Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015

No. 21, 2015

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

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

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Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015

No. 21, 2015

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

[*Assented to 19 March 2015*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015*.

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**
Provisions	**Commencement**	**Date/Details**
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	19 March 2015
2. Schedule 1	The day after this Act receives the Royal Assent.	20 March 2015
3. Schedule 2	The later of: (a) the 14th day after this Act receives the Royal Assent; and (b) 1 May 2015.	1 May 2015 (paragraph (b) applies)
4. Schedule 3	The day after this Act receives the Royal Assent.	20 March 2015
5. Schedule 4	1 July 2015.	1 July 2015
6. Schedule 5	The day after this Act receives the Royal Assent.	20 March 2015
7. Schedule 6, items 1 to 20	The day this Act receives the Royal Assent.	19 March 2015
8. Schedule 6, item 21	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of Schedule 4 to the *Treasury Legislation Amendment (Repeal Day) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	19 March 2015 (paragraph (a) applies)

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
9. Schedule 6, item 22	The day this Act receives the Royal Assent.	19 March 2015
10. Schedule 6, item 23	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of Part 2 of Schedule 2 to the *Treasury Legislation Amendment (Repeal Day) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	19 March 2015 (paragraph (a) applies)
11. Schedule 6, items 24 to 37	The day this Act receives the Royal Assent.	19 March 2015
12. Schedule 6, Part 3	1 July 2020.	1 July 2020
13. Schedule 6, Part 4, Division 1	The day this Act receives the Royal Assent.	19 March 2015
14. Schedule 6, Part 4, Division 2	1 July 2020.	1 July 2020
15. Schedule 7, Part 1	The day after this Act receives the Royal Assent.	20 March 2015
16. Schedule 7, item 44	Immediately after the commencement of Schedule 3 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012*.	1 July 2012
17. Schedule 7, items 45 and 46	Immediately after the commencement of Division 3 of Part 1 of Schedule 4 to the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*.	29 November 2012
18. Schedule 7, items 47 and 48	Immediately after the commencement of Part 2 of Schedule 4 to the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*.	29 November 2012

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
19. Schedule 7, items 49 and 50	Immediately after the commencement of item 42 of Schedule 3 to the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.	1 July 2013
20. Schedule 7, item 51	The day after this Act receives the Royal Assent.	20 March 2015
21. Schedule 7, item 52	Immediately after the commencement of item 11 of Schedule 1 to the *Tax and Superannuation Laws Amendment (2013 Measures No. 2) Act 2013*.	28 June 2013
22. Schedule 7, items 53 and 54	Immediately after the commencement of item 34 of Schedule 2 to the *Tax Laws Amendment (2013 Measures No. 2) Act 2013*.	11 July 2013

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 Schedules

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

4 Amendment of assessments

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

(a) the assessment was made before the commencement of Schedule 3 (about CGT exemption for compensation and insurance) to this Act; and

(b) the amendment is made for the purpose of giving effect to that Schedule; and

(c) the amendment is made within 2 years after the day that Schedule commences.

Note: The 2-year period in paragraph (c) can be extended (see section 170A of the *Income Tax Assessment Act 1936*).

Schedule 1—Excess non-concessional superannuation contributions tax reforms

Income Tax Assessment Act 1997

1 Section 10-5 (table item headed "superannuation")

Before:

benefits generally	Divisions 301 to 306

insert:

associated earnings on non-concessional contributions	Subdivision 292-B

2 Section 11-55 (table item headed "superannuation")

Omit:

release authorities, payments from	303-15 303-20 304-15

substitute:

release authorities, payments from	303-15 303-17 303-20 304-15

3 Section 13-1 (table item headed "superannuation")

After:

generally	Divisions 301 and 302

insert:

associated earnings on non-concessional contributions	Subdivision 292-B

4 Subsection 280-15(3)

Repeal the subsection, substitute:

(3) If non-concessional contributions exceed an indexed cap, the individual can:

(a) elect to release an amount corresponding to that excess, and 85% of the associated earnings on that excess, from the individual's superannuation interests; or

(b) elect not to release such an amount if the value of the individual's superannuation interests is nil.

An amount corresponding to those associated earnings is then included in the individual's assessable income and gives rise to a tax offset.

(4) The individual is taxed:

(a) if the amount released as described in paragraph (3)(a) fell short of that excess—on that shortfall; or

(b) on that excess, if the individual did not make either of those elections.

An amount equal to this tax liability must be released from the individual's superannuation interests.

5 Division 292 (heading)

Repeal the heading, substitute:

Division 292—Excess non-concessional contributions

6 Section 292-1

Repeal the section, substitute:

292-1 What this Division is about

This Division limits the superannuation contributions made in a financial year that receive concessional tax treatment.

You become liable for tax if:

(a) your non-concessional contributions exceed an indexed cap; and

(b) you do not release a corresponding amount from your superannuation interests;

unless the value of your superannuation interests is nil.

> An amount will be included in your assessable income, and you will become entitled to a tax offset, if you release such an amount or if the value of your superannuation interests is nil.

7 After Subdivision 292-A

Insert:

Subdivision 292-B—Assessable income and tax offset

292-15 What this Subdivision is about

> An amount is included in your assessable income, and you are entitled to a tax offset, if your non-concessional contributions exceed an indexed cap and:
>
> (a) as a result, you release an amount from your superannuation interests; or
>
> (b) the value of your superannuation interests is nil.
>
> This amount included in your assessable income corresponds to your associated earnings on those excess contributions.

Table of sections

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292-25 Amount included in assessable income
292-30 Amount of the tax offset

292-20 Amount in assessable income, and tax offset, relating to your non-concessional contributions

Your assessable income for an income year includes an amount, and you are entitled to a *tax offset for the income year, if:

(a) you receive one or more *excess non-concessional contributions determinations for a *financial year that corresponds to the income year; and

(b) you make one or more elections under paragraph 96-7(1)(a) or (b) in Schedule 1 to the *Taxation Administration Act 1953* in relation to those determinations.

292-25 Amount included in assessable income

(1) The amount included in your assessable income for the income year is equal to the amount of associated earnings stated in the most recent of those determinations.

(2) However, if:

(a) the sum of any amounts paid to you in response to release authorities issued in relation to those determinations (the ***total amount***) is less than the amount of the excess stated in the most recent of those determinations; and

(b) section 292-467 does not apply to you for the *financial year;

the amount included in your assessable income for the income year is equal to the amount of associated earnings that would have been stated in that most recent determination if the total amount had been the amount of the excess stated in that determination.

Note 1: The amount included in your assessable income may be nil.

Note 2: Any amounts paid to you in response to those release authorities are non-assessable non-exempt income (see section 303-17).

292-30 Amount of the tax offset

The *tax offset is equal to 15% of the amount included in your assessable income for the income year under section 292-25.

Note 1: This tax offset compensates for any tax liability of the superannuation provider on earnings from investments made with the contributions making up the excess amount stated in the most recent determination.

Note 2: This offset cannot be refunded, transferred or carried forward (see item 20 of the table in subsection 63-10(1)).

8 Subsection 292-85(1)

Repeal the subsection, substitute:

(1) You have ***excess non-concessional contributions*** for a *financial year if:

(a) you receive one or more *excess non-concessional contributions determinations for the financial year; and

(b) the excess amount stated in the most recent of those determinations exceeds the sum of any amounts paid to you in response to release authorities issued, in relation to those determinations, under section 96-12 in Schedule 1 to the *Taxation Administration Act 1953*; and

(c) section 292-467 of this Act does not apply to you for the financial year.

(1A) The amount of your ***excess non-concessional contributions*** is:

(a) if no amounts were paid to you as described in paragraph (1)(b)—the excess amount stated in that most recent determination; or

(b) otherwise—the amount of the excess worked out under paragraph (1)(b).

Note: Any excess non-concessional contributions determination you receive after the first one for a financial year is an amended determination.

9 Subsection 292-465(1)

After "for the purposes of this Division", insert "and Subdivision 97-B in Schedule 1 to the *Taxation Administration Act 1953*".

10 Paragraph 292-465(2)(b)

Repeal the paragraph, substitute:

(b) if you receive one or more *excess non-concessional contributions determinations for the *financial year—before the end of:

(i) the period of 60 days starting on the day you receive the most recent of those determinations; or

(ii) a longer period allowed by the Commissioner.

11 Subsections 292-465(3) and (4)

Omit "the determination" (first occurring), substitute "a determination under subsection (1)".

12 Subsection 292-465(7)

Omit "the determination", substitute "a determination made under subsection (1)".

13 Subsection 292-465(8)

Omit "under this section", substitute "made under subsection (1)".

14 Paragraph 292-465(9)(b)

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

15 After section 292-465

Insert:

292-467 Direction that the value of superannuation interests is nil

(1) The Commissioner must, by writing, direct that this section applies to you for a *financial year if:

(a) you receive one or more *excess non-concessional contributions determinations for the financial year; and

(b) as a result of those determinations, you make one or more elections under paragraph 96-7(1)(a) or (b) in Schedule 1 to the *Taxation Administration Act 1953*; and

(c) in the case of elections under paragraph 96-7(1)(a) in that Schedule—the sum of any amounts paid to you in response to any release authorities issued in relation to those elections is less than the excess amount stated in the most recent of those determinations; and

(d) the Commissioner is satisfied that the *value of all of your remaining *superannuation interests is nil.

Note 1: The direction means you have no excess non-concessional contributions for the financial year (see paragraph 292-85(1)(c)), even though not all of the excess amount has been released to you.

Note 2: The direction does not prevent an amount from being included in your assessable income (see Subdivision 292-B).

Note 3: Any excess non-concessional contributions determination you receive after the first one for a financial year is an amended determination.

(2) The Commissioner must give you a copy of the direction.

(3) A direction under this section may be included in a notice of assessment.

(4) To avoid doubt:

(a) you may object under section 292-245 against an *excess non-concessional contributions tax assessment made in relation to you on the ground that a direction was not made under this section; and

(b) for the purposes of paragraph (e) of Schedule 1 to the *Administrative Decisions (Judicial Review) Act 1977*, not making a direction under this section is a decision forming part of the process of making an assessment of tax under this Act.

16 After section 303-15

Insert:

303-17 Payments from release authorities etc.—released non-concessional contributions and associated earnings

A *superannuation benefit is not assessable income and is not *exempt income if it is paid to you in response to a release authority issued under section 96-12 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: A related amount may still be included in your assessable income (see Subdivision 292-B).

17 Subsection 995-1(1)

Insert:

excess non-concessional contributions determination has the meaning given by subsection 97-25(2) in Schedule 1 to the *Taxation Administration Act 1953*.

total release amount, in relation to an *excess non-concessional contributions determination, has the meaning:

(a) given by paragraph 97-25(1)(c) in Schedule 1 to the *Taxation Administration Act 1953*; and

(b) affected by subsection 96-7(2) in that Schedule.

Taxation Administration Act 1953

18 After section 14ZVB

Insert:

14ZVC Objections relating to non-concessional contributions

Taxation decisions to which section applies

(1) This section applies to the following taxation decisions:

(a) an assessment against which a taxation objection may be made under section 175A of the *Income Tax Assessment Act 1936*;

(b) an excess non-concessional contributions determination (within the meaning of the *Income Tax Assessment Act 1997*);

(c) an assessment against which a taxation objection may be made under section 292-245 of the *Income Tax Assessment Act 1997*;

(d) a determination under section 292-465 of the *Income Tax Assessment Act 1997*, or a decision not to make a determination under that section;

(e) a direction under section 292-467 of the *Income Tax Assessment Act 1997*, or a decision not to make a direction under that section;

(f) 2 or more taxation decisions that are taken to be a single taxation decision under subsection (2).

Decisions treated as single decision for common objection ground

(2) If:

(a) a person makes a taxation objection at a particular time, on a particular ground, against a taxation decision to which this section applies; and

(b) at that time, the person also objects, or could also object, on that ground, against another taxation decision to which this section applies;

then, for the purposes of this Part, those taxation decisions are taken to be a single taxation decision.

Limited objection rights because of earlier objection

(3) A person cannot object under this Part against a taxation decision to which this section applies on a particular ground if:

(a) the ground was a ground for an objection the person has made against another decision to which this section applies; or

(b) the ground could have been a ground for an objection the person has made against another decision to which this section applies.

19 After paragraph 14ZW(1)(aac)

Insert:

(aaca) if the taxation objection is made on a particular ground under any of the following provisions:

(i) section 175A of the *Income Tax Assessment Act 1936*;

(ii) section 97-35 in Schedule 1 to this Act;

(iii) section 292-245, 292-465 or 292-467 of the *Income Tax Assessment Act 1997*;

within the same period that the person must lodge a taxation objection on that ground under section 292-245 of the *Income Tax Assessment Act 1997*; or

20 Part 2-35 in Schedule 1 (heading)

Repeal the heading, substitute:

Part 2-35—Excess superannuation contributions

21 Section 96-1 in Schedule 1

Repeal the section, substitute:

96-1 What this Subdivision is about

You may elect to release from your superannuation interests: (a) up to 85% of your excess concessional contributions for a financial year; and

(b) your non-concessional contributions that exceed your non-concessional contributions cap for the financial year, and 85% of any associated earnings.

