

**Manual for the  
National Tax Equivalent Regime  
April 2016  
(Version 10)**

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# PRELIMINARY

## ABOUT THIS MANUAL

### Manual for the NTER

1. This is a Manual of the administrative and technical operating features of the National Tax Equivalent Regime (the NTER).
2. The Manual facilitates the establishment of the NTER, as foreshadowed in the Inter-Governmental Agreement on the Reform of Commonwealth-State Financial Relations, and is consistent with:
  - i) the November 2000 Final Report of the Heads of Treasuries Working Party on NTER; and
  - ii) the Memorandum of Understanding on NTER (the Memorandum), between the Commonwealth of Australia, the Commissioner of Taxation (the Commissioner) and all of the States and Territories.

### Application

3. This Manual applies on or after 1 July 2001 to the State and Territory government-owned enterprises (the NTER entities) listed in the NTER entity register.

### Amending the Manual

4. This Manual may be amended only as set out in the Memorandum.

### Interpretation

5. In this Manual, unless a contrary intention appears:

**'ATO'** means the Australian Taxation Office;

**'Commissioner'** means the Commissioner of Taxation;

**'ITAA 1936'** means the *Income Tax Assessment Act 1936*;

**'ITAA 1997'** means the *Income Tax Assessment Act 1997*;

**'Memorandum'** means the Memorandum of Understanding on NTER between the Commonwealth of Australia, the Commissioner and all of the States and Territories;

**'NTER'** means the National Tax Equivalent Regime;

**'NTER entity'** means a State or Territory government-owned enterprise listed in the NTER entity register;

**'NTER entity register'** means the register of the NTER entities referred to in the Memorandum;

**'NTER related activities'** means the activities of NTER administration, to be undertaken by the Commissioner, which are set out in Attachment 2;

**'NTER Work Plan'** means a work plan as described in clause 12 of the Memorandum.

**'PAYG instalment report'** means the form provided at Attachment 3 on which NTER entities advise the Commissioner of their monthly or quarterly NTER income and their monthly or quarterly instalment of expected income tax equivalent liability;

[**History:** Meaning of 'PAYG instalment report' amended by April 2014 (Version 9), with effect from the instalment month starting on 1 January 2014, by inserting references to monthly instalments.]

**'Relevant taxation laws'** means the federal income tax laws listed in Attachment 4, modified in accordance with this Manual. The relevant taxation laws constitute the administrative and technical rules of the NTER;

**'TAA 1953'** means the *Taxation Administration Act 1953*; and

**'TER'** means a tax equivalent regime of a State or Territory.

## PART 1: THE NATIONAL TAX EQUIVALENT REGIME

### NTER IS AN ADMINISTRATIVE ARRANGEMENT

6. The NTER is an administrative arrangement under which relevant taxation laws will be applied notionally to the NTER entities as if they were subject to those laws.
7. Each NTER entity will be assessed annually as to its income tax equivalent liability and will be required to pay instalments of the (expected) liability to the Treasury or Revenue Office of the State or Territory to which the NTER entity belongs. However, NTER entities do not become subject directly to the income tax laws as a result of their participation in the NTER.

[**History:** Paragraph 7 amended by April 2014 (Version 9), with effect from the instalment month and instalment quarter starting on 1 January 2014, by deleting reference to 'quarterly'.]

**OBJECTIVE OF NTER**

8. The primary objective of the NTER is to promote competitive neutrality, through a uniform application of income tax laws, between the NTER entities and their privately held counterparts.

**RELEVANT TAXATION LAWS**

9. The relevant taxation laws constitute the technical and administrative rules of the NTER, and consist of these two elements:
  - (i) the federal income tax laws listed at Attachment 4; and
  - (ii) modifications to the federal income tax laws as set out in this Manual.
10. The modifications to the federal income tax laws are considered necessary to take into account the NTER entities' tax history, ownership by State or Territory governments and activities which may be regarded as unique to public sector enterprises.

**RELATIONSHIP WITH STATE AND TERRITORY TERS**

11. The NTER represents an evolution of the concepts and practices of the State and Territory based tax equivalent regimes (the TERS) which have been established for a number of years. An entity commencing in the NTER between 1 July 2001 and 1 July 2002 will have been subject to a TER during the period immediately preceding its commencement in the NTER.

## PART 2: THE NTER ENTITIES

### STATE AND TERRITORY GOVERNMENT-OWNED ENTERPRISES

12. The NTER entities to which this Manual applies, are the State and Territory government-owned business enterprises which are listed in the NTER entity register.
13. An NTER entity may be listed to participate in the NTER, or removed from the listing, at the sole discretion of its State or Territory owner-government.
14. Subsidiaries or other enterprises wholly-owned by an NTER entity will not automatically participate in the NTER. To participate, the subsidiaries or other enterprises must also be listed in the NTER entity register by the relevant State or Territory.
15. Entities which are actually subject to federal income tax are not eligible to participate in the NTER.

### NTER ENTITIES REQUIRED TO FOLLOW THIS MANUAL

16. Each NTER entity is required to follow this Manual, and thereby to comply with the relevant taxation laws, pursuant to the TER legislation of the State or Territory to which the NTER entity belongs. That requirement may be provided for directly in the legislation, or through an instrument (e.g. a Treasurer's Instruction) prepared in accordance with the legislation, or by some other means.
17. NTER entities will not be entitled to use an accounting profits model to determine their (equivalent) taxable income or instalment income for the purposes of the NTER.

## PART 3: ADMINISTRATION OF THE NTER

### COMMISSIONER TO ADMINISTER NTER

18. The Commissioner will undertake administration of the NTER and may delegate any or all of the NTER related activities, listed at Attachment 2, to officers of the Australian Taxation Office.

### RELATIONSHIP BETWEEN ENTITIES & COMMISSIONER

19. The relationship between the Commissioner and the NTER entities will be based substantially on the same rights and responsibilities which exist between taxpayers and the Commissioner under the federal income tax laws.
20. However, the clear intention is for the NTER to be carried on in a spirit of cooperation between the Commissioner, the States and Territories and the NTER entities. As such, the relationship between the Commissioner and the entities should be less formal than a relationship based purely on the law.
21. Unless a contrary intention is provided in this Manual, the Commissioner will be subject to the same performance standards, principles and obligations with respect to dealings with the NTER entities as exist under the federal income tax laws and the Commissioner's administrative practices in relation to taxpayers.
22. The standards, principles and obligations to be followed by the Commissioner in the NTER include those contained in the relevant taxation laws, the *Taxpayers' charter* the ATO's online publication titled [Building Confidence](#) and the ATO's annual *Large business focus* document.  
[**History:** Paragraph 22 amended by February 2012 (Version 8), with effect from 1 February 2012, by deleting reference to '2006'.  
Paragraph 22 amended by April 2016 (Version 10), by deleting reference to 'the ATO's annual Compliance program and the ATO publication titled Large business and tax compliance' and inserting 'the ATO's online publication titled Building Confidence and the ATO's annual *Large business focus* document.]]

### NTER RELATED ACTIVITIES OF THE COMMISSIONER

23. The Commissioner will undertake administration of the NTER by undertaking the NTER related activities listed at Attachment 2.
24. The Commissioner will also report periodically to State and Territory Treasuries, providing information about payments due and payable by or to their NTER entities, NTER related activities and general 'health of the system' matters.

**NTER RELATED INFORMATION**

- 24A. The State or Territory to which an NTER entity belongs will be entitled to copies of any NTER related information (e.g. NTER PAYG instalment reports, NTER annual returns) about that entity provided to or held by the Commissioner in undertaking his administration of the NTER.
- 24B. Section 3C of the TAA 1953 (requiring the Commissioner to publish specified information about large corporate tax entities) will not apply notionally to NTER entities. Therefore, the Commissioner will not be required to make publicly available the NTER related information mentioned in subsection 3C(3) of the TAA 1953 in respect of any NTER entity.

[**History:** "NTER RELATED INFORMATION" heading and paragraph 24B inserted by April 2014 (Version 9), with effect from the 2013-14 income year.]

