



**Tax and Superannuation Laws
Amendment (2014 Measures No. 4) Act
2014**

No. 110, 2014

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

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

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	4
Schedule 1—Thin capitalisation		5
Part 1—Safe harbour debt amount		5
	<i>Income Tax Assessment Act 1997</i>	5
Part 2—Worldwide gearing debt amount for outward investing entities (non-ADI)		6
	<i>Income Tax Assessment Act 1997</i>	6
Part 3—Worldwide capital amount		11
	<i>Income Tax Assessment Act 1997</i>	11
Part 4—Safe harbour capital amount		12
	<i>Income Tax Assessment Act 1997</i>	12
Part 5—De minimis threshold		13
	<i>Income Tax Assessment Act 1997</i>	13
Part 6—Worldwide gearing debt amount for inward investing entities (non-ADI)		14
	<i>Income Tax Assessment Act 1997</i>	14
Part 7—Consequential amendments		25
	<i>Income Tax Assessment Act 1997</i>	25
Part 8—Application		33
Schedule 2—Foreign dividends		34
Part 1—Foreign equity distributions on participation interests		34
	<i>Income Tax Assessment Act 1936</i>	34
	<i>Income Tax Assessment Act 1997</i>	34
Part 2—Repeal of portfolio dividend exemption for CFCs		38
	<i>Income Tax Assessment Act 1936</i>	38

Part 3—Consequential amendments	39
<i>Income Tax Assessment Act 1936</i>	39
<i>Income Tax Assessment Act 1997</i>	39
Part 4—Application	42
Schedule 3—Foreign resident CGT integrity measures	43
Part 1—Duplicated assets of corporate groups	43
<i>Income Tax Assessment Act 1997</i>	43
Part 2—Assets used by permanent establishments	45
<i>Income Tax Assessment Act 1997</i>	45
Schedule 4—Tax receipts	47
<i>Income Tax Assessment Act 1997</i>	47
<i>Taxation Administration Act 1953</i>	47
Schedule 5—Miscellaneous amendments	50
Part 1—References to specific Ministers, Departments and Secretaries	50
Division 1—Main amendments	50
<i>A New Tax System (Goods and Services Tax) Act 1999</i>	50
<i>Income Tax Assessment Act 1936</i>	51
<i>Income Tax Assessment Act 1997</i>	52
<i>Taxation Administration Act 1953</i>	58
Division 2—Contingent amendments	60
<i>Income Tax Assessment Act 1997</i>	60
Part 2—Amendments relating to excise	61
<i>Aviation Fuel Revenues (Special Appropriation) Act 1988</i>	61
Part 3—Amendments relating to numbering	62
<i>Income Tax Assessment Act 1997</i>	62
Part 4—Other amendments of principal Acts	64
<i>A New Tax System (Goods and Services Tax) Act 1999</i>	64
<i>Fuel Tax Act 2006</i>	64

<i>Income Tax Assessment Act 1936</i>	64
<i>Income Tax Assessment Act 1997</i>	65
<i>Superannuation Guarantee (Administration) Act 1992</i>	71
<i>Taxation Administration Act 1953</i>	71
Part 5—Other amendments of amending Acts	74
<i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i>	74
<i>Superannuation Legislation Amendment (Stronger Super) Act 2012</i>	74
<i>Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009</i>	75
<i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i>	75
<i>Tax Laws Amendment (2012 Measures No. 3) Act 2012</i>	76
<i>Tax Laws Amendment (2012 Measures No. 6) Act 2013</i>	76
<i>Tax Laws Amendment (Research and Development) Act 2011</i>	76
<i>Tax Laws Amendment (Temporary Budget Repair Levy) Act 2014</i>	77



Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act 2014

No. 110, 2014

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

[Assented to 16 October 2014]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws
Amendment (2014 Measures No. 4) Act 2014*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	16 October 2014
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	17 October 2014
3. Schedules 3 and 4	The day this Act receives the Royal Assent.	16 October 2014
4. Schedule 5, Part 1, Division 1	The day this Act receives the Royal Assent.	16 October 2014
5. Schedule 5, Part 1, Division 2	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the start of the day Part 2 of Schedule 2 to the <i>Land Transport Infrastructure Amendment Act 2014</i> commences. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	16 October 2014 (paragraph (a) applies)
6. Schedule 5, Part 2	At the same time as Part 2 of Schedule 1 to the <i>Excise Tariff Amendment (Tobacco) Act 2014</i> commences.	1 December 2013
7. Schedule 5, Parts 3 and 4	The day this Act receives the Royal Assent.	16 October 2014
8. Schedule 5, items 141 and 142	Immediately after the commencement of item 34 of Schedule 13 to the <i>New Business</i>	29 June 2002

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
	<i>Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002.</i>	
9. Schedule 5, item 143	Immediately after the commencement of item 19 of Schedule 15 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002.</i>	24 October 2002
10. Schedule 5, items 144 and 145	1 July 2014.	1 July 2014
11. Schedule 5, item 146	Immediately after the commencement of item 55 of Schedule 1 to the <i>Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009.</i>	14 December 2009
12. Schedule 5, item 147	Immediately after the commencement of item 29 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012.</i>	22 December 1999
13. Schedule 5, item 148	Immediately after the commencement of item 83 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012.</i>	21 March 2012
14. Schedule 5, item 149	Immediately after the commencement of item 140 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012.</i>	21 March 2012
15. Schedule 5, item 150	Immediately after the commencement of item 12 of Schedule 1 to the <i>Tax Laws Amendment (2012 Measures No. 3) Act 2012.</i>	21 June 2012
16. Schedule 5, items 151 and 152	Immediately after the commencement of section 4 of the <i>Tax Laws Amendment (2012 Measures No. 6) Act 2013.</i>	28 June 2013
17. Schedule 5, items 153 and 154	Immediately after the commencement of Part 6 of Schedule 3 to the <i>Tax Laws Amendment (Research and Development) Act 2011.</i>	8 September 2011
18. Schedule 5,	Immediately after the commencement of	25 June 2014

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
items 155 and 156	section 3 of the <i>Tax Laws Amendment (Temporary Budget Repair Levy) Act 2014</i> .	

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

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

3 Schedule(s)

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

Schedule 1—Thin capitalisation

Part 1—Safe harbour debt amount

Income Tax Assessment Act 1997

1 Section 820-95 (method statement, step 7)

Omit “3/4”, substitute “3/5”.

2 Subsection 820-100(2) (method statement, step 8)

Omit “20/21”, substitute “15/16”.

3 Section 820-195 (method statement, step 5)

Omit “3/4”, substitute “3/5”.

4 Subsection 820-200(2) (method statement, step 6)

Omit “20/21”, substitute “15/16”.

5 Section 820-205 (method statement, step 5)

Omit “3/4”, substitute “3/5”.

6 Subsection 820-210(2) (method statement, step 6)

Omit “20/21”, substitute “15/16”.

Part 2—Worldwide gearing debt amount for outward investing entities (non-ADI)

Income Tax Assessment Act 1997

7 Paragraph 820-90(1)(c)

Before “a negative amount”, insert “nil or”.

8 Subsection 820-90(1) (note)

Repeal the note, substitute:

Note 1: The safe harbour debt amount differs depending on whether the entity is an outward investor (general) or an outward investor (financial), see sections 820-95 and 820-100.

Note 2: The worldwide gearing debt amount for an entity that is not also an inward investment vehicle (general) or an inward investment vehicle (financial) differs depending on whether the entity is an outward investor (general) or an outward investor (financial), see section 820-110.

9 Subsection 820-90(2)

Repeal the subsection, substitute:

Entity is also an inward investment vehicle (general) or inward investment vehicle (financial)

(2) The entity’s **maximum allowable debt** for an income year is the greatest of the following amounts if the entity is also an *inward investment vehicle (general) or an *inward investment vehicle (financial) for all or any part of that year:

- (a) the *safe harbour debt amount;
- (b) the *arm’s length debt amount;
- (c) unless subsection (3) applies to the entity—the *worldwide gearing debt amount.

Note 1: The safe harbour debt amount differs depending on whether the entity is an outward investor (general) or an outward investor (financial), see sections 820-95 and 820-100.

Note 2: The worldwide gearing debt amount for an entity that is also an inward investment vehicle (general) or an inward investment vehicle

(financial) differs depending on whether the entity is an outward investor (general) or an outward investor (financial), see section 820-111.

Inward investment vehicles that are not eligible for the worldwide gearing debt amount

- (3) This subsection applies to an entity, if:
- (a) the entity has *statement worldwide equity, or *statement worldwide assets, of nil or a negative amount; or
 - (b) *audited consolidated financial statements for the entity for the income year do not exist; or
 - (c) the result of applying the following formula is greater than 0.5:

$$\frac{\text{Average Australian assets of the entity}}{\text{*Statement worldwide assets of the entity for the income year}}$$

where:

average Australian assets of an entity is the average value, for the statement period mentioned in subsection (4), of all the assets of the entity, other than:

- (a) any assets attributable to the entity's *overseas permanent establishments; or
 - (b) any *debt interests held by the entity, to the extent to which any value of the interests is all or a part of the *controlled foreign entity debt of the entity; or
 - (c) any *equity interests or debt interests held by the entity, to the extent to which any value of the interests is all or a part of the *controlled foreign entity equity of the entity.
- (4) For the purposes of the definition of **average Australian assets** in subsection (3) the statement period is the period for which the *audited consolidated financial statements for the entity for the income year have been prepared.
- (5) For the purposes of the formula in paragraph (3)(c), if:
- (a) an amount is included in *statement worldwide assets in respect of an asset; and

Schedule 1 Thin capitalisation

Part 2 Worldwide gearing debt amount for outward investing entities (non-ADI)

- (b) the asset was acquired, held or otherwise dealt with by an entity for a purpose (other than an incidental purpose) that included ensuring that subsection (3) does not apply to an entity; and
- (c) as a result of the acquisition, holding or dealing with of the asset, the amount included in statement worldwide assets exceeds the amount (including nil) that would otherwise be so included;

apply the amount of the excess to reduce statement worldwide assets (or statement worldwide assets as reduced by a previous application of this subsection).

