





# **Treasury Laws Amendment (2021 Measures No. 4) Act 2021**

**No. 72, 2021**

**An Act to amend the law relating to taxation,  
corporations and consumer credit, 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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No. 72, 2021

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

[Assented to 30 June 2021]

The Parliament of Australia enacts:

## 1 Short title

This Act is the *Treasury Laws Amendment (2021 Measures No. 4) Act 2021*.

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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.	30 June 2021
2. Schedule 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2021
3. Schedule 2	The later of: (a) 1 July 2021; and (b) the day after this Act receives the Royal Assent.	1 July 2021
4. Schedule 3	The first 1 July to occur after the day this Act receives the Royal Assent.	1 July 2021
5. Schedules 4 and 5	The day after this Act receives the Royal Assent.	1 July 2021
6. Schedule 6	Immediately after the commencement of section 1 of the <i>Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Act 2020</i> .	14 October 2020

Note: This table relates only to the provisions of this Act as originally enacted.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.

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### **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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Fringe benefits tax exemption to support retraining and reskilling

### *Fringe Benefits Tax Assessment Act 1986*

#### 1 At the end of Division 13 of Part III

Add:

#### **58ZE Exempt benefits—provision of certain education or training**

- (1) Subject to subsection (2), a benefit is an exempt benefit in relation to a year of tax if:
  - (a) the benefit is provided in, or in respect of, the year of tax in respect of education or training undertaken by an employee of an employer; and
  - (b) the employee is redundant; and
  - (c) the employer has complied with any obligation under the *Fair Work Act 2009* that applies in relation to the redundancy; and
  - (d) the education or training is for the primary purpose of enabling the employee to gain or produce salary or wages in respect of any employment to which the education or training relates.
- (2) For the purposes of paragraph (1)(b), an employee is *redundant* if the employee's employer no longer requires, or reasonably expects to no longer require, the employee's job to be performed by anyone because of changes in the operational requirements of the employer's business or undertaking.
- (3) This section does not apply to a benefit provided to an employee of an employer if:
  - (a) the benefit is provided under a salary packaging arrangement; or
  - (b) the benefit is a payment or other amount covered by subsection 26-20(1) of the *Income Tax Assessment Act 1997*; or

- (c) the education or training in respect of which the benefit is provided is undertaken as part of a primary course (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*) or a secondary course (within the meaning of that Act); or
- (d) if the employer is an individual—the employee is a relative of the employer; or
- (e) if the employer is a partnership—the employee is a relative of a partner in the partnership; or
- (f) if the employer is a company (other than a widely held company within the meaning of the *Income Tax Assessment Act 1997*)—the employee is:
  - (i) a shareholder in, or a relative of a shareholder in, the company; or
  - (ii) a director of, or a relative of a director of, the company.

## **2 Application of amendments**

The amendments to the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply to benefits provided on or after 2 October 2020.

## Schedule 2—Junior minerals exploration incentive extension

### *Income Tax Assessment Act 1997*

#### **1 Paragraph 130-110(1)(a)**

Omit “2019-20 or 2020-21”, substitute “2019-20, 2020-21, 2021-22, 2022-23, 2023-24 or 2024-25”.

#### **2 Section 418-1 (paragraph beginning “A greenfields minerals explorer”)**

Repeal the paragraph, substitute:

<p>A greenfields minerals explorer can create exploration credits for an income year. Before creating exploration credits, the explorer must obtain an allocation of exploration credits from the Commissioner for the year. Exploration credits cannot be created for the 2025-26 income year or later income years.</p>
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#### **3 Section 418-1 (paragraph beginning “The exploration credits created for an income year”)**

After “preceding year”, insert “generally”.

#### **4 Section 418-1 (paragraph beginning “An exploration credit created by a greenfields minerals explorer”)**

After “that income year,”, insert “generally”.

#### **5 Section 418-1 (paragraph beginning “There is a cap”)**

After “unallocated it”, insert “generally”.

