note 2: If the original miner's MRRT year starts before the new miner's MRRT year, the effect of this provision is that amounts from before the start of the new miner's MRRT year are taken into account for the new miner in the new miner's MRRT year.

36 At the end of subsection 125-10(4)

Add:

; (e) if the new miner is the same *entity as the original miner—the amount of the *pre-mining loss cap (if any) for the original interest.

37 Subsection 125-10(4) (note)

Repeal the note, substitute:

Note 1: If the new miner is not the same entity as the original miner, a new pre-mining loss cap arises for the new interest under section 95-30.

Note 2: If the original miner's MRRT year starts before a new miner's MRRT year, the effect of this provision is that amounts from before the start of the new miner's MRRT year are taken into account for the new miner in the new miner's MRRT year.

38 Paragraph 140-10(2)(c)

Omit "does not apply", substitute "is taken to be satisfied".

39 At the end of subsection 145-15(2)

Add:

; (e) if the transfer happens because of the operation of section 145-30—the amount of the *pre-mining loss cap (if any) for the original interest.

40 Subsection 145-15(2) (note)

Repeal the note, substitute:

Note 1: Under section 145-30, a mining project interest originating from a pre-mining project interest may be taken to be a pre-mining project transfer.

Note 2: If the original explorer's MRRT year starts before the new explorer's MRRT year, the effect of this provision is that amounts from before the start of the new explorer's MRRT year are taken into account for the new explorer in the new explorer's MRRT year.

41 Subsection 145-20(2)

Omit "section 30-40", substitute "sections 30-40 and 70-40".

42 Subsection 145-20(3)

Omit "section 35-35", substitute "sections 35-35 and 70-35".

43 At the end of subsection 150-15(2)

Add:

; (e) if the new explorer is the same *entity as the original explorer—the amount of the *pre-mining loss cap (if any) for the original interest.

Note: If the new explorer is not the same entity as the original explorer, a new pre-mining loss cap arises for the new interest under section 95-30.

44 Subsection 150-15(4) (heading)

Repeal the heading, substitute:

Exception for new explorer that is the same entity as original explorer

45 Subsection 150-20(2)

Omit "section 30-40", substitute "sections 30-40 and 70-40".

46 Subsection 150-20(3)

Omit "section 35-35", substitute "sections 35-35 and 70-35".

47 Subsection 150-30(2) (note 2)

Omit "mining project transfer", substitute "pre-mining project transfer".

48 Subsection 155-10(3)

Repeal the subsection, substitute:

(3) In determining, for the purposes of subsection (2), whether an additional area is insignificant, assume that the additional area includes any other such additional areas that have been included in the *project area for the *pre-mining project interest because of a previous application of that subsection.

49 At the end of section 160-15

Add:

(5) If this Division has given rise to a mining adjustment in relation to an original amount of *mining expenditure to which subsection 30-40(2) applies, that subsection has effect as if:
  (a) the adjustment mentioned in column 3 of the table in subsection (1) of this section had not been made; and
  (b) the original amount had instead been increased or decreased (as the case requires) as mentioned in column 2 of that table by the amount of the adjustment.

(6) If this Division has given rise to a mining adjustment in relation to an original amount of *pre-mining expenditure to which paragraph 70-40(2)(b) applies, and to which subsection 30-40(2) would have applied if the pre-mining expenditure had been mining

expenditure for a mining project interest, that paragraph has effect as if:

(a) the adjustment mentioned in column 3 of the table in subsection (1) of this section had not been made; and

(b) the original amount had instead been increased or decreased (as the case requires) as mentioned in column 2 of that table by the amount of the adjustment.

50 Subsection 165-15(1)

Repeal the subsection, substitute:

(1) If there is a *starting base adjustment amount, for a *starting base asset for an *MRRT year, and:

(a) an amount of a *starting base loss for that MRRT year or any earlier MRRT year has been reduced because of a reduction under subsection 80-40(3) or (4) relating to the asset; or

(b) there have been reductions to a starting base loss relating to the asset, for that MRRT year or an earlier MRRT year, because of paragraph 115-15(2)(b); or

(c) there has been no starting base loss for that MRRT year, or no starting base loss for an earlier MRRT year, for the mining project interest to which the asset relates, because of paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) or (c);

reduce the starting base adjustment amount in accordance with subsection (2).

Note 1: Reductions happen under subsection 80-40(3) or (4) if the asset is used, installed for use, or constructed for use:

(a) for a purpose other than carrying on upstream mining operations relating to the mining project interest; or

(b) in connection with excluded expenditure.

Note 2: Starting base losses are reduced under paragraph 115-15(2)(b) if a miner chooses to treat a mining project interest as having combined with another despite non-compliance with section 115-35.

Note 3: Starting base losses are extinguished, or prevented from arising, if:

(a) under paragraph 115-15(2)(a), a miner chooses to treat a mining project interest as having combined with another despite non-compliance with section 115-35; or

(b) under paragraph 130-15(a) or (b), the suspension day for the mining project interest happens; or

(c) under paragraph 200-5(b) or (c), a miner chooses to use the simplified MRRT method.

51 Subsection 165-15(2) (definition of *sum of reductions*)

Repeal the definition, substitute:

sum of reductions is the sum of:

(a) any reductions to a *starting base loss relating to the *starting base asset, for that *MRRT year or an earlier MRRT year, under subsection 80-40(3) or (4); and

(b) any reductions to a starting base loss relating to the asset, for that MRRT year or an earlier MRRT year, under paragraph 115-15(2)(b); and

(c) any starting base losses, for that MRRT year or an earlier MRRT year, that paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) extinguished, or paragraph 200-5(c) prevented from arising, to the extent that they related (or would have related) to the asset.

52 Subsections 165-25(3) and 165-30(1)

After "the starting base adjustment", insert "(expressed as a positive amount)".

53 Paragraph 165-30(2)(c)

After "the starting base adjustment", insert "(expressed as a positive amount)".