10 Section 820-110 (heading)

Repeal the heading, substitute:

820-110 Worldwide gearing debt amount—outward investor that is not also an inward investment vehicle

11 Subsection 820-110(1) (method statement, steps 2, 3 and 4)

Repeal the steps, substitute:

Step 3. Add 1 to the result of step 1.

Step 4. Divide the result of step 1 by the result of step 3.

12 Subsection 820-110(2) (method statement, steps 2, 3 and 4)

Repeal the steps, substitute:

Step 3. Add 1 to the result of step 1.

Step 4. Divide the result of step 1 by the result of step 3.

13 After section 820-110

Insert:

820-111 Worldwide gearing debt amount—outward investor that is also an inward investment vehicle

Outward investor (general)

- (1) If the entity is an *outward investor (general) for the income year, and is also an *inward investment vehicle (general) for all or any part of that year, the **worldwide gearing debt amount** is the result of applying the method statement in this subsection.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 6 in the method statement in section 820-95.
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the **worldwide gearing debt amount**.

Example: RKR Limited, a company that is an Australian entity, has a worldwide parent entity in Canada. RKR Limited also has permanent establishments in Singapore. RKR Limited has statement worldwide debt of \$120 million and statement worldwide equity of \$40 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$75 million (which is the result of step 6 of the method statement in section 820-95) equals \$56.25 million. As the average value of the company's associate entity excess amount is \$4 million, the worldwide gearing debt amount is therefore \$60.25 million.

Outward investor (financial)

- (2) If the entity is an *outward investor (financial) for the income year, and is also an *inward investment vehicle (financial) for all or any

Schedule 1 Thin capitalisation

Part 2 Worldwide gearing debt amount for outward investing entities (non-ADI)

part of that year, the **worldwide gearing debt amount** is the result of applying the method statement in this subsection.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 7 in the method statement in subsection 820-100(2).
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *zero-capital amount (other than any zero-capital amount that is attributable to the entity's *overseas permanent establishments).
- Step 6. Add to the result of step 5 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the **worldwide gearing debt amount**.

Example: TRR Limited, a company that is an Australian entity, has a worldwide parent entity in the United States of America. TRR Limited also has permanent establishments in Malaysia. TRR Limited has statement worldwide debt of \$90 million and statement worldwide equity of \$30 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$100 million (which is the result of step 7 of the method statement in subsection 820-100(2)) equals \$75 million. The zero capital amount is \$5 million. Adding that amount to \$75 million results in \$80 million. As the company does not have any associate entity excess amount, the worldwide gearing debt amount is therefore \$80 million.

Part 3—Worldwide capital amount

Income Tax Assessment Act 1997

14 Subsection 820-320(2) (method statement, steps 2 and 3)

Repeal the steps, substitute:

Step 3. Multiply the result of step 1 by the entity's worldwide group capital ratio for that year (see subsection (3)).

Part 4—Safe harbour capital amount

Income Tax Assessment Act 1997

15 Subsection 820-310(1) (method statement, step 2)

Omit “4%”, substitute “6%”.

16 Section 820-405 (method statement, step 2)

Omit “4%”, substitute “6%”.

17 Subsection 820-615(3) (method statement, step 2)

Omit “4%”, substitute “6%”.

Part 5—De minimis threshold

Income Tax Assessment Act 1997

18 Section 820-35

Repeal the section, substitute:

820-35 Application—\$2 million threshold

Subdivision 820-B, 820-C, 820-D or 820-E does not apply to disallow any *debt deduction of an entity for an income year if the total debt deductions of that entity and all its *associate entities for that year are \$2 million or less.

Part 6—Worldwide gearing debt amount for inward investing entities (non-ADI)

Income Tax Assessment Act 1997

19 Section 820-190

Repeal the section, substitute:

820-190 Maximum allowable debt

- (1) The entity's *maximum allowable debt* for an income year is the greatest of the following amounts:
- (a) the *safe harbour debt amount;
 - (b) the *arm's length debt amount;
 - (c) unless subsection (2) applies to the entity—the *worldwide gearing debt amount.

Note 1: The safe harbour debt amount differs depending on whether the entity is an inward investment vehicle (general), inward investment vehicle (financial), inward investor (general) or inward investor (financial), see sections 820-195 to 820-215.

Note 2: The worldwide gearing debt amount differs depending on whether the entity is an inward investment vehicle (general), inward investment vehicle (financial), inward investor (general) or an inward investor (financial), see sections 820-216 to 820-219.

Entities that are not eligible for the worldwide gearing debt amount

- (2) This subsection applies to an entity, if:
- (a) the entity has *statement worldwide equity, or *statement worldwide assets, of nil or a negative amount; or
 - (b) *audited consolidated financial statements for the entity for the income year do not exist; or
 - (c) the result of applying the following formula is greater than 0.5:

$$\frac{\text{Average Australian assets of the entity}}{\text{*Statement worldwide assets of the entity for the income year}}$$

where:

average Australian assets:

- (a) of an *Australian entity—is the average value, for the statement period mentioned in subsection (3), of all the assets of the entity, other than:
 - (i) any *debt interests held by the entity, to the extent to which any value of the interests is all or a part of the *controlled foreign entity debt of the entity; or
 - (ii) any *equity interests or debt interests held by the entity, to the extent to which any value of the interests is all or a part of the *controlled foreign entity equity of the entity; and
 - (b) of a *foreign entity—is the average value, for the statement period mentioned in subsection (3), of all the assets of the entity that are:
 - (i) located in Australia; or
 - (ii) attributable to the entity's *Australian permanent establishments; or
 - (iii) debt interests held by the entity, that were *issued by an *Australian entity and are *on issue;
 - (iv) equity interests held by the entity in an *Australian entity.
- (3) For the purposes of the definition of ***average Australian assets*** in subsection (2) the statement period is the period for which the *audited consolidated financial statements for the entity for the income year have been prepared.
- (4) For the purposes of the formula in paragraph (2)(c), if:
- (a) an amount is included in *statement worldwide assets in respect of an asset; and
 - (b) the asset was acquired, held or otherwise dealt with by an entity for a purpose (other than an incidental purpose) that included ensuring that subsection (2) does not apply to an entity; and
 - (c) as a result of the acquisition, holding or dealing with of the asset, the amount included in statement worldwide assets

exceeds the amount (including nil) that would otherwise be so included;

apply the amount of the excess to reduce statement worldwide assets (or statement worldwide assets as reduced by a previous application of this subsection).

20 After section 820-215

Insert:

820-216 Worldwide gearing debt amount—inward investment vehicle (general)

If the entity is an *inward investment vehicle (general) for the income year, and is not also an *outward investor (general) for all or any part of that year, the **worldwide gearing debt amount** is the result of applying the method statement in this section.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 4 in the method statement in section 820-195.
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the **worldwide gearing debt amount**.

Example: SJP Limited, a company that is an Australian entity, has a worldwide parent entity in Japan. SJP Limited has statement worldwide debt of \$120 million and statement worldwide equity of \$40 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$75 million (which is the result of step 4 of the method statement in

section 820-195) equals \$56.25 million. As the average value of the company's associate entity excess amount is \$4 million, the worldwide gearing debt amount is therefore \$60.25 million.

820-217 Worldwide gearing debt amount—inward investment vehicle (financial)

If the entity is an *inward investment vehicle (financial) for the income year, and is not also an *outward investor (financial) for all or any part of that year, the **worldwide gearing debt amount** is the result of applying the method statement in this section.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 5 in the method statement in subsection 820-200(2).
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *zero-capital amount.
- Step 6. Add to the result of step 5 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the **worldwide gearing debt amount**.

Example: RGR Limited, a company that is an Australian entity, has a worldwide parent entity in France. RGR Limited has statement worldwide debt of \$90 million and statement worldwide equity of \$30 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$100 million (which is the result of step 5 of the method statement in subsection 820-200(2)) equals \$75 million. The zero capital amount is \$5 million. Adding that amount to \$75 million results in \$80 million. As the company does not have any associate entity excess amount, the worldwide gearing debt amount is therefore \$80 million.

820-218 Worldwide gearing debt amount—inward investor (general)

If the entity is an *inward investor (general) for the income year, the **worldwide gearing debt amount** is the result of applying the method statement in this section.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 4 in the method statement in section 820-205.
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the **worldwide gearing debt amount**.

Example: MLO Limited, a company that is not an Australian entity, has investments in Australia. MLO Limited has statement worldwide debt of \$120 million and statement worldwide equity of \$40 million.

The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$75 million (which is the result of step 4 of the method statement in section 820-205) equals \$56.25 million. As the average value of the company's associate entity excess amount is \$4 million, the worldwide gearing debt amount is therefore \$60.25 million.

820-219 Worldwide gearing debt amount—inward investor (financial)

If the entity is an *inward investor (financial) for the income year, the **worldwide gearing debt amount** is the result of applying the method statement in this section.

Method statement

- Step 1. Divide the entity's *statement worldwide debt for the income year by the entity's *statement worldwide equity for that year.
- Step 2. Add 1 to the result of step 1.
- Step 3. Divide the result of step 1 by the result of step 2.
- Step 4. Multiply the result of step 3 in this method statement by the result of step 5 in the method statement in subsection 820-210(2).
- Step 5. Add to the result of step 4 the average value, for that year, of the entity's *zero-capital amount that has arisen because of the Australian investments mentioned in step 1 of the method statement in subsection 820-210(2).
- Step 6. Add to the result of step 5 the average value, for that year, of the entity's *associate entity excess amount. The result of this step is the ***worldwide gearing debt amount***.

Example: MSR Limited, a company that is not an Australian entity, has investments in Australia. MSR Limited has statement worldwide debt of \$90 million and statement worldwide equity of \$30 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 2 and 3) and multiplying the result by \$100 million (which is the result of step 5 of the method statement in subsection 820-210(2)) equals \$75 million. The zero-capital amount is \$5 million. Adding that amount to \$75 million results in \$80 million. As the company does not have any associate entity excess amount, the worldwide gearing debt amount is therefore \$80 million.

