A New Tax System (Pay As You Go) Act 1999

Act No. 178 of 1999 as amended

This compilation was prepared on 27 October 2003

[This Act was amended by Act No. 179 of 1999, Act No. 44 of 2000, Act No. 57 of 2002 and Act No. 101 of 2003]

Amendments from Act No. 179 of 1999

[Schedule 10 (item 19) amended section 2;
Schedule 10 (item 20) added subitem (3A) to item 3 of Schedule 1;
Schedule 10 (item 21) added item 49A to Schedule 1
Schedule 10 (items 19 to 21) commenced on 22 December 1999]

Amendments from Act No. 44 of 2000

[Schedule 4 (item 2) amended subitem 3(1) of Schedule 1;
Schedule 4 (item 3) added subitem (1A) to item 3 of Schedule 1
Schedule 4 (items 2 and 3) commenced on 22 December 1999]

Amendment from Act No. 57 of 2002

[Schedule 12 (item 40) amended item 62 of Schedule 2
Schedule 12 (item 40) commenced on 22 December 1999]

Amendment from Act No. 101 of 2003

[Schedule 6 (item 3) repealed Schedule 2 (items 44 and 45)
Schedule 6 (item 3) commenced on 22 December 1999]

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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An Act to implement A New Tax System by amending the law about taxation, and for related purposes

1 Short title

This Act may be cited as the *A New Tax System (Pay As You Go) Act 1999*.

2 Commencement

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(1A) Items 6, 8 and 72 to 78 of Schedule 1 commence, or are taken to have commenced, on 1 July 2000.

(2) Items 70 and 71 of Schedule 1 to this Act commence, or are taken to have commenced, immediately before the commencement of Schedule 1 to the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Amendment of assessments

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment made before the commencement of this section for the purposes of giving effect to this Act.

Schedule 1—Pay as you go (PAYG) system of collecting income tax and other liabilities

Part 1—Amendment of the Taxation Administration Act 1953

1 After section 3

Insert in Part I:

3AA Schedule 1

(1) Schedule 1 has effect.

Application of interpretation provisions of Income Tax Assessment Act 1997

(2) An expression has the same meaning in Schedule 1 as in the *Income Tax Assessment Act 1997*.

(3) Division 950 of the *Income Tax Assessment Act 1997* (which contains rules for interpreting that Act) applies to Schedule 1 to this Act as if the provisions in that Schedule were provisions of that Act.

Application of provisions of Income Tax Assessment Act 1936

(4) Section 264B of the *Income Tax Assessment Act 1936* (about signature or electronic signature for notices etc. given to the Commissioner) applies to Schedule 1 to this Act as if the provisions in that Schedule were provisions of that Act.

2 At the end of the Act

Add:

Schedule 1—Collection and recovery of income tax and other liabilities

Note: See section 3AA.

Part 2-1—Introduction to the Pay as you go (PAYG) system

Division 6—Guide to Parts 2-5 and 2-10

6-1 What Parts 2-5 and 2-10 are about

To help taxpayers meet their annual income tax liability, they are required to pay amounts of their income at regular intervals as it is earned during the year. The system for collecting these amounts is called "Pay as you go".

Amounts collected under this system also go towards meeting liability for Medicare levy and liability to repay contributions under the Higher Education Contribution Scheme (HECS).

Table of sections

6-5 The Pay as you go (PAYG) system
6-10 How the amounts collected are dealt with

6-5 The Pay as you go (PAYG) system

(1) Parts 2-5 and 2-10 establish the PAYG system, which has 2 components:

- PAYG withholding (Part 2-5)
- PAYG instalments (Part 2-10).

PAYG withholding

(2) Under PAYG withholding, amounts are collected in respect of particular kinds of payments or transactions. Usually, someone who makes a payment to you is required to *withhold* an amount

from the payment, and then to pay the amount to the Commissioner.

For a list of the payments and other transactions to which PAYG withholding applies, see Division 10

PAYG instalments

(3) You pay PAYG instalments directly to the Commissioner. These are usually based on your ordinary income for a past period, but excluding:

- income subject to PAYG withholding (with certain exceptions)
- exempt income, or income that is otherwise not assessable.

An instalment is usually paid after each quarter, but some taxpayers are eligible to pay an annual instalment after the end of the income year.