**ATO CONTACT DETAILS FOR NTER**

25. The address of the Commissioner for lodgment of all NTER related material (including general correspondences, requests, returns and statements), and the contact details where NTER related inquiries are to be directed, are provided at Attachment 5.

## PART 4: NTER GENERAL FEATURES

### COMMENCEMENT DATE OF THE NTER

26. The NTER commences on 1 July 2001.

### FEDERAL INCOME TAX LAWS

27. The NTER is based on the federal income tax laws, listed at Attachment 4, which are to be strictly observed by NTER entities except to the extent that those laws are expressly altered or modified by this Manual.

### RELEVANT TAXATION LAWS

28. The relevant taxation laws are comprised of the federal income tax laws and the modifications thereto set out in this Manual. The relevant taxation laws constitute the administrative and technical rules to be applied in the NTER and to which NTER entities are to comply.

### AVOIDANCE OF DOUBLE TAXATION

29. As a fundamental principle, the NTER will operate in a manner which ensures that:
- (i) NTER entities are not, through the NTER, subjected to actual federal income taxes; and
  - (ii) NTER entities are not subjected to double taxation involving an actual federal tax liability and an NTER tax equivalent liability in respect of the same item of income or expenditure.
30. To the extent that an actual income tax liability (i.e. non NTER tax equivalent), or double taxation, occurs then application for relief from the NTER tax equivalent liability should be lodged with the Commissioner. Such applications are to be in writing and provide all the relevant circumstances. The Commissioner will consider any such application received, and will provide relief as appropriate in accordance with this Manual.

## PART 5: NTER ADMINISTRATIVE FEATURES

### REGISTRATION

31. Each NTER entity must register as such with the Commissioner.
32. In order to register, NTER entities will be required to provide the Commissioner with their details as set out in the example registration form provided at Attachment 6.

### RECORD KEEPING

33. There are general and various specific provisions of the income tax laws which require taxpayers to maintain records in certain form.

#### General record keeping requirements

34. Section 262A of the ITAA 1936 provides the general record keeping requirements for the purposes of the ITAA 1936 and ITAA 1997. Under section 262A, a person carrying on a business is required to keep records that record and explain all transactions and other acts engaged in by the person that are relevant for any purpose of the Act. The records which are to be kept include any documents which are relevant for the purpose of ascertaining the person's income and expenditure and any documents that contain particulars of any elections, estimates, etc., made by the person under the ITAA 1936 or ITAA 1997.
35. Records must be kept in such a manner as to enable the person's liability under the ITAA 1936 or the ITAA 1997 to be readily ascertained. Generally, a person must keep the records for five years after the person prepared or obtained them, or five years after the completion of the transaction or acts to which they relate (whichever is the later).

#### CGT record keeping requirements

36. In respect of CGT, section 121-20 of the ITAA 1997 requires taxpayers to keep records of every act, transaction, event or circumstance that can reasonably be expected to be relevant to working out whether a capital gain or capital loss is made from a CGT event. (It does not matter whether the CGT event has already happened or may happen in the future.)

#### Record keeping requirements in the NTER

37. Subject to the grandfathering rules, all NTER entities will be required to keep records in accordance with the provisions of the relevant taxation laws which are concerned with record keeping, including section 262A of the ITAA 1936 and Division 121 of the ITAA 1997.

## References

38. Further guidance on record keeping may be found in *Income Tax Rulings TR 96/7* and *TR 2005/9*; in *Income Tax Determination TD 2007/2*; and in the ATO's *Law Administration Practice Statement PS LA 2008/14*.

[**History:** Paragraph 38 amended by February 2012 (Version 8), with effect from 1 February 2012, to insert reference to PS LA 2008/14.]

[**History:** Paragraph 38 amended by March 2010 (Version 7), with effect from 1 March 2010, to insert reference to TD 2007/2.]

## PAYG INSTALMENT SYSTEM

[**History:** Paragraphs 39 to 51 amended by April 2014 (Version 9), with effect from the instalment month and instalment quarter starting on 1 January 2014, to take account of the introduction of the monthly PAYG instalment rules.]

39. Pay As You Go (PAYG) instalments is an integrated system for certain taxpayers, including businesses and companies, to report and pay instalments of their income tax. The PAYG instalment system is set out in Division 45 in Schedule 1 to the TAA 1953.
40. In respect of monthly (or quarterly) instalments, the amount is worked out by multiplying instalment income for the month (or quarter) by the rate given by the Commissioner, or by a self-selected rate. The Commissioner may provide additional methods of working out monthly instalments. There is no requirement under the PAYG instalment system to pay instalments unless the Commissioner has given an instalment rate.
41. A taxpayer liable to instalments (even if it is a nil amount) must notify the Commissioner in the 'approved form' of the amount of their instalment income for the relevant period.

[**History:** Paragraph 41 amended by February 2012 (Version 8), with effect from 1 February 2012, by inserting reference to '(even if it is a nil amount)'.]

## PAYG instalments payable in the NTER

42. All NTER entities will be liable to pay instalments of their (expected) income tax equivalent liability for an income year. However, instalments will not be payable by an NTER entity unless it has been given written notice of an instalment rate by the Commissioner.
- 42A. An NTER entity will be liable to pay monthly instalments if it satisfies the "monthly payer" requirements in Subdivision 45-DA, having regard to the transitional provisions in *Tax Laws Amendment (2013 Measures No. 2) Act 2013*, which will be applied with the following modifications:
- (i) every NTER entity will be deemed to be a "corporate tax entity"; and

- (ii) the exemption (for certain entities that lodge GST returns on a quarterly or annual basis) in subsection 45-138(2) will be disregarded.

42B. All other NTER entities will be liable to pay quarterly instalments.

43. The processes by which monthly and quarterly NTER instalments are to be reported and paid by NTER entities will be substantially in accordance with the PAYG instalment provisions contained in Division 45 in Schedule 1 to the TAA 1953 – save that instalments will be paid by NTER entities directly to the Treasury or Revenue Office of the State or Territory to which they belong; and that instalments will be reported and paid by all NTER entities on or before the 21st day of the month after the end of each instalment month or instalment quarter.

44. [Archived.]

[**Archived:** Paragraph 44 concerning “Instalment rate deemed to be given by the Commissioner” archived by April 2014 (Version 9). For the wording of paragraph 44, see February 2012 (Version 8).]

### **An NTER entity may vary rate**

45. An NTER entity may elect to use an instalment rate given by the Commissioner or may vary that rate in accordance with Subdivision 45-F. Where an NTER entity uses a varied instalment rate which is less than 85% of the instalment rate which would have covered an income tax equivalent liability, the NTER entity will be liable to pay an NTER interest charge. This liability to the NTER interest charge will be on the same basis that a taxpayer would be liable to the general interest charge in like circumstances under Subdivision 45-G.

### **Instalment information to be given to the Commissioner**

46. NTER entities which are liable to pay instalments (unless it is a nil amount worked out using a nil rate given by the Commissioner) will be required to lodge with the Commissioner their NTER instalment details calculated in accordance with Division 45. For NTER purposes, the ‘approved form’ is the PAYG instalment report provided at Attachment 3.

[History: Paragraph 46 amended by February 2012 (Version 8), with effect from 1 February 2012, by inserting reference to ‘(even if it is a nil amount)’.]

47. Details of an NTER instalment must not be included on a business activity statement prepared by an NTER entity pursuant to an actual federal tax obligation.

### **Instalments payable to State/Territory Treasury or Revenue Office**

48. NTER instalments of income tax equivalents, and any penalties or interest payable under the NTER instalment system, become due and payable by the

NTER entity to the Treasury or Revenue Office of the State or Territory to which the NTER entity belongs. Under no circumstances should any NTER related debt of an NTER entity be remitted to the Commissioner at the Australian Taxation Office.

### Where no instalment rate given

49. NTER entities which have not been given an instalment rate by the Commissioner will not be required to pay instalments of their expected income tax equivalent liability. The income tax equivalent liabilities of any such NTER entity will become due and payable in accordance with subsection 5-5(4) of the ITAA 1997, and paragraph 60A below.