Superannuation providers will usually be required to pay an amount from the superannuation interests. However, for certain interests the provider may choose whether or not to pay.

Released concessional contributions are paid to the Commissioner. You get a credit for the released amount. Surplus credits are refunded to you under Division 3A of Part IIB.

Released non-concessional contributions and associated earnings are paid to you.

22 Section 96-5 in Schedule 1 (heading)

Repeal the heading, substitute:

96-5 Electing to release excess concessional contributions

23 Subsection 96-5(1) in Schedule 1

After "*excess concessional contributions determination", insert "for a *financial year".

24 Subsection 96-5(1) in Schedule 1 (note 1)

Omit "Division 97", substitute "Subdivision 97-A".

25 Paragraph 96-5(5)(b) in Schedule 1

Omit "section 96-40", substitute "subsection 96-40(1)".

26 After section 96-5 in Schedule 1

Insert:

96-7 Electing to release non-concessional contributions etc.

Original determinations

(1) If you receive an *excess non-concessional contributions determination for a *financial year, you may:

(a) elect to release the *total release amount stated in the determination from your *superannuation interests; or

(b) elect not to release that total release amount if the value of your superannuation interests is nil; or

(c) elect not to release that total release amount for some other reason.

Note 1: For excess non-concessional contributions determinations, see Subdivision 97-B.

Note 2: The released amount will be non-assessable non-exempt income (see section 303-17 of the *Income Tax Assessment Act 1997*), but an amount corresponding to your associated earnings on those excess contributions will be included in your assessable income (see Subdivision 292-B of that Act).

Note 3: If the value of your superannuation interests is between nil and that total release amount, you could first make an election under paragraph (a) and then a further election under paragraph (b) (see subsection (6)).

Note 4: An election purportedly made under paragraph (b) will be invalid if the value of your superannuation interests was not nil.

Amended determinations

(2) However, if that determination is an amended determination that increased the *total release amount, any election under subsection (1) relating to the amended determination is to be made as if that new total release amount were reduced by:

(a) if you made an election under paragraph (1)(a) for each earlier *excess non-concessional contributions determination you received for the *financial year—the sum of any amounts paid to you in response to release authorities issued in relation to those determinations; or

(b) otherwise—the total release amount stated in the most recent of those earlier determinations.

(3) Receiving an amended determination does not prevent you from making an election under subsection (1) in relation to an earlier determination.

Requirements for election

(4) You make an election under paragraph (1)(a) by identifying:
  (a) one or more superannuation providers who hold one or more *superannuation interests for you; and
  (b) the amount each superannuation provider is to release.

(5) An election under paragraph (1)(a), (b) or (c) relating to an *excess non-concessional contributions determination must:
  (a) be in the *approved form; and
  (b) be given to the Commissioner within:
    (i) 60 days after the Commissioner issued notice of that determination; or
    (ii) a further period allowed by the Commissioner.

Unsuccessful release—making a further election

(6) If:
  (a) you make a valid election under paragraph (1)(a); and
  (b) the Commissioner gives you a notice under subsection 96-40(2) stating an amount (the ***unpaid amount***) that a *superannuation provider did not pay in relation to the release authority issued in relation to that election;

you may make a further election under paragraph (1)(a) or (b) for the release, or non-release, of the unpaid amount.

Note: That further election would be under paragraph (1)(b) if the value of your superannuation interests is now nil.

(7) The further election must comply with subsection (4) and paragraph (5)(a), and must be given to the Commissioner within:
  (a) 60 days after the Commissioner issued the notice mentioned in paragraph (6)(b); or
  (b) a further period allowed by the Commissioner.

Election is irrevocable

(8) An election under this section is irrevocable.

27 Section 96-10 in Schedule 1 (heading)

Repeal the heading, substitute:

96-10 Release authorities for elections under section 96-5

28 Subsection 96-10(1) in Schedule 1

Omit "in relation to *excess concessional contributions you have for a *financial year".

29 After section 96-10 in Schedule 1

Insert:

96-12 Release authorities for elections under section 96-7

(1) The Commissioner must issue one or more release authorities under this section if you make a valid election under paragraph 96-7(1)(a).

(2) A release authority may be issued to:
  (a) a *superannuation provider identified in the election; or
  (b) any other superannuation provider who holds one or more *superannuation interests for you.

(3) Each release authority must:
  (a) state the total amount to be released by the *superannuation provider from *superannuation interests held by the provider for you; and
  (b) be dated; and
  (c) contain any other information that the Commissioner considers relevant.

30 Section 96-15 in Schedule 1

Omit "payment", substitute "notice under section 96-35".

31 Subsection 96-20(1) in Schedule 1

Omit "that has been".

32 After subsection 96-20(1) in Schedule 1

Insert:

(1A) A *superannuation provider issued with a release authority under section 96-12 must, within 21 days after the release authority is issued (or a further period allowed by the Commissioner), pay to the individual the lesser of:

(a) the amount stated in the release authority; and

(b) the sum of the *maximum available release amounts for each *superannuation interest held by the superannuation provider for the individual in *superannuation plans.

Note 1: Subsection 288-95(3) provides for an administrative penalty for failing to comply with this section.

Note 2: For the taxation treatment of the payment, see section 96-60.

33 At the end of section 96-20 in Schedule 1

Add:

(3) Despite paragraph (1A)(b), the *maximum available release amount for a *defined benefit interest is not to be included in the sum worked out under that paragraph.

34 Section 96-25 in Schedule 1 (heading)

Repeal the heading, substitute:

96-25 Voluntary compliance with a release authority relating to voluntary release interests and defined benefit interests

35 Subsection 96-25(1) in Schedule 1

Omit "that has been".

36 Subsection 96-25(2) in Schedule 1

Repeal the subsection, substitute:

(2) A *superannuation provider issued with a release authority under section 96-12 may, within 21 days after the release authority is issued (or a further period allowed by the Commissioner), pay to the individual the lesser of:

(a) the amount stated in the release authority; and

(b) the sum of the *maximum available release amounts for each *defined benefit interest held by the superannuation provider for the individual in *superannuation plans.

(3) For the purposes of paragraph (1)(a) or (2)(a), reduce the amount mentioned in that paragraph by any amount the provider pays under section 96-20 in relation to the release authority.

37 Subsection 96-35(1) in Schedule 1

Omit "that has been".

38 Subsection 96-35(1) in Schedule 1

After "section 96-10", insert "or 96-12".

39 Paragraph 96-35(2)(a) in Schedule 1

After "section 96-10", insert "or 96-12".

40 Subsection 96-35(3) in Schedule 1

Repeal the subsection, substitute:

(3) A notice under this section must be given in the *approved form:

(a) within 7 days after the release authority is issued, if the release authority was issued under section 96-10; or

(b) within 21 days after the release authority is issued (or a further period allowed by the Commissioner), if the release authority was issued under section 96-12.

Note: Subsection 286-75(1) provides for an administrative penalty for failing to comply with this section.

41 Section 96-40 in Schedule 1

Repeal the section, substitute:

96-40 Notifying individual—unsuccessful release attempt

(1) The Commissioner must notify an individual if, in relation to the individual's election under section 96-5, the Commissioner:
  (a) receives a notice from a *superannuation provider under subsection 96-35(2); or
  (b) does not receive a payment from a superannuation provider of the full amount stated in a release authority within the time mentioned in subsection 96-20(1) or 96-25(1).

(2) The Commissioner must notify an individual if, in relation to the individual's election under paragraph 96-7(1)(a):
  (a) the Commissioner receives a notice from a *superannuation provider under subsection 96-35(2); or
  (b) the individual does not receive a payment from a superannuation provider of the full amount stated in a release authority within the time mentioned in subsection 96-20(1A) or 96-25(2).

(3) A notice under subsection (1) or (2) must:
  (a) be in writing; and
  (b) identify the *superannuation provider; and
  (c) state how much of the amount stated in the release authority was not paid within the applicable time.

96-42 Notifying individual—successful releases under section 96-12

(1) A *superannuation provider issued with a release authority under section 96-12 must notify an individual of a payment made to the individual in accordance with the release authority and this Subdivision.

(2) The notice must be given in the *approved form within:
  (a) 21 days after the release authority is issued; or
  (b) a further period allowed by the Commissioner.

Note: Subsection 286-75(2AA) provides an administrative penalty for failing to comply with this section.

42 Section 96-60 in Schedule 1 (note)

Repeal the note, substitute:

Note: The income tax treatment of released amounts is also affected by Subdivision 292-B, and sections 303-15 and 303-17, of that Act.

43 Division 97 in Schedule 1 (heading)

Repeal the heading, substitute:

Division 97—Excess contributions determinations

44 At the end of Division 97 in Schedule 1

Add:

Subdivision 97-B—Excess non-concessional contributions determinations

Guide to Subdivision 97-B

97-20 What this Subdivision is about

The Commissioner must give you a determination stating:

(a) the amount by which your non-concessional contributions exceed your non-concessional contributions cap; and

(b) a proxy amount for your associated earnings on this excess; and

(c) the total amount that can be released from your superannuation interests in relation to this excess and those earnings.

Table of sections

Operative provisions

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Operative provisions

97-25 Excess non-concessional contributions determinations

(1) If your *non-concessional contributions for a *financial year (the ***contributions year***) exceed your *non-concessional contributions cap for the contributions year, the Commissioner must make a written determination stating:

(a) the amount of the excess; and

(b) the amount of your associated earnings worked out under section 97-30; and

(c) the following amount (the ***total release amount***):

$$\text{Amount of the excess} + \left(0.85 \times \begin{array}{c}\text{Amount of your}\\ \text{associated earnings}\end{array}\right)$$

(2) A determination under this section is an ***excess non-concessional contributions determination***.

(3) The Commissioner may amend a determination at any time.

(4) Notice of the determination may be included in any other notice given to you by the Commissioner.

(5) Notice of a determination given by the Commissioner under this section is prima facie evidence of the matters stated in the notice.

97-30 Associated earnings

(1) You are taken to have associated earnings equal to the sum (rounded down to the nearest dollar) of the amounts worked out under the following formula for each of the days during the period:

(a) starting on the first day of the contributions year; and

(b) ending on the day the Commissioner makes the first *excess non-concessional contributions determination you receive for the contributions year.

$$\text{Proxy rate} \times \left(\text{Excess} + \text{Sum of earlier daily proxy amounts}\right)$$

where:

excess means the amount of the excess referred to in paragraph 97-25(1)(a).

proxy rate means the lower of:

(a) the rate worked out under subsection 8AAD(1) for the first day of that period as if the base interest rate (within the meaning of subsection 8AAD(2)) for that day were the average of the base interest rates for each of the days of the contributions year; and

(b) a rate determined under subsection (2) for the contributions year.

sum of earlier daily proxy amounts means the sum of the amounts worked out under the formula for each of the earlier days (if any) during that period.

Note: Any excess non-concessional contributions determination you receive after the first one for the contributions year is an amended determination.

(2) The Minister may, by legislative instrument, determine a rate for a specified *financial year.

97-35 Review

If you are dissatisfied with an *excess non-concessional contributions determination made in relation to you, you may object against the determination in the manner set out in Part IVC.

45 Subsection 250-10(2) in Schedule 1 (table item 135R)

Omit “concessional”, substitute “superannuation”.

46 After subsection 286-75(2) in Schedule 1

Insert:

(2AA) You are also liable to an administrative penalty if:

(a) you are required under section 96-42 (releasing superannuation) to give a notice to an entity (other than the Commissioner) in the *approved form by a particular day; and

(b) you do not give the notice in the approved form to the entity by that day.

47 Section 288-90 in Schedule 1

Omit “paragraph 292-405(1)(b)”, substitute “subsection 292-405(1)”.

48 Subsection 288-95(3) in Schedule 1

Omit “concessional”, substitute “superannuation”.

49 Application of amendments

The amendments made by this Schedule apply in relation to non-concessional contributions for the 2013-14 financial year and later financial years.

Schedule 2—Transferring tax investigation function to Inspector-General of Taxation

Part 1—Main amendments

Inspector-General of Taxation Act 2003

1 Paragraph 3(a)

Omit "the tax laws for the benefit of all taxpayers", substitute "taxation laws for the benefit of all taxpayers, tax practitioners and other entities".

2 Paragraph 3(b)

Omit "the tax laws", substitute "taxation laws".

3 Paragraph 3(c)

Repeal the paragraph, substitute:

(c) investigate complaints by taxpayers, tax practitioners or other entities about the administration of taxation laws; and

(d) investigate administrative action taken under taxation laws, including systemic issues, that affect taxpayers, tax practitioners or other entities.

4 Section 4

Insert:

ATO official means:

(a) the Commissioner; or

(b) a Second Commissioner of Taxation; or

(c) a Deputy Commissioner of Taxation; or

(d) a person engaged under the *Public Service Act 1999*, or an employee or officer of an authority of the Commonwealth, performing duties in the Australian Taxation Office; or

(e) a person engaged on behalf of the Commonwealth by another ATO official to provide services related to the administration of taxation laws; or

(f) a person who:
(i) is a member of a body established for the sole purpose of assisting the Commissioner in the administration of an aspect of taxation laws; and
(ii) receives, or is entitled to receive, remuneration (but not merely allowances) from the Commonwealth in respect of his or her membership of the body.