6-10 How the amounts collected are dealt with

You are entitled to credits for the amounts of your income that are collected under the PAYG system. The credits are applied under Division 3 of Part IIB against your tax debts, and any excess is refunded to you.

Part 2-5—Pay as you go (PAYG) withholding

Division 10—Guide to Part 2-5

10-1 What this Part is about

Under PAYG withholding, amounts are collected in respect of particular kinds of payments or transactions. Usually, someone who makes a payment to you is required to *withhold* an amount from the payment, and then to pay the amount to the Commissioner.

If a non-cash benefit is provided instead of a payment, the provider must first pay to the Commissioner the amount that would have been withheld from the payment.

This Part also contains provisions about the obligations and rights of payers and recipients.

10-5 Summary of withholding payments

The payments and other transactions covered by PAYG withholding are called withholding payments. They are summarised in the table.

Note: The obligation to pay an amount to the Commissioner is imposed on the entity making the withholding payment (except for items 17, 19 and 22).

Summary of withholding payments

Item	Withholding payment	Section
1	A payment of salary etc. to an employee	12-35
2	A payment of remuneration to the director of a company	12-40
3	A payment of salary etc. to an office holder (e.g. a member of the Defence Force)	12-45
4	A return to work payment to an individual	12-50
5	A payment that is covered by a voluntary agreement	12-55

Summary of withholding payments

Item	Withholding payment	Section
6	A payment under a labour hire arrangement or a payment specified by regulations	12-60
7	A payment of pension or annuity	12-80
8	An eligible termination payment	12-85
9	A payment for unused leave on an individual's retirement or termination of employment	12-90
10	A social security or similar payment (e.g. old age pension)	12-110
11	A Commonwealth education or training payment	12-115
12	A compensation, sickness or accident payment	12-120
13	A payment arising from an investment where the recipient does not quote its tax file number, or in some cases, its ABN	12-140
14	Investor becoming presently entitled to income of a unit trust	12-145
15	A payment for a supply where the recipient of the payment does not quote its ABN	12-190
16	A dividend payment to an overseas person	12-210
17	A dividend payment received for a foreign resident	12-215
18	An interest payment to an overseas person	12-245
19	An interest payment received for a foreign resident	12-250
20	An interest payment derived by a lender in carrying on business through overseas permanent establishment	12-255
21	A royalty payment to an overseas person	12-280
22	A royalty payment received for a foreign resident	12-285
23	A mining payment	12-320
24	A natural resource payment	12-325

Division 11—Preliminary matters

Table of sections

11-1 Object of this Part
11-5 Constructive payment

11-1 Object of this Part

The object of this Part is to ensure the efficient collection of:

(a) income tax; and

(b) Medicare levy; and

(c) amounts of liabilities to the Commonwealth under Chapter 5A of the *Higher Education Funding Act 1988*; and

(d) *withholding tax; and

(e) *mining withholding tax.

11-5 Constructive payment

(1) In working out whether an entity has paid an amount to another entity, and when the payment is made, the amount is taken to have been paid to the other entity when the first entity applies or deals with the amount in any way on the other's behalf or as the other directs.

(2) An amount is taken to be payable by an entity to another entity if the first entity is required to apply or deal with it in any way on the other's behalf or as the other directs.

Division 12—Payments from which amounts must be withheld

Table of Subdivisions

12-A General rules

12-B Payments for work and services

12-C Retirement payments, eligible termination payments and annuities

12-D Benefit and compensation payments

12-E Payments where TFN or ABN not quoted

12-F Dividend, interest and royalty payments

12-G Payments in respect of mining on Aboriginal land, and natural resources

Subdivision 12-A—General rules

Table of sections

12-1 General exceptions

12-5 What to do if more than one provision requires a withholding

12-10 Division does not apply to non-cash benefits

12-15 Amounts to be expressed in Australian currency

12-1 General exceptions

Exempt income of recipient

(1) An entity need not withhold an amount under section 12-35, 12-40, 12-45, 12-50, 12-55, 12-60, 12-80, 12-90, 12-120 or 12-190 from a payment if the whole of the payment is *exempt income of the entity receiving the payment.

Living-away-from-home allowance benefit

(2) In working out how much to withhold under section 12-35, 12-40, 12-45, 12-115 or 12-120 from a payment, disregard so much of the

payment as is a living-away-from-home allowance benefit as defined by section 136 of the *Fringe Benefits Tax Assessment Act 1986*.