54 Subsection 165-30(2)

After "the starting base adjustment" (last occurring), insert "(expressed as a positive amount)".

55 Paragraph 175-15(1)(b)

Repeal the paragraph, substitute:

(b) have reached, during the MRRT year, the form in which the resources are intended to be:

(i) supplied or exported as mentioned in paragraph 30-15(1)(a) or (b); or

(ii) used to produce something, but not after having been supplied or exported as mentioned in paragraph 30-15(1)(a) or (b).

56 Subsection 180-5(1)

After "*starting base assets", insert "(and all property or rights that are expected to be starting base assets after the time mentioned in subsection 80-25(2))".

57 Section 190-1

Omit "a miner", substitute "an entity".

58 Section 190-1

Omit "a miner's", substitute "an entity's".

59 Section 190-5

Omit "miners", substitute "*entities".

60 Section 190-10

Omit "a miner", substitute "an *entity".

61 Subsection 190-15(1)

Omit "a miner's", substitute "an *entity's".

62 Subsection 190-15(2) (example)

Omit "A miner", substitute "An entity".

63 Subsection 190-15(3) (example)

Omit "A miner", substitute "An entity".

64 Subsection 190-15(4) (example)

Omit "A miner", substitute "An entity".

65 Subsection 190-20(2) (example)

Omit "$6.26 million", substitute "$7.97 million".

66 Subsection 190-20(2) (example)

Omit "$2.06 million", substitute "$2.62 million".

67 Subsection 190-20(2) (example)

Omit "$3.57 million", substitute "$3.01 million".

68 After subsection 200-15(1)

Insert:

(1A) For the purposes of subsection (1), assume that, during the whole of the *MRRT year, the entity has a particular mining project interest to the extent (if any) that the entity has the interest immediately before the end of the year.

Example: If, during the MRRT year, a mining project interest that the entity had at the start of the year was subject to a mining project split with another entity (and they retained their new interests for the rest of the year), the entity's profit under subsection (1) is worked out as if the entity's split percentage applied for the whole year.

If the other entity's profit under subsection (1) is relevant, it is worked out as if the other entity's split percentage applied for the whole year.

69 Subsection 215-10(2)

Omit "or 719-76", substitute ", 719-76 or 719-78".

70 Subsections 255-20(1) and (2)

Omit "paragraphs 255-10(1)(a) to (d)", substitute "paragraphs 255-10(a) to (d)".

71 Section 300-1 (definition of *MRRT year*)

Repeal the definition, substitute:

MRRT year has the meaning given by sections 10-25, 190-10 and 190-15.

Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012

72 After item 1 of Schedule 4

Insert:

1A Administration of this Schedule

The Commissioner has the general administration of this Schedule.

73 Paragraph 10(a) of Schedule 4

Omit "a miner", substitute "an entity".

74 At the end of subitem 15(1) of Schedule 4

Add:

; and (c) the Commissioner were the recipient mentioned in column 2 of that table in relation to that starting base return.

75 At the end of item 15 of Schedule 4

Add:

(3) Without limiting subitem (1), from the first time an assessment (a ***general assessment***) is made of the MRRT payable by an entity for an MRRT year (or that no MRRT is payable by the entity for the year):

(a) an assessment (a ***starting base assessment***) that the Commissioner is treated as having made because of subsection 155-15(1) in Schedule 1 to the *Taxation Administration Act 1953* in relation to that base value is taken, for the purposes of this Act, to form part of the general assessment; and

(b) any objection against the general assessment under section 155-90 in Schedule 1 to that Act must not relate to matters to which the starting base assessment relates; and

(c) any amendment of the general assessment under Subdivision 155-B in that Schedule must not relate to matters to which the starting base assessment relates, except to the extent necessary to give effect to the starting base assessment (including the starting base assessment as amended).

(4) Without limiting sections 155-45 to 155-60 in Schedule 1 to that Act, the Commissioner may amend a general assessment at any time to the extent necessary to give effect to the starting base assessment (including the starting base assessment as amended).

Petroleum Resource Rent Tax Assessment Act 1987

76 Title

Omit "**relating to the assessment and collection of the tax imposed by the *Petroleum Resource Rent Tax Act 1987***", substitute "**about petroleum resource rent tax**".

77 Section 2 (definition of *acquisition*)

Repeal the definition, substitute:

acquisition:

(a) in clauses 18 and 19 of Schedule 2—has the meaning given by subclauses 18(7) and (8) of that Schedule; and
(b) otherwise—has the meaning given by section 195-1 of the GST Act.

78 Section 2 (definition of *created*)

Repeal the definition, substitute:

created, in relation to a consolidated group or a MEC group, has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

79 Section 2

Insert:

notional tax amount has the meaning given by section 97.

80 Subsections 4A(1) and (3)

Omit "in relation to" (first occurring), substitute "in, or in relation to,".

81 Paragraphs 4A(3)(b) and (c)

Repeal the paragraphs, substitute:

(b) if the time is a time before the project combination certificate came into force:
  (i) any production licence areas in relation to pre-combination projects relating to the combined project; or
  (ii) any pre-licence areas in relation to any of those pre-combination projects.

82 Subsection 4A(4)

Omit "in relation to" (first occurring), substitute "in, or in relation to,".

83 Subsection 4A(4)

After "recovered from", insert "any of".

84 Sections 4B and 4C

Omit "in relation to", substitute "in, or in relation to,".

85 Subsection 10(4) (heading)

Repeal the heading, substitute:

Translation rule—eligible real expenditure

86 Paragraph 10(4)(a)

Omit "deductible expenditure", substitute "eligible real expenditure".

87 Subparagraph 20(2)(a)(iii)

Repeal the subparagraph, substitute:

(iii) if the licence relates to an onshore petroleum project and was granted on or after 1 July 2012—the start of 1 January 2013;

(iv) if the licence relates to an onshore petroleum project and was granted before 1 July 2012—the start of 1 July 2013; or

88 Subsection 35C(5)

Omit "subsection (1), (2) or (3)", substitute "subsection (1) or (2)".

