





# **Treasury Laws Amendment (Enterprise Tax Plan) Act 2017**

**No. 41, 2017**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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# Treasury Laws Amendment (Enterprise Tax Plan) Act 2017

No. 41, 2017

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

[Assented to 19 May 2017]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Treasury Laws Amendment (Enterprise Tax Plan) Act 2017*.

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	19 May 2017
2. Schedule 1, Part 1	1 July 2016.	1 July 2016
3. Schedule 1, Part 2	1 July 2017.	1 July 2017
4. Schedule 1, Part 3	1 July 2018.	1 July 2018
5. Schedule 1, Part 9	1 July 2024.	1 July 2024
6. Schedule 1, Part 10	1 July 2025.	1 July 2025
7. Schedule 1, Part 11	1 July 2026.	1 July 2026
8. Schedule 1, Part 12	The day this Act receives the Royal Assent.	19 May 2017
9. Schedule 2, Part 1	1 July 2016.	1 July 2016
10. Schedule 2, Part 2	1 July 2024.	1 July 2024
11. Schedule 2, Part 3	1 July 2025.	1 July 2025
12. Schedule 2, Part 4	1 July 2026.	1 July 2026
13. Schedule 2, Part 5	The day this Act receives the Royal Assent.	19 May 2017

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
14. Schedule 3, Part 1	1 July 2016.	1 July 2016
15. Schedule 3, Part 2	The day this Act receives the Royal Assent.	19 May 2017
16. Schedule 4, Part 1	1 July 2016.	1 July 2016
17. Schedule 4, Part 3	The day this Act receives the Royal Assent.	19 May 2017
18. Schedule 5, Part 1	1 July 2016.	1 July 2016
19. Schedule 5, Part 2	1 July 2017.	1 July 2017
20. Schedule 5, Part 4	1 July 2024.	1 July 2024
21. Schedule 5, Part 5	1 July 2025.	1 July 2025
22. Schedule 5, Part 6	1 July 2026.	1 July 2026

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—Reducing the corporate tax rate

### Part 1—Amendments commencing 1 July 2016

#### *Income Tax Rates Act 1986*

##### **1 Paragraph 23(2)(a)**

Omit “28.5%”, substitute “27.5%”.

##### **2 Paragraph 23(3)(b)**

Repeal the paragraph, substitute:

(b) in respect of the standard component:

- (i) if the company is a small business entity for a year of income—27.5%; or
- (ii) otherwise—30%.

##### **3 Paragraph 23(4)(c)**

Repeal the paragraph, substitute:

(c) in respect of so much of the taxable income as exceeds the PDF component:

- (i) if the company is a small business entity for a year of income—27.5%; or
- (ii) otherwise—30%.

##### **4 Subparagraph 23(6)(b)(i)**

Omit “\$863”, substitute “\$832”.

##### **5 Paragraph 23(7)(a)**

Omit “42.75%”, substitute “41.25%”.

##### **6 Paragraph 25(a)**

Omit “28.5%”, substitute “27.5%”.

## **Part 2—Amendments commencing 1 July 2017**

### ***Income Tax Rates Act 1986***

#### **7 Subsection 3(1)**

Insert:

*base rate entity* has the meaning given by section 23AA.

#### **8 Paragraph 23(2)(a)**

Omit “small business entity”, substitute “base rate entity”.

#### **9 Subparagraph 23(3)(b)(i)**

Omit “small business entity”, substitute “base rate entity”.

#### **10 Subparagraph 23(4)(c)(i)**

Omit “small business entity”, substitute “base rate entity”.

#### **11 Subparagraph 23(6)(b)(i)**

Omit “small business entity”, substitute “base rate entity”.

#### **12 Paragraph 23(7)(a)**

Omit “small business entity”, substitute “base rate entity”.

#### **13 After section 23**

Insert:

#### **23AA Meaning of *base rate entity***

An entity is a *base rate entity* for a year of income if:

- (a) it carries on a business (within the meaning of the *Income Tax Assessment Act 1997*) in the year of income; and
- (b) its aggregated turnover (within the meaning of that Act) for the year of income, worked out as at the end of that year, is less than \$25 million.

#### **14 Paragraph 25(a)**

Omit “small business entity”, substitute “base rate entity”.

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**15 Paragraph 28A(a)**

Omit “the rate specified in paragraph 23(2)(b) (about companies other than small business entities)”, substitute “the rate specified in paragraph 23(2)(b) of this Act”.