21 After Subdivision 820-J

Insert:

Subdivision 820-JA—Worldwide debt and equity concepts

Guide to Subdivision 820-JA

820-931 What this Subdivision is about

This Subdivision provides for the meanings of worldwide debt, worldwide equity, statement worldwide debt, statement worldwide equity and statement worldwide assets.

Table of sections

Operative provisions

820-932	Worldwide debt and worldwide equity
820-933	Statement worldwide debt, statement worldwide equity and statement worldwide assets
820-935	Requirements for audited consolidated financial statements

Operative provisions

820-932 Worldwide debt and worldwide equity

Worldwide debt

- (1) An entity's **worldwide debt** at a particular time, means the total of the following amounts:
 - (a) all the *debt interests issued by the entity:
 - (i) to entities other than any *Australian controlled foreign entities (the **controlled entities**) of which the entity is an *Australian controller at that time; and
 - (ii) that are still *on issue at that time;
 - (b) all the debt interests issued by the controlled entities:
 - (i) to entities other than the entity or other controlled entities; and
 - (ii) that are still on issue at that time.

Worldwide equity

- (2) An entity's **worldwide equity** at a particular time, means the total of the following amounts:
- (a) all the *equity capital of the entity as at that time, but worked out disregarding *equity interests in the entity held at that time by *Australian controlled foreign entities (the **controlled entities**) of which the entity is an *Australian controller at that time;
 - (b) all the equity capital of the controlled entities as at that time, but worked out disregarding equity interests in the controlled entities held at that time by:
 - (i) the entity; or
 - (ii) other controlled entities.

820-933 Statement worldwide debt, statement worldwide equity and statement worldwide assets

Statement worldwide debt

- (1) An entity's **statement worldwide debt** for a period is the amount (see subsection (4)) of liabilities for the entity for the period, reduced (but not below zero) by the sum of the following amounts (see subsection (4)) for the entity for the period:
- (a) provisions;
 - (b) liabilities in relation to distributions to equity participants;
 - (c) trade payables;
 - (d) deferred tax liabilities;
 - (e) liabilities relating to employee benefits;
 - (f) current tax liabilities;
 - (g) deferred revenue;
 - (h) liabilities relating to insurance;
 - (i) any other amount specified in a legislative instrument under subsection (5).

Statement worldwide equity

- (2) An entity's **statement worldwide equity** for a period means the amount (see subsection (4)) of net assets for the entity for the period.

Statement worldwide assets

- (3) An entity's **statement worldwide assets** for a period means the amount (see subsection (4)) of assets for the entity for the period.

Amounts from audited consolidated financial statements to be used

- (4) For the purposes of this section:
- (a) an amount for an entity for a period is taken to be that amount as shown in the *audited consolidated financial statements for the entity for the period; and
 - (b) sections 820-680, 820-682, 820-683 and 820-684 do not apply.

Other amounts

- (5) The Minister may, by legislative instrument, specify one or more amounts for the purposes of paragraph (1)(i).

820-935 Meaning of *audited consolidated financial statements*

- (1) **Audited consolidated financial statements** for an entity for a period are:
- (a) the financial statements that meet the requirements in subsection (2) for the entity for the period; or
 - (b) if more than one set of financial statements meet the requirements in subsection (2) for the entity for the period—whichever of those sets of financial statements the entity chooses.
- (2) Financial statements meet the requirements in this subsection for an entity for a period (the **relevant period**) if:
- (a) the statements have been prepared on a consolidated basis in relation to the entity and one or more other entities in

- accordance with standards covered by subsection (3) or (4) (the ***recognised overseas accounting standards***); and
- (b) one of the entities is a worldwide parent entity mentioned in subsection (6); and
 - (c) the statements show the amounts mentioned in subsections 820-933(1), (2) and (3) (however described) on that consolidated basis and in accordance with those standards; and
 - (d) the statements have been audited (and the auditor's report is unqualified) in accordance with a requirement in the law of:
 - (i) a foreign jurisdiction mentioned in subsection (3) of this section; or
 - (ii) another jurisdiction that has adopted the standards mentioned in subsection (4); and
 - (e) the statements are for the most recent period ending:
 - (i) no later than the end of the relevant period; and
 - (ii) no earlier than 12 months before the start of the relevant period.

Recognised overseas accounting standards

- (3) This subsection covers the standards (however described) that apply to the preparation of financial statements and are made, or adopted, by the responsible body in any of the following (a ***foreign jurisdiction***):
 - (a) the European Union;
 - (b) the United States of America;
 - (c) Canada;
 - (d) Japan;
 - (e) New Zealand;
 - (f) a jurisdiction specified in an instrument under subsection (5).
- (4) This subsection covers the international financial reporting standards that are made or adopted by the International Accounting Standards Board.
- (5) The Minister may, by legislative instrument, specify one or more jurisdictions for the purposes of paragraph (3)(f).

Schedule 1 Thin capitalisation

Part 6 Worldwide gearing debt amount for inward investing entities (non-ADI)

Worldwide parent entity

- (6) For the purposes of paragraph (2)(b), an entity in relation to which financial statements have been prepared is a worldwide parent entity if, for the purposes of the standards in accordance with which the statements were prepared, the entity is not controlled by another entity.

Part 7—Consequential amendments

Income Tax Assessment Act 1997

22 Section 820-10 (after table item 7)

Insert:

- 7A Subdivision 820-JA worldwide debt and equity concepts.

23 Subsection 820-85 (note 1)

Omit “\$250,000”, substitute “\$2 million”.

24 Section 820-95 (example)

Repeal the example, substitute:

Example: AK Pty Ltd, a company that is an Australian entity, has an average value of assets (other than assets attributable to its overseas permanent establishments) of \$100 million.

The average values of its excluded equity interests, associate entity debt, associate entity equity, controlled foreign entity debt, controlled foreign entity equity and non-debt liabilities are \$5 million, \$10 million, \$8 million, \$5 million, \$2 million and \$5 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 6) leaves \$65 million. Multiplying \$65 million by $\frac{3}{5}$ results in \$39 million. As the average value of the company’s associate entity excess amount is \$4.5 million, the safe harbour debt amount is therefore \$43.5 million.

25 Subsection 820-100(2) (example)

Repeal the example, substitute:

Example: GLM Limited, a company that is an Australian entity, has an average value of assets (other than assets attributable to its overseas permanent establishments) of \$160 million.

The average values of its relevant excluded equity interests, associate entity debt, associate entity equity, controlled foreign entity debt, controlled foreign entity equity, non-debt liabilities and zero-capital amount are \$5 million, \$5 million, \$5 million, \$9 million, \$6 million, \$5 million and \$4 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 7) leaves \$121 million. Multiplying \$121 million by $\frac{15}{16}$ results in \$113.4375 million. Adding the average zero-capital amount of \$4 million results in \$117.4375 million. As the company does not have any associate

entity excess amount, the total debt amount is therefore \$117.4375 million.

26 Subsection 820-100(3) (method statement, step 7)

Omit “³/₄”, substitute “³/₅”.

27 Subsection 820-100(3) (example)

Repeal the example, substitute:

Example: GLM Limited, a company that is an Australian entity, has an average value of assets (other than assets attributable to its overseas permanent establishments) of \$160 million.

The average values of its relevant excluded equity interests, associate entity equity, controlled foreign entity debt, controlled foreign entity equity, non-debt liabilities and on-lent amount are \$5 million, \$5 million, \$9 million, \$6 million, \$5 million and \$35 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 6) leaves \$95 million. Multiplying \$95 million by ³/₅ results in \$57 million. Adding the average on-lent amount of \$35 million results in \$92 million. Reducing the result of step 8 by the associate entity debt amount of \$5 million equals \$87 million. As the company does not have any associate entity excess amount, the adjusted on-lent amount is therefore \$87 million.

28 Subsection 820-110(1) (heading)

Repeal the heading, substitute:

Outward investor (general) that is not also an inward investment vehicle (general)

29 Subsection 820-110(1)

After “the income year,”, insert “and not also an *inward investment vehicle (general) for all or any part of that year,”.

30 Subsection 820-110(1) (example)

Repeal the example, substitute:

Example: AK Pty Ltd, a company that is an Australian entity, has an average value of worldwide debt of \$90 million and an average value of worldwide equity of \$30 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 3 and 4) and multiplying the result by \$65 million (which is the result of step 6 in the method statement in section 820-95) equals \$48.75 million. As the average value of the company’s associate entity excess amount is \$4.5

million, the worldwide gearing debt amount is therefore \$53.25 million.

31 Subsection 820-110(2) (heading)

Repeal the heading, substitute:

Outward investor (financial) that is not also an inward investment vehicle (financial)

32 Subsection 820-110(2)

After “that year,”, insert “and not also an *inward investment vehicle (financial) for all or any part of that year,”.

33 Subsection 820-110(2) (example)

Repeal the example, substitute:

Example: GLM Limited, a company that is an Australian entity, has an average value of worldwide debt of \$120 million and an average value of worldwide equity of \$40 million. The result of applying step 1 is therefore 3. Dividing 3 by 4 (through applying steps 3 and 4) and multiplying the result by \$121 million (which is the result of step 7 of the method statement in subsection 820-100(2)) equals \$90.75 million. The average value of zero-capital amount (see step 7 of the method statement in subsection 820-100(2)) is \$4 million. Adding that amount to \$90.75 million results in \$94.75 million. As the company does not have any associate entity excess amount, the worldwide gearing debt amount is therefore \$94.75 million.

34 Subsection 820-185 (note 1)

Omit “\$250,000”, substitute “\$2 million”.

35 Section 820-195 (example)

Repeal the example, substitute:

Example: ALWZ Ltd, a company that is an Australian entity, has an average value of assets of \$100 million.

The average values of its excluded equity interests, associate entity debt, associate entity equity and non-debt liabilities are \$5 million, \$10 million, \$5 million and \$5 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 4) leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45 million. As the average value of the company’s associate entity excess amount is \$2 million, the safe harbour debt amount is therefore \$47 million.