89 After subsection 35E(1)

Insert:

(1A) However, if:

(a) the petroleum project is the North West Shelf project; and

(b) in the starting base financial year for the project or in a later financial year, a production licence relating to the project comes into existence; and

(c) the production licence is derived from an exploration permit, or a retention lease, that existed at the start of 1 July 2012;

subsection (1) has effect as if the starting base expenditure incurred by the person in that financial year in relation to the project includes an amount equal to the person's starting base expenditure in that financial year in relation to the petroleum project that would, but for subsection 19(1B), relate to that production licence.

(1B) For the purposes of this Act, starting base expenditure incurred by a person in the starting base financial year is taken to be incurred on the first day of the starting base financial year.

90 Subsection 35E(4)

Omit "The reference in paragraph (1)(a) to the starting base financial year for a petroleum project is a reference to", substitute "References in paragraph (1)(a) and subsections (1A) and (1B) to the starting base financial year for a petroleum project are references to".

91 Subsection 41(2)

Repeal the subsection, substitute:

(2) This section does not apply if the other person carries on or provides the operations, facilities or other things as part of the processing of:

(a) internal petroleum in relation to the petroleum project; or

(b) external petroleum in relation to a petroleum project other than the project to which the operations, facilities or other things referred to in subsection (1) relate.

92 Paragraph 45(2)(b)

Repeal the paragraph, substitute:

(b) if paragraph (a) does not apply—at any time on or after 2 May 2010, including a time before the project commences or after the project ceases.

93 Subsection 45(5) (table item 2)

Omit "the day on which that acquisition occurred", substitute "the day, on or after 1 July 2007, on which the person first commenced to hold the interest, or was acquired, as the case requires".

94 At the end of section 45

Add:

Transferred expenditure relating to onshore petroleum projects or the North West Shelf project

(8) To avoid doubt, eligible real expenditure that a person may incur in relation to an onshore petroleum project, or the North West Shelf project, may include expenditure that a person is taken to have incurred in relation to the project, before or after the commencement of this section, because of section 48 or 48A.

(9) However, if the person is taken to have incurred the expenditure because of the application of section 48 or 48A in relation to a

transaction entered into before 1 July 2012, subsection 48(3) or 48A(11) (as the case requires) does not apply in relation to the transaction.

95 Subparagraph 48(1)(a)(ib)

Omit "does not apply in relation to the financial year in which the transaction is or was entered into", substitute "did not apply immediately before the transfer time".

96 Subsection 48(3)

Omit "later", substitute "latest".

97 At the end of subsection 48(3)

Add:

; (c) if the project is an onshore petroleum project, or the North West Shelf project, and the transaction was entered into between 1 July 2012 and 30 June 2013—31 August 2013.

98 Subparagraph 48A(5)(ca)(i)

Repeal the subparagraph, substitute:

(i) section 35E did not apply immediately before the transfer time; and

99 Subsection 48A(11)

Omit "later", substitute "latest".

100 At the end of subsection 48A(11)

Add:

; (c) if the project is an onshore petroleum project, or the North West Shelf project, and the transaction time occurred between 1 July 2012 and 30 June 2013—31 August 2013.

101 Subsection 57(3)

Omit "subparagraph 24(1)(d)(i)", substitute "paragraph 24(1)(d)".

102 Subsections 58B(1), (4), (5) and (6), 58C(1) and (2) and 58D(1)

Omit "year of tax" (wherever occurring), substitute "financial year".

103 Section 58F (heading)

Repeal the heading, substitute:

58F Translation rule—eligible real expenditure

104 Paragraph 58F(a)

Omit "deductible expenditure", substitute "eligible real expenditure".

105 Subsections 58J(1) and (3)

Omit "year of tax" (wherever occurring), substitute "financial year".

106 Paragraphs 58J(4)(b) and (c)

Omit "years of tax", substitute "financial years".

107 Subsection 58J(4)

Omit "year of tax", substitute "financial year".

108 Paragraphs 58J(5)(b) and (c)

Omit "years of tax", substitute "financial years".

109 Subsection 58J(5)

Omit "year of tax", substitute "financial year".

110 Subsections 58J(6), (7), (8), (9), (10) and (11)

Omit "year of tax" (wherever occurring), substitute "financial year".

111 Subsection 58K(1) (heading)

Repeal the heading, substitute:

Certain expenditure incurred on the day when section 58B election takes effect

112 Paragraphs 58K(1)(a) and (b)

Omit "year of tax" (wherever occurring), substitute "financial year".

113 Paragraph 58K(1)(b)

Omit "and".

114 After subparagraph 58K(1)(b)(iii)

Insert:

(iv) under subsection 35C(5), an amount is taken to be resource tax expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;

(v) under subsection 35D(3) or (4), an amount is taken to be acquired exploration expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;

(vi) under subsections 35E(1) and (1B), or under subsection 35E(3), an amount is taken to be starting base expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;

(vii) under Division 1 of Part 3 of Schedule 2, an amount is the starting base amount that the person has in relation to an interest in a petroleum project; and

115 Subsections 58K(2) and 58L(1) and (4)

Omit "year of tax" (wherever occurring), substitute "financial year".

116 Subsection 58M(1) (heading)

Repeal the heading, substitute:

Certain expenditure incurred on the day when section 58B election takes effect

117 Paragraphs 58M(1)(a), (b) and (c)

Omit "year of tax" (wherever occurring), substitute "financial year".

118 Paragraph 58M(1)(c)

Omit "and".

119 After subparagraph 58M(1)(c)(iii)

Insert:

(iv) under subsection 35C(5), an amount is taken to be resource tax expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;

(v) under subsection 35D(3) or (4), an amount is taken to be acquired exploration expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;

(vi) under subsections 35E(1) and (1B), or under subsection 35E(3), an amount is taken to be starting base expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;

(vii) under Division 1 of Part 3 of Schedule 2, an amount is the starting base amount that the person has in relation to an interest in a petroleum project; and

120 Subsection 58M(1)

Omit "year of tax" (last occurring), substitute "financial year".