[**History:** Paragraph 49 amended by February 2012 (Version 8), with effect from 1 July 2010, by replacing reference to 'section 204(1A) of the ITAA 1936' with reference to 'subsection 5-5(4) of the ITAA 1997'.]

50. However, NTER entities which are not required to make instalment payments may make voluntary instalment payments and avoid having to pay an annual liability as well as instalments in one income year.

### References

51. The provisions relating to PAYG instalments are found in Division 45 in Schedule 1 of the TAA 1953.

Further information on instalments may be found in the ATO publication titled *PAYG instalments – how to complete your activity statement (NAT 7393-11.2012)*.

An additional simplified method of working out monthly instalments is set out in the Commissioner's determination named *Additional method of working out the amount of monthly instalment liabilities in accordance with the Taxation Administration Act 1953* (F2013L01933, registered on 14 November 2013).

[**History:** Paragraph 51 amended by March 2010 (Version 7), with effect from 1 March 2010, to replace reference to "(NAT 7393-08.2007)" with reference to "(NAT 7393-04.2009)".]

[**History:** Paragraph 51 amended by April 2016 (Version 10), with effect from 1 April to replace reference to "(NAT 7393-04.2012)" with reference to "(NAT 7393-11.2012)".]

52. [Archived.]

53. [Archived.]

[**Archived:** Paragraphs 52 & 53 concerning "DEFERRED COMPANY INSTALMENT" archived by April 2014 (Version 9). For the wording of paragraphs 52 & 53, see February 2012 (Version 8).]

## ANNUAL NTER RETURNS

54. The legislative requirements relating to lodgment of income tax returns and to assessments are contained in Part IV of the ITAA 1936.
55. The requirement for taxpayers to lodge income tax returns is found in section 161 of the ITAA 1936. Under section 161, the Commissioner, in a notice published in the Gazette, specifies persons that are required to lodge annual income tax returns.
56. Part IV also contains the provisions relating to the form, content and manner of lodging annual returns.

## NTER return for companies

57. For the purposes of the NTER, all NTER entities will be required to lodge NTER annual returns with the Commissioner in the same manner required of taxpayers under the provisions of Part IV of the ITAA 1936 and the lodgment requirements for companies as specified by the Commissioner in the Gazette. The due dates for the lodgment of annual NTER returns by all NTER entities will be substantially in accordance with the due dates for large companies outlined in the Commissioner's annual tax agent *Lodgment Program*. The Commissioner will issue an *NTER Lodgment Circular* outlining the due dates for the lodgment of annual NTER returns by NTER entities for a particular income year. Each annual *NTER Lodgment Circular* will be attached at Attachment 8.
58. Exemptions from lodging a return, which are also specified in the Gazette, will not be available to NTER entities.

## NTER return form & content

59. The form and content of the NTER return is identical to the Commissioner's 'C' return for company taxpayers, save that the NTER return is appropriately identified as such. The Commissioner will issue the annual NTER 'C' return form at the same time as his annual *NTER Lodgment Circular* referred to at paragraph 57 above.
60. The NTER 'C' return is to be completed by every NTER entity irrespective of whether it is a separately legal entity or otherwise.

## Balancing payments for NTER income year

- 60A. All NTER entities will be liable to pay a balancing payment of any income tax equivalent liability for an NTER income year that is owing, worked out in accordance with the calculation statement contained in the NTER 'C' return. Balancing payments will be paid by NTER entities directly to the Treasury or Revenue Office of the State or Territory to which they belong. The due date for the payment of balancing payments by all NTER entities will be

substantially in accordance with the due dates for large companies outlined in the Commissioner's annual tax agent *Lodgment Program*. In his annual *NTER Lodgment Circular* referred to at paragraph 57 above, the Commissioner will outline the due dates for the payment of balancing payments by NTER entities for a particular income year.

## ASSESSMENTS

61. Under the full self assessment system, and pursuant to section 166A of the ITAA 1936, an assessment of taxable income is deemed to have been made by the Commissioner and served on a 'full self-assessment taxpayer' (includes a company) on the day on which the return is lodged. The return is deemed to be the served notice of assessment.

[**History:** Paragraph 61 amended by April 2014 (Version 9), with effect from 1 April 2014, by replacing reference to 'furnished' with reference to 'lodged'.]

## NTER Assessments

62. The deemed assessment provisions contained in section 166A of the ITAA 1936 will apply for the purposes of the NTER. The NTER annual return will be deemed to be an assessment of income tax equivalent for that year, and to have been served on the NTER entity by the Commissioner.

## Amended assessments

63. The Commissioner's power to amend assessments is contained in section 170 of the ITAA 1936.
64. The Commissioner will have the power to amend an NTER assessment, and to further amend amended NTER assessments, by making such alterations and additions as considered necessary.
65. The Commissioner's power to amend NTER assessments will be subject to the same constraints as applies to the Commissioner's power to amend assessments under section 170 of the ITAA 1936.
66. An NTER entity may apply for an amendment to an NTER assessment in accordance with subsection 170(5) of the ITAA 1936. The Commissioner may effect the amendment in accordance with the NTER entity's application without verification of the details provided in the application – in effect enabling NTER entities to self-amend assessments. However, where it is later found that relevant details of the NTER entity's application were incorrect, the Commissioner may further amend the amended assessment and, in appropriate circumstances, penalties may apply.
67. The Commissioner will not be entitled to amend any assessment of an NTER entity which relates to a time prior to the time at which the NTER entity first commenced in the NTER.

## PENALTIES & INTEREST

68. An administrative penalty regime applying to taxpayers is contained in schedule 1 to the TAA 1953. Under that regime, penalties may be applied in respect of statements and schemes (Division 284), lodgment of documents (Division 286) and record retention/production and access (Division 288). The penalty regime also allows for remission of penalties under certain circumstances.
69. NTER entities will be subject to the penalty regime contained in schedule 1 to the TAA 1953, except that prosecution will not be an alternative to the administrative penalties.

## References

70. Additional information on the penalty regime may be found in the ATO's *Law Administration Practice Statements PS LA 2011/19, 2011/30, 2012/4 2012/5 & 2014/4*; and in *Miscellaneous Taxation Rulings MT 2008/1, 2008/2 & 2012/3*.

Additional information on shortfall interest charge and general interest charge for shortfall periods may be found in *PS LA 2006/8*.

Additional information on general interest charge for late payments may be found in the ATO's *Law Administration Practice Statement PS LA 2011/12*.

[**History:** Paragraph 70 amended by April 2014 (Version 9), with effect from 1 April 2014, by deleting references to MT 2008/3 & PS LA 2006/2 and inserting references to MT 2012/3 and PS LA 2011/19, 2011/30, 2012/4 & 2012/5.]

[**History:** Paragraph 70 amended by February 2012 (Version 8), with effect from 1 February 2012, by deleting references to PS LA 2000/9 & 2002/8 and by replacing reference to the ATO receivables policy with reference to PS LA 2011/12.]

[**History:** Paragraph 70 amended by March 2010 (Version 7), with effect from 1 March 2010, to insert references to MT 2008/1, 2008/2 and 2008/3.]

[**History:** Paragraph 70 amended by April 2016 (Version 10), with effect from 1 April 2016, to insert references to PS LA 2014/4.]

## PAYMENT ARRANGEMENTS

71. NTER related debts of an NTER entity include but are not limited to debts for equivalent income tax, penalties and interest which arise under the NTER. All NTER related debts of an NTER entity become due and payable to the Treasury or Revenue Office of the State or Territory to which the NTER entity belongs.
72. The processes for payment by an NTER entity of an NTER related debt will be the same as for the payment of predecessor State or Territory TER

related debts, unless otherwise notified by the Treasury or Revenue Office of the relevant State or Territory.