36 Subsection 820-200(2) (example)

Repeal the example, substitute:

Example: KJW Finance Pty Ltd, a company that is an Australian entity, has an average value of assets of \$120 million.

The average values of its excluded equity interests, associate entity debt, associate entity equity, its non-debt liabilities and its zero-capital amount are \$5 million, \$5 million, \$3 million, \$2 million and \$5 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 5) leaves \$100 million. Multiplying \$100 million by $\frac{15}{16}$ results in \$93.75 million. Adding the zero-capital amount of \$5 million to \$93.75 million results in \$98.75 million. As the company does not have any associate entity excess amount, the total debt amount is therefore \$98.75 million.

37 Subsection 820-200(3) (method statement, step 5)

Omit “ $\frac{3}{4}$ ”, substitute “ $\frac{3}{5}$ ”.

38 Subsection 820-200(3) (example)

Repeal the example, substitute:

Example: KJW Finance Pty Ltd, a company that is an Australian entity, has an average value of assets of \$120 million.

The average values of its excluded equity interests, associate entity equity, non-debt liabilities and on-lent amount are \$5 million, \$3 million, \$2 million and \$35 million respectively. Deducting these amounts from the result of step 1 (through applying steps 1A to 4) leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45 million. Adding the average on-lent amount of \$35 million results in \$80 million. Reducing \$80 million by the associate entity debt amount of \$5 million results in \$75 million. As the company does not have any associate entity excess amount, the adjusted on-lent amount is therefore \$75 million.

39 Section 820-205 (example)

Repeal the example, substitute:

Example: RJ Corporation is a company that is not an Australian entity. The average value of its Australian investments is \$100 million.

The average value of its relevant excluded equity interests, associate entity debt, associate entity equity and non-debt liabilities is \$5 million, \$10 million, \$5 million and \$5 million respectively. Deducting those amounts from the result of step 1 leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45 million. As the company

does not have any associate entity excess amount, the safe harbour debt amount is therefore \$45 million.

40 Subsection 820-210(2) (example)

Repeal the example, substitute:

Example: FXS Financial SA is a company that is not an Australian entity. The average value of its Australian investments is \$120 million.

The average value of its relevant excluded equity interests, associate entity debt, associate entity equity, non-debt liabilities and zero-capital amount are \$5 million, \$5 million, \$2 million, \$3 million and \$5 million respectively. Deducting those amounts from the result of step 1 (through applying steps 1A to 5) leaves \$100 million. Multiplying \$100 million by $\frac{15}{16}$ results in \$93.75 million. Adding the average zero-capital amount of \$5 million results in \$98.75 million. As the company does not have any associate entity excess amount, the total debt amount is therefore \$98.75 million.

41 Subsection 820-210(3) (method statement, step 5)

Omit “ $\frac{3}{4}$ ”, substitute “ $\frac{3}{5}$ ”.

42 Subsection 820-210(3) (example)

Repeal the example, substitute:

Example: FXS Financial SA is a company that is not an Australian entity. The average value of its Australian investments is \$120 million.

The average value of its relevant excluded equity interests, associate entity equity, non-debt liabilities and on-lent amount are \$5 million, \$2 million, \$3 million and \$35 million respectively. Deducting those amounts from the result of step 1 (through applying steps 1A to 4) leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45 million. Adding the average on-lent amount of \$35 million results in \$80 million. Reducing the result of step 6 by the associate entity debt amount of \$5 million results in \$75 million. As the company does not have any associate entity excess amount, the adjusted on-lent amount is therefore \$75 million.

43 Subsection 820-300(1) (note 1)

Omit “\$250,000”, substitute “\$2 million”.

44 Subsection 820-310(1) (example)

Repeal the example, substitute:

Example: The Southern Cross Bank is an Australian bank that carries on its banking business through its overseas permanent establishments and through foreign entities that it controls. For the income year, its average value of risk-weighted assets and intangible assets comprising capitalised software expenses is \$150 million (having discounted those assets that are excluded by step 1) and the average value of its relevant tier 1 prudential capital deductions is \$2 million. Multiplying \$150 million by 6% equals \$9 million, which is the result of step 2. Adding \$2 million to \$9 million equals \$11 million, which is the safe harbour capital amount.

45 Subsection 820-320(2) (example)

Repeal the example, substitute:

Example: Southern Cross Bank has an average value of risk-weighted assets of \$150 million (having discounted those risk-weighted assets that are excluded by step 1) and the average value of its relevant tier 1 prudential capital deductions is \$2 million. The entity's worldwide group capital ratio is 0.0875. Multiplying \$150 million by 0.0875 equals \$13.125 million, which is the result of step 3. Adding that amount to the average value of the relevant tier 1 prudential capital deductions equals \$15.125 million, which is the worldwide capital amount.

46 Subsection 820-395(1) (note 1)

Omit "\$250,000", substitute "\$2 million".

47 Section 820-405 (example)

Repeal the example, substitute:

Example: The Global Bank is a foreign bank that carries on its banking business in Australia through a permanent establishment. The average value of its relevant risk-weighted assets is \$140 million. Multiplying that amount by 6% results in \$8.4 million, which is the safe harbour capital amount.

48 Paragraph 820-910(2)(b)

Omit "\$250,000", substitute "\$2 million".

49 Subsection 820-920(3) (method statement, step 4, paragraph (a))

Omit "²⁰/₂₁", substitute "¹⁵/₁₆".

50 Subsection 820-920(3) (method statement, step 4, paragraphs (b) and (c))

Omit “³/₄”, substitute “³/₅”.

51 Paragraph 820-946(1)(c)

Omit “\$250,000”, substitute “\$2 million”.

52 Subsection 995-1(1)

Insert:

audited consolidated financial statements for an entity for a period has the meaning given by section 820-935.

statement worldwide assets of an entity for a period has the meaning given by subsection 820-933(3).

statement worldwide debt of an entity for a period has the meaning given by subsection 820-933(1).

statement worldwide equity of an entity for a period has the meaning given by subsection 820-933(2).

53 Subsection 995-1(1) (definition of *worldwide debt*)

Repeal the definition, substitute:

worldwide debt of an entity and at a particular time has the meaning given by subsection 820-932(1).

54 Subsection 995-1(1) (definition of *worldwide equity*)

Repeal the definition, substitute:

worldwide equity of an entity and at a particular time has the meaning given by subsection 820-932(2).

55 Subsection 995-1(1) (definition of *worldwide gearing debt amount*)

Repeal the definition, substitute:

worldwide gearing debt amount.

Schedule 1 Thin capitalisation
Part 7 Consequential amendments

- (a) for an *outward investing entity (non-ADI)—has the meaning given by sections 820-110 and 820-111; and
- (b) for an inward investment vehicle (general)—has the meaning given by section 820-216; and
- (c) for an inward investment vehicle (financial)—has the meaning given by section 820-217; and
- (d) for an *inward investor (general)—has the meaning given by section 820-218; and
- (e) for an *inward investor (financial)—has the meaning given by section 820-219.

Part 8—Application

56 Application

The amendments made by this Schedule apply to assessments for income years starting on or after 1 July 2014.

Schedule 2—Foreign dividends

Part 1—Foreign equity distributions on participation interests

Income Tax Assessment Act 1936

1 Section 23AJ

Repeal the section.

Income Tax Assessment Act 1997

2 Paragraph 25-90(b)

Repeal the paragraph, substitute:

- (b) the income is *non-assessable non-exempt income under section 768-5, or section 23AI or 23AK of the *Income Tax Assessment Act 1936*; and

3 Division 768 (heading)

Repeal the heading, substitute:

Division 768—Foreign non-assessable income and gains

4 Before Subdivision 768-B

Insert:

Subdivision 768-A—Returns on foreign investment

Guide to Subdivision 768-A

768-1 What this Subdivision is about

If:

- (a) an Australian corporate tax entity receives a foreign equity distribution from a foreign company, either

directly or indirectly through one or more interposed trusts or partnerships; and

(b) the Australian corporate tax entity holds a participation interest of at least 10% in the foreign company; the distribution is non-assessable non-exempt income for the Australian corporate tax entity.

Table of sections

Foreign equity distributions on participation interests

768-5	Foreign equity distributions on participation interests
768-10	Meaning of <i>foreign equity distribution</i>
768-15	Participation test—minimum 10% participation

Foreign equity distributions on participation interests

768-5 Foreign equity distributions on participation interests

Foreign equity distributions received directly

- (1) A *foreign equity distribution is not assessable income, and is not *exempt income, of the entity to which it is made if:
- (a) the entity is an Australian resident and a *corporate tax entity; and
 - (b) at the time the distribution is made, the entity satisfies the participation test in section 768-15 in relation to the company that made the distribution; and
 - (c) the entity:
 - (i) does not receive the distribution in the capacity of a trustee; or
 - (ii) receives the distribution in the capacity of a trustee of a *corporate unit trust or *public trading trust.

Foreign equity distributions received through interposed trusts and partnerships

- (2) An amount is not assessable income, and is not *exempt income, of an entity if:

Schedule 2 Foreign dividends

Part 1 Foreign equity distributions on participation interests

- (a) the entity is a beneficiary of a trust or a partner in a partnership, an Australian resident and a *corporate tax entity; and
 - (b) the amount is all or part of the net income of the trust or partnership that would, apart from this subsection, be included in the entity's assessable income because of Division 5 or 6 of Part III of the *Income Tax Assessment Act 1936*; and
 - (c) the amount can be attributed (either directly or indirectly through one or more interposed trusts or partnerships that are not *corporate tax entities) to a *foreign equity distribution; and
 - (d) at the time the distribution is made, the entity satisfies the participation test in section 768-15 in relation to the company that made the distribution; and
 - (e) the entity:
 - (i) does not receive the distribution in the capacity of a trustee; or
 - (ii) receives the distribution in the capacity of a trustee of a *corporate unit trust or *public trading trust.
- (3) An amount that is *non-assessable non-exempt income under subsection (2) is taken, for the purpose of section 25-90 (about deductions relating to foreign non-assessable non-exempt income) to be derived from the same source as the *foreign equity distribution.