Expense payment benefit

(3) In working out how much to withhold under section 12-35, 12-40, 12-45, 12-115 or 12-120 from a payment, disregard so much of the payment as:

(a) is an expense payment benefit as defined by section 136 of the *Fringe Benefits Tax Assessment Act 1986*; and

(b) is *not* an exempt benefit under section 22 of that Act (about reimbursement of car expenses on the basis of distance travelled).

12-5 What to do if more than one provision requires a withholding

(1) If more than one provision in this Division covers a payment, only one amount is to be withheld from the payment.

(2) The provision to apply is the one that is most specific to the circumstances of the payment. However, this general rule is subject to the specific rules in the table.

Specific rules for determining priority among withholding provisions

Item	Apply:	Which is about:	In priority to:
1	section 12-35, 12-40, 12-45 or 12-50	a payment for work or services	section 12-60 (payment under a labour hire arrangement or specified by regulations); or section 12-190 (payment for a supply where recipient does not quote its ABN)
2	section 12-80, 12-85 or 12-90	a retirement payment, an eligible termination payment or an annuity	section 12-60 (payment under a labour hire arrangement or specified by regulations); or section 12-190 (payment for a supply where recipient does not quote its ABN)

Specific rules for determining priority among withholding provisions			
Item	**Apply:**	**Which is about:**	**In priority to:**
3	section 12-110, 12-115 or 12-120	a payment of benefit or compensation	section 12-60 (payment under a labour hire arrangement or specified by regulations); or section 12-190 (payment for a supply where recipient does not quote its ABN)
4	section 12-60	a payment under a labour hire arrangement or specified by regulations	section 12-190 (payment for a supply where recipient does not quote its ABN)
5	section 12-140 or 12-145	a payment arising from investment where the recipient does not quote tax file number	section 12-210, 12-215, 12-245, 12-250 or 12-255 (payment of a dividend or interest)
6	section 12-280 or 12-285	a payment of royalty	section 12-325 (natural resource payment)

Note: Some provisions of this Division clearly do not cover a payment covered by some other provisions. For example:

- Section 12-55 (about voluntary agreements) covers a payment only if no other provision requires the payer to withhold an amount from the payment.

12-10 Division does not apply to non-cash benefits

This Division does not apply to a payment in so far as it consists of providing a *non-cash benefit.

Note: If a non-cash benefit is provided in circumstances where a payment would give rise to a withholding obligation, the provider must pay an amount to the Commissioner: see Division 14.

12-15 Amounts to be expressed in Australian currency

The amount that this Division requires to be withheld from a payment made in foreign currency:

(a) is to be expressed in Australian currency; and

(b) is to be worked out on the basis of the exchange rate applicable when the amount is required to be withheld under this Division.

Subdivision 12-B—Payments for work and services

Table of sections

12-35 Payment to employee
12-40 Payment to company director
12-45 Payment to office holder
12-50 Return to work payment
12-55 Voluntary agreement to withhold
12-60 Payment under labour hire arrangement, or specified by regulations

12-35 Payment to employee

An entity must withhold an amount from salary, wages, commission, bonuses or allowances it pays to an individual as an employee (whether of that or another entity).

For exceptions, see section 12-1.

12-40 Payment to company director

A company must withhold an amount from a payment of remuneration it makes to an individual:

(a) if the company is incorporated—as a director of the company, or as a person who performs the duties of a director of the company; or

(b) if the company is not incorporated—as a member of the committee of management of the company, or as a person who performs the duties of such a member.

For exceptions, see section 12-1.

12-45 Payment to office holder

(1) An entity must withhold an amount from salary, wages, commission, bonuses or allowances it pays to an individual as:

(a) a member of an *Australian legislature; or

(b) a person who holds, or performs the duties of, an appointment, office or position under the Constitution or an *Australian law; or

(c) a member of the Defence Force, or of a police force of the Commonwealth, a State or a Territory; or

(d) a person who is otherwise in the service of the Commonwealth, a State or a Territory; or

(e) a member of a local governing body to which subsection (3) applies.

For exceptions, see subsection (2) and section 12-1.

(2) This section does not require an amount to be withheld from a payment to an individual as a member of a local governing body established by or under a *State law or *Territory law unless subsection (3) applies to the body.