## TAXATION YEAR END

73. NTER entities may seek leave for a substituted (i.e. non-30 June) year end by making a formal application for such to the Commissioner in the first year in which the business need arises. Substantial business reasons must be shown to support an application for a non-30 June substituted tax accounting period. Additional information on substituted tax accounting periods may be found in the ATO's *Law Administration Practice Statement PS LA 2007/21*.
74. [Archived.]

[**Archived:** Paragraph 74 concerning substituted years under a preceding TER archived by April 2014 (Version 9). For the wording of paragraph 74, see February 2012 (Version 8).]

## NTER PRIVATE RULINGS

75. In accordance with the provisions of Division 359 in schedule 1 to the TAA 1953, taxpayers may seek from the Commissioner a private ruling on the way in which the Commissioner considers a relevant tax provision would apply to the taxpayer in relation to a specified scheme.

Additional information on the private rulings system may be found in *Income Tax Ruling TR 2006/11* and in the ATO's *Law Administration Practice Statement PS LA 2008/3*.

[**History:** Paragraph 75 amended by March 2010 (Version 7), with effect from 1 March 2010, by inserting the final sentence.]

76. NTER entities will be able to seek from the Commissioner an NTER private ruling on the way in which the relevant taxation laws would apply to the NTER entity in relation to an arrangement entered into during an NTER year of income.
77. Applications for NTER private rulings are to be made in the same manner and on the same grounds as are set out for taxpayers in Division 359 in schedule 1 to the TAA 1953.
78. NTER private rulings will be binding on the Commissioner only in the context of the NTER, and only to the extent they are favourable to the particular NTER entity.

## LIABILITY OF PUBLIC OFFICERS

79. The public officer of an NTER entity will not be held answerable or made liable for penalties for defaults by the NTER entity under any provision of the relevant taxation laws, including section 252A(9) of the ITAA 1936.

## OBJECTIONS AND REVIEWS

80. NTER entities will be entitled to object against an NTER related decision of the Commissioner in accordance with the provisions of Part IVC of the TAA 1953.
81. An objection against an NTER related decision will be dealt with only by way of internal review by ATO officers. The reviewing ATO officer will be independent from and at an equal or a higher level than the ATO officer who made the disputed decision.
82. NTER entities will not be entitled to seek an external review of, or appeal against, an NTER related decision of the Commissioner, whether under a provision of the relevant taxation laws, including section 14ZZ of the TAA 1953, or otherwise. Divisions 4 and 5 of Part IVC of the TAA 1953 will not apply accordingly.
83. NTER related objections must be lodged in writing with the Commissioner within the time period set out in section 14ZW of the TAA 1953. An NTER related decision includes the issue of a NTER private ruling, the deemed assessment upon lodgment by a NTER entity of a NTER return, and the amendment of an NTER assessment. For example, an objection against a deemed NTER assessment must be lodged within four years of that deemed assessment.

## COMPLIANCE ASSURANCE MEASURES

84. The Commissioner will be entitled to conduct compliance assurance activities in relation to NTER entities to ensure the integrity of the NTER. These compliance assurance activities will be outlined in an agreed NTER Work Plan.
85. The Commissioner's approach to these compliance assurance activities and the rights and obligations as between the Commissioner and the NTER entities in that respect are to be found in the the ATO's online publication titled [Building Confidence](#), the ATO's annual *Large business focus* document and the *Taxpayers' charter*.

[**History:** Paragraph 85 amended by February 2012 (Version 8), with effect from 1 February 2012, by deleting reference to '2006'.

Paragraph 22 amended by April 2016 (Version 10), by deleting reference to 'the ATO's annual Compliance program and the ATO publication titled 'Large business and tax compliance' and inserting 'the ATO's online publication titled Building Confidence and the ATO's annual *Large business focus* document.]

85A. The Commissioner will adopt a consultative approach, with the affected NTER entities and the States and Territories, towards the resolution of potential compliance risks identified by the Commissioner in these compliance assurance activities.

## PART 6: NTER TECHNICAL FEATURES

### GOVERNMENT EXEMPTIONS DO NOT APPLY

86. The relevant taxation laws are to be applied in all respects as if the following provisions were not applicable to the NTER entities:
- (i) Section 50-25 of the ITAA 1997 (dealing with the income tax exemption afforded to public authorities); and
  - (ii) Division 1AB of the ITAA 1936 (dealing with the income tax exemption afforded to State/Territory bodies)
87. For example, whether or not a tax deduction is allowed under section 8-1 of the ITAA 1997 is to be considered as if the reference in paragraph 8-1(2)(c) to gaining or producing exempt income did not apply to the extent that the above exemptions are involved.
88. As a further example, section 51AD of the ITAA 1936 and Division 16D of the ITAA 1936 and Division 250 of the ITAA 1997, to the extent that these provisions might otherwise apply in relation to various arrangements (e.g. leases) under the NTER, do not apply if they are invoked only by virtue of the above exemptions applying to NTER entities.

### COMMENCEMENT POSITIONS

89. Division 57 of schedule 2D of the ITAA 1936 requires corporate entities making the transition from exempt to taxable to ensure that only income, deductions, gains and losses relating to the taxable period are taken into account to determine their taxable position.
90. Division 58 of the ITAA 1997 sets out special rules that apply in calculating depreciation deductions and balancing adjustments in respect of depreciating assets previously owned by an exempt entity.
91. An NTER entity will be taken not to be a transition taxpayer for the purposes of Division 57 of schedule 2D of the ITAA 1936, nor a transition entity for the purposes of Division 58 of the ITAA 1997, where the following conditions apply:
- (i) the NTER entity ceased participation in a State or Territory TER on or before 30 June 2002; and
  - (ii) immediately thereafter, commenced participation in the NTER.
- In those circumstances, the NTER entity's commencing positions for the purposes of the NTER will be equal to its closing positions in the TER.
- 91A. An NTER entity will be taken not to be a transition taxpayer for the purposes of Division 57, nor a transition entity for the purposes of Division 58 where the following conditions apply: 'The NTER entity commenced participation in

the NTER immediately after ceasing to be actually subject to federal income tax.'

92. For all other NTER entities (i.e. those which do not meet the above conditions) commencement in the NTER will be taken to be a transition event for the purposes of Division 57 and Division 58.

## **GRANDFATHERED TER RULES**

93. Unless provided for otherwise in this Manual, certain NTER entities will be able to grandfather the rules of their predecessor TERs to apply to certain of their transactions occurring under the NTER.
94. Grandfathering is intended to be a transitional measure available only to those NTER entities which commenced in the NTER on or before 1 July 2002 immediately after ceasing to participate in a TER. Grandfathering will apply only to transactions which arise out of pre-existing contractual or other formal arrangements – i.e. those which were entered into by the NTER entity during the time it was subject to the TER. It would normally be the case that those pre-existing contracts or arrangements will be finite in nature and reflected in the NTER entity's closing balance sheet at the time of its cessation in the TER.
95. NTER entities may choose not to apply grandfathering, except where the result of that choice, in the NTER, would be income not being assessable, or expenditure being deductible, where otherwise that income would have been assessable or that expenditure would not have been deductible.
96. When it applies, grandfathering will include all tax treatments permitted under the relevant TER by way of instructions, public rulings, private determinations or otherwise. For the relevant NTER entities, grandfathering will determine the manner in which their opening assets and liabilities (at commencement in the NTER) are depreciated, amortised, written down or otherwise brought to account as assessable income or allowable deductions, or a capital gain or loss.
97. For example, an item of plant on hand at commencement will retain its unit status, historical cost and written down value, and continue to be depreciated at the rate which applied in the TER. Should that plant be the subject of a disposal in the NTER period, balancing adjustments will be calculated in accordance with the TER rules. A CGT asset on hand at commencement will retain its acquisition date details and cost base determined according to TER rules.
98. The same reasoning applied in the above examples on depreciation and CGT can also be applied in relation to other commencement items, including carried forward losses, deferred income, accrued expenses, undeducted capital expenditure, investment assets etc.

