



**Tax and Superannuation Laws
Amendment (2015 Measures No. 4) Act
2015**

No. 135, 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/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Scrip for scrip roll-over		3
	<i>Income Tax Assessment Act 1997</i>	3
Schedule 2—Foreign employment income and Australian government employees		8
	<i>Income Tax Assessment Act 1936</i>	8
Schedule 3—Lost member small account threshold		9
	<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	9



Tax and Superannuation Laws Amendment (2015 Measures No. 4) Act 2015

No. 135, 2015

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

[Assented to 13 October 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws
Amendment (2015 Measures No. 4) Act 2015*.

No. 135, 2015 Tax and Superannuation Laws Amendment (2015 Measures No. 4) Act 2015 1

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 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 October 2015
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	13 October 2015
3. Schedule 3, item 1	31 December 2015.	31 December 2015
4. Schedule 3, item 2	31 December 2016.	31 December 2016

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Scrip for scrip roll-over

Income Tax Assessment Act 1997

1 Subsection 104-25(5) (note 4)

Repeal the note.

2 Section 112-53 (table item 2, column headed “In this situation:”)

Omit “an ultimate holding company under that arrangement from a member of its wholly-owned”, substitute “a member of a wholly-owned group under that arrangement from another member of the”.

3 Paragraph 124-780(3)(d)

Omit “arrangement”, substitute “*arrangement”.

4 At the end of subsection 124-780(3)

Add:

; and (f) if an acquiring entity is a member of a wholly-owned group—no member of the group issues equity (other than a replacement interest), or owes new debt, under the arrangement:

- (i) to an entity that is not a member of the group; and
- (ii) in relation to the issuing of the replacement interest.

5 Subparagraphs 124-781(1)(a)(i) and (ii)

After “*acquiring entity*”, insert “and the *replacement entity*”.

6 Subsection 124-782(1) (note 2)

Omit “an ultimate holding company by an acquiring entity”, substitute “a member of an acquiring wholly-owned group by another member of the group”.

7 Subsections 124-783(9) and (10)

Omit “acquiring entity” (wherever occurring), substitute “replacement entity”.

8 Section 124-784

Repeal the section, substitute:

124-783A Rights that affect stakes

- (1) An entity has a **significant stake** in another entity if:
- (a) the first entity has one or more *stake options in the other entity; and
 - (b) the first entity would have such a stake (under section 124-783) if the first entity acquired *stake interests in the other entity under any of those stake options.

Note: Paragraph (b) is satisfied if there are any circumstances (e.g. the first entity exercises some but not all of the stake options) in which the first entity would have a significant stake in the other entity, even if in other circumstances the first entity would not have such a stake.

- (2) An entity, or 2 or more entities, have a **common stake** in the original entity just before the *arrangement started and in the replacement entity just after the arrangement was completed if:
- (a) the entities:
 - (i) had one or more *stake options in the original entity before the arrangement started; or
 - (ii) have one or more stake options in the replacement entity; and
 - (b) the entities would have such stakes (under section 124-783) if:
 - (i) the entities had acquired *stake interests in the original entity under any of the stake options mentioned in subparagraph (a)(i); or
 - (ii) the entities acquired stake interests in the replacement entity under some or all of the stake options mentioned in subparagraph (a)(ii).
- (3) Something is a **stake option** an entity has in another entity if it gives the first entity, or its *associates, a right to acquire the following (**stake interests**):
- (a) if the other entity is a company:
 - (i) voting rights in the company; or

- (ii) the right to receive any part of any *dividends that the company may pay; or
 - (iii) the right to receive any part of any distribution of capital of the company;
 - (b) if the other entity is a trust—the right to receive any part of any distribution to beneficiaries of the trust of income or capital of the trust;
- and the acquisition could occur before the end of 5 years after the *arrangement was completed.

Example 1: An option.

Example 2: A share that gives a voting right that is temporarily suppressed.