Commissioner means the Commissioner of Taxation.

entity has the same meaning as in the *Income Tax Assessment Act 1997*.

investigation into a complaint means an investigation under paragraph 7(1)(a).

investigation into a systemic issue means an investigation under paragraph 7(1)(c) or (d).

5 Section 4 (definition of *review*)

Repeal the definition.

6 Section 4

Insert:

tax administration action means action that the Inspector-General can investigate under paragraph 7(1)(a) or (b).

taxation law has the same meaning as in the *Income Tax Assessment Act 1997*.

tax file number has the same meaning as in the *Income Tax Assessment Act 1997*.

7 Section 4 (definition of *tax law*)

Repeal the definition.

8 Section 4 (definition of *tax official*)

Repeal the definition, substitute:

tax official means:

(a) an ATO official; or
(b) a Board member of the Tax Practitioners Board; or
(c) an APS employee assisting the Tax Practitioners Board as described in section 60-80 of the *Tax Agent Services Act 2009*; or
(d) a person engaged on behalf of the Commonwealth by another tax official (other than an ATO official) to provide services related to the administration of taxation laws; or
(e) a person who:
  (i) is a member of a body established for the sole purpose of assisting the Tax Practitioners Board in the administration of an aspect of taxation laws; and
  (ii) receives, or is entitled to receive, remuneration (but not merely allowances) from the Commonwealth in respect of his or her membership of the body.

9 Section 4 (definition of *taxpayer*)

Omit "tax law", substitute "taxation law".

10 Section 4

Insert:

Tax Practitioners Board means the Tax Practitioners Board established by section 60-5 of the *Tax Agent Services Act 2009*.

11 Divisions 2, 3 and 4 of Part 2

Repeal the Divisions, substitute:

Division 2—Functions of the Inspector-General

7 Functions of the Inspector-General

(1) The functions of the Inspector-General are as follows:
  (a) to investigate action affecting a particular entity that:
    (i) is taken by a tax official; and
    (ii) relates to administrative matters under a taxation law; and

(iii) is the subject of a complaint by that entity to the Inspector-General;

(b) to investigate other action that:

(i) is taken by a tax official; and

(ii) relates to administrative matters under a taxation law;

(c) to investigate systems established by the Australian Taxation Office, or Tax Practitioners Board, to administer taxation laws, including systems for dealing or communicating:

(i) with the public generally; or

(ii) with particular people or organisations;

in relation to administrative matters under those laws;

(d) to investigate systems established by taxation laws, but only to the extent that the systems deal with administrative matters;

(e) to investigate action that is the subject of a part of a complaint:

(i) transferred to the Inspector-General by the Ombudsman under paragraph 6D(4)(b) of the *Ombudsman Act 1976*; or

(ii) that the Ombudsman advises, under paragraph 10(1)(b) of this Act, does not need to be transferred under subsection 10(1) of this Act;

(f) to report on those investigations.

Note: Paragraphs (a) and (b) can cover action under a taxation law, and action relating to action under a taxation law.

Example: A taxpayer seeks compensation under an administrative scheme because of action by a tax official during the course of an audit that caused the taxpayer detriment. The Inspector-General can investigate the action that caused the detriment, and any action by a tax official under the scheme.

(2) However, these functions do not include investigating:

(a) rules imposing or creating an obligation to pay an amount under a taxation law; and

(b) rules dealing with the quantification of such an amount.

8 Conducting investigations on Inspector-General's own initiative

(1) The Inspector-General may conduct an investigation under paragraph 7(1)(b), (c) or (d) on his or her own initiative.

Note: For example, the Inspector-General may conduct an investigation into a systemic issue that has been drawn to his or her attention by taxpayers, tax practitioners, the Auditor-General or the Ombudsman.

(2) The Inspector-General must conduct an investigation under paragraph 7(1)(c) or (d) if so directed by the Minister.

(3) The Inspector-General may be requested to conduct an investigation under paragraph 7(1)(c) or (d) by:

(a) the Minister; or

(b) the Commissioner or the Tax Practitioners Board; or

(c) a resolution of either House, or of both Houses, of the Parliament; or

(d) a resolution of a Committee of either House, or of both Houses, of the Parliament.

However, the Inspector-General is not required to comply with the request.

9 Discretion not to investigate certain complaints

The Inspector-General may, in his or her discretion:

(a) decide not to conduct an investigation into a complaint; or

(b) if he or she has started such an investigation—decide not to continue investigating the action complained about;

if the Inspector-General is of the opinion that:

(c) the complaint is frivolous or vexatious or was not made in good faith; or

(d) the complainant does not have a sufficient interest in the subject matter of the complaint; or

(e) an investigation, or further investigation, of the action is not warranted having regard to all the circumstances; or

(f) the complainant has not yet raised the complaint with the Commissioner or the Tax Practitioners Board (as applicable); or

(g) the action came to the complainant's knowledge more than 12 months before the complaint was made; or

(h) the complainant has not exercised a right to cause the action to which the complaint relates to be reviewed by a court or by a tribunal constituted by or under a law of the Commonwealth.

10 Transferring complaints to the Ombudsman

(1) The Inspector-General must transfer the following to the Ombudsman:

(a) a complaint made to the Inspector-General that is wholly about action other than tax administration action, unless the Ombudsman advises otherwise;

(b) if part of a complaint made to the Inspector-General is not about tax administration action—that part of the complaint, unless the Ombudsman advises otherwise.

(2) For a complaint made to the Inspector-General that is only partly about tax administration action, the Inspector-General:

(a) must consult the Ombudsman about the complaint or about complaints of that kind; and

(b) may transfer to the Ombudsman the part of the complaint that is about tax administration action if the Inspector-General is satisfied that the whole complaint could be more appropriately or effectively dealt with by the Ombudsman.

(3) The Inspector-General must, for each complaint (or part of a complaint) transferred to the Ombudsman:

(a) notify the complainant in writing of that transfer; and

(b) give the Ombudsman any related information or documents (other than tax file numbers) that are:

(i) in the Inspector-General's possession; or

(ii) under the Inspector-General's control.

(4) For the purposes of the *Ombudsman Act 1976* (other than subsection 6D(2), (3) or (4) of that Act), a complaint (or part of a complaint) transferred under this section is taken to be a complaint made to the Ombudsman under that Act.

Note: A similar provision for transferring to the Inspector-General complaints made to the Ombudsman is contained in section 6D of the *Ombudsman Act 1976*. Subsection 6D(6) of that Act deems transferred complaints to be complaints made to the Inspector-General under this Act.

(5) This section does not apply to a complaint if:

(a) the Inspector-General transfers the complaint under subsections 6(9) and (10), or section 6C, of the *Ombudsman Act 1976*; or

(b) subsection 6(17) of that Act applies in relation to the complaint.

(Each of the above provisions of the *Ombudsman Act 1976* is that provision as it applies because of section 15 of this Act).

Division 3—Powers and duties of the Inspector-General

15 Certain provisions of the *Ombudsman Act 1976* apply

Each of the following provisions of the *Ombudsman Act 1976* also applies in relation to the Inspector-General with the modifications set out in the following table:

(a) subsections 3(1), to the extent that it provides for the definitions of ***Agency Head***, ***authorized person***, ***Commonwealth service provider***, ***disclosable conduct*** and ***law enforcement agency***;

(b) subsections 3(2) to (6) and subsection 3(7);

(c) sections 3BA, 3C and 3D;

(d) subsections 5(2), (3) and (3A);

(e) section 5A;

(f) subsections 6(5), (9) to (11) and (16) to (19);

(g) sections 6C, 7 and 7A;

(h) section 8, other than paragraphs (7A)(b) and (10)(ba) to (d) and subsections (8), (9), (10B), (10C) and (12);

(i) sections 9 to 19, other than subsections 16(4) and (5);

(j) sections 35AA to 37.

How each of those provisions applies in relation to the Inspector-General		
Item	**The provision applies as if a reference in that provision to:**	**were a reference to:**
1	the Ombudsman	the Inspector-General
2	an investigation under the *Ombudsman Act 1976*	an investigation under this Act
3	a complaint under the *Ombudsman Act 1976*	a complaint under this Act
4	any of the following: (a) a Department; (b) a prescribed authority; (c) a Department or a prescribed authority	the entity identified under section 16 of this Act
5	another person who is not a Department or prescribed authority	another person who is not: (a) a Department of State; or (b) an authority of the Commonwealth
6	either of the following: (a) principal officer of a Department or prescribed authority; (b) Secretary of a Department	either of the following: (a) Commissioner; (b) Chair of the Tax Practitioners Board
7	an officer of a Department or prescribed authority (that is not a reference to the principal officer)	tax official
8	officer within the meaning of section 35 of the *Ombudsman Act 1976*	either of the following: (a) the Inspector-General; (b) a member of the Inspector-General's staff
9	paragraph 5(1)(b) of the *Ombudsman Act 1976*	paragraph 7(1)(b) of this Act
10	enactment	either of the following: (a) Act; (b) instrument made under an Act
11	in the *Ombudsman Act 1976*	either of the following: (a) in the *Ombudsman Act 1976*; (b) in this Act.

How each of those provisions applies in relation to the Inspector-General		
Item	**The provision applies as if a reference in that provision to:**	**were a reference to:**
12	any of the following: (a) the Minister administering the *Ombudsman Act 1976*; (b) the Minister administering the Department; (c) the responsible Minister; (d) the Prime Minister	the Minister administering this Act
13	either of the following: (a) a report under Division 2 of Part II of the *Ombudsman Act 1976*; (b) a report under that Act	either of the following: (a) a report under that Act; (b) a report under this Act
14	section 35 (other than subsection (5) of that section)	section 37 of this Act

Note: The above references in provisions of the *Ombudsman Act 1976* are described in substance, rather than form. For example, table item 2 will apply to the phrase "an investigation under this Act" wherever it appears in any of those provisions.

16 References to a Department or a prescribed authority

(1) For the purposes of table item 4 in section 15, if the relevant investigation relates to action taken by an ATO official or to the Australian Taxation Office, the reference described in that item applies as if it were a reference to the Commissioner, or the Australian Taxation Office, (as the context requires).

(2) For other investigations under this Act, the reference described in table item 4 in section 15 applies as if it were a reference to the Tax Practitioners Board.

17 Further modifications to how some of those provisions apply

(1) Despite subsection 8(2) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), an investigation into a systemic issue need not be conducted in private.

(2) Despite paragraph 9(1)(a) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), a person may furnish information under that paragraph in a way otherwise than by writing signed by the person.

(3) Despite section 15, 16 or 17 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), the Inspector-General must not recommend changes to taxation laws in a report under that section.

Note: The Inspector-General can include such recommendations in reports under section 18.

(4) Despite subsection 36(1) of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), the penalty set out at the foot of that subsection applies as if it were imprisonment for 6 months in the case of a refusal or failure relating to an investigation into a systemic issue.

18 Reports recommending improvements to taxation laws

(1) After completing an investigation under this Act, the Inspector-General may make a written report to the Minister:

(a) identifying a taxation law under which the action being investigated was taken; and

(b) setting out any recommendations for how that taxation law might be improved; and

(c) setting out the reasons for those recommendations.

The report may set out other matters.

(2) The Minister must cause a copy of the report to be made publicly available before the end of the 25th sitting day of the House of Representatives after the day the Minister receives the report.

12 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Information management

Division 1—Secrecy

13 Subsection 37(1) (paragraph (b) of the definition of *protected document*)

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

14 Subsection 37(1) (paragraph (b) of the definition of *protected information*)

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

15 After section 37

Insert:

Division 2—Powers relating to tax file numbers

37B Requesting a person's tax file number

(1) The Inspector-General may request, but not require, a person making a complaint covered by paragraph 7(1)(a) to quote the person's tax file number to the Inspector-General.

(2) The Inspector-General may provide the person's tax file number to the Commissioner for the purposes of an investigation by the Inspector-General into the complaint.

37C Investigations under this Act

The Commissioner may quote a person's tax file number to the Inspector-General for the purposes of an investigation by the Inspector-General into a complaint by the person that is covered by paragraph 7(1)(a).

16 Before section 38

Insert:

Part 5—Other matters

17 Section 38

Omit "a review", substitute "an investigation".

18 Paragraph 38(c)

Omit "Commissioner of Taxation", substitute "Commissioner".

19 Subparagraph 39(1)(e)(i)

Omit "section 14 or 15", substitute "section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act)".

20 Subparagraphs 39(1)(e)(ii), (iii) and (iv)

Omit "section 14 or 15", substitute "that section".

21 Subparagraphs 39(1)(e)(v) and (vi)

Repeal the subparagraphs, substitute:

(v) is the subject of a report under this Act, or the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), that relates to an investigation under this Act.

22 Subparagraph 39(2)(c)(i)

Omit "section 14 or 15", substitute "section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act)".

23 Subparagraphs 39(2)(c)(ii), (iii) and (iv)

Omit "section 14 or 15", substitute "that section".