(3) This subsection applies to a local governing body established by or under a *State law or *Territory law if:

(a) the body has unanimously resolved that it be treated as an eligible local governing body for the purposes of Division 2 of Part VI of the *Income Tax Assessment Act 1936*, or of this Division; and

(b) that body has not unanimously resolved to cancel the resolution.

For rules about such resolutions, see section 221B of the *Income Tax Assessment Act 1936*.

12-50 Return to work payment

An entity must withhold an amount from a payment it makes to an individual if the payment is included in the individual's assessable income under section 15-3 of the *Income Tax Assessment Act 1997* (return to work payments).

For exceptions, see section 12-1.

12-55 Voluntary agreement to withhold

(1) An entity must withhold an amount from a payment it makes to an individual if:

(a) the payment is made under an *arrangement the performance of which, in whole or in part, involves the performance of work or services (whether or not by the individual); and

(b) no other provision of this Division requires the entity to withhold an amount from the payment; and

(c) the entity and the individual are parties to an agreement (the ***voluntary agreement***) that is in the *approved form and states that this section covers payments under the arrangement mentioned in paragraph (a), or under a series of such arrangements that includes that arrangement; and

(d) the individual has an *ABN that is in force and is *quoted in that agreement.

For exceptions, see section 12-1.

(2) Each party must keep a copy of the voluntary agreement from when it is made until 5 years after the making of the last payment covered by the agreement.

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

(3) A party to the voluntary agreement may terminate it at any time by notifying the other party in writing.

12-60 Payment under labour hire arrangement, or specified by regulations

An entity that carries on an *enterprise must withhold an amount from a payment that it makes to an individual in the course or furtherance of the enterprise if:

(a) the payment is made under an *arrangement the performance of which, in whole or in part, involves the performance of work or services by the individual for a client of the entity; or

(b) the payment is, in whole or in part, for work or services and is of a kind prescribed by the regulations.

For exceptions, see section 12-1.

Subdivision 12-C—Retirement payments, eligible termination payments and annuities

Table of sections

12-80 Payment of pension or annuity
12-85 Eligible termination payment
12-90 Payment for unused leave

12-80 Payment of pension or annuity

An entity must withhold an amount from a payment it makes to an individual if the payment is:

(a) a pension within the meaning of the *Superannuation Industry (Supervision) Act 1993* or the *Retirement Savings Account Act 1997*; or

(b) an annuity within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

For exceptions, see section 12-1.

12-85 Eligible termination payment

An entity must withhold an amount from an *eligible termination payment it makes to an individual.

12-90 Payment for unused leave

An entity must withhold an amount from a payment it makes to an individual if the payment is included in the individual's assessable income under:

(a) section 26AC (payment for unused annual leave); or

(b) section 26AD (payment for unused long service leave);

of the *Income Tax Assessment Act 1936*.

For exceptions, see section 12-1.

Subdivision 12-D—Benefit and compensation payments

Table of sections

12-110 Social Security or other benefit payment

12-115 Commonwealth education or training payment
12-120 Compensation, sickness or accident payment

12-110 Social Security or other benefit payment

(1) An entity must withhold an amount from a payment it makes to an individual if the payment is specified in:

(a) an item of the table in section 52-10 of the *Income Tax Assessment Act 1997* (Social Security payments); or

(b) an item of the table in section 52-65 of that Act (Veterans' Affairs payments); or

(c) section 52-105, 53-10, 55-5 or 55-10 of that Act.

Note: Payments specified in those provisions of the *Income Tax Assessment Act 1997* are made under various Commonwealth laws.

(2) In working out the amount to be withheld, disregard so much of the payment as is *exempt income of the individual.

12-115 Commonwealth education or training payment

(1) An entity must withhold an amount from a *Commonwealth education or training payment it makes to an individual.

For exceptions, see subsection (2) and section 12-1.

(2) In working out the amount to be withheld, disregard so much of the payment as is *exempt income of the individual.

12-120 Compensation, sickness or accident payment

An entity must withhold an amount from a payment of compensation, or of sickness or accident pay, it makes to an individual if the payment:

(a) is made because of that or another individual's incapacity for work; and

(b) is calculated at a periodical rate; and

(c) is not a payment made under an insurance policy to the policy owner.

For exceptions, see section 12-1.