768-10 Meaning of *foreign equity distribution*

A ***foreign equity distribution*** is a *distribution or *non-share dividend made by a company that is a foreign resident in respect of an *equity interest in the company.

768-15 Participation test—minimum 10% participation

An entity satisfies the participation test in this section in relation to another entity at a time if, at that time, the sum of the following is at least 10%:

- (a) the *direct participation interest the entity would have in the other entity if rights on winding-up were disregarded;
-

- (b) the *indirect participation interest the entity would have in the other entity if:
- (i) rights on winding-up were disregarded; and
 - (ii) section 960-185 only applied to intermediate entities that are not *corporate tax entities.

5 Subsection 995-1(1)

Insert:

foreign equity distribution has the meaning given by section 768-10.

Part 2—Repeal of portfolio dividend exemption for CFCs

Income Tax Assessment Act 1936

6 Section 404

Repeal the section, substitute:

404 Application of Subdivision 768-A of the *Income Tax Assessment Act 1997*

For the purpose of applying Subdivision 768-A of the *Income Tax Assessment Act 1997* (about returns on foreign investment) in calculating the attributable income of the eligible CFC, disregard section 389A of this Act (which is about disregarding Division 974 of the *Income Tax Assessment Act 1997* and certain other provisions).

Part 3—Consequential amendments

Income Tax Assessment Act 1936

7 Subsection 44(1) (note 1)

Repeal the note, substitute:

Note 1: Some other provisions that expressly deal with dividends are sections 23AI, 23AK and 128D of this Act and section 768-5 of the *Income Tax Assessment Act 1997*.

8 Subparagraph 47A(2)(a)(ii)

Omit “section 23AI or 23AJ”, substitute “section 23AI or section 768-5 of the *Income Tax Assessment Act 1997*”.

9 Paragraph 47A(7)(b)

Omit “section 23AJ”, substitute “section 768-5 of the *Income Tax Assessment Act 1997*”.

10 Subsection 320(1) (definition of *section 404 country*)

Repeal the definition.

11 Section 332A

Repeal the section.

12 Subsection 399(2) (definition of *excluded modifications*)

Omit “404 and”.

Income Tax Assessment Act 1997

13 Section 11-15 (note)

Omit “sections 403 and 404”, substitute “section 403”.

14 Section 11-55 (table item headed “foreign aspects of income taxation”)

Omit:

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

15 Section 11-55 (table item headed “foreign aspects of income taxation”)

After:

distributions of conduit foreign income 802-20

insert:

foreign equity distributions on participation interests 768-5

16 After subparagraph 118-12(2)(a)(via)

Insert:

(vib) section 768-5 (foreign equity distributions on participation interests);

17 Subparagraph 118-12(2)(b)(iii)

Repeal the subparagraph.

18 Subsection 118-20(6)

Omit “section 23AJ (about exempting certain non-portfolio dividends paid by non-resident companies) of the *Income Tax Assessment Act 1936* because a company pays a *dividend to you”, substitute “section 768-5 (about foreign equity distributions on participation interests) because a company makes a *foreign equity distribution”.

19 Paragraph 220-350(1)(c)

Omit “section 23AI, 23AJ or 23AK of the *Income Tax Assessment Act 1936*”, substitute “section 768-5, or section 23AI or 23AK of the *Income Tax Assessment Act 1936*”.

20 Paragraph 230-15(3)(c)

Repeal the paragraph, substitute:

(c) the income is *non-assessable non-exempt income under section 768-5, or section 23AI or 23AK of the *Income Tax Assessment Act 1936*; and

21 Paragraphs 230-335(4)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the *financial arrangement hedges a foreign currency risk in relation to an anticipated *foreign equity distribution from a *connected entity; and
- (b) the distribution is *non-assessable non-exempt income under section 768-5.

22 Paragraph 802-30(3)(c)

Omit “section 23AJ of the *Income Tax Assessment Act 1936*”, substitute “section 768-5”.

Part 4—Application

23 Application

The amendments made by this Schedule apply to distributions and non-share dividends made after the day the *Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act 2014* receives the Royal Assent.

Schedule 3—Foreign resident CGT integrity measures

Part 1—Duplicated assets of corporate groups

Income Tax Assessment Act 1997

1 After subsection 855-30(2)

Insert:

Note: The market value of any of the latter kind of assets that are duplicated within the test entity's corporate group could be disregarded (see section 855-32).

2 Subsection 855-30(4) (note)

Omit "Note", substitute "Note 1".

3 At the end of subsection 855-30(4)

Add:

Note 2: The market value of an asset of the other entity that is not taxable Australian real property, and is duplicated within the other entity's corporate group, could be disregarded (see section 855-32).

4 After section 855-30

Insert:

855-32 Disregard market value of duplicated non-TARP assets

- (1) The purpose of this section is to prevent double counting of the *market value of the assets of a corporate group that:
 - (a) are not *taxable Australian real property; and
 - (b) are created under *arrangements under which corresponding liabilities are created in other members of the group.
- (2) For the purposes of subsections 855-30(2) and (4), subsection (4) of this section applies to an asset that is not *taxable Australian real property if:
 - (a) the parties to an *arrangement included the 2 entities referred to in subsection (3); and

Schedule 3 Foreign resident CGT integrity measures

Part 1 Duplicated assets of corporate groups

- (b) an effect of the arrangement was to create, before the *CGT event happened:
 - (i) the asset as an asset of one of those 2 parties; and
 - (ii) a corresponding liability of the other (the *other party*).
- (3) The 2 entities are either:
 - (a) the first entity and the other entity (see subsection 855-30(3)), if table item 2 in subsection 855-30(4) applies to those entities; or
 - (b) both:
 - (i) that first entity or that other entity; and
 - (ii) an entity that is a first entity or other entity for the purposes of a related application of subsection 855-30(3) and table item 2 in subsection 855-30(4).
- (4) Disregard:
 - (a) if the other party is the test entity (see subsection 855-30(2))—the asset's *market value; or
 - (b) otherwise—the percentage of the asset's market value equal to the percentage that is the test entity's *total participation interest in the other party.

Example: The test entity loans money to its wholly-owned subsidiary. The market value of the loan asset created as an asset of the test entity is disregarded for the purposes of subsection 855-30(2).

5 Application of amendment

Section 855-32 of the *Income Tax Assessment Act 1997* (as inserted by this Part) applies in relation to a CGT event if:

- (a) in a case where the 2 entities that are parties to the arrangement were members of the same consolidated group or MEC group at the time the asset was created—the CGT event happens after 7.30 pm, by legal time in the Australian Capital Territory, on 14 May 2013; and
- (b) otherwise—the CGT event happens on or after 13 May 2014.

Part 2—Assets used by permanent establishments

Income Tax Assessment Act 1997

6 Section 855-15 (cell at table item 3, column headed “Description”)

Repeal the cell, substitute:

A *CGT asset that:

- (a) you have used at any time in carrying on a *business through:
 - (i) if you are a resident in a country that has entered into an *international tax agreement with Australia containing a *permanent establishment article—a permanent establishment (within the meaning of the relevant international tax agreement) in Australia; or
 - (ii) otherwise—a *permanent establishment in Australia; and
- (b) is not covered by item 1, 2 or 5 of this table

7 After section 855-15

Insert:

855-16 Meaning of *permanent establishment article*

A *permanent establishment article* is:

- (a) Article 5 of the United Kingdom convention (within the meaning of the *International Tax Agreements Act 1953*); or
- (b) a corresponding provision of another *international tax agreement.

8 Subsection 855-35(1)

Omit “(within the meaning of section 23AH of the *Income Tax Assessment Act 1936*)”, substitute “(as mentioned in that item)”.

9 Subsection 995-1(1)

Insert:

permanent establishment article has the meaning given by section 855-16.

10 Application of amendments

The amendments made by this Part apply to CGT events happening on or after the commencement of item 112 of Schedule 4 to the *Tax Laws Amendment (2006 Measures No. 4) Act 2006*.

Schedule 4—Tax receipts

Income Tax Assessment Act 1997

1 Subsection 995-1(1)

Insert:

tax receipt means a receipt given to you under subsection 70-5(1) of Schedule 1 to the *Taxation Administration Act 1953*.

Taxation Administration Act 1953

2 After Part 2-10 in Schedule 1

Insert:

Part 2-15—Returns and assessments

Division 70—Tax receipts

Table of Subdivisions

	Guide to Division 70
70-A	Tax receipts

Guide to Division 70

70-1 What this Division is about

The Commissioner must provide you with a tax receipt for an income year if you are an individual taxpayer and the total tax assessed to you for the income year is \$100 or more (or such other amount as determined by the Commissioner from time to time).

The tax receipt must include information about how the total tax assessed to you for the income year is notionally used to finance different categories of Commonwealth government expenditure.

The tax receipt must also include information about the total amount of Commonwealth government debt, for the current and previous financial years, and the expected total amount of interest to be paid on that debt during the current financial year.

Subdivision 70-A—Tax receipts

Table of sections

70-5 Tax receipt to be provided to certain individual taxpayers

70-5 Tax receipt to be provided to certain individual taxpayers

- (1) The Commissioner must give you a *tax receipt in respect of an income year if:
 - (a) the Commissioner is required to give you a notice of assessment in respect of the income year and has not previously given you a notice in respect of the income year; and
 - (b) you are an individual; and
 - (c) the amount of income tax you owe (as worked out under step 4 of subsection 4-10(3) of the *Income Tax Assessment Act 1997*) for the *financial year that corresponds to the income year is equal to or greater than:
 - (i) if subparagraph (ii) does not apply—\$100; or
 - (ii) if the Commissioner has made a determination under subsection (2)—the amount specified in the determination; and
 - (d) the notice is given to you within the period of 18 months after the end of the income year.
- (2) The Commissioner may, by legislative instrument, make a determination that specifies an amount for the purposes of subparagraph (1)(c)(ii).
- (3) The *tax receipt must include the following information:
 - (a) your name;
 - (b) the amount mentioned in paragraph (1)(c);

-
- (c) how the amount mentioned in paragraph (1)(c) is notionally used to finance different categories of Commonwealth government expenditure (other than expenditure that relates to amounts collected under the *GST law that are paid to the States and Territories);
 - (d) an estimate of the total face value of Commonwealth stock and securities on issue at the end of the previous *financial year;
 - (e) an estimate of the expected total face value of Commonwealth stock and securities on issue at the end of the financial year;
 - (f) the expected total interest to be paid during the financial year in respect of the Commonwealth stock and securities referred to in paragraph (e).