24 Subparagraphs 39(2)(c)(v) and (vi)

Repeal the subparagraphs, substitute:

(v) is the subject of a report under this Act, or the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), that relates to an investigation under this Act.

25 Subsection 40(2)

After "this Act", insert "or the *Ombudsman Act 1976* (as it applies because of section 15 of this Act)".

26 Section 41

Before "The", insert "(1)".

27 Section 41 (note)

Repeal the note.

28 At the end of section 41

Add:

(2) The report must also include:
- (a) the number of complaints received by the Inspector-General under this Act during the period; and
- (b) the number of investigations under paragraph 7(1)(a) or (b):
  - (i) started during the period; and
  - (ii) completed during the period; and
- (c) the number of investigations into systemic issues:
  - (i) started during that period; and
  - (ii) completed during that period; and
- (d) the number of times when the Inspector-General has made a requirement of a person under section 9 of the *Ombudsman Act 1976* (as it applies because of section 15 of this Act) during the period; and
- (e) details of the circumstances in which each of those requirements under section 9 of that Act was made.

29 Section 42

Repeal the section, substitute:

42 Delegation of certain powers by the Inspector-General

(1) The Inspector-General may, in writing, delegate any of the following powers to a member of the Inspector-General's staff:
- (a) the Inspector-General's powers under the *Ombudsman Act 1976* (as it applies because of section 15 of this Act), except

for the Inspector-General's powers under sections 15 to 19 of that Act;

(b) the Inspector-General's powers under subsections 36(3) and (4) of this Act to make arrangements and engage consultants (including determining the terms and conditions of their engagement).

(2) In exercising powers under a delegation, a delegate must comply with any written directions of the Inspector-General.

30 Subsection 43(2)

Omit "section 13, 14, 15 or 25", substitute "the *Ombudsman Act 1976* (as it applies because of section 15 of this Act)".

31 Section 44

Repeal the section.

32 Schedule 1

Repeal the Schedule.

Ombudsman Act 1976

33 Subsection 3(1)

Insert:

> ***taxation law*** has the same meaning as in the *Income Tax Assessment Act 1997*.

34 Subsection 4(3)

Repeal the subsection.

35 After section 6C

Insert:

6D Tax administration matters and transfer of complaints to Inspector-General of Taxation

Ombudsman not to investigate action relating to tax administration

(1) The Ombudsman must not investigate action that the Inspector-General of Taxation can investigate under paragraph 7(1)(a) or (b) of the *Inspector-General of Taxation Act 2003* (***tax administration action***).

Exception—transferred complaints

(2) However, the Ombudsman may investigate tax administration action that:
  (a) is the subject of a part of a complaint transferred to the Ombudsman under paragraph 10(2)(b) of the *Inspector-General of Taxation Act 2003*; or
  (b) is the subject of a part of a complaint that the Inspector-General of Taxation advises, under paragraph (3)(b) of this section, does not need to be transferred under subsection (3); or
  (c) is also action relating to a matter of administration under:
    (i) the *Public Interest Disclosure Act 2013*; or
    (ii) the *Freedom of Information Act 1982*; or
    (iii) another Act (other than a taxation law) prescribed by regulations made for the purposes of this paragraph.

Note: Subsection (1) does not apply to any part of a complaint that is not in respect of tax administration action.

Transferring complaints to the Inspector-General of Taxation

(3) The Ombudsman must transfer the following to the Inspector-General of Taxation:
  (a) a complaint made to the Ombudsman that is wholly in respect of tax administration action;
  (b) if part of a complaint made to the Ombudsman is in respect of tax administration action—that part of the complaint, unless the Inspector-General advises otherwise.

(4) For a complaint made to the Ombudsman that is only partly in respect of tax administration action, the Ombudsman:
  (a) must consult the Inspector-General of Taxation about the complaint or about complaints of that kind; and
  (b) may transfer to the Inspector-General the part of the complaint that is not in respect of tax administration action if the Ombudsman is satisfied that the whole complaint could be more appropriately or effectively dealt with by the Inspector-General of Taxation.

(5) The Ombudsman must, for each complaint (or part of a complaint) transferred to the Inspector-General of Taxation:
  (a) notify the complainant in writing of that transfer; and
  (b) give the Inspector-General of Taxation any related information or documents that are:
    (i) in the Ombudsman's possession; or
    (ii) under the Ombudsman's control.

(6) For the purposes of the *Inspector-General of Taxation Act 2003* (other than subsection 10(1) or (2) of that Act), a complaint (or part of a complaint) transferred under this section is taken to be a complaint made to the Inspector-General of Taxation under that Act.

Note: A similar provision for transferring to the Ombudsman complaints made to the Inspector-General is contained in section 10 of the *Inspector-General of Taxation Act 2003*. Subsection 10(4) of that Act deems transferred complaints to be complaints made to the Ombudsman under this Act.

Part 2—Other amendments

Income Tax Assessment Act 1936

36 At the end of section 202

Add:

; and (r) to facilitate investigations under the *Inspector-General of Taxation Act 2003* (and provisions of the *Ombudsman Act 1976* to the extent that they are applied by the *Inspector-General of Taxation Act 2003*).

Tax Agent Services Act 2009

37 Before subsection 70-40(3)

Insert:

Disclosures to the Commissioner

38 After subsection 70-40(3A)

Insert:

Disclosures to the Inspector-General of Taxation

(3B) Subsection 70-35(1) does not apply if the record or disclosure is to the Inspector-General of Taxation and is for the purpose of investigating or reporting under, or otherwise administering:

(a) the *Inspector-General of Taxation Act 2003*; or

(b) provisions of the *Ombudsman Act 1976*, to the extent that they are applied by the *Inspector-General of Taxation Act 2003*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3B): see subsection 13.3(3) of the *Criminal Code*.

Taxation Administration Act 1953

39 Paragraph 8WA(1AA)(b)

Omit “or (m)”, substitute “, (m) or (r)”.

40 Paragraph 8WB(1A)(a)

Omit "or (q)", substitute ", (q) or (r)".

41 Paragraph 8WB(1A)(b)

Omit "or (q)", substitute ", (q) or (r)".

42 Section 355-1 in Schedule 1 (note)

Omit:

- section 15 of the *Inspector-General of Taxation Act 2003*;

43 Subsection 355-65(5) in Schedule 1 (at the end of the table)

Add:

5	the Inspector-General of Taxation	is for the purpose of investigating or reporting under, or otherwise administering: (a) the *Inspector-General of Taxation Act 2003*; or (b) provisions of the *Ombudsman Act 1976*, to the extent that they are applied by the *Inspector-General of Taxation Act 2003*.

Part 3—Application and transitional provisions

44 Application of amendments

(1) The amendments made by this Schedule (other than item 43) apply in relation to:

(a) complaints made; or

(b) investigations or reviews conducted on an entity's own initiative that start;

at or after the commencement of this Schedule.

(2) The amendment made by item 43 applies in relation to records and disclosures of information made on or after the commencement of that item (regardless of when the information was acquired).

45 Transitional—expenses for attending before Inspector-General

(1) This item applies to regulations under the *Ombudsman Act 1976* to the extent that those regulations provide for the payment of fees and allowances to persons for their expenses for attending, or appearing as a witness, before the Ombudsman or the Ombudsman's delegate.

(2) At and after the commencement of this Schedule, those regulations also apply as if:

(a) they were regulations under the *Inspector-General of Taxation Act 2003*; and

(b) references in those regulations to the Ombudsman were references to the Inspector-General.

(3) Subitem (2) does not prevent the Governor-General from making regulations under the *Inspector-General of Taxation Act 2003* providing for payments for attending before the Inspector-General or a member of the Inspector-General's staff.

46 Transitional—investigating complaints similar to those made before commencement

The Inspector-General may, in his or her discretion:

(a) decide not to conduct an investigation into a complaint made at or after the commencement of this Schedule about particular action; or

(b) if he or she has started such an investigation—decide not to continue investigating that action;

if the Inspector-General is of the opinion that, before that commencement, the complainant had already complained about that action to the Ombudsman.

Schedule 3—CGT exemption for compensation and insurance

Income Tax Assessment Act 1997

1 After paragraph 104-71(1)(d)

Insert:

(da) a payment to which paragraph 118-37(1)(ba) applies (about compensation paid through a trust); or

2 Before paragraph 104-71(1)(e)

Insert:

(db) a payment to which subsection 118-300(1A) applies (about insurance and annuity payments paid through a trust); or

3 Paragraphs 118-37(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) compensation or damages you receive for:

(i) any wrong or injury you suffer in your occupation; or

(ii) any wrong, injury or illness you or your *relative suffers personally;

(b) compensation or damages you receive as the trustee of a trust (other than a trust that is a *complying superannuation entity) for:

(i) any wrong or injury a beneficiary of the trust suffers in his or her occupation; or

(ii) any wrong, injury or illness a beneficiary of the trust, or the beneficiary's relative, suffers personally;

(ba) a *CGT asset you receive, as a beneficiary of a trust, from the trustee of the trust to the extent that the CGT asset is attributable to compensation or damages that the trustee receives as described in paragraph (b) for:

(i) any wrong or injury you suffer in your occupation; or

(ii) any wrong, injury or illness you or your relative suffers personally;

4 Subsection 118-300(1) (table item 3)

Repeal the item, substitute:

3	A policy of insurance on the life of an individual or an *annuity instrument	the original owner of the policy or instrument (other than the trustee of a *complying superannuation entity)

5 Subsection 118-300(1) (at the end of the table)

Add:

7	A policy of insurance against an individual suffering an illness or injury	the trustee of a *complying superannuation entity for the income year in which the *CGT event happened

6 After subsection 118-300(1)

Insert:

Payment to trust beneficiary (or representative) if trustee owns the policy or instrument

(1A) A *capital gain or *capital loss you make from a *CGT event happening because you receive a *CGT asset from the trustee of a trust is disregarded if:

(a) you receive the CGT asset as:

(i) a beneficiary of the trust; or

(ii) a *legal personal representative of a beneficiary of the trust; and

(b) the CGT asset is attributable to another CGT event and CGT asset to which table item 3 in subsection (1) applies for the trustee.

7 Subsection 295-85(4) (table item 10)

Repeal the item, substitute:

10	Subsection 118-300(1), for general insurance policies covered by table item 2 in that subsection	General insurance policies for property

8 Application of amendments

The amendments made by this Schedule apply in relation to CGT events happening in the 2005-06 income year and later income years.

Schedule 4—Providing certainty for superannuation fund mergers

Part 1—Main amendments

Income Tax Assessment Act 1997

1 After section 306-10

Insert:

306-12 ***Involuntary roll-over superannuation benefit***

A *roll-over superannuation benefit is an ***involuntary roll-over superannuation benefit*** if it is:

(a) a payment transferring a *superannuation interest of:

(i) a member of a *superannuation fund; or

(ii) a depositor with an *approved deposit fund; or

(iii) a holder of an *RSA;

to a *successor fund (other than a *self managed superannuation fund) without the consent of the member, depositor or holder; or

(b) a payment transferring an *accrued default amount of a member (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) of a *complying superannuation fund to another complying superannuation fund:

(i) as a result of an election under paragraph 29SAA(1)(b) of that Act; or

(ii) under section 388 of that Act;

if:

(iii) that member becomes a member (within the meaning of that Act) of the other fund immediately after the transfer; and

(iv) the transfer happens during the period beginning on 1 July 2015 and ending on 1 July 2017; or

(c) a payment of consideration for the issue to a person of a beneficial interest in an eligible rollover fund (within the meaning of the *Superannuation Industry (Supervision) Act*

1993) in accordance with an application on behalf of that person under section 243 of that Act.

2 At the end of subsection 307-125(3)

Add:

; (d) despite paragraphs (a) and (b), if:

(i) the superannuation benefit is an *involuntary roll-over superannuation benefit paid from a superannuation interest; and

(ii) that interest was supporting a superannuation income stream immediately before that benefit was paid;

when that superannuation income stream commenced.

3 After subparagraph 307-220(2)(a)(i)

Insert:

(ia) disregard the *tax free component of an *involuntary roll-over superannuation benefit paid into the interest from another superannuation interest (the ***earlier interest***) (other than an earlier interest that was supporting a *superannuation income stream immediately before that benefit was paid); and

(ib) if subparagraph (ia) applies—include as a contribution an amount equal to the amount referred to in subsection (5); and

4 At the end of section 307-220

Add:

(5) For the purposes of subparagraph (2)(a)(ib), the amount is:

(a) if the *involuntary roll-over superannuation benefit is covered by paragraph 306-12(a) or (c)—the sum of the contributions segment, and crystallised segment, of the earlier interest immediately before the benefit was paid; or

(b) if the benefit is covered by paragraph 306-12(b)—the proportion of that sum that the benefit was to the *value of the earlier interest immediately before the benefit was paid.

5 Subsection 995-1(1)

Insert:

involuntary roll-over superannuation benefit has the meaning given by section 306-12.

Income Tax (Transitional Provisions) Act 1997

6 At the end of subsection 307-125(1)

Add:

Note: This section also applies to an income stream replacing an earlier one because of an involuntary roll-over (see section 307-127).