99. To the extent that there is otherwise any difference in treatment as between the NTER and a State or Territory TER, the rules of the NTER are to take priority. This priority is subject to the rights of NTER entities to seek private rulings in respect of matters which do not translate directly from the pre-existing tax equivalent system to the NTER.

### **COMMENCEMENT POSITIONS – IF A FEDERAL TAXPAYER IMMEDIATELY BEFORE ENTRY**

- 99A. Where paragraph 91A applies, the NTER entity's closing positions on all items for federal income tax purposes (e.g. adjustable values of depreciating assets, cost bases of CGT assets, carry forward losses, etc) will become its commencement positions on those items for the purposes of the NTER. Where the NTER entity joins an existing NTER consolidated group immediately after commencing in the NTER, Part 3-90 of the ITAA 1997 will apply to its commencement positions.

### **COMMUNITY SERVICE OBLIGATIONS**

100. Costs incurred by an NTER entity in satisfying community service obligations as part of its total charter will be treated as necessary incidents of the broader activities conducted by the NTER entity. As a result, deductions are available for community service expenditure which is of a revenue character.
101. NTER entities which have responsibilities and/or obligations imposed upon them by external agencies of their State or Territory government will ordinarily be entitled to treat any related costs or losses as an ordinary incident of their conventional business activities. On this basis, a deduction will typically be claimable by the NTER entity in respect of such costs or losses of a revenue nature.
102. This treatment will not extend to costs or losses which so clearly relate to the restructuring or reorganisation of the NTER entity in any significant sense. Where there is any debate regarding the proper treatment of costs or losses arising in these situations, then an application for a private ruling should be lodged with the Commissioner.

### **GOVERNMENT IMPOSED RESTRUCTURES & PRIVATISATIONS**

103. A renegotiation of arrangements or a restructure by an NTER entity may be the result of requirements externally imposed on the NTER entity by its State or Territory government. This includes a renegotiation or a restructure involving the transfer of assets for no consideration from an NTER entity to another entity of its State or Territory government that does not have commercial returns as a primary objective and is not an NTER entity.

A privatisation of an asset owned or business activity carried on by an NTER entity may be externally imposed on the NTER entity by its State or Territory

government, as evidenced by, for example, a parliamentary process or public announcement by that government, in circumstances where all of the resultant privatisation proceeds, net of any agreed privatisation related costs, are compulsorily repatriated to its State or Territory government. This is limited to the following:

- (i) a privatisation by way of an asset sale, an entity sale, the grant of a long term lease, the grant of a long term licence, or the grant of a long term statutory or other right;
- (ii) restructuring to facilitate such a privatisation that occurs within a reasonable time of the privatisation (for example, the use of a non-NTER vehicle entity); and
- (iii) compulsory repatriation of the net privatisation proceeds by way of dividend payments, capital repayments or debt repayments.

**[History:** Paragraph 103 amended by February 2012 (Version 8), by substituting the second paragraph, with effect from 1 July 2008.

The second paragraph of paragraph 103 formerly read:

A privatisation of assets (including an entity) owned by an NTER entity may be externally imposed on the NTER entity by its State or Territory Government, as evidenced by a parliamentary process or public announcement by that government, in circumstances where all of the resultant sale proceeds, net of any agreed sale related costs, are compulsorily repatriated to its State or Territory government.]

**[History:** Paragraph 103 amended by March 2010 (Version 7), with effect from 1 July 2007, by inserting the second sentence.]

103A. Such an imposed renegotiation, restructure or privatisation will be treated in a tax neutral manner for NTER purposes. (For example, on an imposed transfer of CGT assets, there will be no CGT consequences for the transferor and the transferee will inherit the CGT cost bases of the transferor.)

103B. Alternatively, such an imposed renegotiation, restructure or privatisation may be treated in a manner which the NTER administrator approves as appropriate in the circumstances, including taking into account;

- (i) whether the proposed tax treatment gives an NTER entity involved an unfair advantage over its competitors in other States or Territories; and
- (ii) the arrangements and structures that have previously existed in relation to the business operations of the NTER entities involved.

(For example, on an imposed remerging of two NTER entities to form a new NTER entity, the NTER administrator may approve a tax treatment which allows the new NTER entity to utilise any carry forward losses of the two former NTER entities.)

## GOVERNMENT EQUITY CONTRIBUTIONS

104. A State or Territory government may make contributions in the nature of equity to its NTER entities, notwithstanding that those contributions are not made in connection with an issue of shares.
105. For the purposes of the NTER, a contribution in the nature of equity, by a State or Territory government to one of its entities, which is properly documented and accounted for as such, will not be assessable as ordinary or statutory income under any provision of the relevant taxation laws, including section 6-5 of the ITAA 1997 and section 15-10 of the ITAA 1997. This treatment applies to all such contributions in the nature of equity, including by way of asset contribution, notwithstanding the equity contribution did not relate to a government imposed restructure envisaged by paragraphs 103 to 103B.
- 105A. For the purposes of Division 40 of the ITAA 1997, the cost of a depreciating asset to which paragraph 105 applies will be its value at the contribution time recognised in the audited accounts of the NTER entity.
- 105B. For the purposes of section 70-120 of the ITAA 1997, the amount you paid to acquire land carrying trees or a right to fell trees to which paragraph 105 applies will be its value at the contribution time recognised in the audited accounts of the NTER entity.
- 105C. For the purposes of Subdivision 40-F of the ITAA 1997, the amount of capital expenditure you incurred on the acquisition of a water facility to which paragraph 105 applies will be its value at the contribution time recognised in the audited accounts of the NTER entity.

[**History:** Paragraph 105C inserted by March 2010 (Version 7), applicable to equity contributions made on or after 1 July 2004.]

## DEDUCTIONS IN RELATION TO DEPRECIATING ASSETS

106. Pursuant to Division 40 of the ITAA 1997, a taxpayer is entitled to a deduction for an amount equal to the decline in the value of a 'depreciating asset' that the taxpayer 'holds'.
107. The meaning of the term 'hold' in relation to a depreciating asset, which is found in section 40-40 of the ITAA 1997, extends beyond strict legal ownership. For example, the owner of a quasi-ownership right over an improvement to land and a lessee with a right to recover an asset fixed to land in each case can be the holder of a depreciating asset.
108. On that basis, an NTER entity with contractual or statutory rights of severance, or other quasi-ownership rights, in relation a depreciating asset affixed to private land (e.g. electrical poles on rural land), can be the holder of that depreciating asset for the purposes of Division 40 of the ITAA 1997.

109. To ensure certainty of treatment for NTER entities' depreciating assets located on Crown land, for NTER purposes the NTER entity will be taken to be the holder of such assets for the purposes of Division 40.

110. [Archived.]

111. [Archived.]

[**Archived:** Paragraphs 110 & 111 concerning 'DIVIDEND REBATES' archived in February 2012 (Version 8). For the wording and application of paragraphs 110 & 111, see March 2010 (Version 7).]

## **FRANKED DIVIDENDS AFTER 30 JUNE 2002**

111A. The 'gross-up' and tax offset treatment provided for by Division 207 of ITAA 1997 will apply to franked dividends paid to NTER entities after 30 June 2002. An NTER entity must gross up any dividend by an amount equal to the franking credit on the dividend. The grossed up amount is included in assessable income and the NTER entity is entitled to a tax offset (non refundable) equal to the amount of the gross up.

## **FRANKING CREDITS**

112. The issue of franking credits in relation to dividends is not expected to arise in the NTER since ultimately the only shareholder in NTER entities will be a State or Territory government.

## **RESEARCH & DEVELOPMENT EXPENDITURE**

For income years starting before 1 July 2011

113. There are a number of pre-requisites to claiming deductions for research and development expenditure under sections 73B and 73BA of the ITAA 1936. However, for the purposes of applying the R&D provisions in the NTER;

- (i) all NTER entities will be deemed to be 'eligible companies'; and
- (ii) registration with the IR&D Board will not be necessary.