121 Subsection 58M(2)

Omit "year of tax" (wherever occurring), substitute "financial year".

122 Subsection 58N(2)

Omit "or 719-76", substitute ", 719-76 or 719-78".

123 Section 58P

Repeal the section, substitute:

58P Single entity rule

(1) If a person:

(a) is a subsidiary member of the consolidated group or MEC group for any period in which the choice is in effect; and

(b) holds an interest in an onshore petroleum project;

the person and any other subsidiary member of the group that holds an interest in the project are taken, for the purposes covered by subsection (2), to be parts of the head company or provisional head company of the group, rather than separate persons, during that period.

Note: Despite the single entity rule, a subsidiary member of the group is jointly and severally liable for a liability of the head company: see section 721-10 of the *Income Tax Assessment Act 1997*.

(2) The purposes covered by this subsection are:

(a) working out, for the purposes of this Act, the head company's or provisional head company's interests, and any subsidiary member's interests, in onshore petroleum projects for any financial year in which any of the period occurs or any later financial year; and

(b) working out any tax that is payable in relation to such an interest for any such financial year; and

(c) working out assessable receipts and deductible expenditure arising in relation to such an interest for any such financial year; and

(d) working out the head company's or provisional head company's notional tax amount, and any subsidiary member's notional tax amount, in relation to an instalment period in any such financial year; and

(e) working out excess closing-down expenditure arising in relation to such an interest.

Examples: The following are some examples of consequences of the single entity rule:

(a) a subsidiary member's interest in an onshore petroleum project becomes a part of the head company's or provisional head company's aggregated interest in the project;

(b) a subsidiary member's assessable receipts and deductible expenditure relating to the interest are inherited by the head company or provisional head company along with the interest;

(c) a subsidiary member's liability to pay tax in relation to a period before becoming a member of the group (and any interest charges associated with such a liability) remains a liability of the subsidiary member and does not become a liability of the head company or provisional head company.

124 Section 58Q

Omit all the words after "section 48 applies", substitute:

as if, at that time:

(a) each of the person's interests in onshore petroleum projects just before that time had been transferred to the head company or provisional head company; and

(b) the head company or provisional head company had given the consideration referred to in paragraph 48(1A)(c).

125 Subsection 58R(1)

After “as if”, insert “, at that time,”.

126 At the end of subsection 58R(1)

Add “, and as if the person had given the consideration referred to in paragraph 48(1A)(c)”.

127 Subsection 58R(2)

After “as if”, insert “, at that time,”.

128 At the end of subsection 58R(2)

Add “, and as if the person had given the consideration referred to in paragraph 48A(11)(b)”.

129 After section 58R

Insert:

58RA Interests taken to be transferred when combined with offshore interests

(1) If:

(a) after a person’s interest in an onshore petroleum project is taken to be transferred to the head company or provisional head company, the project becomes part of a combined project of which another petroleum project that is not an onshore petroleum project is also a part; and

(b) the entitlement comprising the person’s interest in the project just after that time is all of the entitlement comprising the company’s interest in the project just before that time;

section 48 applies as if, at that time, the person’s interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48(1A), and as if the person had given the consideration referred to in paragraph 48(1A)(c).

(2) If:

(a) after a person’s interest in an onshore petroleum project is taken to be transferred to the head company or provisional head company, the project becomes part of a combined project of which another petroleum project that is not an onshore petroleum project is also a part; and

(b) the entitlement comprising the person's interest in the project just after that time is part, but not all, of the entitlement comprising the company's interest in the project just before that time;

section 48A applies as if, at that time, the person's interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48A(1), and as if the person had given the consideration referred to in paragraph 48A(11)(b).

130 Subparagraph 58U(1)(a)(i)

Omit "*MEC group", substitute "MEC group".

131 Subparagraph 58U(1)(b)(i)

Omit "*provisional head company of a *MEC group", substitute "provisional head company of a MEC group".

132 Paragraph 58V(1)(a)

Omit "*MEC group", substitute "MEC group".

133 At the end of section 58V

Add:

(3) If this section applies because a MEC group is created from a consolidated group, references in paragraph (2)(c) to the head company of the new group are taken to be references to the head company or the provisional head company of the new group.

134 At the end of Division 8 of Part V

Add:

58W Subsidiary members that are trusts

If a subsidiary member of a consolidated group or MEC group is a trust, this Division applies to the subsidiary member as if it were a person.

135 Subsection 93(1)

After "sections", insert "58P,".

136 Paragraph 97(1A)(b)

After "35(3)", insert ", 35C(5), 35D(3) and (4), 35E(3)".

137 Subsection 97(1AA)

Omit "subparagraph 24(1)(d)(i) or paragraph 24(1)(e)", substitute "paragraph 24(1)(d), (e) or (f)".

138 After section 108

Insert:

108A Offshore information notices

For the purposes of this Act, section 264A (about offshore information notices) of the *Income Tax Assessment Act 1936* applies as if:

(a) a reference to a taxpayer in that section were a reference to a person; and

(b) a reference to an assessment in that section were a reference to an assessment under Division 2 of Part VI of this Act; and

(c) a reference to the *Income Tax Assessment Act 1936* in that section were a reference to this Act.

139 At the end of section 109

Add:

(5) This section does not apply to a trustee of a trust in relation to any period during which the trust:

(a) is a subsidiary member of a consolidated group or a MEC group; and

(b) is taken, under section 58P, to be part of the head company or provisional head company of the group for the purposes covered by subsection 58P(2).

140 Clause 1 of Schedule 1 (paragraph (b) of the definition of *relevant pre-commencement day*)

Omit ", the Bass Strait project or the North West Shelf project".