7 After section 307-125

Insert:

307-127 Extension—income stream replacing an earlier one because of an involuntary roll-over

(1) Section 307-125 also applies to a superannuation income stream (the ***later income stream***) if:

(a) the later income stream commenced using only the amount of an involuntary roll-over superannuation benefit:

(i) covered by paragraph 306-12(a) of the *Income Tax Assessment Act 1997*; and

(ii) paid from a superannuation interest (the ***earlier interest***); and

(b) immediately before that benefit was paid:

(i) the earlier interest was supporting another superannuation income stream (the ***earlier income stream***); and

(ii) section 307-125 of this Act applied to the earlier income stream because of subsection (1) of that section.

(2) Section 307-125 applies to the later income stream as if:

(a) references in that section to the later income stream (in relation to a time, or event happening, before the payment of that involuntary roll-over superannuation benefit) include references to the earlier income stream; and

(b) references in that section to the superannuation interest supporting the later income stream (in relation to a time, or event happening, before the payment of that benefit) include references to the earlier interest.

Taxation Administration Act 1953

8 Paragraph 390-10(2)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) unless the benefit is an *involuntary roll-over superannuation benefit, give the individual in respect of whom the benefit is paid a statement in relation to the benefit within 30 days after the day on which the benefit is paid.

9 Application of amendments

The amendments made by this Part apply in relation to involuntary roll-over superannuation benefits paid on or after 1 July 2015.

Part 2—Other amendments

Income Tax Assessment Act 1997

10 Paragraph 307-125(3)(c)

Omit "*superannuation income stream", substitute "superannuation income stream".

11 Section 307-210

Before "The", insert "(1)".

12 Section 307-210 (note)

Repeal the note.

13 At the end of section 307-210

Add:

Tax free component reduces if a benefit is paid

(2) If a *superannuation benefit is paid from the *superannuation interest:

(a) the *crystallised segment of the interest is reduced (but not below zero) by an amount equal to the *tax free component of the benefit; and

(b) if any of that amount remains, the *contributions segment of the interest is reduced (but not below zero) by that remaining amount.

Note: This has the effect of reducing the interest's tax free component by the amount of the benefit's tax free component.

14 Subsection 307-220(1)

Repeal the subsection, substitute:

(1) The ***contributions segment*** of a *superannuation interest is the total amount of the contributions to the interest:

(a) that were made after 30 June 2007; and

(b) to the extent that they have not been and will not be included in the assessable income of the *superannuation provider in relation to the *superannuation plan in which the interest is held.

This section has effect subject to subsection 307-210(2).

Note: This segment may be reduced if a superannuation benefit is paid from the superannuation interest: see subsection 307-210(2).

15 Subsection 307-225(2)

Omit "so much of the *value of the interest as consists of the total of", substitute "the total amount of".

16 At the end of subsection 307-225(2)

Add:

This section has effect subject to subsection 307-210(2).

Note: This segment may be reduced if a superannuation benefit is paid from the superannuation interest: see subsection 307-210(2).

17 Subsection 995-1(1) (definition of *successor fund*)

Repeal the definition, substitute:

successor fund, in relation to a transfer of a *superannuation interest of:

(a) a member of a *superannuation fund; or

(b) a depositor with an *approved deposit fund; or

(c) a holder of an *RSA;

means another superannuation fund, approved deposit fund or RSA if the following conditions are met:

(d) that other fund or RSA confers on that member, depositor or holder equivalent rights to the rights he or she had under the first-mentioned fund or RSA in respect of the interest;

(e) the conferral of these equivalent rights was agreed, before the transfer, between:

(i) the *superannuation provider of that other fund or RSA; and

(ii) the superannuation provider of the first-mentioned fund or RSA.

Schedule 5—Disclosing tax information relating to proceeds of crime orders

Taxation Administration Act 1953

1 Subsection 355-70(1) in Schedule 1 (table item 1, column headed "and the record or disclosure ...", after paragraph (c))

Insert:

; or (d) supporting or enforcing a proceeds of crime order.

2 Subsection 355-70(1) in Schedule 1 (table item 6, column headed "and the record or disclosure ...", after paragraph (c))

Insert:

; or (d) supporting or enforcing a proceeds of crime order.

3 Paragraph 355-70(5)(c) in Schedule 1

Repeal the paragraph, substitute:

(c) a court order (including a declaration or direction):

(i) under a State law or Territory law; and

(ii) relating to unexplained wealth.

4 Application of amendments

The amendments made by this Schedule apply in relation to records and disclosures of information made on or after the commencement of this Schedule (regardless of when the information was acquired).

Schedule 6—Exploration development incentive

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Section 67-23 (after table item 23)

Insert:

27	exploration development incentive	the *tax offset available under Subdivision 418-B

2 At the end of Part 3-45

Add:

Division 418—Exploration for minerals

Table of Subdivisions

Guide to Division 418
418-A Object of this Division
418-B Exploration development incentive tax offset
418-C Exploration development incentive franking credit
418-D Creating exploration credits
418-E Issuing exploration credits
418-F Excess exploration credits

Guide to Division 418

418-1 What this Division is about

> Generally speaking, you are entitled to a tax offset for exploration credits issued to you, but exploration credits issued to corporate tax entities instead give rise to franking credits.

For the 2015-16, 2016-17 or 2017-18 income year, a greenfields minerals explorer can create, and then issue, exploration credits for the explorer's greenfields minerals expenditure for the previous income year. However, the total amount of exploration credits for an income year is limited to the explorer's maximum exploration credit amount.

The explorer is liable to pay excess exploration credit tax if the explorer issues exploration credits in excess of that maximum exploration credit amount.

Note: Excess exploration credit tax is imposed by the *Excess Exploration Credit Tax Act 2015*, and the amount of the tax is set out in that Act.

Subdivision 418-A—Object of this Division

Table of sections

418-5 Object of this Division

418-5 Object of this Division

The object of this Division is to encourage investment in minerals exploration in Australia by allowing the benefit of losses from minerals exploration to flow to shareholders who share in the risk of the exploration.

Subdivision 418-B—Exploration development incentive tax offset

Table of sections

Entitlement to exploration development incentive tax offset

418-10 Who is entitled to the tax offset—ordinary case
418-15 Who is entitled to the tax offset—life insurance company
418-20 Entitlement of member of a trust or partnership to a share of exploration credits

Amount of exploration development incentive tax offset

418-25 The amount of the tax offset
418-30 Reduced amount of the tax offset for certain trusts

Entitlement to exploration development incentive tax offset

418-10 Who is entitled to the tax offset—ordinary case

You are entitled to a *tax offset for an income year if:

(a) an *exploration credit is issued to you under Subdivision 418-E for the income year; and

(b) you are not:

(i) a *corporate tax entity; or

(ii) a trust (other than a trust in relation to which some or all of the liability of the trustee to tax is provided under subsection 98(1) or (2) or 99(2) or (3) of the *Income Tax Assessment Act 1936*); or

(iii) a partnership; or

(iv) an *exempt entity (other than an *exempt institution that is eligible for a refund); and

(c) you are an Australian resident during the whole of that income year.

418-15 Who is entitled to the tax offset—life insurance company

(1) An entity is entitled to a *tax offset for an income year if:

(a) the entity is a *life insurance company; and

(b) an *exploration credit is issued to the entity under Subdivision 418-E for the income year; and

(c) the entity is an Australian resident during the whole of that income year; and

(d) were the exploration credit to be a *franked distribution made:

(i) by the same entity that issued the credit; and

(ii) in the same circumstances in which the credit was issued;

the exploration credit would be a distribution to which paragraph 207-110(1)(b) would apply.

(2) If:

(a) an *exploration credit is issued to a *life insurance company; and

(b) paragraph (1)(d) applies in relation to only part of the exploration credit;

this Division applies as if that part of the exploration credit, and the part of the exploration credit in relation to which that paragraph does not apply, were 2 separate exploration credits issued to the life insurance company.

418-20 Entitlement of member of a trust or partnership to a share of exploration credits

Members taken to be issued with exploration credits

(1) If:

(a) you are a *member of a trust or partnership during the income year; and

(b) an *exploration credit is issued to the trust or partnership under Subdivision 418-E for the income year; and

(c) the trust or partnership is not a *corporate tax entity; and

(d) the trustee of the trust, or the partnership, determines that you are entitled to a share of the exploration credits issued to the trust or partnership for the income year; and

(e) the trustee of the trust, or the partnership, gives you a statement, in accordance with subsection (4), informing you of that entitlement;

you are taken, for the purposes of this Subdivision, to have been issued with an exploration credit under Subdivision 418-E, for the income year, of an amount equal to your share of the exploration credits issued to the trust or partnership for the income year.

Effect of restrictions on distributions

(2) Despite subsection (1), you are not taken, under that subsection, to have been issued with an *exploration credit under Subdivision 418-E to the extent that, if the exploration credit referred to in paragraph (1)(b) were a *franked distribution of the same amount made:

(a) at the time of the determination referred to in paragraph (1)(d); and

(b) in relation to the interest, held by the trust or partnership, in relation to which the exploration credit referred to in paragraph (1)(b) is issued to the trust or partnership during the income year;

the terms and conditions under which the trust or partnership operates would not permit you to be paid the amount, or the proportion, of the franked distribution that would reflect your entitlement referred to in paragraph (1)(d).

Anti-avoidance

(3) Despite subsection (1), you are not taken, under that subsection, to have been issued with an *exploration credit under Subdivision 418-E to the extent that, if the exploration credit were a distribution to you, from the trust or partnership, of a *franked distribution that:

(a) was of the same amount as the amount of your share, referred to in paragraph (1)(d), of the exploration credit referred to in paragraph (1)(b); and

(b) was made:

(i) by the same entity that issued that exploration credit; and

(ii) in relation to the same interest in that entity; and

(iii) in the same circumstances in which that exploration credit was issued; and

(c) *flowed indirectly through one or more trusts or partnerships that were the same as the one or more trusts or partnerships that, apart from subparagraphs 418-10(b)(ii) and (iii), would have been entitled to a *tax offset under this Subdivision in relation to:

(i) that exploration credit; or

(ii) another exploration credit from which that exploration credit is directly or indirectly derived;

you would not be entitled to a tax offset under Division 207 in relation to the franked distribution.

Statements to members

(4) A statement referred to in paragraph (1)(e) must:

(a) be in the *approved form; and
(b) be given to you on or before the due date:
(i) if the trust or partnership is an *investment body for *Part VA investments—for giving to the Commissioner an *annual investment income report in respect of the *financial year corresponding to the income year; or
(ii) otherwise—for the trust or partnership to lodge its *income tax return for the income year.

Reports to the Commissioner

(5) A trust or partnership that has given one or more statements under paragraph (1)(e) relating to *exploration credits for an income year must give to the Commissioner, on or before the due date referred to in paragraph (4)(b) in relation to that income year, a report that:
(a) relates to all the statements that the trust or partnership has given under paragraph (1)(e) relating to exploration credits for that income year; and
(b) is in the *approved form.

Amount of exploration development incentive tax offset

418-25 The amount of the tax offset

The amount of your *tax offset under this Subdivision for an income year is the sum of:
(a) all the *exploration credits issued to you under Subdivision 418-E; and
(b) all the exploration credits taken under section 418-20 to have been issued to you;
for the income year.

418-30 Reduced amount of the tax offset for certain trusts

(1) If an entity is a trust in relation to which some, but not all, of the liability of the trustee to tax is provided under subsection 98(1) or (2) or 99(2) or (3) of the *Income Tax Assessment Act 1936*, the amount of the entity's *tax offset under this Subdivision for an income year is:

$$\text{The amount of the entity's *tax offset apart from this section} \times \frac{\text{Income taxed under subsection 98(1) or (2) or 99(2) or (3)}}{\text{The *net income of the trust for the income year}}$$

where:

income taxed under subsection 98(1) or (2) or 99(2) or (3) is the amount of the *net income of the trust, for the income year, in relation to which the trustee is liable to tax under subsection 98(1) or (2) or 99(2) or (3) of the *Income Tax Assessment Act 1936*.

(2) If:
  (a) an entity is a trust; and
  (b) one or more *members of the trust are taken under section 418-20 to have been issued with one or more *exploration credits for an income year;

the amount of the entity's *tax offset, under section 418-25 or subsection (1) of this section, for the income year is reduced by the sum of amounts of the exploration credits taken to be issued to those members.

Subdivision 418-C—Exploration development incentive franking credit

Table of sections

418-50 Exploration development incentive franking credit—ordinary case
418-55 Exploration development incentive franking credit—life insurance company

418-50 Exploration development incentive franking credit—ordinary case

(1) A *franking credit arises in the *franking account of a *corporate tax entity (other than a *life insurance company) if:
  (a) an *exploration credit is issued to the entity under Subdivision 418-E during an income year; and
  (b) if the entity were not a corporate tax entity, the entity would be entitled to a *tax offset under Subdivision 418-B in relation to the exploration credit.

(2) The amount of the *franking credit is the amount of the *tax offset to which the entity would be entitled under Subdivision 418-B if:
  (a) the entity were not a *corporate tax entity; and
  (b) no other *exploration credits were issued to the entity during the income year.

(3) The *franking credit arises at the same time the *exploration credit is issued.