## **Part 3—Amendments commencing 1 July 2018**

### *Income Tax Rates Act 1986*

#### **16 Paragraph 23AA(b)**

Omit “\$25 million”, substitute “\$50 million”.

## **Part 9—Amendments commencing 1 July 2024**

### ***Income Tax Rates Act 1986***

#### **33 Paragraph 23(2)(a)**

Omit “27.5%”, substitute “27%”.

#### **34 Subparagraph 23(3)(b)(i)**

Omit “27.5%”, substitute “27%”.

#### **35 Subparagraph 23(4)(c)(i)**

Omit “27.5%”, substitute “27%”.

#### **36 Subparagraph 23(6)(b)(i)**

Omit “\$832”, substitute “\$817”.

#### **37 Paragraph 23(7)(a)**

Omit “41.25%”, substitute “40.5%”.

#### **38 Paragraph 25(a)**

Omit “27.5%”, substitute “27%”.

## **Part 10—Amendments commencing 1 July 2025**

### ***Income Tax Rates Act 1986***

#### **39 Paragraph 23(2)(a)**

Omit “27%”, substitute “26%”.

#### **40 Subparagraph 23(3)(b)(i)**

Omit “27%”, substitute “26%”.

#### **41 Subparagraph 23(4)(c)(i)**

Omit “27%”, substitute “26%”.

#### **42 Subparagraph 23(6)(b)(i)**

Omit “\$817”, substitute “\$788”.

#### **43 Paragraph 23(7)(a)**

Omit “40.5%”, substitute “39%”.

#### **44 Paragraph 25(a)**

Omit “27%”, substitute “26%”.

## **Part 11—Amendments commencing 1 July 2026**

### ***Income Tax Rates Act 1986***

#### **45 Paragraph 23(2)(a)**

Omit “26%”, substitute “25%”.

#### **46 Subparagraph 23(3)(b)(i)**

Omit “26%”, substitute “25%”.

#### **47 Subparagraph 23(4)(c)(i)**

Omit “26%”, substitute “25%”.

#### **48 Subparagraph 23(6)(b)(i)**

Omit “\$788”, substitute “\$762”.

#### **49 Paragraph 23(7)(a)**

Omit “39%”, substitute “37.5%”.

#### **50 Paragraph 25(a)**

Omit “26%”, substitute “25%”.

## **Part 12—Application of amendments**

### **57 Application of amendments**

- (1) Subject to the following subitems, the amendments made by Part 1 of this Schedule apply to the 2016-17 year of income and later years of income.
- (2) Subject to the following subitems, the amendments made by Part 2 of this Schedule apply to the 2017-18 year of income and later years of income.
- (3) Subject to the following subitems, the amendments made by Part 3 of this Schedule apply to the 2018-19 year of income and later years of income.
- (9) Subject to the following subitems, the amendments made by Part 9 of this Schedule apply to the 2024-25 year of income and later years of income.
- (10) Subject to the following subitem, the amendments made by Part 10 of this Schedule apply to the 2025-26 year of income and later years of income.
- (11) The amendments made by Part 11 of this Schedule apply to the 2026-27 year of income and later years of income.

**Schedule 2—Amount of tax discount for  
unincorporated small businesses**

**Part 1—Amendments commencing 1 July 2016**

*Income Tax Assessment Act 1997*

**1 Subsection 328-360(1)**

Omit “5%”, substitute “8%”.

## **Part 2—Amendments commencing 1 July 2024**

### *Income Tax Assessment Act 1997*

#### **2 Subsection 328-360(1)**

Omit “8%”, substitute “10%”.

## **Part 3—Amendments commencing 1 July 2025**

### *Income Tax Assessment Act 1997*

#### **3 Subsection 328-360(1)**

Omit “10%”, substitute “13%”.

## **Part 4—Amendments commencing 1 July 2026**

### *Income Tax Assessment Act 1997*

#### **4 Subsection 328-360(1)**

Omit “13%”, substitute “16%”.

## **Part 5—Application of amendments**

### **5 Application of amendments**

- (1) Subject to the following subitems, the amendments made by Part 1 of this Schedule apply to the 2016-17 income year and later income years.
- (2) Subject to the following subitems, the amendments made by Part 2 of this Schedule apply to the 2024-25 income year and later income years.
- (3) Subject to the following subitem, the amendments made by Part 3 of this Schedule apply to the 2025-26 income year and later income years.
- (4) The amendments made by Part 4 of this Schedule apply to the 2026-27 income year and later income years.