Note: The allocation of how the total tax assessed to you is spent is a notional calculation and may not represent how the tax assessed to you is actually spent.

- (4) For the purposes of determining the amounts in paragraphs (2)(d) to (f), the Commissioner must use the information in the budget economic and fiscal outlook report prepared for the purpose of section 10 of the *Charter of Budget Honesty Act 1998* in respect of the *financial year referred to in paragraph (1)(c).
- (5) For the purposes of determining the form of the information to be included in the *tax receipt, the Commissioner must seek the advice of the Minister and take that advice into account.
- (6) The Commissioner must give you the *tax receipt as soon as practicable.

3 Application

The amendments made by this Schedule apply to assessments for the 2014-15 income year and later income years.

Schedule 5—Miscellaneous amendments

Part 1—References to specific Ministers, Departments and Secretaries

Division 1—Main amendments

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

1 Paragraphs 79-100(1)(b) and (c)

Omit “Treasurer”, substitute “Minister”.

2 Subsection 79-100(2) (heading)

Repeal the heading, substitute:

*Minister to determine business vehicle use fraction for 2003-04 to
2006-07 financial years using statistical information*

3 Subsection 79-100(2)

Omit “the Treasurer”, substitute “the Minister”.

4 Subsection 79-100(3) (heading)

Repeal the heading, substitute:

*Minister to use later statistical information to determine whether
average input tax credit fraction to be varied for later financial
years*

5 Subsection 79-100(3)

Omit “the Treasurer” (wherever occurring), substitute “the Minister”.

6 Subsection 79-100(6)

Omit “Treasurer”, substitute “Minister”.

Income Tax Assessment Act 1936

7 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *Agriculture Secretary*;
- (b) definition of *Arts Department*;
- (c) definition of *Arts Minister*;
- (d) definition of *Arts Secretary*.

8 Subsection 6(1) (paragraph (a) of the definition of *Commonwealth securities*)

Omit “Treasurer”, substitute “Minister”.

9 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *Education Department*;
- (b) definition of *Health Department*;
- (c) definition of *Health Secretary*;
- (d) definition of *Housing Secretary*;
- (e) definition of *Immigration Department*;
- (f) definition of *Immigration Minister*;
- (g) definition of *Immigration Secretary*;
- (h) definition of *Research Department*;
- (i) definition of *Research Minister*;
- (j) definition of *Research Secretary*;
- (k) definition of *Trade Department*;
- (l) definition of *Trade Minister*;
- (m) definition of *Trade Secretary*;
- (n) definition of *Veterans’ Affairs Department*;
- (o) definition of *Veterans’ Affairs Minister*.

10 Subsection 6(1) (definition of *Veterans’ Affairs Secretary*)

Repeal the definition, substitute:

Veterans' Affairs Secretary means the Secretary of the Department administered by the Minister administering the *Veterans' Entitlements Act 1986*.

11 Subsection 73A(6)

Insert:

Research Secretary means the Secretary of the Department administered by the Minister administering the *Australian Research Council Act 2001*.

12 Subsections 79B(1B), (5) and (5A)

Omit "Treasurer" (wherever occurring), substitute "Minister".

13 Subsection 82CB(1) (definition of *RHQ company*)

Omit "Treasurer", substitute "Minister".

14 Sections 82CD and 82CE

Omit "Treasurer" (wherever occurring), substitute "Minister".

15 Subsections 128AE(2), (2AA), (2AB), (2AC), (2AD), (2A), (2B) and (2C)

Omit "Treasurer" (wherever occurring), substitute "Minister".

Income Tax Assessment Act 1997

16 Subsection 30-80(1) (table item 9.1.1)

Omit "Treasurer", substitute "Minister".

17 Subsections 30-85(2) and (4)

Omit "Treasurer", substitute "Minister".

18 Subsection 30-85(5)

Omit "the Minister", substitute "the Foreign Affairs Minister".

19 Subsections 30-265(4) and 30-280(1)

Omit "Treasurer", substitute "Minister".

20 Subsection 30-280(2)

Omit “Treasurer and the Minister”, substitute “Minister and the *Environment Minister”.

21 Subsection 30-280(2)

Omit “Minister has notified the Treasurer”, substitute “Environment Minister has notified the Minister”.

22 Subsections 30-280(4), 30-285(1), 30-289(4) and 30-289B(1)

Omit “Treasurer”, substitute “Minister”.

23 Subsection 30-289B(2)

Omit “Treasurer and the Minister”, substitute “Minister and the *Families Minister”.

24 Subsection 30-289B(2)

Omit “Minister has notified the Treasurer”, substitute “Families Minister has notified the Minister”.

25 Subsections 30-289B(4), 30-289C(1), 30-300(6) and 30-305(1)

Omit “Treasurer”, substitute “Minister”.

26 Subsection 30-305(2)

Omit “Treasurer and the Minister”, substitute “Minister and the *Arts Minister”.

27 Subsection 30-305(2)

Omit “Minister has notified the Treasurer”, substitute “Arts Minister has notified the Minister”.

28 Subsections 30-305(4), 30-310(1) and 34-55(1) and (2)

Omit “Treasurer”, substitute “Minister”.

29 Subsection 52-131(9) (note)

Omit “Education Department”, substitute “Department administered by the Education Minister”.

30 Paragraph 207-115(5)(a)

Omit “Treasurer”, substitute “Minister”.

31 Section 842-105 (table item 6)

Omit “Treasurer”, substitute “Minister”.

32 Subsection 995-1(1) (definition of *Agriculture Department*)

Repeal the definition, substitute:

Agriculture Department means the Department administered by the Minister administering the *Farm Household Support Act 2014*.

33 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *Agriculture Minister*;
- (b) definition of *Arts Department*;
- (c) definition of *Arts Minister*.

34 Subsection 995-1(1) (definition of *Arts Secretary*)

Repeal the definition, substitute:

Arts Secretary means the Secretary of the Department administered by the *Arts Minister.

35 Subsection 995-1(1) (definition of *Climate Change Department*)

Repeal the definition.

36 Subsection 995-1(1) (definition of *Climate Change Minister*)

Omit “section 1 of”.

37 Subsection 995-1(1) (definition of *Climate Change Secretary*)

Repeal the definition, substitute:

Climate Change Secretary means the Secretary of the Department administered by the *Climate Change Minister.

38 Subsection 995-1(1) (definition of *Defence Department*)

Repeal the definition.

39 Subsection 995-1(1) (definition of *Defence Secretary*)

Repeal the definition, substitute:

Defence Secretary means the Secretary of the Department administered by the *Defence Minister.

40 Subsection 995-1(1) (definition of *Education Department*)

Repeal the definition.

41 Subsection 995-1(1) (definition of *Education Minister*)

Omit “section 1 of”.

42 Subsection 995-1(1) (definition of *Education Secretary*)

Repeal the definition, substitute:

Education Secretary means the Secretary of the Department administered by the *Education Minister.

43 Subsection 995-1(1) (definition of *Employment Department*)

Repeal the definition.

44 Subsection 995-1(1) (definition of *Employment Minister*)

Repeal the definition.

45 Subsection 995-1(1) (definition of *Employment Secretary*)

Repeal the definition, substitute:

Employment Secretary means the Secretary of the Department administered by the Minister administering the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009*.

46 Subsection 995-1(1) (definition of *Environment Department*)

Repeal the definition.

47 Subsection 995-1(1) (definition of *Environment Minister*)

Omit “section 1 of”.

48 Subsection 995-1(1) (definition of *Environment Secretary*)

Repeal the definition, substitute:

Environment Secretary means the Secretary of the Department administered by the *Environment Minister.

49 Subsection 995-1(1) (definition of *Families Department*)

Repeal the definition, substitute:

Families Department means the Department administered by the *Families Minister.

50 Subsection 995-1(1) (definition of *Families Minister*)

Repeal the definition, substitute:

Families Minister means the Minister administering the *Data-matching Program (Assistance and Tax) Act 1990*.

51 Section 995-1 (definition of *Foreign Affairs Minister*)

Omit “section 1 of”.

52 Subsection 995-1(1) (definition of *Health Department*)

Repeal the definition.

53 Subsection 995-1(1) (definition of *Health Minister*)

Omit “section 1 of”.

54 Subsection 995-1(1) (definition of *Health Secretary*)

Omit “Health Department”, substitute “Department administered by the *Health Minister”.

55 Subsection 995-1(1) (definition of *Heritage Department*)

Repeal the definition.

56 Subsection 995-1(1) (definition of *Heritage Minister*)

Repeal the definition.

57 Subsection 995-1(1) (definition of *Heritage Secretary*)

Repeal the definition, substitute:

Heritage Secretary means the Secretary of the Department administered by the Minister administering the *Australian Heritage Council Act 2003*.

58 Subsection 995-1(1) (definition of *Housing Department*)

Repeal the definition.

59 Subsection 995-1(1) (definition of *Housing Minister*)

Repeal the definition.

60 Subsection 995-1(1) (definition of *Housing Secretary*)

Repeal the definition, substitute:

Housing Secretary means the Secretary of the Department administered by the Minister administering the *National Rental Affordability Scheme Act 2008*.

61 Subsection 995-1(1) (definition of *Immigration Department*)

Repeal the definition, substitute:

Immigration Department means the Department administered by the Minister administering the *Migration Act 1958*.

62 Subsection 995-1(1) (definition of *Immigration Minister*)

Repeal the definition.