418-55 Exploration development incentive franking credit—life insurance company

(1) A *franking credit arises in the *franking account of a *life insurance company if:
  (a) an *exploration credit is issued to the life insurance company under Subdivision 418-E during an income year; and
  (b) paragraph 418-15(1)(d) does not apply in relation to the exploration credit; and
  (c) if that paragraph were to apply in relation to the credit, the life insurance company would be entitled to a *tax offset under Subdivision 418-B in relation to the exploration credit.

(2) The amount of the *franking credit is the amount of the *tax offset to which the *life insurance company would be entitled under Subdivision 418-B if no other *exploration credits were issued to the life insurance company during the income year.

(3) The *franking credit arises at the same time the *exploration credit is issued.

Subdivision 418-D—Creating exploration credits

Table of sections

418-70 Entities that may create exploration credits
418-75 Meaning of ***greenfields minerals explorer***
418-80 Meaning of ***greenfields minerals expenditure***
418-85 Exploration credits must not exceed maximum exploration credit amount
418-90 Modulation factors
418-95 Effect on tax losses of creating exploration credits

418-70 Entities that may create exploration credits

(1) An entity may create ***exploration credits*** for an income year if:
  (a) the entity was a *greenfields minerals explorer in the previous income year; and
  (b) on or before 30 September in the *financial year corresponding to the income year, the entity has given to the Commissioner, in the *approved form, a declaration stating:
    (i) their estimated *tax loss for the previous income year; and
    (ii) their estimated *greenfields minerals expenditure, for the previous income year.

(2) However, the entity cannot create the exploration credits:
  (a) before the legislative instrument under section 418-90 declaring the modulation factor for the income year has been registered under Division 2 of Part 4 of the *Legislative Instruments Act 2003*; or
  (b) for the 2018-19 income year or a later income year.

(3) A failure to comply with subsection (1) or paragraph (2)(a) does not invalidate the creation of an *exploration credit.

(4) An *exploration credit is to be expressed as a monetary amount.

(5) The entity cannot make more than one decision to create *exploration credits for an income year, and the decision is final and irrevocable.

418-75 Meaning of *greenfields minerals explorer*

(1) An entity is a ***greenfields minerals explorer*** in an income year if:
  (a) the entity has *greenfields minerals expenditure for the income year; and
  (b) during the income year, the entity is a disclosing entity (within the meaning of section 111AC of the *Corporations Act 2001*); and
  (c) during the income year, the entity is a *constitutional corporation; and

(d) during the income year, and during the immediately preceding income year, neither:
  (i) the entity; nor
  (ii) any other entity that is *connected with or is an *affiliate of the entity;

carried on any mining operations on a mining property for extracting *minerals (except *petroleum) from their natural site, for the *purpose of producing assessable income.

(2) However, an entity is not a ***greenfields minerals explorer*** in an income year in which either or both of the following happens, or in any subsequent income year:
  (a) the entity fails to comply with a request of the Commissioner under subsection 418-80(5);
  (b) a determination under section 418-185 has effect.

Note 1: Under subsection 418-80(5), the Commissioner may request a report on an area in relation to which an entity has greenfields minerals expenditure.

Note 2: Under section 418-185, the Commissioner may determine that an entity that is, or has been, liable to excess exploration credit tax is not to be treated as a greenfields minerals explorer.

418-80 Meaning of *greenfields minerals expenditure*

(1) An entity's ***greenfields minerals expenditure*** for an income year is the sum of:
  (a) the amounts of any deductions to which the entity is entitled under section 40-25 for that income year in relation to declines in value that:
    (i) are declines in value of *depreciating assets used for *exploration or prospecting for *minerals in an area to which subsection (3) of this section applies; and
    (ii) are worked out under subsection 40-80(1); and
  (b) the amounts of any deductions for that income year to which the entity is entitled in relation to expenditure:
    (i) that is of a kind referred to in subsection 40-730(1); and
    (ii) in relation to which the entity satisfies one or more of paragraphs 40-730(1)(a) to (c); and

(iii) that is expenditure on exploration or prospecting for minerals in an area to which subsection (3) of this section applies.

(2) For the purposes of subsection (1), disregard a deduction to the extent that it relates to:

(a) matters other than:

(i) declines in value of *depreciating assets used for; or

(ii) expenditure on;

*exploration or prospecting for *minerals in an area to which subsection (3) of this section applies; or

(b) exploration or prospecting for *petroleum or oil shale; or

(c) activities (such as feasibility studies) undertaken to identify the viability of a mineral resource rather than its existence.

(3) This subsection applies to an area:

(a) that is in Australia; and

(b) in relation to which the entity *holds a *mining, quarrying or prospecting right at the time of incurring the expenditure; and

(c) that has not been identified as containing a mineral resource that is at least inferred in a report prepared in accordance with the requirements of:

(i) unless subparagraph (ii) applies—the document that is known as the Australasian Code for Reporting of Exploration Results, Minerals Resources and Ore Reserves and that took effect on 20 December 2012; or

Note: This document is commonly referred to as the JORC Code (2012 Edition).

(ii) such other document as the regulations prescribe; and

(d) that is not, and is not in, any of the following:

(i) the coastal sea of Australia (within the meaning of subsection 15B(4) of the *Acts Interpretation Act 1901*);

(ii) an offshore area for the purpose of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;

(iii) the Joint Petroleum Development Area (within the meaning of the *Petroleum (Timor Sea Treaty) Act 2003*).

Note: An offshore area and the Joint Petroleum Development Area include the territorial sea, the exclusive economic zone and the continental shelf of Australia.

(4) For the purposes of paragraph (3)(c), disregard any mineral resource, identified in a report of a kind referred to in that paragraph, that does not include *minerals the exploration or prospecting for which involved:

(a) use of assets referred to in paragraph (1)(a); or

(b) expenditure referred to in paragraph (1)(b).

(5) The Commissioner may request an entity that is a *greenfields minerals explorer in an income year to prepare, within the period specified in the request, a report that:

(a) is of the kind referred to in paragraph (3)(c); and

(b) relates to an area in relation to which the entity has *greenfields minerals expenditure for the income year.

The request may specify the manner in which, and the form in which, the report is to be prepared.

418-85 Exploration credits must not exceed maximum exploration credit amount

(1) An entity must not create *exploration credits for an income year (the ***current income year***) of a total amount that exceeds the entity's *maximum exploration credit amount for the income year.

(2) The entity's ***maximum exploration credit amount*** for the current income year is worked out as follows:

Method statement

Step 1. Ascertain which of the following is the smallest amount:

(a) the entity's estimated *tax loss for the previous income year, as stated in the entity's declaration under paragraph 418-70(1)(b);

(b) the entity's actual tax loss for the previous income year;

(c) the entity's estimated *greenfields minerals expenditure for the previous income year, as stated in the entity's declaration under paragraph 418-70(1)(b);

(d) the entity's actual greenfields minerals expenditure for the previous income year.

Step 2. Multiply that smallest amount by the *corporate tax rate applying to the previous income year.

Step 3. Multiply the result of step 2 by the modulation factor declared under section 418-90 for the current income year. The result of this step is the entity's ***maximum exploration credit amount*** for the current income year.

(3) In working out the entity's actual *tax loss for the previous income year for the purposes of step 1 of the method statement in subsection (2), reduce that tax loss by the sum of:

(a) all *recoupments that the entity receives in relation to the entity's *greenfields minerals expenditure for the previous income year; and

(b) any part of the entity's tax loss for the previous income year that would not be deductible in the current income year; and

(c) if:

(i) an amount has been included in the entity's assessable income because a *balancing adjustment event occurs for a *depreciating asset; and

(ii) all or part of the amount of the deduction to which the entity is entitled under section 40-25 for the previous income year in relation to the decline in value of the asset is included in the entity's greenfields minerals expenditure for that income year;

so much of the amount of that deduction as was included in that greenfields minerals expenditure.

(4) For the purposes of paragraph (3)(b), assume that the entity's assessable income for the current income year is sufficient to allow

the entity to utilise the whole of that tax loss in relation to the current income year.

(5) In working out the entity's actual *greenfields minerals expenditure for the previous income year for the purposes of step 1 of the method statement in subsection (2), reduce that greenfields minerals expenditure by the sum of:

(a) all *recoupments that the entity receives in relation to the entity's greenfields minerals expenditure for the previous income year; and

(b) if:

(i) an amount has been included in the entity's assessable income because a *balancing adjustment event occurs for a *depreciating asset; and

(ii) all or part of the amount of the deduction to which the entity is entitled under section 40-25 for the previous income year in relation to the decline in value of the asset is included in the entity's greenfields minerals expenditure for that income year;

so much of the amount of that deduction as was included in that greenfields minerals expenditure.

(6) A failure to comply with this section does not invalidate the creation of an *exploration credit.

418-90 Modulation factors

(1) The Commissioner must, by legislative instrument, declare modulation factors in accordance with this section for each of the following:

(a) the 2015-16 income year;

(b) the 2016-17 income year;

(c) the 2017-18 income year.

(2) The modulation factor for an income year is to be one if the Commissioner is satisfied that the total amount of *exploration credits that could be created in respect of that income year will not exceed the following amount (the ***exploration credit cap***) for the income year:

(a) for the 2015-16 income year—$25 million;

(b) for the 2016-17 income year—$35 million;
(c) for the 2017-18 income year—$40 million.

(3) If subsection (2) does not apply, the modulation factor for the income year is to be such a number as the Commissioner is satisfied would reduce the total amount of *exploration credits that could be created in that income year to the exploration credit cap for the income year.

(4) In ascertaining for the purposes of subsection (2) or (3) the total amount of *exploration credits that could be created in an income year (the ***current income year***), the Commissioner is to:
(a) use the information provided in declarations under paragraph 418-70(1)(b) for the previous income year; and
(b) disregard the possible application of any modulation factor.

(5) A failure to comply with subsection (2), (3) or (4) does not invalidate the declaration of a modulation factor for an income year.

(6) A declaration made under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the declaration.

418-95 Effect on tax losses of creating exploration credits

(1) If an entity creates any *exploration credits in respect of a *loss year, the amount of the entity's *tax loss for the loss year is reduced by the amount worked out as follows:

$$\frac{\text{The sum of all the *exploration credits the entity creates in respect of the *loss year}}{\text{The *corporate tax rate}}$$

(2) However, if the amount worked out under subsection (1) equals or exceeds what would (apart from this section) be the entity's *tax loss for the *loss year, that tax loss is taken to be nil.

Subdivision 418-E—Issuing exploration credits

Table of sections

418-110 Issuing exploration credits
418-115 Restricting exploration credits to post 1 July 2014 shares
418-120 Exploration credits to be issued on a proportionate basis
418-125 Expiry of exploration credits
418-130 Notifying the Commissioner of issuing or expiry of exploration credits

418-110 Issuing exploration credits

(1) An entity that has created *exploration credits for an income year may issue any of those exploration credits to *members of the entity, in respect of *shares that:
  (a) are*equity interests; and
  (b) are held by the members.

(2) The *exploration credits are issued by giving each of the *members a statement in the *approved form.

(3) The issuing of *exploration credits is of no effect unless:
  (a) the statements under subsection (2) are given to the *members on or before the first 30 June after the day on which the modulation factor in respect of the income year is declared under section 418-90; and
  (b) the issuing of credits complies with section 418-120.

418-115 Restricting exploration credits to post 1 July 2014 shares

(1) An entity may, before it has issued any *exploration credits for any income year, choose to restrict the issuing of exploration credits to issuing exploration credits in relation to *shares that:
  (a) are*equity interests; and
  (b) have come into existence on or after 1 July 2014.

(2) A choice under this section is irrevocable.

418-120 Exploration credits to be issued on a proportionate basis

(1) An entity issuing *exploration credits for an income year must ensure that the total number of exploration credits issued to any *member of the entity for the year, expressed as a percentage of the total number of all exploration credits issued to the members of the entity for the year, is the same as:

(a) if the entity has made a choice under section 418-115—the total number of *shares in the entity that:

(i) are *equity interests held by the member; and

(ii) have come into existence on or after 1 July 2014;

expressed as a percentage of the total number of the shares in the entity that:

(iii) are equity interests held by any members of the entity; and

(iv) have come into existence on or after that day; or

(b) otherwise—the total number of shares in the entity that are equity interests held by the member, expressed as a percentage of the total number of the shares in the entity that are equity interests held by any members of the entity.

(2) For the purposes of this section, the number of *shares that a *member holds in the entity is taken to be the number that the member held on the day occurring 30 days before the *exploration credits were issued.

418-125 Expiry of exploration credits

An *exploration credit created by an entity for an income year expires if the entity does not issue the credit under this Subdivision on or before the first 30 June after the day on which the modulation factor in respect of the income year is declared under section 418-90.

418-130 Notifying the Commissioner of issuing or expiry of exploration credits

(1) An entity that has created *exploration credits for an income year must notify the Commissioner of the issuing or expiry of the credits.

(2) The notice must:
  (a) be in the *approved form; and
  (b) be given to the Commissioner on or before the due date:
    (i) if the entity is an *investment body for *Part VA investments—for giving to the Commissioner an *annual investment income report in respect of the *financial year corresponding to the income year; or
    (ii) otherwise—for the entity to lodge its *income tax return for the income year.