Subdivision 12-E—Payments where TFN or ABN not quoted

Table of sections

Payment in respect of investment

12-140 Recipient does not quote tax file number
12-145 Investor becoming presently entitled to income of a unit trust
12-150 Limited application of section 12-140 to payment under eligible deferred interest investment
12-155 When investor may quote ABN as alternative
12-160 Investment body unaware that exemption from quoting TFN has stopped applying
12-165 Exception for fully franked dividend
12-170 Exception for payments below thresholds set by regulations

Payment for a supply

12-190 Recipient does not quote ABN

Payment in respect of investment

12-140 Recipient does not quote tax file number

(1) An *investment body must withhold an amount from a payment it makes to another entity in respect of a *Part VA investment if:

(a) all or some of the payment is *ordinary income or *statutory income of the other entity; and

(b) if the investment is non-transferable—the other entity did not *quote its *tax file number in connection with the investment before the time when the payment became payable; and

(c) if the investment is transferable—the other entity did not quote its tax file number in connection with the investment before the time when the other entity had to be registered with the investment body as the *investor to be entitled to the payment.

Payment in respect of units in a trust or investment-related betting chance

(2) If a *Part VA investment consists of:

(a) units in a unit trust (as defined in section 202A of the *Income Tax Assessment Act 1936*); or

(b) an investment-related betting chance;

an entity (including the *investment body) must withhold an amount from a payment it makes to another entity in respect of the investment if the conditions in subsection (1) of this section are met.

For exceptions to the rules in this section, see sections 12-155 to 12-170.

12-145 Investor becoming presently entitled to income of a unit trust

(1) This section applies if:

(a) a *Part VA investment consists of units in a unit trust (as defined in section 202A of the *Income Tax Assessment Act 1936*); and

(b) the *investor becomes presently entitled, for the purposes of Division 6 of Part III of the *Income Tax Assessment Act 1936*, to a share of income of the trust at a time (the ***entitlement time***) before any of that share is paid to the investor.

(2) The entity (including the *investment body) that would have to pay that share to the *investor if the share were due and payable at the entitlement time must withhold from the share, at that time, the amount (if any) that subsection 12-140(2) would have required it to withhold if it had paid the share to the investor at that time.

For exceptions to the rules in this section, see sections 12-155 to 12-170.

(3) This Part (except section 12-140 and this section) applies as if that entity had paid that share to the *investor at the entitlement time.

(4) If that entity withholds an amount from that share as required by subsection (2), subsection 12-140(2) does not require an amount to be withheld from a payment of all or part of that share to the *investor.

12-150 Limited application of section 12-140 to payment under eligible deferred interest investment

Section 12-140 applies to a payment in respect of an eligible deferred interest investment (as defined in subsection 221YHZA(1) of the *Income Tax Assessment Act 1936*) only to the extent that is covered by one or both of these paragraphs:

(a) so much of the payment as consists of a periodic interest payment (within the meaning of Division 16E of Part III of that Act);

(b) if the payment became payable at the end of the term (within the meaning of Division 16E of Part III of that Act) of the investment—so much of the payment as does *not* exceed what section 159GQ of that Act would include in the *investor's assessable income for the income year in which that term ended if the adoption (under section 18 of that Act) of an accounting period ending on a day other than 30 June were disregarded for the purposes of this paragraph and that Division.

Note: To the extent that section 12-140 does not apply to the payment, TFN withholding tax may be payable on it. See Subdivision C of Division 3B of Part VI of the *Income Tax Assessment Act 1936*.

12-155 When investor may quote ABN as alternative

Section 12-140 or 12-145 does not require an amount to be withheld if:

(a) the other entity made the investment in the course or furtherance of an *enterprise carried on by it; and

(b) the other entity has an *ABN, and has *quoted it to the investment body, by the time referred to in paragraph 12-140(1)(b) or (c).

12-160 Investment body unaware that exemption from quoting TFN has stopped applying

Section 12-140 or 12-145 does not require an amount to be withheld if:

(a) a provision of Division 5 of Part VA of the *Income Tax Assessment Act 1936* has applied to the other entity in

relation to the investment, but no longer applies when the payment is made; and

(b) when the payment is made, the *investment body has not been informed of anything that resulted in the provision no longer applying.

Note: Division 5 of Part VA of that Act provides, in certain cases, that even though an entity has not quoted its tax file number it is taken to have done so.