63 Subsection 995-1(1) (definition of *Immigration Secretary*)

Omit “Immigration Department”, substitute “*Immigration Department”.

64 Subsection 995-1(1) (definition of *Industry Department*)

Repeal the definition, substitute:

Industry Department means the Department administered by the Minister administering the *Industry Research and Development Act 1986*.

65 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *Industry Minister*;
- (b) definition of *Transport Secretary*.

66 Subsection 995-1(1) (definition of *Water Department*)

Repeal the definition, substitute:

Water Department means the Department administered by the *Water Minister.

67 Subsection 995-1(1) (definition of *Water Minister*)

Omit “section 1 of”.

Taxation Administration Act 1953

68 Subsection 2(1) (definition of *Immigration Minister*)

Repeal the definition.

69 Subsection 355-50(2) in Schedule 1 (table item 7)

Omit “of the Treasury”.

70 Subsection 355-65(4) in Schedule 1 (table item 7)

Repeal the item, substitute:

- 7 the Secretary of the Department is for the purpose of:
- (a) briefing the Minister in relation to a decision that the Minister may make under the *Foreign Acquisitions and Takeovers Act 1975*; or
 - (b) briefing the Minister in relation to a decision that the Minister may make in accordance with the document issued by the Minister known as Australia's Foreign Investment Policy; or
 - (c) briefing an officer of the Department who is authorised by the Minister to make a decision mentioned in paragraph (a) or (b) in relation to the decision.

71 Subsection 355-65(4) in Schedule 1 (table item 8)

Omit “of the Treasury”.

72 Subsection 355-65(4) in Schedule 1 (table item 8)

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

73 Paragraph 355-70(8)(a) in Schedule 1

Omit “Attorney-General’s Department”, substitute “Department administered by the Minister administering the *Crimes Act 1914*”.

74 Transitional—amendments do not affect things done

Things done under amended provisions

- (1) Subitem (2) applies to a thing done under a provision of an Act if:
 - (a) the provision is amended by an item of this Part; and
 - (b) the thing was in force immediately before the commencement of that item.
- (2) The thing has effect, after the commencement of that item, as if it had been done under that provision as amended by that item. However, this is not taken to change the time at which the thing was actually done.

Amendments do not affect requirements for things done

- (3) Subitem (4) applies to a thing done under an Act if:
- (a) the thing was in force, and complied with a requirement of that Act, immediately before the commencement of an item of this Part; and
 - (b) immediately after the commencement of that item, the thing fails to comply with that requirement solely because of the amendments of that Act made by that item.
- (4) Disregard those amendments when considering, on and after the commencement of that item, whether the thing complies with that requirement.

Meaning of thing done

- (5) In this item, doing a thing includes:
- (a) making an instrument; and
 - (b) making a decision.

75 Rules may deal with transitional etc. matters

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Part.
- (2) This Part does not limit the rules that may be made for the purposes of subitem (1).

Division 2—Contingent amendments

Income Tax Assessment Act 1997

76 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *Transport Department*;
- (b) definition of *Transport Minister*.

Note: This item only commences if Part 2 of Schedule 2 to the *Land Transport Infrastructure Amendment Act 2014* commences.

Part 2—Amendments relating to excise

Aviation Fuel Revenues (Special Appropriation) Act 1988

77 Section 3 (definition of *index number*)

Repeal the definition.

78 Section 3 (definition of *relevant period*)

Repeal the definition.

79 Section 3 (definition of *relevant rate*)

Repeal the definition.

80 Section 3 (paragraph (a) of the definition of *statutory rate*)

Repeal the paragraph, substitute:

- (a) if a determination under subsection 3A(1) was in force at the time duty was imposed on the eligible aviation fuel—the rate fixed by that determination;

81 Subsection 3A(1)

Omit “subparagraph (a)(ii)”, substitute “paragraph (a)”.

82 Subsection 3A(3)

Omit “which corresponds to the method provided for by this Act for indexing the relevant rate”, substitute “set out in the determination”.

83 Section 5

Repeal the section.

Part 3—Amendments relating to numbering

Income Tax Assessment Act 1997

84 Section 12-5 (table item headed “National Disability Insurance Scheme”)

Omit “26-100”, substitute “26-97”.

85 Section 26-100 (the section 26-100 added by item 3 of Schedule 3 to the *National Disability Insurance Scheme Legislation Amendment Act 2013*)

Re-number as section 26-97.

86 Section 26-100 (the section 26-100 added by item 8 of Schedule 3 to the *Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013*)

Re-number as section 26-98.

87 Section 40-235

Omit “26-100” (wherever occurring), substitute “26-97”.

88 Subsection 110-38(7) (the subsection (7) added by item 6 of Schedule 3 to the *National Disability Insurance Scheme Legislation Amendment Act 2013*)

Omit “26-100” (wherever occurring), substitute “26-97”.

89 Subsection 110-38(7) (the subsection (7) added by item 9 of Schedule 3 to the *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*)

Re-number as subsection (8).

90 Subsection 110-55(9G) (the subsection (9G) inserted by item 7 of Schedule 3 to the *National Disability Insurance Scheme Legislation Amendment Act 2013*)

Omit “26-100” (wherever occurring), substitute “26-97”.

**91 Subsection 110-55(9G) (the subsection (9G) inserted by
item 7 of Schedule 3 to the *National Disability
Insurance Scheme Legislation Amendment Act 2013*)**

Renumber as subsection (9H).

Part 4—Other amendments of principal Acts

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

92 Subsection 111-5(3)

Repeal the subsection, substitute:

- (3) However, the acquisition is not a *creditable acquisition:
- (a) to the extent (if any) that:
 - (i) the employee, *associate, agent, *officer or partner is entitled to an input tax credit for acquiring the thing acquired in incurring the expense; or
 - (ii) the acquisition would not, because of Division 69, be a creditable acquisition if you made it; or
 - (b) unless the supply of the thing acquired, by the employee, associate, agent, officer or partner in incurring the expense, was a taxable supply; or
 - (c) if you would, because of Division 71, not have been entitled to an input tax credit if you had made the acquisition that the employee, associate, agent, officer or partner made.

93 Application of amendment

The amendment made by item 92 applies in relation to acquisitions made on or after 1 July 2000.

Fuel Tax Act 2006

94 Paragraph 43-7(2)(a)

Omit “biodiesel”, substitute “*biodiesel”.

Income Tax Assessment Act 1936

95 Subsection 6(1) (definition of *income tax* or *tax*)

Repeal the definition.

96 Subsection 6(1)

Insert:

income tax means income tax imposed as such by any Act, as assessed under this Act, but, except in section 260, does not include mining withholding tax or withholding tax.

97 Subsection 6(1)

Insert:

tax means income tax imposed as such by any Act, as assessed under this Act, but does not include mining withholding tax or withholding tax.

Income Tax Assessment Act 1997

98 Subsection 30-25(1) (cell at table item 2.1.2, column headed “Special conditions—fund, authority or institution”)

Repeal the cell, substitute:

- (a) the public fund must be:
 - (i) an *Australian government agency; or
 - (ii) a *registered charity; or
 - (iii) operated by an Australian government agency or registered charity; and
- (b) the public university must satisfy the special conditions set out in item 2.1.1

99 Subsection 30-45(1) (cell at table item 4.1.4, column headed “Special conditions—fund, authority or institution”)

Repeal the cell, substitute:

the public fund must be:

- (a) a *registered charity; or
- (b) operated by a registered charity

100 Subsection 30-50(1) (cell at table item 5.1.2, column headed “Special conditions—fund, authority or institution”)

Repeal the cell, substitute:

the public institution or public fund must be:

- (a) an *Australian government agency;
or
- (b) a *registered charity; or
- (c) in the case of a public fund—
operated by an Australian
government agency or registered
charity

101 Subsection 30-50(1) (cell at table item 5.1.3, column headed “Special conditions—fund, authority or institution”)

Repeal the cell, substitute:

the public fund must be:

- (a) an *Australian government agency;
or
- (b) a *registered charity; or
- (c) operated by an Australian
government agency or registered
charity

102 Subsection 30-70(1) (cells at table items 8.1.1 and 8.1.2, column headed “Special conditions—fund, authority or institution”)

Repeal the cells, substitute:

the public fund must be:

- (a) a *registered charity; or
- (b) operated by a registered charity

103 Application of amendments

The amendments made by items 98 to 102 apply to gifts made on or after 3 December 2012.

104 Subsections 104-255(1) and (2)

Omit “payment”, substitute “*payment”.

105 Subsection 104-255(6)

Omit “*carried interest”, substitute “*carried interest*”.

106 Section 165-205

Repeal the section, substitute:

165-205 Death of share owner

- (1) If an individual beneficially owns *shares in a company when he or she dies, this section applies if and while the shares:
 - (a) are owned by the trustee of the deceased’s estate; or
 - (b) are beneficially owned by someone who receives them as a beneficiary of the deceased’s estate.
- (2) For the purposes of a test:
 - (a) the *shares are taken to continue to be beneficially owned by the deceased; and
 - (b) as a result of being taken to continue to beneficially own the shares, the deceased is taken to continue:
 - (i) to have any rights to exercise, or to be able to control (whether directly, or indirectly through one or more interposed entities), any of the voting power in the company; and
 - (ii) to have any rights to receive for the deceased’s own benefit (whether directly or *indirectly) any *dividends that the company may pay; and
 - (iii) to have any rights to receive for the deceased’s own benefit (whether directly or indirectly) any distributions of capital of the company.

107 Application of amendment

The amendment made by item 106 applies to assessments for the 1997-98 income year and later income years.

108 Section 219-70

Repeal the section, substitute:

219-70 Tax offset under section 205-70

- (1) For the purposes of paragraph 205-70(1)(c), if a *life insurance company was entitled to a *tax offset under section 205-70 for a previous income year, assume section 63-10 applied to the part of the company's basic income tax liability for that previous income year that was attributable to its shareholders.
- (2) In working out the part of the company's basic income tax liability that was attributable to its shareholders, have regard to the company's accounting records.