114. On those bases, it will be the primary responsibility of an NTER entity to determine whether its research & development activities are eligible under section 73B of the ITAA 1936. NTER entities seeking to claim tax deductions under sections 73B and 73BA, in relation to projects commencing after 30 June 2001, are to complete an IR&D Board registration form and lodge that form with the Commissioner. Grandfathering will apply to R&D projects approved and begun prior to 1 July 2001.

## RESEARCH & DEVELOPMENT TAX OFFSET

### For income years commencing on or after 1 July 2011

115. Under section 355-100 of the ITAA 1997, an R&D entity is entitled to an R&D tax offset for income years commencing on or after 1 July 2011.

The R&D tax offset is designed to operate on a self assessment basis. Therefore, NTER entities will need to assess for themselves whether any activities conducted during an income year are eligible R&D activities under Division 355 of the ITAA 1997.

For NTER purposes, the R&D tax offset provisions in Division 355 of the ITAA 1997 will be applied with the following modifications:

- (i) every NTER entity will be deemed to be an "R&D entity";
- (ii) NTER entities will not be required to register R&D activities with Innovation Australia under section 27A of the *Industry Research and Development Act 1986*. However, NTER entities will be required to complete the approved application form for registering R&D activities and lodge that form with the NTER Administrator within 10 months after the end of the income year or such further period allowed by the NTER Administrator;
- (iii) item 2 of the table in subsection 355-100(1) (R&D entity controlled by an exempt entity) will be deemed not to apply to any NTER entity; and
- (iv) an NTER entity's "aggregated turnover" for an income year will be worked out under section 328-115 of the ITAA 1997 as if the NTER entity was not controlled by its State or Territory government in a way described in section 328-125 of the ITAA 1997.

[**History:** Paragraph 115 amended by April 2014 (Version 9), with effect from the 2012 income year, by inserting subparagraph (iv).]

[**History:** New paragraph 115 inserted by February 2012 (Version 8), with effect from the 2012 income year.]

## SUPERANNUATION

116. Under section 290-60 of the ITAA 1997, employers are entitled to a deduction for contributions to a fund to provide superannuation benefits payable to an employee. Section 290-60 of the ITAA 1997 provides that a deduction is allowed in this respect only where an actual payment has been made, and not for mere provision of an amount.

117. For NTER purposes, the employer superannuation contribution provisions will be applied with the following modifications:

- (i) the employee need not be currently employed by the NTER entity; and

- (ii) the fund need not be a complying superannuation fund within the meaning of the ITAA 1997.

[**History:** Paragraph 117 amended by February 2012 (Version 8), with effect from 1 February 2012, by replacing reference to 'Part IX of the ITAA 1936' with reference to 'the ITAA 1997'.]

- 118. Apart from those modifications, in all other respects NTER entities are required to follow Division 290 of the ITAA 1997 in relation to claiming deductions for contributions to superannuation funds for the benefit of employees.

## FOREIGN INCOME

- 119. Primarily due to the compliance burden imposed by the controlled foreign corporation and foreign investment funds provisions contained in the ITAA 1936, all foreign source income derived by NTER entities until 30 June 2003 will be ignored for the purposes of the NTER.
- 120. In effect, foreign sourced income will be treated as 'non-income' for NTER purposes – i.e. it neither will be assessable nor used to reduce carried forward losses. As a consequence of that treatment, expenditure incurred to derive foreign source income will also be ignored for NTER purposes and will not be allowed as a deduction.
- 121. An NTER entity, including an entity that is carrying on an insurance type business, which subsequently disposes of an investment asset (e.g. foreign shares) that was on hand at 30 June 2003 will use the asset's original acquisition cost for the purposes of calculating the foreign source profit derived after 30 June 2003 to be included in the NTER entity's assessable income.

## FOREIGN CURRENCY TRANSLATION RULES

- 122. For NTER purposes, NTER entities not subject to the *Corporations Act 2001* may apply the alternative foreign currency translation rule set out in clause 1.1 of Schedule 2 to the *Income Tax Assessment Regulations 1997* with the following modification: by substituting the references in that rule to the *Corporations Act 2001* with references to the comparable State or Territory legislation that applies to the NTER entity for financial reporting purposes.

[**History:** Paragraph 122 inserted by March 2010 (Version 7), with effect from 1 July 2003.]

## COMMONWEALTH GRANTS

- 123. A Commonwealth grant received by an NTER entity, instead of a refundable tax offset received by a Federal taxpayer in the same circumstances (e.g. under the national urban water and desalination plan), will be treated as non-assessable non-exempt income for NTER purposes and any resulting

capital gain will be disregarded for NTER purposes. To avoid doubt, an NTER entity will not be entitled to a refundable tax offset for NTER purposes in these circumstances.

[**History:** Paragraph 123 inserted by March 2010 (Version 7), with effect from 1 July 2008.]

## LOSS CARRY BACK TAX OFFSET

124. Under section 160-10 of the ITAA 1997, a corporate tax entity is entitled to the loss carry back tax offset for the 2012-13 income year if certain conditions are satisfied.

For NTER purposes, the loss carry back tax offset provisions in Division 160 of the ITAA 1997 will be applied with the following modifications:

- (i) every NTER entity will be deemed to be a "corporate tax entity"; and
- (ii) the franking account balance limit in paragraph 160-15(1)(b) will be deemed not to apply to any NTER entity.

The loss carry back offset rules were repealed and from 1 July 2013, a corporate tax entity can no longer claim a loss carry back tax offset.

[**History:** Paragraph 124 inserted by April 2014 (Version 9), with effect from the 2012-13 income year.

The phrase 'and later income years' deleted by April 2016 (Version 10) with effect from 1 July 2013 onwards.

The sentence 'The loss carry back offset rules were repealed and from 1 July 2013, a corporate entity can no longer claim a loss carry back tax offset' inserted by April 2016 (Version 10.)

## ATTACHMENT 1

[DELETED]

## ATTACHMENT 2

### NTER RELATED ACTIVITIES

#### General Activities

- (i) Apply the relevant taxation laws;
- (ii) Maintain the NTER entity register;
- (iii) Process NTER income tax returns;
- (iv) Process NTER instalment statements;
- (v) Advise entities of their instalment rates;
- (vi) Liaise with the State and Territory Treasuries and Revenue Offices in relation to NTER related receivables management;
- (vii) Maintain the NTER Manual;
- (viii) Keep proper accounts, records and timesheets in respect of NTER related activities, expenditure, billing and fees and all NTER related amounts payable by the States and Territories to the Commissioner.
- (ix) Prepare the Commissioner's annual report on the operation of the NTER for each financial year, and the individual reports specific to each State and Territory; and
- (x) Undertake other activities outlined and classified as 'general activities' in an agreed NTER Work Plan.

#### Specific Activities

- (i) Provide interpretive advice to the NTER entities (in relation to their arrangements in the NTER commencement and later years only);
- (ii) Carry out appropriate compliance assurance activities in respect of the NTER entities (in relation to NTER commencement and later years only) as outlined in an agreed NTER Work Plan; and
- (iii) Undertake other activities outlined and classified as 'specific activities' in an agreed NTER Work Plan.



**[History:** Attachment 3 amended by April 2014 (Version 9), with effect from the instalment month and instalment quarter starting on 1 January 2014, by inserting reference to instalment month.]

**[History:** Attachment 3 amended by February 2012 (Version 8), with effect from 1 February 2012, by replacing the version provided of the approved form of the PAYG instalment report. For the former version of this approved form, see March 2010 (Version 7).]