Subdivision 418-F—Excess exploration credits

Table of sections

418-150 Excess exploration credit tax
418-155 Due date for payment of excess exploration credit tax
418-160 Returns
418-165 When shortfall interest charge is payable
418-170 General interest charge
418-175 Refunds of amounts overpaid
418-180 Record keeping
418-185 Determining an entity not to be a greenfields minerals explorer

418-150 Excess exploration credit tax

An entity is liable to pay *excess exploration credit tax for an income year if the sum of the *exploration credits it issues for the income year exceeds the entity's *maximum exploration credit amount for the income year.

Note: The tax is imposed by the *Excess Exploration Credit Tax Act 2014*, and the amount of the tax is set out in that Act.

418-155 Due date for payment of excess exploration credit tax

An entity's *excess exploration credit tax for an income year, as assessed under Schedule 1 to the *Taxation Administration Act 1953*, is due and payable at the end of the day by which the entity is required under section 418-160 to give the return relating to the income year.

Note: For assessments of excess exploration credit tax, see Division 155 in Schedule 1 to the *Taxation Administration Act 1953*.

418-160 Returns

An entity that is liable to pay *excess exploration credit tax for an income year must give the Commissioner a return relating to excess exploration credit tax, in the *approved form, within 21 days after the end of the *financial year corresponding to the income year.

418-165 When shortfall interest charge is payable

An amount of *shortfall interest charge that an entity is liable to pay is due and payable 21 days after the day on which the Commissioner gives the entity notice of the charge.

Note: Shortfall interest charge is imposed if the Commissioner amends an assessment and the amended assessment results in an increase in some tax payable. For provisions about liability for shortfall interest charge, see Division 280 in Schedule 1 to the *Taxation Administration Act 1953*.

418-170 General interest charge

If:

(a) *excess exploration credit tax or *shortfall interest charge payable by an entity remains unpaid after the time by which it is due and payable; and

(b) the Commissioner has not allocated the unpaid amount to an *RBA;

the entity is liable to pay the *general interest charge on the unpaid amount for each day in the period that:

(c) starts at the beginning of the day on which the excess exploration credit tax or shortfall interest charge was due to be paid; and

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

(i) the excess exploration credit tax or shortfall interest charge;

(ii) general interest charge on any of the excess exploration credit tax or shortfall interest charge.

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

418-175 Refunds of amounts overpaid

Section 172 of the *Income Tax Assessment Act 1936* applies for the purposes of this Division as if references in that section to tax included references to *excess exploration credit tax.

418-180 Record keeping

Section 262A of the *Income Tax Assessment Act 1936* applies for the purposes of this Division as if:

(a) the reference in that section to a person carrying on a business were a reference to a *corporate tax entity; and

(b) the reference in paragraph (2)(a) of that section to the person's income and expenditure were a reference to the entity's liability to pay *excess exploration credit tax; and

(c) paragraph (5)(a) of that section were omitted.

418-185 Determining an entity not to be a greenfields minerals explorer

(1) The Commissioner may determine, by written notice given to an entity that is, or has been, liable to pay *excess exploration credit tax for an income year, that the entity is no longer to be treated as a *greenfields minerals explorer.

(2) The determination takes effect from:

(a) if, at the time the notice is given, the entity has not issued any *exploration credits for the income year in which the notice is given—that income year; or

(b) otherwise—the next income year.

(3) If the entity or a *member of the entity is dissatisfied with a determination under subsection (1), the entity or member may object to it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Part 2—Other amendments

Income Tax Assessment Act 1936

3 Subsection 6(1)

Insert:

exploration credit has the same meaning as in the *Income Tax Assessment Act 1997*.

exploration development incentive tax offset means a tax offset under Subdivision 418-B of the *Income Tax Assessment Act 1997*.

4 After paragraph 177C(1)(bb)

Insert:

(bba) an exploration credit being issued to the taxpayer where the whole or a part of that exploration credit would not have been issued, or might reasonably be expected not to have been issued, to the taxpayer if the scheme had not been entered into or carried out; or

5 After paragraph 177C(1)(f)

Insert:

(fa) in a case where paragraph (bba) applies—the amount of the whole of the exploration credit or of the part of the exploration credit, as the case may be, referred to in that paragraph; and

6 At the end of subsection 177C(2A)

Add:

; or (c) an exploration credit being issued to the taxpayer the whole or a part of which would not have been, or might reasonably be expected not to have been, issued to the taxpayer if the scheme had not been entered into or carried out, where:

(i) the issuing of the exploration credit to the taxpayer is attributable to the making of a choice under Division 418 of the *Income Tax Assessment Act 1997*; and

(ii) the scheme consisted solely of the making of the choice.

7 Subsection 177C(3)

Omit "or (b)(i):", substitute ", (b)(i) or (c)(i):".

8 At the end of paragraph 177C(3)(ca)

Add "or".

9 After paragraph 177C(3)(ca)

Insert:

(cb) the issuing of an exploration credit to a taxpayer;

10 At the end of subsection 177C(3)

Add:

; or (h) the exploration credit would not have been issued.

11 After paragraph 177CB(1)(d)

Insert:

(da) the whole or a part of an exploration credit not being issued to the taxpayer;

12 At the end of paragraph 177F(1)(d)

Add "or".

13 After paragraph 177F(1)(d)

Insert:

(e) in the case of a tax benefit that is referable to an exploration credit, or a part of an exploration credit, being issued to the taxpayer—determine that:

(i) the whole or a part of an exploration development incentive tax offset that would otherwise be allowable to the taxpayer in relation to the exploration credit, or the part of the exploration credit, as the case may be, is not to be allowable to the taxpayer; or

(ii) the whole or a part of a franking credit that would otherwise arise in the franking account of the taxpayer in relation to the exploration credit, or the part of the

exploration credit, as the case may be, is not to arise in the franking account of the taxpayer;

14 At the end of paragraph 177F(3)(d)

Add "or".

15 After paragraph 177F(3)(d)

Insert:

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

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

(ii) it is fair and reasonable that the amount, or a part of the amount, should be allowable as an exploration development incentive tax offset to the relevant taxpayer;

determine that that amount or that part, as the case may be, should have been allowed or is allowable, as the case may be, as an exploration development incentive tax offset to the relevant taxpayer; or

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

(i) an amount of a franking credit would have arisen, or would arise, in the franking account of the relevant taxpayer in relation to an exploration credit, being an amount that did not arise, or would not, apart from this subsection, have arisen, as the case may be, in the franking account of the relevant taxpayer in relation to the exploration credit; and

(ii) it is fair and reasonable that the amount, or a part of the amount, should arise, in the franking account of the relevant taxpayer in relation to the exploration credit;

determine that that amount or that part, as the case may be, should have arisen, or arises, as the case may be, in the

franking account of the relevant taxpayer in relation to the exploration credit;

Income Tax Assessment Act 1997

16 Section 13-1 (after table item headed "Equine Workers Hardship Wage Supplement Payment")

Insert:

exploration for minerals

exploration development incentive ..... Subdivision 418-B

17 At the end of section 36-25

Add:

Tax losses of greenfields minerals explorers

Item	For the special rules about this situation...	See:
1.	A greenfields minerals explorer creates exploration credits.	Section 418-95

18 At the end of Subdivision 197-A

Add:

197-42 Exclusion for exploration credits

This Division does not apply to the transferred amount if:

(a) the company transferring the amount is a *greenfields minerals explorer; and

(b) the amount is transferred in connection with the creation of *exploration credits.

19 Subsection 205-15(1) (at the end of the table)

Add:

7	a *franking credit arises under subsection 418-50(1) in relation to an *exploration credit	the amount of the *franking credit specified in subsection 418-50(2)	at the time provided by subsection 418-50(3)

20 Subsection 219-15(2) (at the end of the table)

Add:

8	a *franking credit arises under subsection 418-55(1) in relation to an *exploration credit	the amount of the *franking credit specified in subsection 418-55(2)	at the time provided by subsection 418-55(3)

21 Subparagraphs 418-80(2)(b)(ii) and (iii)

Repeal the subparagraphs, substitute:

(ii) an area referred to in subsection 960-505(2); and

22 Subsection 995-1(1)

Insert:

annual investment income report means a report, relating to *Part VA investments, that an entity is required to give to the Commissioner, in respect of a *financial year, under the regulations made under the *Income Tax Assessment Act 1936*.

23 Subsection 995-1(1) (definition of *annual investment income report*)

Omit "the regulations made under the *Income Tax Assessment Act 1936*", substitute "section 393-10 in Schedule 1 to the *Taxation Administration Act 1953*".

24 Subsection 995-1(1)

Insert:

excess exploration credit tax means tax imposed by the *Excess Exploration Credit Tax Act 2015*.

exploration credit means an exploration credit created under Subdivision 418-D.

greenfields minerals expenditure has the meaning given by section 418-80.

greenfields minerals explorer has the meaning given by section 418-75.

maximum exploration credit amount has the meaning given by subsection 418-85(2).

25 Subsection 995-1(1) (paragraph (a) of the definition of *tax loss*)

After "section 415-15", insert "or reduced under section 418-95".

Taxation Administration Act 1953

26 Subsection 8AAB(4) (after table item 16)

Insert:

16A	418-170	*Income Tax Assessment Act 1997*	payment of excess exploration credit tax or shortfall interest charge

27 Section 45-340 in Schedule 1 (at the end of paragraph (g) of step 1 of the method statement)

Add "; or".

28 Section 45-340 in Schedule 1 (at the end of step 1 of the method statement)

Add:

> (h) Subdivision 418-B of the *Income Tax Assessment Act 1997* (the exploration development incentive tax offset).

29 Section 45-375 in Schedule 1 (at the end of paragraph (f) of step 1 of the method statement)

Add "; or".

30 Section 45-375 in Schedule 1 (at the end of step 1 of the method statement)

Add:

> (g) Subdivision 418-B of the *Income Tax Assessment Act 1997* (the exploration development incentive tax offset).

31 At the end of subsection 155-5(2) in Schedule 1

Add:

; (g) an amount of *excess exploration credit tax for an income year.

32 Subsection 155-15(1) in Schedule 1 (at the end of the table)

Add:

4	an amount of *excess exploration credit tax for an income year	the Commissioner	return given under section 418-160 for the income year

33 Subsection 250-10(2) in Schedule 1 (after table item 38C)

Insert:

38D	excess exploration credit tax	418-155	*Income Tax Assessment Act 1997*

34 After section 280-100 in Schedule 1

Insert:

280-101 Liability to shortfall interest charge—excess exploration credit tax

(1) You are liable to pay *shortfall interest charge on an additional amount of *excess exploration credit tax that you are liable to pay because the Commissioner amends your assessment for an income year.

(2) The liability is for each day in the period:

(a) beginning at the start of the day on which *excess exploration credit tax under your first assessment for that income year was due to be paid, or would have been due to be paid if there had been any; and

(b) ending at the end of the day before the day on which the Commissioner gave you notice of the amended assessment.

(3) However, if an amended assessment reinstates all or part of a liability in relation to a particular that had been reduced by an earlier amended assessment, the period for the reinstated liability begins at the start of the day on which *excess exploration credit tax under the earlier amended assessment was due to be paid, or would have been due to be paid if there had been any.

Note: See Subdivision 418-F of the *Income Tax Assessment Act 1997* for when the amount of excess exploration credit tax and shortfall interest charge becomes due and payable. That Subdivision also provides for general interest charge on any part of the additional amount (plus any shortfall interest charge) that remains unpaid after the additional amount is due and payable.

35 Paragraph 280-105(1)(a) in Schedule 1

After "income tax,", insert "*excess exploration credit tax,".

36 Subsection 280-110(1) in Schedule 1

After "280-100,", insert "280-101,".

37 Subsection 284-80(1) in Schedule 1 (at the end of the table)

Add:

5	You are liable to pay to the Commissioner an amount of *excess exploration credit tax

Part 3—Repeal of Division 418

Income Tax Assessment Act 1936

38 Subsection 6(1)

Repeal the following definitions:

(a) definition of ***exploration credit***;

(b) definition of ***exploration development incentive tax offset***.

39 Paragraphs 177C(1)(bba) and (fa)

Repeal the paragraphs.

40 Subparagraph 177C(2A)(b)(ii)

Omit “election; or”, substitute “election.”.

41 Paragraph 177C(2A)(c)

Repeal the paragraph.

42 Subsection 177C(3)

Omit “, (b)(i) or (c)(i)”, substitute “or (b)(i)”.

43 Paragraph 177C(3)(ca)

Omit “or”.

44 Paragraph 177C(3)(cb)

Repeal the paragraph.

45 Paragraph 177C(3)(g)

Omit “allowable; or”, substitute “allowable.”.

46 Paragraphs 177C(3)(h) and 177CB(1)(da)

Repeal the paragraphs.

47 Paragraph 177F(1)(d)

Omit “taxpayer; or”, substitute “taxpayer.”.

48 Paragraph 177F(1)(e)

Repeal the paragraph.

49 Paragraph 177F(3)(d)

Omit “taxpayer; or”, substitute “taxpayer.”.

50 Paragraphs 177F(3)(e) and (f)

Repeal the paragraphs.