- (4) For the purposes of subsection (1), treat the reference in subparagraph (3)(a)(i) to voting rights as being a reference to *shares carrying voting rights.
- (5) This section does not limit subsections 124-783(6) to (10).

124-784 Cost base of equity or debt given within acquiring group

Purpose

- (1) This section allocates an appropriate *cost base to equity issued, or new debt owed, under the *arrangement, by a member of a *wholly-owned group to another member (the *recipient*) of the group, if:
 - (a) the acquiring entity is a member of the group; and
 - (b) the cost base of an original interest was transferred or allocated under section 124-782 because the original interest holder is a *significant stakeholder or a *common stakeholder for the arrangement.

Allocation of cost base

- (2) The first element of the *cost base of the equity or debt for the recipient is that part of the cost base of the original interest transferred or allocated under section 124-782 as:
 - (a) may be reasonably allocated to the equity or debt; and
 - (b) is not more than the *market value of the equity or debt just after the *arrangement was completed.

9 Subparagraph 124-784A(1)(a)(i)

After “section 124-780”, insert “or 124-781”.

10 Subsection 124-784A(2) (method statement, step 3)

Repeal the step, substitute:

- Step 3. Add up the *market value at the completion time of all of the:
- (a) if the replacement entity is a company—*shares *on issue by the replacement entity; and
 - (b) if the replacement entity is a company—options, rights and similar interests issued by the replacement entity that give the holder an entitlement to acquire a share in the replacement entity at or after the completion time; and
 - (c) if the replacement entity is a trust—units or other interests in the replacement entity; and
 - (d) if the replacement entity is a trust—options, rights or similar interests issued by the replacement entity that gives the holder an entitlement to acquire a unit or other interest in the replacement entity at or after the completion time.

11 Section 124-784C

Repeal the section, substitute:

124-784C Cost base of equity or debt given within acquiring group

Purpose

- (1) This section allocates an appropriate *cost base to equity issued, or new debt owed, under the *arrangement by a member of a *wholly-owned group to another member (the *holder*) of the group, if:
- (a) an acquiring entity is a member of the group; and

- (b) the cost base of the acquiring entity for a qualifying interest was worked out under section 124-784B.

Allocation of cost base

- (2) The first element of the *cost base of the equity or debt for the holder is that part of the cost base of the qualifying interest worked out under section 124-784B as:
- (a) may be reasonably allocated to the equity or debt; and
 - (b) is not more than the *market value of the equity or debt at the completion time.

12 Subsection 995-1(1) (definition of *common stake*)

Omit “section 124-783”, substitute “sections 124-783 and 124-783A”.

13 Subsection 995-1(1) (definition of *significant stake*)

Omit “section 124-783”, substitute “sections 124-783 and 124-783A”.

14 Subsection 995-1(1)

Insert:

stake interest has the meaning given by subsection 124-783A(3).

stake option has the meaning given by subsection 124-783A(3).

15 Application of amendments

The amendments made by this Schedule apply in relation CGT events happening after 7.30 pm, by legal time in the Australian Capital Territory, on 8 May 2012.

Schedule 2—Foreign employment income and Australian government employees

Income Tax Assessment Act 1936

1 Paragraph 23AG(1AA)(a)

After “employer”, insert “(except if that employer is an Australian government agency (within the meaning of the *Income Tax Assessment Act 1997*))”.

2 Application of amendments

The amendment made by this Schedule applies to the 2016-17 year of income and later years of income.

Schedule 3—Lost member small account threshold

Superannuation (Unclaimed Money and Lost Members) Act 1999

1 Paragraph 24B(1)(b)

Omit “\$2,000”, substitute “\$4,000”.

Note: This item commences on 31 December 2015.

2 Paragraph 24B(1)(b)

Omit “\$4,000”, substitute “\$6,000”.

Note: This item commences on 31 December 2016.

*[Minister’s second reading speech made in—
House of Representatives on 20 August 2015
Senate on 14 September 2015]*

(140/15)