## ATTACHMENT 4

### FEDERAL INCOME TAX LAWS

The NTER is based on the following federal income tax laws:

- (i) *Income Tax Assessment Act 1936*
- (ii) *Income Tax Regulations 1936*
- (iii) *Income Tax Assessment Act 1997*
- (iv) *Income Tax Assessment Regulations 1997*
- (v) *Taxation Administration Act 1953*
- (vi) *Taxation Administration Regulations 1976*
- (vii) *Taxation (Interest on Overpayments and Early Payments) Act 1983*
- (viii) *Taxation (Interest on Overpayments and Early Payments) Regulations 1992*
- (ix) *Income Tax Rates Act 1986*
- (x) *International Tax Agreements Act 1953*
- (xi) *Income Tax (Transitional Provisions) Act 1997*
- (xii) *General Interest Charge (Imposition) Act 1999*
- (xiii) *Income Tax Act 1986*
- (xiv) *Shortfall Interest Charge (Imposition) Act 2005*

## ATTACHMENT 5

### CONTACT DETAILS FOR INQUIRIES AND LODGMENT OF ALL NTER DOCUMENTS & MATERIAL

**ALL NTER related material MUST be lodged with the Commissioner at the following address:**

Postal address:     The NTER Administrator  
                          Australian Taxation Office  
                          Public Groups & International (NTER)  
                          PO Box 9977  
                          Box Hill VIC 3128

E-mail address:     [NTERAdministrator@ato.gov.au](mailto:NTERAdministrator@ato.gov.au)

Fax number:         (03) 9275 2722

# ATTACHMENT 6

## NTER REGISTRATION DETAILS

**Name of NTER entity:**

.....  
.....

**Australian Business Number:**

.....

**Postal address for service of notices (include e-mail address where applicable):**

.....  
.....

**Address of place of central management:**

.....  
.....

**Name and contact details of public officer or principal accounting officer:**

.....  
.....

**ANZSIC Code and description of principal business activity:**

.....  
.....

**Tax equivalent year end:** \_ \_ (day) of \_ \_ \_ \_ \_ (month)

**Entity's NTER commencement date:** .....

## ATTACHMENT 7

### **NTER ANNUAL RETURN**

The NTER annual return will be identical to the 'C' return for companies except that it will be headed as an NTER tax equivalent return.

The Commissioner will issue an NTER 'C' return form for each NTER income year.

## ATTACHMENT 8

[**Archived:** NTER Lodgment Circulars 2005-06, 2006-07, 2007-08 & 2008-09 archived by April 2014 (Version 9). For the wording of these NTER Lodgment Circulars, see February 2012 (Version 8).

Archived: NTER Lodgment Circulars 2009-10, 2010-11, 2011-12, 2012-13 archived by April 2016 (Version 10). For the wording of these NTER Lodgment Circulars, see April 2014 (Version 9)]

### National Tax Equivalent Regime

#### LODGMENT CIRCULAR 2013-14

This is the annual *NTER Lodgment Circular* referred to at paragraphs 57 and 60A of the *NTER Manual*. This circular outlines the due dates that apply to all NTER entities for:

- the reporting and payment of quarterly PAYG instalments for the NTER instalment quarters ending 30 September 2013, 31 December 2013, 31 March 2014 and 30 June 2014;
- the lodgment of annual returns for the NTER income year ended 30 June 2013; and
- the payment of balancing payments of tax equivalent liability for the NTER income year ended 30 June 2013.

The due dates outlined in this circular for NTER entities take precedence over the Commissioner's *Lodgment Program 2013-14* for registered agents.

#### 1. Quarterly PAYG instalments:

The reporting and payment due dates for quarterly PAYG instalments (even if it is a nil amount) that apply to all NTER entities are as follows:

| Instalment quarter ending              | Due date for reporting & payment |
|--|----------------------------------|
| 30 September 2013 (Quarter 1, 2013-14) | 21 October 2013                  |
| 31 December 2013 (Quarter 2, 2013-14)  | 21 January 2014                  |
| 31 March 2014 (Quarter 3, 2013-14)     | 21 April 2014*                   |
| 30 June 2014 (Quarter 4, 2013-14)      | 21 July 2014                     |

(\*As this day is a public holiday, reporting and payment can be made on the next business day without penalty.)

Note that NTER entities with a base assessment instalment income of \$1 billion or more will be required to report and pay PAYG instalments on a monthly basis (rather than quarterly) from 1 January 2014. All affected NTER entities will receive a notification letter from the NTER Administrator in October 2013, advising them of this requirement and the due dates that will apply.

## 2. NTER annual returns for the income year ended 30 June 2013

Note that no NTER entities are required to lodge a *Reportable tax position schedule 2013*.

### 2.1 NTER entities, other than head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2013 annual returns that apply to NTER entities (other than head companies of an NTER tax consolidated group) are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2014       | 1 December 2013*     | Entities whose 2012 annual return was taxable.                           |
| 28 February 2014      | 28 February 2014     | Entities whose 2012 annual return was non-taxable.                       |
| 28 February 2014      | 28 February 2014     | New registrants whose 2013 annual return will be taxable or non-taxable. |

(\*As this day is a Sunday, payment can be made on the next business day without penalty.)

Note that NTER entities that were subsidiary members of an NTER tax consolidated group for the full income year should not have an obligation to lodge a 2013 annual return.

### 2.2 NTER entities that are head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2013 annual returns that apply to NTER entities that are head companies of an NTER tax consolidated group are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2014       | 1 December 2013*     | Head companies (including new registrants) whose 2013 annual return will be taxable.     |
| 28 February 2014      | Not applicable       | Head companies (including new registrants) whose 2013 annual return will be non-taxable. |

(\*As this day is a Sunday, payment can be made on the next business day without penalty.)

Chris Jordan  
NTER Administrator  
Commissioner of Taxation  
July 2013

## National Tax Equivalent Regime

### LODGMENT CIRCULAR 2014-15

This is the annual *NTER Lodgment Circular* referred to at paragraphs 57 and 60A of the *NTER Manual*. This circular outlines the due dates that apply to all NTER entities for:

- the reporting & payment of quarterly PAYG instalments for the NTER instalment quarters ending 30 September 2014 to 30 June 2015 (inclusive);
- the reporting & payment of monthly PAYG instalments for the NTER instalment months ending 31 July 2014 to 30 June 2015 (inclusive);
- the lodgment of annual returns for the NTER income year ended 30 June 2014; and
- the payment of balancing payments of tax equivalent liability for the NTER income year ended 30 June 2014.

The due dates outlined in this circular for NTER entities take precedence over the Commissioner's *Lodgment Program 2014-15* for registered agents.

#### 1. PAYG instalments

##### 1.1 Quarterly instalments:

The reporting & payment due dates for quarterly PAYG instalments (unless it is a nil amount worked out using a nil rate given by the Commissioner) that apply to all NTER entities are as follows:

| Instalment quarter ending              | Due date for reporting & payment |
|--|----------------------------------|
| 30 September 2014 (Quarter 1, 2014-15) | 21 October 2014                  |
| 31 December 2014 (Quarter 2, 2014-15)  | 21 January 2015                  |
| 31 March 2015 (Quarter 3, 2014-15)     | 21 April 2015                    |
| 30 June 2015 (Quarter 4, 2014-15)      | 21 July 2015                     |

##### 2.2 Monthly instalments:

Large NTER entities will transition into the monthly NTER PAYG system in three stages, over a three year period, based on the amount of their base assessment instalment income ("BAII"). There are special transition rules for entities that are subject to Taxation of Financial

Arrangements (“TOFA”). TOFA entities are transitioned based on their adjusted BAIL - calculated using the gross amount of ordinary income from financial arrangements, not the net gain or loss amount calculated under the TOFA rules.

Under the first stage of the transition, all NTER entities with a BAIL (or adjusted BAIL for TOFA entities) of \$1 billion or more are required to report & pay PAYG instalments on a monthly basis from 1 January 2014.

Under the second stage of the transition, all NTER entities with a BAIL (or adjusted BAIL for TOFA entities) of between \$100 million and \$1 billion will be required to report & pay PAYG instalments on a monthly basis from 1 January 2015. All affected NTER entities under the second stage will receive a notification letter from the NTER Administrator in October 2014, advising them of this requirement.