12-165 Exception for fully franked dividend

Section 12-140 does not require an amount to be withheld if:

(a) the investment consists of *shares in a public company (as defined in section 202A of the *Income Tax Assessment Act 1936*); and

(b) the payment is a *dividend that has been franked in accordance with section 160AQF of the *Income Tax Assessment Act 1936*; and

(c) the franking percentage (within the meaning of section 160APA of that Act) for the dividend is 100%.

12-170 Exception for payments below thresholds set by regulations

(1) Section 12-140 or 12-145 does not require an amount to be withheld if the payment is less than the amount worked out under the regulations.

(2) Regulations made for the purposes of this section may deal differently with different payments.

Payment for a supply

12-190 Recipient does not quote ABN

(1) An entity (the ***payer***) must withhold an amount from a payment it makes to another entity if:

(a) the payment is for a *supply that the other entity has made, or proposes to make, to the payer in the course or furtherance of an *enterprise *carried on in Australia by the other entity; and

(b) none of the exceptions in this section applies.

ABN correctly quoted

(2) The payer need not withhold an amount under this section if, when the payment is made:

(a) the other entity has given the payer an *invoice that relates to the supply and *quotes the other entity's *ABN; or

(b) the payer has some other document relating to the supply on which the other entity's ABN is *quoted.

Payer has no reason to believe that ABN has been incorrectly quoted

(3) The payer also need not withhold an amount under this section if, when the payment is made:

(a) the other entity has given the payer an *invoice that relates to the supply and purports to *quote the other entity's *ABN, or the payer has some other document that relates to the supply and purports to *quote the other entity's ABN; and

(b) the other entity does not have an ABN, or the invoice or other document does not in fact quote the other entity's ABN; and

(c) the payer has no reasonable grounds to believe that the other entity does not have an ABN, or that the invoice or other document does not quote the other entity's ABN.

No need to quote ABN

(4) The payer need not withhold an amount under this section if:

(a) the payer is an individual and the payment is, for the payer, wholly of a private or domestic nature; or

(b) the payment does not exceed $50 or such higher amount as is specified in regulations in force for the purposes of subsection 29-80(1) of the *GST Act; or

(c) the supply is made in the course or furtherance of an activity, or series of activities, done as a member of a local governing body established by or under a *State law or *Territory law.

(5) The payer need not withhold an amount under this section if the payment:

(a) is covered by section 12-140 or 12-145 (about not quoting *tax file number in respect of an investment in respect of which the payment is made); or

(b) would be covered by section 12-140 or 12-145 if the other entity had not quoted as mentioned in subsection 12-140(1) or section 12-155; or

(c) would be covered by section 12-140 or 12-145 apart from section 12-160, 12-165 or 12-170 (which are exceptions to sections 12-140 and 12-145).

(6) The payer need not withhold an amount under this section if, when the payment is made:

(a) the other entity is an individual and has given the payer a written statement to the effect that:

(i) the supply is made in the course or furtherance of an activity, or series of activities, done as a private recreational pursuit or hobby; or

(ii) the supply is, for the other entity, wholly of a private or domestic nature; and

(b) the payer has no reasonable grounds to believe that the statement is false or misleading in a material particular.

Subdivision 12-F—Dividend, interest and royalty payments

Table of sections

Dividends

12-210 Dividend payment to overseas person
12-215 Dividend payment received for foreign resident
12-220 Application to part of a dividend
12-225 Application to distribution by a liquidator or other person

Interest

12-245 Interest payment to overseas person
12-250 Interest payment received for foreign resident
12-255 Interest payment derived by lender in carrying on business through overseas permanent establishment
12-260 Lender to notify borrower if interest derived through overseas permanent establishment

Royalties

12-280 Royalty payment to overseas person
12-285 Royalty payment received for foreign resident

General

12-300 Limits on amount withheld under this Subdivision

Dividends

12-210 Dividend payment to overseas person

A company that is an Australian resident must withhold an amount from a *dividend it pays if:

(a) according to the register of the company's members, the entity, or any of the entities, holding the *shares on which the dividend is paid has an address outside Australia; or

(b) that entity, or any of those entities, has authorised or directed the company to pay the dividend to an entity or entities at a place outside Australia.

For limits on the amount to be withheld, see section 12-300.