141 Clause 1 of Schedule 1 (at the end of the definition of *relevant pre-commencement day*)

Add:

; or (c) if the petroleum project is the Bass Strait project or the North West Shelf project—the day occurring 5 years before the earlier of the following:

(i) the earliest day specified in a production licence notice in relation to the project;

(ii) the earliest day a production licence was issued in relation to the project.

142 At the end of clause 22 of Schedule 1

Add:

(5) For the purposes of subclause (1) but without limiting that subclause, the person is taken to hold an interest in relation to the transferring entity or the receiving project during a period if:

(a) in relation to all times during the period, the person and another person are group companies in relation to each other; and

(b) at all times during the period, the other person held an interest in relation to the transferring entity or the receiving project, as the case requires.

However, this subclause does not apply unless, at the time of the transfer referred to in subclause (1), the person holds an interest in both the transferring entity and the receiving project.

143 After subclause 31(2) of Schedule 1

Insert:

(2A) If:

(a) at a time (the ***cessation time***) after the expenditure was incurred and on or after 1 July 1993, the loss company ceased to hold any interest in relation to the transferring entity; and

(b) the cessation did not occur because of a transaction to which section 48 applies;

subclause (1) does not require the loss company to have held an interest in relation to the transferring entity at a time after the cessation time.

144 Paragraph 3(1)(b) of Schedule 2

Repeal the paragraph, substitute:

(b) an interest that the person may in the future hold in such a project, if:
  (i) the project does not exist at the time the person makes the choice; and
  (ii) the production licence to which the project would relate would, if it later came into existence, be derived from an exploration permit or retention lease in which the person held an interest at that time.

145 Paragraph 5(b) of Schedule 2

Omit "from which the interest is derived", substitute "from which the production licence to which the project relates is derived".

146 Paragraph 7(3)(b) of Schedule 2

Omit "from which the project is derived", substitute "from which the production licence to which the project relates is derived".

147 Subclause 7(3) of Schedule 2 (note)

Omit "subsection", substitute "subclause".

148 Subparagraph 10(1)(a)(ii) of Schedule 2

Omit "project (or pre-combination project)", substitute "production licence".

149 Subparagraph 10(2)(b)(i) of Schedule 2

Omit "section 3", substitute "clause 3".

150 Subclause 10(3) of Schedule 2

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

151 Subclause 10(4) of Schedule 2

Repeal the subclause, substitute:

(4) Despite subclause (1), something cannot become a starting base asset relating to an interest in a petroleum project that relates to a particular production licence if:
  (a) the production licence is derived from a particular retention lease or exploration permit; and

(b) the thing has already become a starting base asset relating to an interest in another petroleum project; and

(c) the production licence to which the other project relates:

(i) came into force between 2 May 2010 and 30 June 2012; and

(ii) is derived from that retention lease or exploration permit.

(4A) Despite subclause (1), something cannot become a starting base asset relating to an interest in a petroleum project that relates to a particular production licence if:

(a) the production licence is derived from a particular exploration permit; and

(b) a retention lease that is related to the exploration permit came into force between 2 May 2010 and 30 June 2012; and

(c) the production licence is not derived from the retention lease.

Note: For the relationship between production licences, exploration permits and retention leases, see section 4.

152 Paragraph 15(5)(b) of Schedule 2

Omit "from which the project is derived", substitute "from which the production licence to which the project relates is derived".

153 Subclause 18(1) of Schedule 2

Omit "incurred by the person referred to in paragraph (b)".

154 Subclauses 18(3), (4) and (5) of Schedule 2

Omit "incurred by the person".

155 After subclause 18(5) of Schedule 2

Insert:

(5A) For the purposes of subclause (1), if the person disposed of part of the interest during the period between 1 July 2007 and 2 May 2010:

(a) the acquisition is taken to be an acquisition of so much (the ***remaining part***) of the interest as the person holds immediately after the last such partial disposal to take place during that period; and

(b) the acquisition expenditure is taken to be so much of the expenditure referred to in paragraph (2)(a) or (b) as is attributable to the remaining part of the interest.

156 Subclause 18(6) of Schedule 2 (heading)

Repeal the heading, substitute:

Interests acquired before 1 July 2007

157 Paragraphs 18(6)(a) and (b)

Omit "30 June 2007", substitute "1 July 2007".

158 Subclause 18(7) of Schedule 2

Repeal the subclause (not including the heading), substitute:

(7) For the purposes of this clause and clause 19:

(a) the person holding an interest in an onshore petroleum project or the North West Shelf project is taken to have acquired the interest if and only if:

(i) in a case where the project existed on 2 May 2010—the person purchased the interest; or

(ii) in a case where the project did not exist on 2 May 2010—the person purchased the exploration permit or retention lease from which the production licence to which the project relates is derived, or purchased an interest in the exploration permit or retention lease; and

(b) the acquisition is taken to have occurred when the transaction was first entered into that, when complete, had the effect of transferring the interest, or the permit or lease; and

(c) except for the purposes of subclause (6) of this clause, the acquisition expenditure relating to the acquisition includes any expenditure the person incurred, at any time, in acquiring the interest:

(i) during the period between 1 July 2007 and 2 May 2010; or

(ii) under an agreement entered into during the period between 1 July 2007 and 2 May 2010.

159 Subparagraph 18(8)(b)(i) of Schedule 2

Repeal the subparagraph, substitute:

(i) the transaction that, when complete, had the effect of the first company becoming a subsidiary of the other company; or

160 Paragraph 18(8)(c) of Schedule 2

After "incurred", insert ", at any time,".

161 Paragraph 19(1)(b) of Schedule 2

Repeal the paragraph, substitute:

(b) during the period between 1 July 2007 and 2 May 2010, either or both of the following events occurred:

(i) a person acquired the interest;

(ii) if the person holding the interest is a company—the person was acquired by another company; and

162 Paragraph 19(2)(b) of Schedule 2

Repeal the paragraph, substitute:

(b) it was prepared in accordance with:

(i) the accounting standards (within the meaning of the *Corporations Act 2001*); or

(ii) International Financial Reporting Standard 6, or another international financial reporting standard prescribed by the regulations; and

163 Paragraph 19(2)(c) of Schedule 2

Omit "the day of the acquisition", substitute "the day on which the acquisition of the interest, or the acquisition of the company, was recognised in accordance with those accounting standards or that reporting standard".