The reporting & payment due dates for monthly PAYG instalments (unless it is a nil amount worked out using a nil rate given by the Commissioner) that apply to all affected NTER entities are as follows:

| Instalment monthly ending            | Due date for reporting & payment |
|--------------------------------------|----------------------------------|
| 31 July 2014 (Month 1, 2014-15)      | 21 August 2014                   |
| 31 August 2014 (Month 2, 2014-15)    | 21 September 2014*               |
| 30 September 2014 (Month 3, 2014-15) | 21 October 2014                  |
| 31 October 2014 (Month 4, 2014-15)   | 21 November 2014                 |
| 30 November 2014 (Month 5, 2014-15)  | 21 December 2014*                |
| 31 December 2014 (Month 6, 2014-15)  | 21 January 2015                  |
| 31 January 2015 (Month 7, 2014-15)   | 21 February 2015*                |
| 28 February 2015 (Month 8, 2014-15)  | 21 March 2015*                   |
| 31 March 2015 (Month 9, 2014-15)     | 21 April 2015                    |
| 30 April 2015 (Month 10, 2014-15)    | 21 May 2015                      |
| 31 May 2015 (Month 11, 2014-15)      | 21 June 2015*                    |
| 30 June 2015 (Month 12, 2014-15)     | 21 July 2015                     |

(\*As this day is a Saturday or Sunday, payment can be made on the next business day without penalty.)

## 2. NTER annual returns for the income year ended 30 June 2014

Note that no NTER entities are required to lodge a *Reportable tax position schedule 2014*.

### 2.1 NTER entities, other than head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2014 annual returns that apply to NTER entities (other than head companies of an NTER tax consolidated group) are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2015       | 1 December 2014      | Entities whose 2013 annual return was taxable.                           |
| 28 February 2015*     | 28 February 2015*    | Entities whose 2013 annual return was non-taxable.                       |
| 28 February 2015*     | 28 February 2015*    | New registrants whose 2014 annual return will be taxable or non-taxable. |

(\*As this day is a Saturday, payment can be made on the next business day without penalty.)

Note that NTER entities that were subsidiary members of an NTER tax consolidated group for the full income year should not have an obligation to lodge a 2014 annual return.

### 2.2 NTER entities that are head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2014 annual returns that apply to NTER entities that are head companies of an NTER tax consolidated group are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2015       | 1 December 2014      | Head companies (including new registrants) whose 2014 annual return will be taxable.     |
| 28 February 2015*     | Not applicable       | Head companies (including new registrants) whose 2014 annual return will be non-taxable. |

(\*As this day is a Saturday, payment can be made on the next business day without penalty.)

Chris Jordan  
NTER Administrator  
Commissioner of Taxation  
July 2014

## National Tax Equivalent Regime

### LODGMENT CIRCULAR 2015-16

This is the annual *NTER Lodgment Circular* referred to at paragraphs 57 and 60A of the *NTER Manual*. This circular outlines the due dates that apply to all NTER entities for:

- the reporting & payment of quarterly PAYG instalments for the NTER instalment quarters ending 30 September 2015 to 30 June 2016 (inclusive);
- the reporting & payment of monthly PAYG instalments for the NTER instalment months ending 31 July 2015 to 30 June 2016 (inclusive);
- the lodgment of annual returns for the NTER income year ended 30 June 2015; and
- the payment of balancing payments of tax equivalent liability for the NTER income year ended 30 June 2015.

The due dates outlined in this circular for NTER entities take precedence over the Commissioner's *Lodgment Program 2015-16* for registered agents.

#### 1. PAYG instalments

##### 1.1 Quarterly instalments:

The reporting & payment due dates for quarterly PAYG instalments (unless it is a nil amount worked out using a nil rate given by the Commissioner) that apply to all NTER entities are as follows:

| Instalment quarter ending              | Due date for reporting & payment |
|--|----------------------------------|
| 30 September 2015 (Quarter 1, 2015-16) | 21 October 2015                  |
| 31 December 2015 (Quarter 2, 2015-16)  | 21 January 2016                  |
| 31 March 2016 (Quarter 3, 2015-16)     | 21 April 2016                    |
| 30 June 2016 (Quarter 4, 2015-16)      | 21 July 2016                     |

##### 1.2 Monthly instalments:

NTER entities will transition into the monthly NTER PAYG system in three stages, over a three year period, based on the amount of their base assessment instalment income ("BAIL"). There are special transition rules for entities that are subject to Taxation of Financial Arrangements ("TOFA"). TOFA entities are transitioned based on their adjusted BAIL - calculated using the gross amount of ordinary income from financial arrangements, not the net gain or loss amount calculated under the TOFA rules.

Under the first stage of the transition, all NTER entities with a BAI (or adjusted BAI for TOFA entities) of \$1 billion or more were required to report & pay PAYG instalments on a monthly basis from 1 January 2014.

Under the second stage of the transition, all NTER entities with a BAI (or adjusted BAI for TOFA entities) of between \$100 million and \$1 billion were required to report & pay PAYG instalments on a monthly basis from 1 January 2015. All affected NTER entities under the second stage received a notification letter from the NTER Administrator in October 2014, advising them of this requirement.

Under the third stage of the transition, all NTER entities with a BAI (or adjusted BAI for TOFA entities) of between \$20 million and \$100 million are required to report and pay PAYG instalments on a monthly basis from 1 January 2016. All affected NTER entities under the third stage will receive a notification letter from the NTER Administrator in October 2015, advising them of this requirement.

The reporting & payment due dates for monthly PAYG instalments (unless it is a nil amount worked out using a nil rate given by the Commissioner) that apply to all affected NTER entities are as follows:

| Instalment monthly ending            | Due date for reporting & payment |
|--------------------------------------|----------------------------------|
| 31 July 2015 (Month 1, 2015-16)      | 21 August 2015                   |
| 31 August 2015 (Month 2, 2015-16)    | 21 September 2015                |
| 30 September 2015 (Month 3, 2015-16) | 21 October 2015                  |
| 31 October 2015 (Month 4, 2015-16)   | 21 November 2015*                |
| 30 November 2015 (Month 5, 2015-16)  | 21 December 2015                 |
| 31 December 2015 (Month 6, 2015-16)  | 21 January 2016                  |
| 31 January 2016 (Month 7, 2015-16)   | 21 February 2016*                |
| 28 February 2016 (Month 8, 2015-16)  | 21 March 2016                    |
| 31 March 2016 (Month 9, 2015-16)     | 21 April 2016                    |
| 30 April 2016 (Month 10, 2015-16)    | 21 May 2016*                     |
| 31 May 2016 (Month 11, 2015-16)      | 21 June 2016                     |
| 30 June 2016 (Month 12, 2015-16)     | 21 July 2016                     |

(\*As this day is a Saturday or Sunday, reporting & payment can be made on the next business day without penalty.)

## 2. NTER annual returns for the income year ended 30 June 2015

Note that no NTER entities are required to lodge a *Reportable tax position schedule 2015*.

### 2.1 NTER entities, other than head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2015 annual returns that apply to NTER entities (other than head companies of an NTER tax consolidated group) are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2016       | 1 December 2015      | Entities whose 2014 annual return was taxable.                           |
| 28 February 2016*     | 28 February 2016*    | Entities whose 2014 annual return was non-taxable.                       |
| 28 February 2016*     | 28 February 2016*    | New registrants whose 2015 annual return will be taxable or non-taxable. |

(\*As this day is a Sunday, lodgment & payment can be made on the next business day without penalty.)

Note that NTER entities that were subsidiary members of an NTER tax consolidated group for the full income year should not have an obligation to lodge a 2015 annual return.

### 2.2 NTER entities that are head companies of an NTER tax consolidated group:

The lodgment and payment due dates for 2015 annual returns that apply to NTER entities that are head companies of an NTER tax consolidated group are as follows:

| Due date for lodgment | Due date for payment | Description  |
|-----------------------|----------------------|--|
| 15 January 2016       | 1 December 2015      | Head companies (including new registrants) whose 2015 annual return will be taxable.     |
| 28 February 2016*     | Not applicable       | Head companies (including new registrants) whose 2015 annual return will be non-taxable. |

(\*As this day is a Sunday, lodgment can be made on the next business day without penalty.)

Chris Jordan  
NTER Administrator  
Commissioner of Taxation  
July 2015