Example: The following apply to a life insurance company that satisfies the residency requirement for an income year:

- (a) the company has a tax offset of \$60,000 under section 205-70 (the franking deficit offset) for that year;
- (b) the company's basic income tax liability for that year would be \$100,000 if the franking deficit offset were disregarded;
- (c) 20% of the \$100,000 is attributable to the company's shareholders (the shareholders' part).

As a result of applying \$20,000 of the franking deficit offset to reduce the shareholders' part to nil, the company's basic income tax liability becomes \$80,000. The remaining \$40,000 of the offset will be included in a franking deficit tax offset for the next income year for which the company satisfies the residency requirement.

109 Subsection 219-75(1) (note)

Omit "amount mentioned in paragraph 219-70(1)(b)", substitute "company's basic income tax liability mentioned in subsection 219-70(1)".

110 Subsection 219-75(2) (method statement, step 1)

Omit "amount mentioned in paragraph 219-70(1)(b)", substitute "company's basic income tax liability mentioned in subsection 219-70(1)".

111 Subsection 219-75(2) (method statement, step 1, note)

Omit "paragraph 219-70(1)(b)", substitute "that subsection".

112 Application of amendments

The amendments made by items 108 to 111 apply in relation to the 2006-07 income year and later income years.

113 Section 355-400 (note)

Omit “arms’ length”, substitute “arm’s length”.

114 Paragraph 701-55(2)(d)

Repeal the paragraph, substitute:

- (d) where just before that time the prime cost method applied for working out the asset’s decline in value and the asset’s *tax cost setting amount exceeds the joining entity’s terminating value for the asset—either:
 - (i) the *head company were required to choose at that time an effective life for the asset in accordance with subsections 40-95(1) and (3), and any choice of an effective life determined by the Commissioner were limited to one in force at that time; or
 - (ii) an effective life for the asset were worked out under subsection 40-95(7), (8), (9) or (10) at that time; and

115 Paragraph 709-185(1)(c)

Repeal the paragraph, substitute:

- (c) an amount (the *joining entity’s excess*) of the offset remains after applying section 63-10 (about the tax offset priority rules) to the joining entity’s basic income tax liability for that income year.

116 Subsection 709-185(2)

Repeal the subsection, substitute:

Transfer of excess to head company

- (2) For the purpose of applying subsection 205-70(1) to the *head company of the *consolidated group for the income year in which the joining time occurs:
 - (a) if, as described in paragraph 205-70(1)(c), an amount of a *tax offset remains after applying section 63-10—that

amount is taken to be increased by the amount of the joining entity's excess; or

- (b) otherwise:
- (i) paragraph 205-70(1)(c) is taken to apply to the head company; and
 - (ii) the remaining amount of a tax offset covered by that paragraph is taken to be the amount of the joining entity's excess.

Note: Paragraph 205-70(1)(c) refers to tax offsets under section 205-70.

- (2A) In working out whether paragraph (2)(a) applies, take into account any application of this section to any other entity that became a *subsidiary member of the group before the joining time.

117 Paragraph 709-190(b)

Repeal the paragraph, substitute:

- (b) an amount (the *excess*) of the offset remains after applying section 63-10 (about the tax offset priority rules) to the head company's basic income tax liability for that income year; and

118 Paragraph 709-190(d)

Omit "excess mentioned in paragraph (b)", substitute "excess".

119 Application of amendments

The amendments made by items 115 to 118 apply in relation to the 2006-07 income year and later income years.

120 Subsection 709-215(4) (after table item 4)

Insert:

- | | | | |
|----|--|---------------|----------------|
| 4A | Both these conditions are met: | The start of | The end of the |
| | (a) the entity that is owed the debt for the | the debt test | debt test |
| | debt test period is the *head company of | period | period |
| | a *consolidated group; | | |
| | (b) the period ends when a *subsidiary | | |
| | member of the group ceases to be a | | |
| | *member of the group without | | |
| | becoming a member of another | | |

consolidated group

121 Application of amendment

The amendment made by item 120 applies in relation to debt test periods starting on or after 1 July 2002.

Superannuation Guarantee (Administration) Act 1992

122 Paragraph 10(3)(a)

Before “benefits”, insert “the minimum”.

Taxation Administration Act 1953

123 Subsection 8AAZLGA(7) (note)

Omit “14ZW(1)(aac)”, substitute “14ZW(1)(aad)”.

124 Paragraph 8C(1)(a)

Omit “an approved form or”.

125 Paragraph 14ZW(1AABA)(b)

Omit “a payments”, substitute “a payment”.

Note: This item fixes a grammatical error.

126 Paragraph 15-30(d) in Schedule 1

Omit “prescribed”.

127 Subsection 15-50(1) in Schedule 1 (heading)

Repeal the heading, substitute:

Declarations about matters

128 Paragraph 15-50(1)(b) in Schedule 1

Omit “prescribed”.

129 Paragraph 15-50(2)(b) in Schedule 1

Omit “a prescribed”, substitute “any”.

130 Paragraph 15-50(3)(b) in Schedule 1

Omit “prescribed”.

131 Paragraph 15-50(4)(a) in Schedule 1

Repeal the paragraph.

132 Transitional—existing declarations

- (1) This item applies to a declaration:
 - (a) given under subsection 15-50(1) or (3) in Schedule 1 to the *Taxation Administration Act 1953*; and
 - (b) in effect immediately before the commencement of this item.
- (2) The declaration has effect, after the commencement of this item, as if it had been given under that subsection as amended by this Act.

133 Paragraph 45-235(1)(a) in Schedule 1

Omit “former paragraph 45-115(1)(c) or 45-175(1)(b)”, substitute “paragraph 45-115(1)(c) or former paragraph 45-175(1)(b)”.

134 Subsection 155-15(1) in Schedule 1 (cell at table item 3, column 3)

Repeal the cell, substitute:

return, given as described in one of the following provisions, in relation to the importation:

- (a) paragraph 69(8)(a), (b) or (c), or 70(7)(a), of the *Customs Act 1901*;
- (b) regulations prescribed for the purposes of paragraph 69(8)(d) of that Act

135 Application of amendment

The amendment made by item 134 applies in relation to GST payable on or after the day this Act receives the Royal Assent on taxable importations.

136 Section 280-170 in Schedule 1

Omit “*Division 293 tax,,”, substitute “*Division 293 tax,”.

137 Paragraph 298-5(c) in Schedule 1

Omit “section 426-120”, substitute “section 420-5 or 426-120”.

138 Subsection 340-10(2) in Schedule 1 (table item 3)

Omit “or 170AA”, substitute “, former section 170AA”.

139 Subsection 355-65(2) in Schedule 1 (table item 5A)

Repeal the item, substitute:

- | | | |
|----|--|---|
| 5A | the *Families Secretary or the Chief Executive Centrelink (within the meaning of the <i>Human Services (Centrelink) Act 1997</i>) | is for the purpose of administering the <i>Paid Parental Leave Act 2010</i> . |
|----|--|---|

140 Application of amendment

The amendment made by item 139 applies to records and disclosures of information made on or after 1 July 2011 (whenever the information was acquired).

Part 5—Other amendments of amending Acts

New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002

141 Item 34 of Schedule 13 (heading)

Repeal the heading, substitute:

34 Subsection 995-1(1)

142 Item 34 of Schedule 13

Omit “Repeal the definition, substitute:”, substitute “Insert:”.

143 Item 19 of Schedule 15 (heading)

Repeal the heading, substitute:

19 After Division 976

Superannuation Legislation Amendment (Stronger Super) Act 2012

144 After subitem 20(1) of Schedule 1

Insert:

- (1A) Subject to subitems (2), (3) and (3A), the amendments made by this Schedule apply in relation to an entity that is an employer in relation to conduct that occurs on or after 1 July 2015.

145 After subitem 20(3) of Schedule 1

Insert:

- (3A) The amendments made by this Schedule apply in relation to an entity in relation to conduct that occurs on or after a day (the *test day*) in the period beginning on 2 July 2014 and ending on 30 June 2015 if:
- (a) neither subitem (2) nor (3) applies to the entity; and
 - (b) the entity starts to be an employer on the test day; and

(c) at a time on the test day, the entity is a medium to large employer.

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

146 Item 55 of Schedule 1 (heading)

Repeal the heading, substitute:

55 Subsection 707-325(5) (note 1)

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

147 Item 29 of Schedule 6

Repeal the item, substitute:

29 Paragraph 8C(1)(a)

Omit “furnish”, substitute “give”.

29A Paragraph 8C(1)(a)

After “information”, insert “or document”.

148 Item 83 of Schedule 6 (heading)

Repeal the heading, substitute:

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

149 Item 140 of Schedule 6 (heading)

Repeal the heading, substitute:

140 Section 11-15 (before table item headed “resale royalty collecting societies”)

Tax Laws Amendment (2012 Measures No. 3) Act 2012

150 Item 12 of Schedule 1

Repeal the item, substitute:

12 Subsection 15-10(2) in Schedule 1

After “12-FB”, insert “, 12-FC”.

Tax Laws Amendment (2012 Measures No. 6) Act 2013

151 Section 4

Before “Section 170”, insert “(1)”.

152 At the end of section 4

Add:

- (2) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:
- (a) the assessment was made before the commencement of this subsection; and
 - (b) the amendment is made within 2 years after that commencement; and
 - (c) the amendment is made for the purposes of giving effect to item 30 or 31 of Schedule 8 (about farm management deposits) to this Act.

Tax Laws Amendment (Research and Development) Act 2011

153 Item 49 of Schedule 3

Omit “73G(1)”, substitute “73G(1)”.

154 Item 50 of Schedule 3

Omit “73G”, substitute “73G”.

***Tax Laws Amendment (Temporary Budget Repair Levy) Act
2014***

155 Section 3

Omit “Each Act”, substitute “(1) Each Act, and each regulation,”.

156 At the end of section 3

Add:

- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

*[Minister’s second reading speech made in—
House of Representatives on 17 July 2014
Senate on 25 September 2014]*

(175/14)