164 At the end of Part 4 of Schedule 2

Add:

21A Assessable property receipts

(1) Without limiting section 27, if:

(a) on or after 1 July 2012, consideration is receivable by a person in respect of the disposal, loss or destruction of an asset; and

(b) the asset was used, or being constructed for use, before 1 July 2012 in carrying on project activities relating to an onshore petroleum project or the North West Shelf project;

the disposal, loss or destruction is taken, for the purposes of that section, to be a disposal, loss or destruction of property in respect of which capital expenditure of the kind referred to in paragraph 27(1)(a) was incurred by the person.

(2) However, if the asset was used, or being constructed for use, before 1 July 2012 only partly in carrying on project activities relating to the project, subclause (1) applies to the disposal, loss or destruction only to the extent that the asset was so used, or being constructed for use.

165 Paragraph 23(4)(b) of Schedule 2

Omit "section 66", substitute "subsection 66(1)".

166 After subclause 23(5) of Schedule 2

Insert:

(5A) If:

(a) section 48 or 48A applies in relation to a transaction that has the effect of transferring a person's entitlement to derive, after the transaction, assessable receipts in relation to a petroleum project; and

(b) the person is a vendor (within the meaning of section 48 or 48A) in relation to the transaction; and

(c) before the transaction, a starting base assessment relating to the project was taken (under subclause (1) or (5B) of this clause) to have been made relating to the person;

after the transaction, subclauses (4) and (5) of this clause apply, in relation to a person who is a purchaser (within the meaning of section 48 or 48A) in relation to the transaction, and cease to apply in relation to the vendor, to the extent that the transaction had the effect of transferring that entitlement to the purchaser.

(5B) To the extent that subclauses (4) and (5) apply because of subclause (5A), the starting base assessment is taken to have been made relating to the purchaser, and not the vendor.

Taxation Administration Act 1953

167 Paragraph 8AAZLG(1)(b)

Repeal the paragraph, substitute:

(b) that the entity is required to give the Commissioner under:

(i) any of the BAS provisions (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*); or

(ii) any of the resource rent tax provisions (as defined in that subsection).

168 Subsection 8AAZLH(1)

Repeal the subsection, substitute:

(1) This section applies to refunds payable to an entity of RBA surpluses, or excess non-RBA credits that relate to an RBA, if primary tax debts arising under:

(a) any of the BAS provisions (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*); or

(b) any of the resource rent tax provisions (as defined in that subsection);

have been allocated to that RBA.

169 Application of subsection 8AAZLH(2)

For the purposes of applying section 8AAZLH of the *Taxation Administration Act 1953* in relation to amounts that have been allocated to an RBA in relation to primary tax debts arising under any of the resource rent tax provisions (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*), if:

(a) an entity has not nominated a financial institution account in the approved form as required by subsection 8AAZLH(2) of the *Taxation Administration Act 1953*; and

(b) the Commissioner has information, given to the Commissioner before the commencement of this item, relating to a financial institution account into which refunds may be paid to an entity;

the Commissioner may treat the information as information given by the entity in that approved form.

170 Section 14ZQ

Insert:

starting base assessment means:

(a) a starting base assessment within the meaning of clause 23 of Schedule 2 to the *Petroleum Resource Rent Tax Assessment Act 1987*; or

(b) a starting base assessment within the meaning of subitem 15(3) of Schedule 4 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*.

171 Subparagraphs 14ZZK(b)(i) and (ii) and 14ZZO(b)(i) and (ii)

After "franking assessment", insert "or a starting base assessment".

172 At the end of section 11-1 in Schedule 1

Add:

; and (h) *petroleum resource rent tax.

173 Paragraphs 12-330(1)(b) and 12-335(2)(a) in Schedule 1

Omit "or *MRRT", substitute ",*MRRT or *petroleum resource rent tax".

174 Subsection 18-10(3) in Schedule 1 (note)

Repeal the note, substitute:

Note 1: Section 18-49 provides a credit for amounts withheld in respect of MRRT.

Note 2: Section 18-55 provides a credit for amounts withheld in respect of petroleum resource rent tax.

175 At the end of Subdivision 18-A in Schedule 1

Add:

Entitlement to credit: Petroleum resource rent tax

18-55 Credit—Natural resource payments

(1) An entity is entitled to a credit in a year of tax (within the meaning of the *Petroleum Resource Rent Tax Assessment Act 1987*) if:

(a) one or more *withholding payments covered by section 12-325 (natural resource payments) from which there are *amounts withheld in respect of *petroleum resource rent tax are made to the entity during the year of tax; and

(b) an assessment has been made of the petroleum resource rent tax payable, or an assessment has been made that no petroleum resource rent tax is payable, by the entity for the year of tax.

(2) The amount of the credit is so much of the total of the *amounts withheld as is withheld in respect of *petroleum resource rent tax.

176 Section 115-1 in Schedule 1

After "mining revenue", insert "or pre-mining revenue".

177 At the end of section 117-20 in Schedule 1

Add:

(6) In addition to the *starting base return required under subsection (1) (and the *MRRT returns required under section 117-5 or 117-15), you must give the Commissioner such further or fuller starting base returns as the Commissioner directs you to give (including any starting base return in your capacity as agent or trustee).

178 Paragraph 284-75(2)(a) in Schedule 1

After "the *MRRT law", insert "or *petroleum resource rent tax law".

179 Paragraph 284-75(2)(b) in Schedule 1

After "the MRRT law", insert "or petroleum resource rent tax law".

180 Subsection 284-80(1) in Schedule 1 (table item 3)

Omit ", or the *MRRT law,", substitute ", the *MRRT law or the *petroleum resource rent tax law".