#### **6 At the end of subsection 418-70(1)**

Add:

Note: The entity cannot have an unused allocation of exploration credits from the 2020-21 income year: see subsection 418-82(3A).

### **7 Subsection 418-70(3)**

Omit “2021-22 income year”, substitute “2025-26 income year”.

### **8 After subsection 418-81(2)**

Insert:

(2A) However, if no \*exploration investment is made in the entity in the income year, the amount of the entity’s *exploration credits allocation* for the income year is nil.

Note: The entity must notify the Commissioner if no exploration investment is made in the entity in the income year: see section 418-135.

### **9 After subsection 418-82(3)**

Insert:

(3A) Despite subsections (1) and (2), the entity cannot have an *unused allocation of exploration credits* from the 2020-21 income year.

### **10 At the end of subsection 418-85(2)**

Add:

Note: The entity cannot have an unused allocation of exploration credits from the 2020-21 income year: see subsection 418-82(3A).

### **11 At the end of subsection 418-103(1)**

Add:

- ; (e) for the 2021-22 income year—\$25 million;
- (f) for the 2022-23 income year—\$25 million, plus the exploration credits remainder for the immediately preceding income year;
- (g) for the 2023-24 income year—\$25 million, plus the exploration credits remainder for the immediately preceding income year and any other amount prescribed for the purposes of this paragraph;
- (h) for the 2024-25 income year—\$25 million, plus the exploration credits remainder for the immediately preceding income year and any other amount prescribed for the purposes of this paragraph.

**12 At the end of Subdivision 418-E**

Add:

**418-135 Notifying the Commissioner if no exploration investment in income year for which credits allocated**

- (1) An entity must notify the Commissioner if:
  - (a) the Commissioner has made a determination under section 418-101 allocating the entity \*exploration credits for an income year; and
  - (b) no \*exploration investment is made in the entity in the income year.
- (2) The notice must:
  - (a) be in the \*approved form; and
  - (b) be given to the Commissioner within 30 days after the end of the income year.

***Treasury Laws Amendment (Junior Minerals Exploration Incentive) Act 2018***

**13 Subsection 2(1) (table items 3 and 5)**

Repeal the items.

**14 Part 3 of Schedule 1**

Repeal the Part.

**15 Paragraph 65(a) of Schedule 1**

Omit “, but not in relation to exploration investment made in the entity in later income years”.

**16 Division 2 of Part 4 of Schedule 1**

Repeal the Division.

**17 Application of amendments**

- (1) The amendments of the *Income Tax Assessment Act 1997* made by this Schedule (other than item 9) apply in relation to exploration credits

allocated, or to be allocated, for the 2021-22 income year or a later income year.

- (2) The amendment made by item 9 applies in relation to exploration credits allocated for the 2020-21 income year.

**18 Transitional provision relating to the 2021-22 income year**

Subsection 418-100(2) of the *Income Tax Assessment Act 1997* applies to an application for a determination allocating exploration credits for the 2021-22 income year as if the reference in that subsection to 1 month before the start of the financial year corresponding to the income year for which the allocation is sought were a reference to 1 month starting on the 11th business day after the commencement of this item.

## Schedule 3—Exempting granny flat arrangements from CGT

### *Income Tax Assessment Act 1997*

#### **1 After Division 134**

Insert:

### **Division 137—Granny flat arrangements**

#### **Table of Subdivisions**

137-A—When CGT events do not happen

#### **Subdivision 137-A—When CGT events do not happen**

#### **Guide to Subdivision 137-A**

##### **137-1 What this Subdivision is about**

A CGT event does not happen when certain granny flat arrangements are entered into, varied or terminated.
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#### **Table of sections**

##### **Operative provisions**

137-10	Meaning of key terms
137-15	CGT event does not happen when a certain kind of granny flat arrangement is entered into
137-20	CGT event does not happen when a certain kind of granny flat arrangement is varied
137-25	CGT event does not happen when a certain kind of granny flat arrangement is terminated