## **Schedule 3—Access to small business concessions, etc.**

### **Part 1—Amendments**

#### *Income Tax Assessment Act 1997*

##### **1 Section 152-5**

Omit:

- |   |
|---|
| <p>(a) the entity must be a small business entity or a partner in a partnership that is a small business entity, or the net value of assets that the entity and related entities own must not exceed \$6,000,000;</p> |
|---|

substitute:

- |   |
|---|
| <p>(a) the entity must be a CGT small business entity or a partner in a partnership that is a CGT small business entity, or the net value of assets that the entity and related entities own must not exceed \$6,000,000;</p> |
|---|

##### **2 Subparagraph 152-10(1)(c)(i)**

Omit “\*small business entity”, substitute “\*CGT small business entity”.

##### **3 Subparagraph 152-10(1)(c)(iii)**

Omit “small business entity”, substitute “CGT small business entity”.

##### **4 Paragraph 152-10(1)(c) (note)**

Repeal the note.

##### **5 After subsection 152-10(1)**

Insert:

*CGT small business entity*

(1AA) You are a ***CGT small business entity*** for an income year if:

- (a) you are a \*small business entity for the income year; and

**Schedule 3** Access to small business concessions, etc.

**Part 1** Amendments

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(b) you would be a small business entity for the income year if each reference in section 328-110 to \$10 million were a reference to \$2 million.

Note: For the purposes of subsection (1A) or (1B), in determining whether an entity would be a small business entity, see also sections 152-48 and 152-78.

**6 Paragraph 152-10(1A)(a)**

Omit “\*small business entity”, substitute “\*CGT small business entity”.

**7 Paragraph 152-10(1A)(d)**

Omit “small business entity”, substitute “CGT small business entity”.

**8 Subsection 152-10(1A) (note 2)**

Repeal the note.

**9 Paragraph 152-10(1B)(b)**

Omit “\*small business entity”, substitute “\*CGT small business entity”.

**10 Subsection 152-10(1B) (note 1)**

Repeal the note.

**11 Subsection 152-10(1B) (note 2)**

Omit “Note 2”, substitute “Note”.

**12 Subsection 152-48(1)**

Omit “\*small business entity”, substitute “\*CGT small business entity”.

**13 Section 152-100**

Omit “small business entity”, substitute “CGT small business entity”.

**14 At the end of subsection 328-10(1)**

Add:

Note 1: The CGT concessions mentioned in items 1, 2, 3 and 4 of the table apply only if you are a CGT small business entity (see section 152-10).

Note 2: The small business income tax offset mentioned in item 6A of the table applies only if you are a small business entity as defined for the purposes of Subdivision 328-F (see section 328-357).

**15 Paragraph 328-110(1)(b)**

Omit “\$2 million” (wherever occurring), substitute “\$10 million”.

**16 Subsection 328-110(3) (heading)**

Repeal the heading, substitute:

*Exception: aggregated turnover for 2 previous income years was \$10 million or more*

**17 Paragraph 328-110(3)(b)**

Omit “\$2 million”, substitute “\$10 million”.

**18 Paragraph 328-110(4)(b)**

Omit “\$2 million”, substitute “\$10 million”.

**19 Section 328-350**

Repeal the section, substitute:

**328-350 What this Subdivision is about**

You may be entitled to a tax offset if you are an individual:

- (a) who is a small business entity; or
- (b) whose assessable income includes a share of the net small business income of an unincorporated small business entity; or
- (c) whose assessable income includes an amount because you are a partner in a partnership, or a beneficiary in a trust, that is a small business entity.

In working out whether you are or another entity is a small business entity, a special \$5 million turnover threshold applies (see section 328-357).

**20 After section 328-355**

Insert:

**328-357 Special meaning of *small business entity* for the purposes of this Subdivision—\$5 million turnover threshold**

For the purposes of this Subdivision, in working out whether you are a \*small business entity for an income year, assume that each reference in section 328-110 to \$10 million were a reference to \$5 million.

**21 Subsection 995-1(1)**

Insert:

*CGT small business entity* has the meaning given by subsection 152-10(1AA).