12-215 Dividend payment received for foreign resident

Immediately after receiving a payment of a *dividend of a company that is an Australian resident, an entity must withhold an amount from the dividend if:

(a) the entity is a person in Australia or an *Australian government agency; and

(b) a foreign resident is entitled:

(i) to receive the dividend or part of it from the entity, or to receive the amount of the dividend or of part of it from the entity; or

(ii) to have the entity credit to the foreign resident, or otherwise deal with on the foreign resident's behalf or as the foreign resident directs, the dividend or part of it, or the amount of the dividend or of part of it.

For limits on the amount to be withheld, see section 12-300.

12-220 Application to part of a dividend

This Part applies to a part of a *dividend in the same way as to a dividend.

12-225 Application to distribution by a liquidator or other person

This Part applies to a distribution that section 47 of the *Income Tax Assessment Act 1936* treats as a *dividend paid by a company, in the same way as this Part applies to a dividend paid by the company, and as if the liquidator or other person making the distribution were the company.

Interest

12-245 Interest payment to overseas person

An entity must withhold an amount from interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) it pays to an entity, or to entities jointly, if:

(a) the recipient or any of the recipients has an address outside Australia according to any record that is in the payer's possession, or is kept or maintained on the payer's behalf, about the transaction to which the interest relates; or

(b) the payer is authorised to pay the interest at a place outside Australia (whether to the recipient or any of the recipients or to anyone else).

For limits on the amount to be withheld, see section 12-300.

12-250 Interest payment received for foreign resident

Immediately after receiving a payment of interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*), an entity must withhold an amount from the payment if:

(a) the entity is a person in Australia or an *Australian government agency; and

(b) a foreign resident is entitled:

(i) to receive the interest or part of it from the entity, or to receive the amount of the interest or of part of it from the entity; or

(ii) to have the entity credit to the foreign resident, or otherwise deal with on the foreign resident's behalf or as the foreign resident directs, the interest or part of it, or the amount of the interest or of part of it.

For limits on the amount to be withheld, see section 12-300.

12-255 Interest payment derived by lender in carrying on business through overseas permanent establishment

An entity must withhold an amount from interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) it pays if it has been notified:

(a) under section 12-260 of this Act that this section applies to the interest; or

(b) under subsection 221YL(2E) of the *Income Tax Assessment Act 1936* that that subsection applies to the interest.

For limits on the amount to be withheld, see section 12-300.

12-260 Lender to notify borrower if interest derived through overseas permanent establishment

(1) If:

(a) interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) is payable to:

(i) an entity that is, or entities at least one of whom is, an Australian resident; or

(ii) an *Australian government agency; and

(b) the entity liable to pay the interest is authorised to pay it at a place in Australia (whether to any of those entities or the agency, or to anyone else); and

(c) the interest is or will be *derived by any of those entities or the agency in carrying on business in a country outside Australia at or through a *permanent establishment it has in that country;

those entities, or the agency, must notify the entity liable to pay the interest that section 12-255 applies to the interest.

(2) The notice must be given in writing, before the entities, or the agency, enter into the transaction in relation to which the interest is payable, or within one month afterwards.

(3) Immediately after giving the notice, those entities, or the agency, must notify the Commissioner of:

(a) the particulars of the transaction (including the dates on which interest is payable under it); and

(b) the day when the notice was given to the entity liable to pay the interest.

Failure to comply with this section may contravene section 8C of this Act.

Royalties

12-280 Royalty payment to overseas person

An entity must withhold an amount from a *royalty it pays to an entity, or to entities jointly, if:

(a) the recipient or any of the recipients has an address outside Australia according to any record that is in the payer's possession, or is kept or maintained on the payer's behalf, about the transaction to which the royalty relates; or

(b) the payer is authorised to pay the royalty at a place outside Australia (whether to the recipient or any of the recipients or to anyone else).

For limits on the amount to be withheld, see section 12-300.

12-285 Royalty payment received for foreign resident

Immediately after receiving a payment of a *royalty, an entity must withhold an amount from the royalty if:

(a) the entity is a person in Australia or an *Australian government agency; and

(b) a foreign resident is entitled:

(i) to receive the royalty or part of it from the entity, or to receive the amount of the royalty or of part of it from the entity; or

(ii) to have the entity credit to the foreign resident, or otherwise deal with on the foreign resident's behalf or

as the foreign resident directs, the royalty or part of it, or the amount of the royalty or of part of it.

For limits on the amount to be withheld, see section 12-300.