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## Operative provisions

### 137-10 Meaning of key terms

- (1) An individual holds a *granny flat interest* in a \*dwelling under an \*arrangement if the individual has a right to occupy the dwelling for life that has been conferred by the arrangement.
- (2) An individual is *eligible for a granny flat interest* at a particular time if:
  - (a) the individual reached \*pension age at or before that time; or
  - (b) the individual:
    - (i) needs, because of a disability, assistance to carry out most day-to-day activities; and
    - (ii) is likely to continue to need that assistance, because of that disability, for at least 12 months after that time.
- (3) This Subdivision applies:
  - (a) to a \*dwelling's \*adjacent land in a corresponding way to the way Subdivision 118-B applies to the adjacent land; or
  - (b) to an \*adjacent structure of a flat or home unit in a corresponding way to the way Subdivision 118-B applies to the adjacent structure.

Note: Subsections 118-120(1) and (5) provide that Subdivision 118-B (about main residences) applies to adjacent land and adjacent structures as if they were a dwelling.

### 137-15 CGT event does not happen when a certain kind of granny flat arrangement is entered into

A \*CGT event does not happen, to the extent it relates to creating a \*granny flat interest in a \*dwelling under an \*arrangement by entering into the arrangement at a particular time (the *start time*), if:

- (a) the individual who holds, or who is to hold, the granny flat interest under the arrangement is \*eligible for a granny flat interest at the start time; and
- (b) another individual:
  - (i) holds an \*ownership interest in the dwelling at the start time; or

- (ii) agrees, under the arrangement, to \*acquire an ownership interest in a dwelling that is to be the dwelling in which the first-mentioned individual is to hold the granny flat interest; and
- (c) at the start time, both individuals are parties to the arrangement; and
- (d) the arrangement:
  - (i) is in writing; and
  - (ii) indicates an intention for the parties to the arrangement to be legally bound by it; and
- (e) the arrangement is not of a commercial nature.

**137-20 CGT event does not happen when a certain kind of granny flat arrangement is varied**

A \*CGT event does not happen, to the extent it relates to creating or varying a \*granny flat interest in a \*dwelling under an \*arrangement by varying the arrangement at a particular time (the *variation time*), if:

- (a) the individual who holds, or who is to hold, the granny flat interest under the arrangement (as varied) is \*eligible for a granny flat interest at the variation time; and
- (b) another individual:
  - (i) holds an \*ownership interest in the dwelling at the variation time; or
  - (ii) agrees, under the arrangement (as varied), to \*acquire an ownership interest in a dwelling that is to be the dwelling in which the first-mentioned individual is to hold the granny flat interest; and
- (c) at the variation time, both individuals are parties to the arrangement (as varied); and
- (d) the arrangement (as varied):
  - (i) is in writing; and
  - (ii) indicates an intention for the parties to the arrangement to be legally bound by it; and
- (e) the arrangement (as varied) is not of a commercial nature.

### **137-25 CGT event does not happen when a certain kind of granny flat arrangement is terminated**

A \*CGT event does not happen, to the extent that it relates to terminating a \*granny flat interest in a \*dwelling under an \*arrangement by terminating the arrangement, if:

- (a) section 137-15 applied so that a CGT event did not happen when the arrangement was entered into; or
- (b) section 137-20 applied so that a CGT event did not happen when the arrangement was varied.

### **2 Subsection 995-1(1)**

Insert:

*eligible for a granny flat interest* has the meaning given by subsection 137-10(2).

*granny flat interest* has the meaning given by subsection 137-10(1).