## **Part 2—Application of amendments**

### **22 Application of amendments**

- (1) Subject to the following subitems, the amendments made by Part 1 of this Schedule apply to the 2016-17 income year and later income years.
- (2) The following apply to CGT events happening on or after the start of the 2016-17 income year:
  - (a) the amendments made by items 1 to 13 of this Schedule;
  - (b) any other amendments made by this Schedule, to the extent that they relate to the amendments mentioned in paragraph (a).
- (3) The amendments made by items 15 to 18 of this Schedule, to the extent that they relate to the operation of the *Fringe Benefits Tax Assessment Act 1986*, apply to the FBT year starting on 1 April 2017 and to later FBT years.

## Schedule 4—Main consequential amendments relating to imputation

### Part 1—Amendments commencing 1 July 2016

#### *Income Tax Assessment Act 1997*

#### **1 Subsection 36-55(2) (method statement, step 2)**

Omit “the \*standard corporate tax rate”, substitute “the entity’s \*corporate tax rate for imputation purposes for that year”.

#### **2 Subsection 197-45(2) (formula)**

Repeal the formula, substitute:

$$\text{Transferred amount} \times \frac{\text{Applicable franking percentage}}{\text{Applicable gross-up rate}}$$

#### **3 Subsection 197-45(2)**

Insert:

*applicable gross-up rate* means the company’s \*corporate tax gross-up rate for the income year in which the franking debit arises.

#### **4 Subsection 197-60(3) (paragraph (a) of the definition of *applicable tax rate*)**

Omit “the \*standard corporate tax rate”, substitute “the company’s \*corporate tax rate for imputation purposes for the income year in which the choice is made”.

#### **5 Subsection 197-60(4) (formula)**

Repeal the formula, substitute:

$$\text{*Tainting amount at time of choice to untaint} \times \frac{1}{\text{Applicable gross-up rate}}$$

#### **6 At the end of subsection 197-60(4)**

Add:

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where:

*applicable gross-up rate* means the company's \*corporate tax gross-up rate for the income year in which the choice is made.

### **7 Subsection 197-65(3) (formula)**

Repeal the formula, substitute:

$$\text{Transferred amount} \times \frac{\text{Applicable franking percentage}}{\text{Applicable gross-up rate}}$$

### **8 Subsection 197-65(3)**

Insert:

*applicable gross-up rate* means the company's \*corporate tax gross-up rate for the income year in which the franking debit arises.

### **9 Subsection 200-25(1)**

Omit "the standard corporate tax rate", substitute "the entity's corporate tax rate for imputation purposes for the income year in which the distribution is made".

### **10 Section 202-55**

Omit "the current standard corporate tax rate", substitute "the entity's corporate tax rate for imputation purposes for the income year in which the distribution is made".

### **11 Subsection 202-60(2) (formula)**

Repeal the formula, substitute:

$$\text{Amount of the *frankable distribution} \times \frac{1}{\text{Applicable gross-up rate}}$$

### **12 At the end of subsection 202-60(2)**

Add:

where:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

**13 Subsection 203-50(2) (formula)**

Repeal the formula, substitute:

$$\text{Amount of the *frankable distribution} \times \frac{\text{Franking \% differential}}{\text{Applicable gross-up rate}}$$

**14 Subsection 203-50(2)**

Insert:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

**15 Subsection 215-20(2) (formula)**

Repeal the formula, substitute:

$$\text{*Franking credit on the dividend} \times \text{Applicable gross-up rate}$$

**16 At the end of subsection 215-20(2)**

Add:

where:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

**17 Subsection 705-90(3) (formula)**

Repeal the formula, substitute:

$$\text{Balance of *franking account (worked out on assumptions in subsection (4))} \times \text{Applicable gross-up rate}$$

**18 At the end of subsection 705-90(3)**

Add:

where:

*applicable gross-up rate* means the joining entity's \*corporate tax gross-up rate for the income year that ends, or, if section 701-30 applies, for the income year that is taken by subsection (3) of that section to end, at the joining time.

### **19 Paragraph 707-310(3A)(c) (formula)**

Repeal the formula, substitute:

$$\frac{1}{\text{Transferee's *corporate tax rate for imputation purposes for the income year}} \times \text{Franking offsets}$$

### **20 Section 976-1 (formula)**

Repeal the formula, substitute:

$$\text{*Franking credit on the dividend} \times \text{Applicable gross-up rate}$$

### **21 At the end of section 976-1**

Add:

where:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

### **22 Section 976-10 (formula)**

Repeal the formula, substitute:

$$\text{*Exempting credit on the distribution} \times \text{Applicable gross-up rate}$$

### **23 At the end of section 976-10**

Add:

where:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

## 24 Section 976-15 (formula)

Repeal the formula, substitute:

\*Venture capital credit on the distribution × Applicable gross-up rate

## 25 At the end of section 976-15

Add:

where:

*applicable gross-up rate* means the \*corporate tax gross-up rate of the entity making the distribution for the income year in which the distribution is made.