Income Tax Assessment Act 1997

51 Section 13-1 (table item headed “exploration for minerals”)

Repeal the item.

52 Section 36-25 (table dealing with tax losses of greenfields minerals explorers)

Repeal the table.

53 Section 67-23 (table item 27)

Repeal the item.

54 Section 197-42

Repeal the section.

55 Subsection 205-15(1) (table item 7)

Repeal the item.

56 Subsection 219-15(2) (table item 8)

Repeal the item.

57 Division 418

Repeal the Division.

58 Subsection 995-1(1)

Repeal the following definitions:

(a) definition of ***annual investment income report***;

(b) definition of ***excess exploration credit tax***;
(c) definition of ***exploration credit***;
(d) definition of ***greenfields minerals expenditure***;
(e) definition of ***greenfields minerals explorer***;
(f) definition of ***maximum exploration credit amount***.

59 Subsection 995-1(1) (paragraph (a) of the definition of *tax loss*)

Omit "or reduced under section 418-95".

Taxation Administration Act 1953

60 Subsection 8AAB(4) (table item 16A)

Repeal the item.

61 Section 45-340 in Schedule 1 (paragraph (g) of step 1 of the method statement)

Omit "spouse); or", substitute "spouse).".

62 Section 45-340 in Schedule 1 (paragraph (h) of step 1 of the method statement)

Repeal the paragraph.

63 Section 45-375 in Schedule 1 (paragraph (f) of step 1 of the method statement)

Omit "spouse); or", substitute "spouse).".

64 Section 45-375 in Schedule 1 (paragraph (g) of step 1 of the method statement)

Repeal the paragraph.

65 Paragraph 155-5(2)(f) in Schedule 1

Omit "year;", substitute "year.".

66 Paragraph 155-5(2)(g) in Schedule 1

Repeal the paragraph.

67 Subsection 155-15(1) in Schedule 1 (table item 4)

Repeal the item.

68 Subsection 250-10(2) in Schedule 1 (table item 38D)

Repeal the item.

69 Section 280-101 in Schedule 1

Repeal the section.

70 Paragraph 280-105(1)(a) in Schedule 1

Omit "*excess exploration credit tax,".

71 Subsection 280-110(1) in Schedule 1

Omit "280-101,".

72 Subsection 284-80(1) in Schedule 1 (table item 5)

Repeal the item.

Part 4—Application and saving provisions

Division 1—Application of amendments

73 Application of amendments

(1) The amendments made by Parts 1 and 2 of this Schedule apply in relation to the 2015-16, 2016-17 and 2017-18 income years, but not in relation to any later income years.

(2) Despite subitem (1), item 23 of this Schedule does not apply in relation to an income year commencing before 1 July 2015.

Note: Subitem (2) will apply in relation to early balance substituted accounting periods for the 2015-16 income year.

Division 2—Savings provisions relating to repeal of Division 418

74 Object

The object of this Division is to ensure that, despite the repeals and amendments made by Part 3 of this Schedule, the full legal and administrative consequences of:

(a) any act done or omitted to be done; or
(b) any state of affairs existing; or
(c) any period ending;

before such a repeal or amendment commences, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment commences.

75 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is amended by Part 3 of this Schedule, the amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument:

(a) making or amending an assessment (including under a provision that is itself repealed or amended);

(b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the amendment commences.

76 Saving of provisions about effect of assessments

If a provision or part of a provision that is repealed or amended by Part 3 of this Schedule deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment commences, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment commences.

77 Saving of provisions about general interest charge or shortfall interest charge

If:

(a) a provision or part of a provision that is repealed or amended by Part 3 of this Schedule provides for the payment of:

(i) general interest charge or shortfall interest charge (within the meaning of the *Income Tax Assessment Act 1997*); or

(ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and

(b) in a particular case, the period in respect of which the charge or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

78 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the ***subject provision***) of any Act or legislative instrument depends to any extent on a provision of an Act, and that provision is repealed by Part 3 of this Schedule, the repeal is disregarded so far as it affects the operation of the subject provision.

79 Division does not limit operation of section 7 of the *Acts Interpretation Act 1901*

This Division does not limit the operation of section 7 of the *Acts Interpretation Act 1901*.

Schedule 7—Miscellaneous amendments

Part 1—Amendments commencing on the day after this Act receives the Royal Assent

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

1 Section 17-15

Repeal the section.

2 Subsection 31-15(3)

Repeal the subsection.

3 Application of amendments

The amendments made by items 1 and 2 apply in relation to tax periods starting after the day this Act receives the Royal Assent.

4 Paragraph 63-27(1)(b)

Omit "a a", substitute "a".

5 Section 93-15

Repeal the section, substitute:

93-15 GST no longer able to be taken into account

You are not entitled to an input tax credit for a *creditable acquisition to the extent that GST on the related supply has not been taken into account in the *assessment of the supplier's *net amount for the tax period to which that GST is attributable if:

(a) the period of review (within the meaning of section 155-35 in Schedule 1 to the *Taxation Administration Act 1953*) for that assessment has ended; and

(b) when that period of review ended, you did not hold a *tax invoice for the creditable acquisition.

6 Application of amendment

The amendment made by item 5 applies in relation to each creditable acquisition for which the GST on the related supply is attributable to a tax period, or tax periods, starting after the day this Act receives the Royal Assent.

Excise Act 1901

7 Section 5

Omit "(except as provided by sections 129 to 132, inclusive)".

8 Subsection 116(2)

Omit "120(iiia)", substitute "120(1)(iiia)".

Income Tax Assessment Act 1936

9 Section 94L

After "income tax law", insert "(other than subsection 44(1A) of this Act)".

10 Application of amendment

The amendment made by item 9 applies in relation to dividends paid on or after 28 June 2010.

11 Subsection 160ZZVB(2)

Omit "within the meaning of the *Income Tax (International Agreements) Act 1953*", substitute "(within the meaning of the *International Tax Agreements Act 1953*)".

12 Subsection 272-87(3) in Schedule 2F

Omit "greater then", substitute "greater than".

Income Tax Assessment Act 1997

13 Section 13-1 (after table item headed "imputation")

Insert:

infrastructure
borrowings **159GZZZZG**

14 Section 13-1 (table item headed "trusts")

After:
trust income of beneficiary with legal disability ..... **100(2)**

insert:
trust income (modifications for special disability trusts)..... **95AB(5)**

15 Paragraph 40-340(2)(b)

Omit "(which excludes certain assets from roll-over relief under Subdivision 122-A)", substitute "(which excludes certain assets from some kinds of CGT roll-over)".

16 Subsections 165-115AA(2) and (3)

Omit "*market value", substitute "market value".

17 Subsection 295-490(1) (table item 2B)

Omit "subsection 295-490(1)", substitute "subsection 295-190(1)".

18 Application of amendment

The amendment made item 17 applies in relation to:

(a) notices given under section 290-170 of the *Income Tax Assessment Act 1997* on or after the commencement of this item; and

(b) notices of variation given under section 290-180 of that Act on or after the commencement of this item (whether the notices being varied were given before, on or after the commencement of this item).

19 Section 415-95

Omit "who is a member of the staff assisting the Infrastructure CEO as mentioned in section 39", substitute "referred to in paragraph 39(1)(a) or 39A(1)(a)".

20 Subsection 420-60(4)

After "other than an *Australian carbon credit unit", insert "to which subsection (3) applies".

21 Application of amendment

The amendment made by item 20 applies in relation to income years commencing on or after the commencement of that item.

Income Tax (Transitional Provisions) Act 1997

22 Subdivision 420-B

Repeal the Subdivision.

Petroleum Resource Rent Tax Assessment Act 1987

23 Subparagraph 31(1)(b)(ii) of Schedule 1

Repeal the paragraph, substitute:

(ii) if section 41 applies to the expenditure—the company taken under subparagraph 41(1)(a)(ii) to have made the payment of the expenditure held the loss interest in the transferring entity.

24 Application of amendment

Item 11 of Schedule 6 to the *Tax Laws Amendment (2013 Measures No. 2) Act 2013* (the ***earlier application provision***) applies in relation to the amendment made by item 23 of this Schedule in a corresponding way to the way the earlier application provision applies in relation to the amendment made by item 9 of that Schedule.

Retirement Savings Accounts Act 1997

25 Subparagraph 3(1)(e)(ii)

Omit "subsection 144(1A)", substitute "subsection 144(2A)".

Superannuation Act 2005

26 Subparagraph 14(4)(a)(iv)

Omit “, (4A)”.

27 Paragraph 18(3)(d)

Omit “, (4A)”.

Superannuation Guarantee (Administration) Act 1992

28 Subsection 32C(4A)

Repeal the subsection.

Superannuation Industry (Supervision) Act 1993

29 Paragraph 71(1)(g)

After “business real property”, insert “(within the meaning of subsection 66(5))”.

30 Transitional provision—in-house assets

(1) For an asset that was an asset of a superannuation fund during any part of the period:

(a) starting on 7 July 2010; and

(b) ending on the day before the commencement of this item;

paragraph 71(1)(g) of the *Superannuation Industry (Supervision) Act 1993* applies as if the expression ***business real property*** of the fund had the same meaning in that paragraph as it had in subsection 66(5) of that Act.

(2) This item has effect despite item 9 of Schedule 1 to the *Superannuation Industry (Supervision) Amendment Act 2010*.

31 Section 253 (at the end of note 3)

Add “.”.

Superannuation (Productivity Benefit) Act 1988

32 Subparagraph 3AB(1)(b)(iii)

Omit “, (4A)”.

Taxation Administration Act 1953

33 Subsection 2(1)

Insert:

> ***assessable amount*** has the meaning given by subsection 155-5(2) in Schedule 1.

34 Paragraph 3B(1AA)(a)

Repeal the paragraph.

35 Section 14ZQ (definition of *franking assessment*)

Repeal the definition.

36 Paragraph 14ZW(1AAC)(b)

Repeal the paragraph, substitute:

(b) 4 years after the last day allowed to the person for lodging a return relating to the assessment of the assessable amount to which the ruling relates.

37 Application of amendment

The amendment made by item 36 applies in relation to:

(a) tax periods starting after the day this Act receives the Royal Assent; or

(b) payments or refunds that:

(i) do not relate to any tax period; and

(ii) relate to liabilities or entitlements that arise after the day this Act receives the Royal Assent.

38 Paragraph 284-75(3)(b) in Schedule 1

After “*tax-related liability”, insert “(other than one arising under the *Excise Acts)”.

39 Application of amendment

The amendment made by item 38 applies in relation to returns, notices or documents required to be given to the Commissioner on or after the commencement of that item.

40 Paragraph 355-25(2)(b) in Schedule 1

Repeal the paragraph, substitute:

(b) the covered entity is a *legal practitioner representing the primary entity in relation to the primary entity's affairs relating to one or more *taxation laws; or

(ba) the covered entity is a public officer (within the meaning of section 252 or 252A of the *Income Tax Assessment Act 1936*) of the primary entity; or

41 Application of amendment

The amendment made by item 40 applies in relation to records and disclosures of information made on or after the commencement of that item (regardless of when the information was acquired).

42 Paragraph 355-70(4)(j) in Schedule 1

Repeal the paragraph, substitute:

(j) the Crime and Corruption Commission of Queensland; or

43 Application of amendment

The amendment made by item 42 applies in relation to records and disclosures of information made on or after 1 July 2014 (regardless of when the information was acquired).

Part 2—Other amendments

Petroleum Resource Rent Tax Assessment Act 1987

44 Paragraph 35(1)(a)

Repeal the paragraph, substitute:

(a) any amount of class 1 GDP factor expenditure actually incurred by the person in relation to the project in the financial year, being expenditure incurred more than 5 years before the earlier of the following:

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

(ii) the day the production licence was issued in relation to the project; and

Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012

45 Item 22 of Schedule 4

After ""Commissioner"", insert "(first occurring)".

46 Item 23 of Schedule 4

After ""Commissioner"", insert "(first occurring)".

47 Subitem 30(2) of Schedule 4

Omit "45S(1)", substitute "45R(1)".

48 Item 46 of Schedule 4

After ""Commissioner"", insert "(first occurring)".

Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012

49 Item 42 of Schedule 3 (heading)

Omit "**Division 6 of**".

50 Item 42 of Schedule 3

After “Add:”, insert:

Division 5—Offences

51 Validation of regulations

(1) Regulations made under the *Superannuation Industry (Supervision) Act 1993* before the commencement of this item are as valid as they would have been if they had been made under that Act as amended by the corrected Act.

(2) For the purposes of this item, the ***corrected Act*** is the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012* as amended by items 49 and 50 of this Schedule.

Tax and Superannuation Laws Amendment (2013 Measures No. 2) Act 2013

52 Item 11 of Schedule 1 (after the heading)

Insert “Insert:”.

Tax Laws Amendment (2013 Measures No. 2) Act 2013

53 Item 34 of Schedule 2

Omit “(3),”, substitute “(3)”.

54 Item 34 of Schedule 2

Omit “(3A),”, substitute “, (3A)”.

[*Minister’s second reading speech made in—*
House of Representatives on 4 December 2014
Senate on 2 March 2015]

(262/14)