181 Subsection 284-80(1) in Schedule 1 (table item 4)

Omit “, or the *MRRT law,” (first occurring), substitute “, the *MRRT law or the *petroleum resource rent tax law”.

182 Subsection 284-80(1) in Schedule 1 (table item 4)

Omit “*income tax law, or the *MRRT law,” (last occurring), substitute “income tax law, the MRRT law or the petroleum resource rent tax law”.

183 Subsection 284-90(1) in Schedule 1 (cell at table item 4, column headed “In this situation:”)

Repeal the cell, substitute:

You have a *shortfall amount, all or part of which resulted from you or your agent treating an *income tax law, the *MRRT law or the *petroleum resource rent tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable, and that amount is more than the greater of $10,000 or 1% of whichever of the following applies:

(a) the income tax payable by you for the income year, worked out on the basis of your *income tax return;

(b) the *MRRT payable by you for the *MRRT year, worked out on the basis of your *MRRT return;

(c) the *petroleum resource rent tax payable by you for the year of tax (within the meaning of the *Petroleum Resource Rent Tax Assessment Act 1987*), worked out on the basis of your return under Division 1 of Part VI of that Act.

Taxation (Interest on Overpayments and Early Payments) Act 1983

184 Subsection 3(1) (paragraph (d) of the definition of *decision to which this Act applies*)

Omit “the liability of the person to tax”, substitute “the liability of the person to relevant tax or other tax”.

185 Subsection 3C(2)

Repeal the subsection, substitute:

(2) Without limiting subsection (1), a reference in item 160 of the table to assessed MRRT includes any general interest charge due and payable in relation to such an amount.

186 Section 12AA (heading)

Repeal the heading, substitute:

12AA Entitlement to interest for RBA surpluses after notification of BAS amount or resource rent tax amount

187 Paragraph 12AA(a)

After "BAS amount", insert "or resource rent tax amount".

188 Section 12AA (note)

After "***BAS amount***,", insert "***resource rent tax amount***,".

189 Paragraph 12AB(a)

After "BAS amount", insert "or resource rent tax amount".

190 Section 12AB (note)

After "***BAS amount***,", insert "***resource rent tax amount***,".

191 Paragraph 12AC(b)

After "BAS amount", insert "or resource rent tax amount".

192 Section 12AC (note)

After "***BAS amount***,", insert "***resource rent tax amount***,".

193 Section 12AF

Insert:

resource rent tax amount has the same meaning as in subsection 995-1(1) of the Tax Act.

Part 2—General amendments

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

194 Paragraphs 15(1)(c) and 16(2)(c)

Before "20,542", insert "$".

Crimes (Taxation Offences) Act 1980

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

Before "section 170AA", insert "former".

Excise Tariff Amendment (Condensate) Act 2011

196 Item 4 of Schedule 1 (at the end of the heading)

Add "**(before The Schedule)**".

Fringe Benefits Tax Assessment Act 1986

197 Subsection 136(1) (definition of *Chief Executive Centrelink*)

Repeal the definition.

Fuel Tax Act 2006

198 Subsections 43-10(11) and (12)

Omit "*road user charge", substitute "road user charge".

Income Tax Assessment Act 1936

199 Subsection 159P(4) (subparagraphs (g)(i) and (ii) of the definition of *medical expenses*)

After "spectacles", insert "or contact lenses".

Income Tax Assessment Act 1997

200 Section 10-5 (table item headed "balancing adjustment")

Omit "*industrial property,*".

201 Section 10-5 (table item headed "industrial property")

Repeal the item.

202 Section 10-5 (table item headed "residual value")

Repeal the item.

203 Section 102-20 (note 5) (the note 5 inserted by item 69 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*)

Omit "Note 5", substitute "Note 6".

204 Paragraph 250-55(b)

Repeal the paragraph, substitute:

(b) the end user is:

(i) an entity that is a foreign resident; or

(ii) an entity that is an Australian resident, to the extent that the entity carries on *business in a foreign country at or through a *permanent establishment of the entity in that country.

205 Subparagraph 250-60(1)(b)(ii)

Omit "(non-resident)", substitute "(foreign resident or business)".

206 Subparagraph 250-60(2)(b)(ii)

After "(foreign resident", insert "or business".

207 Paragraph 250-115(3)(b)

After "foreign residents", insert "or businesses".

208 Application of amendments

The amendments made by items 204 to 207 apply in relation to end users of assets on or after 1 July 2007.

209 Paragraph 727-95(a)

Omit "a non-arm's length dealing", substitute "a dealing that is not at *arm's length".

210 Subsection 995-1(1) (definition of *natural resource*, first occurring)

Repeal the definition.

Income Tax Rates Act 1986

211 Subsection 3(1)

Insert:

> ***net income phase-out limit*** has the meaning given by subsection 14(3).

212 Subsection 3(1)

Insert:

> ***non-resident phase-out limit*** has the meaning given by subsection 15(8).

213 Subsection 3(1)

Insert:

> ***resident phase-out limit*** has the meaning given by subsection 13(10).

214 Subsection 13(2)

Omit "$1,307", substitute "the resident phase-out limit".

215 Paragraphs 13(5)(b), (6)(c) and (8)(b)

Omit "$1,307", substitute "the resident phase-out limit".

216 At the end of section 13

Add:

(10) The ***resident phase-out limit*** is the following amount rounded down to the nearest dollar:

$$\frac{\$416 \times 66\%}{66\% - \text{Highest rate in the table in Part I of Schedule 7}}$$

217 Paragraph 14(2)(c)

Omit "$594", substitute "the net income phase-out limit".

218 At the end of section 14

Add:

(3) The ***net income phase-out limit*** is the following amount rounded down to the nearest dollar:

$$\frac{\$416 \times 50\%}{50\% - \text{Lowest rate in the table in Part I of Schedule 7}}$$

219 Paragraphs 15(2)(b), (4)(d) and (6)(b)

Omit "$663", substitute "the non-resident phase-out limit".