## ***Income Tax (Transitional Provisions) Act 1997***

### **3 After Division 136**

Insert:

## **Division 137—Granny flat arrangements**

### **Table of Subdivisions**

137-A—Granny flat arrangements

### **Subdivision 137-A—Granny flat arrangements**

### **Table of sections**

#### **Operative provisions**

137-10 Applicable CGT events

## Operative provisions

### 137-10 Applicable CGT events

Division 137 of the *Income Tax Assessment Act 1997* applies in relation to events:

- (a) that happen on or after the commencement of that Division;  
and
- (b) that, apart from that Division, would be CGT events;  
(whether the arrangements to which the events relate were entered into before, on or after that commencement).

## **Schedule 4—Amendments to product intervention regime**

### ***Corporations Act 2001***

#### **1 Paragraph 1023D(4)(c)**

Repeal the paragraph, substitute:

- (c) a condition related to a person's remuneration, other than a condition related to:
  - (i) so much of the person's remuneration as is conditional on the achievement of objectives directly related to the financial product; or
  - (ii) a fee, charge or other consideration paid or payable to the person by a retail client.

### ***National Consumer Credit Protection Act 2009***

#### **2 Paragraph 301D(4)(c)**

Repeal the paragraph, substitute:

- (c) a condition related to a person's remuneration, other than a condition related to:
  - (i) so much of the person's remuneration as is conditional on the achievement of objectives directly related to the credit product; or
  - (ii) a fee, charge or other consideration paid or payable to the person by a consumer.

## Schedule 5—New Zealand sports teams members and support staff

### *International Tax Agreements Act 1953*

#### **1 Subsection 5(1) (table item dealing with New Zealand convention)**

Repeal the item, substitute:

New Zealand convention

section 6B

#### **2 After section 6A**

Insert:

#### **6B Convention with New Zealand**

- (1) This section applies in relation to:
  - (a) income described in paragraph 3 of Article 17 of the New Zealand convention, derived in respect of personal activities exercised by a sportsperson; and
  - (b) income derived by an individual covered by subsection (4) in respect of a sportsperson, if that income is derived from providing services mentioned in paragraph (4)(a) to:
    - (i) the sportsperson in deriving income mentioned in paragraph (a); or
    - (ii) a recognised team regularly playing in a league competition (as described in paragraph 3 of Article 17 of the New Zealand convention) of which the sportsperson is a member.
- (2) Subsection (3) applies in determining whether an individual was present in Australia on a particular day, for the purposes of determining whether the condition in subparagraph 2(a) of Article 14 of the New Zealand convention was met in relation to:
  - (a) the 2020-21 year of income; or
  - (b) the 2021-22 year of income.
- (3) Treat the individual as not being present in Australia on that day if it was impractical, because of measures or arrangements related to

the coronavirus known as COVID-19, for the individual to leave Australia on that day and continue to:

- (a) exercise the personal activities mentioned in paragraph (1)(a); or
  - (b) provide the services mentioned in paragraph (1)(b).
- (4) This subsection covers, in respect of a sportsperson, an individual who:
- (a) provides any of the following services to the sportsperson or to a recognised team of which the sportsperson is a member:
    - (i) services as a manager, coach, trainer, runner, physician or physiotherapist;
    - (ii) advertising or promotional services;
    - (iii) any other similar services; and
  - (b) is employed by a person that:
    - (i) employs the sportsperson; or
    - (ii) if a body corporate employs the sportsperson—is a related body corporate (within the meaning of the *Corporations Act 2001*) of that body corporate.

(5) In this section:

***recognised team*** has the same meaning as in paragraph 3 of Article 17 of the New Zealand convention.

***sportsperson*** has the same meaning as in paragraph 3 of Article 17 of the New Zealand convention.

## **Schedule 6—Low and Middle Income tax offset**

### ***Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Act 2020***

#### **1 Subsection 2(1) (table item 5, column 2)**

Omit “1 July 2021”, substitute “1 July 2022”.

#### **2 Item 27 of Schedule 1**

Omit “2021-22 income year”, substitute “2022-23 income year”.

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*[Minister’s second reading speech made in—  
House of Representatives on 26 May 2021  
Senate on 21 June 2021]*

(62/21)

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