## 26 Subsection 995-1(1) (definition of *corporate tax gross-up rate*)

Repeal the definition, substitute:

*corporate tax gross-up rate*, of an entity for an income year, means the amount worked out using the following formula:

$$\frac{100\% - \text{*Corporate tax rate for imputation purposes of the entity for the income year}}{\text{*Corporate tax rate for imputation purposes of the entity for the income year}}$$

## 27 Subsection 995-1(1) (definition of *corporate tax rate*)

Repeal the definition, substitute:

*corporate tax rate*:

- (a) in relation to a company to which paragraph 23(2)(a) of the *Income Tax Rates Act 1986* applies—means the rate of tax in respect of the taxable income of a company covered by that paragraph; or
- (b) in relation to another entity—means the rate of tax in respect of the taxable income of a company covered by paragraph 23(2)(b) of that Act.

## 28 Subsection 995-1(1)

Insert:

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*corporate tax rate for imputation purposes*, of an entity for an income year, means:

- (a) unless paragraph (b) applies—the entity's \*corporate tax rate for the income year, worked out on the assumption that the entity's \*aggregated turnover for the income year is equal to its aggregated turnover for the previous income year; or
- (b) if the entity did not exist in the previous income year—the rate of tax in respect of the taxable income of a company covered by paragraph 23(2)(a) of the *Income Tax Rates Act 1986*.

**29 Subsection 995-1(1) (definition of *standard corporate tax rate*)**

Repeal the definition.

## **Part 3—Application of amendments**

### **58 Application of amendments**

The amendments made by Part 1 of this Schedule apply to the 2016-17 income year and later income years.

## **Schedule 5—Other consequential amendments**

### **Part 1—Amendments commencing 1 July 2016**

#### *Income Tax Assessment Act 1997*

##### **1 Paragraph 65-30(2)(a)**

Omit “0.285”, substitute “0.275”.

##### **2 Paragraph 65-35(3A)(a)**

Omit “28.5”, substitute “27.5”.

## Part 2—Amendments commencing 1 July 2017

### *Income Tax Assessment Act 1997*

#### **3 Subsection 36-17(5) (example)**

Omit “For the 2015-16 income year, Company A (which is not a small business entity)”, substitute “For the 2017-18 income year, Company A (which is not a base rate entity)”.

#### **4 Subsection 36-55(1) (example)**

Omit “For the 2015-16 income year, Company E (which is not a small business entity)”, substitute “For the 2017-18 income year, Company E (which is not a base rate entity)”.

#### **5 Subsection 36-55(2) (example)**

Omit “2002-2003”, substitute “2017-2018”.

#### **6 Paragraph 65-30(2)(a)**

Omit “\*small business entity”, substitute “base rate entity (within the meaning of the *Income Tax Rates Act 1986*)”.

#### **7 Paragraph 65-35(3A)(a)**

Omit “\*small business entity”, substitute “base rate entity (within the meaning of the *Income Tax Rates Act 1986*)”.

#### **8 Subsection 115-280(3) (example)**

Omit “A listed investment company (which is not a small business entity)”, substitute “A listed investment company (which is not a base rate entity)”.

## **Part 4—Amendments commencing 1 July 2024**

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

#### **17 Paragraph 65-30(2)(a)**

Omit “0.275”, substitute “0.27”.

#### **18 Paragraph 65-35(3A)(a)**

Omit “27.5”, substitute “27”.

## **Part 5—Amendments commencing 1 July 2025**

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

#### **19 Paragraph 65-30(2)(a)**

Omit “0.27”, substitute “0.26”.

#### **20 Paragraph 65-35(3A)(a)**

Omit “27”, substitute “26”.

## **Part 6—Amendments commencing 1 July 2026**

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

#### **21 Paragraph 65-30(2)(a)**

Omit “0.26”, substitute “0.25”.

#### **22 Paragraph 65-35(3A)(a)**

Omit “26”, substitute “25”.

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*[Minister’s second reading speech made in—  
House of Representatives on 1 September 2016  
Senate on 27 March 2017]*

(88/16)

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