220 At the end of section 15

Add:

(8) The ***non-resident phase-out limit*** is the following amount rounded down to the nearest dollar:

$$\frac{\$416 \times \left(66\% - \text{Lowest rate in the table in Part II of Schedule 7}\right)}{66\% - \text{Highest rate in the table in Part II of Schedule 7}}$$

221 Application of amendments

The amendments made by items 211 to 220 apply in relation to the 2012-13 income year and later income years.

New Business Tax System (Former Subsidiary Tax Imposition) Act 1999

222 Paragraphs 4(2)(a) and (b)

Omit "section 170AA", substitute "former section 170AA".

New Business Tax System (Venture Capital Deficit Tax) Act 2003

223 Subsection 2(1) (table item 2)

Omit "*(No. 2)*".

Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012

224 Item 1 of Schedule 2

Omit "or (g)" (wherever occurring).

Taxation Administration Act 1953

225 Subparagraph 426-102(1)(a)(ii) in Schedule 1

Before "is prescribed", insert "each trustee of the trust".

Taxation (Interest on Overpayments and Early Payments) Act 1983

226 Subsection 3C(1) (definition of *relevant tax*) (table item 15)

Omit "section 170AA of the Tax Act", substitute "former section 170AA of the *Income Tax Assessment Act 1936*".

227 Subparagraph 8A(1)(a)(vb)

Omit "or 170AA", substitute ", or former section 170AA,".

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

228 At the end of section 4

Add:

(4) 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 28 of Schedule 6 to this Act; and

(b) the amendment is made within 2 years after the commencement of this subsection; and
(c) the amendment is made for the purpose of giving effect to that Part.

229 Item 14 of Schedule 1

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

230 Item 200 of Schedule 6

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

231 Item 201 of Schedule 6

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

232 Item 202 of Schedule 6

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

233 Item 203 of Schedule 6

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

Tax Laws Amendment (Income Tax Rates) Act 2012

234 Subsection 2(1) (table item 3)

Repeal the item.

235 Part 2 of Schedule 1

Repeal the Part.

Part 3—Asterisking amendments

Income Tax Assessment Act 1997

236 Amendments relating to asterisking

The provisions of the *Income Tax Assessment Act 1997* listed in the table are amended as set out in the table.

Asterisking amendments

Item	Provision	Omit:	Substitute:
1	Paragraph 43-170(2)(b)	arm's length	*arm's length
2	Paragraph 70-20(b)	arm's length	*arm's length
3	Paragraph 70-30(1)(a)	arm's length	*arm's length
4	Paragraph 70-110(1)(a)	arm's length	*arm's length
5	Paragraph 70-120(6)(b)	arm's length	*arm's length
6	Paragraph 87-40(2)(e)	arm's length	*arm's length
7	Paragraph 112-20(1)(c)	arm's length	*arm's length
8	Paragraph 112-20(2)(a)	arm's length	*arm's length
9	Subparagraph 116-30(2)(b)(i)	arm's length	*arm's length
10	Paragraph 207-128(1)(e)	arm's length	*arm's length
11	Subsection 243-20(7)	arm's length	*arm's length
12	Paragraph 243-25(1)(d)	arm's length	*arm's length
13	Subparagraph 420-20(1)(b)(i)	arm's length	*arm's length
14	Subparagraph 420-30(c)(i)	arm's length	*arm's length
15	Subsection 620-40(2)	arm's length	*arm's length
16	Subparagraph 707-325(4)(b)(i)	arm's length	*arm's length
17	Paragraph 775-120(a)	arm's length	*arm's length
18	Subparagraph 820-105(1)(b)(ii)	arm's length	*arm's length

Asterisking amendments			
Item	**Provision**	**Omit:**	**Substitute:**
19	Paragraph 820-105(3)(h)	arm's length	*arm's length
20	Subparagraph 820-215(1)(b)(ii)	arm's length	*arm's length
21	Paragraph 820-215(3)(h)	arm's length	*arm's length
22	Paragraph 820-315(1)(d)	arm's length	*arm's length
23	Paragraph 820-315(3)(f)	arm's length	*arm's length
24	Paragraph 820-410(1)(d)	arm's length	*arm's length
25	Paragraph 820-410(3)(f)	arm's length	*arm's length
26	Paragraph 820-910(3)(d)	arm's length	*arm's length
27	Paragraph 820-942(2)(g)	arm's length	*arm's length
28	Subsections 960-280(1), (2) and (4)	a quarter	a *quarter
29	Subsection 960-285(6)	a quarter	a *quarter

237 Subsection 960-275(1) (formula)

Repeal the formula, substitute:

$$\frac{\text{Sum of the *index numbers for the *quarters in the year ending on 31 March just before the start of the relevant *financial year}}{\text{Sum of the *index numbers for the *quarters in the year ending on the previous 31 March}}$$

238 Subsection 960-275(1A) (formula)

Repeal the formula, substitute:

$$\frac{\text{*Index number for the *quarter ending on 31 March just before the start of the relevant income year}}{\text{*Index number for the *quarter ending on the previous 31 March}}$$

239 Subsection 960-275(2) (formula)

Repeal the formula, substitute:

$$\frac{\text{*Index number for the *quarter ending on 30 September 1999}}{\text{*Index number for the *quarter in which the expenditure was incurred}}$$

240 Subsection 960-275(3) (formula)

Repeal the formula, substitute:

$$\frac{\text{*Index number for the *quarter ending on 30 September 1999}}{\text{*Index number for the *quarter in which the amount was paid}}$$

241 Subsection 960-285(3A) (formula)

Repeal the formula, substitute:

$$\frac{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December just before the start of the relevant income year or *financial year}}{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December 2008}}$$

242 Subsection 960-285(4) (formula)

Repeal the formula, substitute:

$$\frac{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December just before the start of the relevant income year or *financial year}}{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December 2006}}$$

[*Minister's second reading speech made in—*
House of Representatives on 13 February 2013
Senate on 17 June 2013]

(12/13)