General

12-300 Limits on amount withheld under this Subdivision

This Subdivision does not require an entity:

(a) to withhold an amount from a *dividend, from interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) or from a *royalty if no *withholding tax is payable in respect of the dividend, interest or royalty; or

(b) to withhold from a dividend, from interest (within the meaning of that Division) or from a royalty more than the withholding tax payable in respect of the dividend, interest or royalty (reduced by each amount already withheld from it under this Subdivision).

Note: Section 128B of the *Income Tax Assessment Act 1936* deals with withholding tax liability.

Subdivision 12-G—Payments in respect of mining on Aboriginal land, and natural resources

Table of sections

Mining on Aboriginal land

12-320 Mining payment

Natural resources

12-325 Natural resource payment
12-330 Payer must ask Commissioner how much to withhold
12-335 Commissioner may exempt from section 12-330, subject to conditions

Mining on Aboriginal land

12-320 Mining payment

(1) An entity must withhold an amount from a *mining payment that:
   (a) it makes to another entity; or
   (b) it applies for the benefit of another entity.

(2) Subsection (1) does not require the entity:
   (a) to withhold an amount if no *mining withholding tax is payable in respect of the *mining payment; or
   (b) to withhold more than the mining withholding tax payable in respect of the mining payment.

Note: Section 128V of the *Income Tax Assessment Act 1936* deals with mining withholding tax liability.

Natural resources

12-325 Natural resource payment

(1) An entity must withhold an amount from a payment it makes to a foreign resident, or to 2 or more entities at least one of which is a foreign resident, if the payment is worked out wholly or partly by reference to the value or quantity of *natural resources produced or recovered in Australia.

(2) The amount to be withheld is:
   (a) the amount notified by the Commissioner under section 12-330; or
   (b) the amount worked out under a certificate in force under section 12-335 that covers the payment;

as appropriate.

Exception

(3) Subsection (1) does not apply if:
   (a) the Commissioner has notified the entity under section 12-330 that the entity does not need to withhold an amount from the payment; or

(b) a certificate in force under section 12-335 covers the payment and does not require the entity to withhold an amount from it.

12-330 Payer must ask Commissioner how much to withhold

(1) An entity must not, intentionally or recklessly, make a payment from which section 12-325 requires it to withhold an amount, unless:

(a) the entity has notified the Commissioner in writing of the amount of the proposed payment; and

(b) the Commissioner has later notified the entity in writing of the amount (if any) that the entity must withhold from the payment in respect of tax that is or may become payable by a foreign resident to whom the payment is made;

or the payment is covered by a certificate in force under section 12-335.

Penalty: 20 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Failure to notify not an offence against section 8C

(2) An entity that fails to notify the Commissioner as required by subsection (1) does not commit an offence against section 8C.

12-335 Commissioner may exempt from section 12-330, subject to conditions

(1) The Commissioner may give an entity a written certificate exempting the entity from complying with section 12-330 for specified payments.

(2) A certificate is subject to:

(a) a condition that the entity must withhold from a payment covered by the certificate the amount (if any) worked out in accordance with the certificate in respect of tax that is or may become payable by a foreign resident to whom the payment is made; and

(b) such other conditions as the certificate specifies.

However, the entity does not contravene subsection 12-330(1) because it contravenes a condition.

(3) The Commissioner may, by written notice given to the entity:

(a) revoke a certificate, whether or not a condition of it has been contravened; or

(b) vary a certificate by revoking, changing or adding to its conditions.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

[The next Division is Division 14.]

Division 14—Non-cash benefits for which amounts must be paid to the Commissioner

Table of sections

14-1	Object of this Division
14-5	Provider of non-cash benefit must pay amount to the Commissioner if payment would be subject to withholding
14-10	Dividend, interest or royalty received, for a foreign resident, in the form of a non-cash benefit
14-15	Payer can recover amount paid to the Commissioner

14-1 Object of this Division

The object of this Division is:

(a) to put entities that provide *non-cash benefits, and entities that receive them, in a position similar to their position under Division 12 if payments of money had been made instead of the non-cash benefits being provided; and

(b) in that way, to prevent entities from avoiding their obligations under Division 12 by providing non-cash benefits.

14-5 Provider of non-cash benefit must pay amount to the Commissioner if payment would be subject to withholding

(1) An entity (the ***payer***) must pay an amount to the Commissioner before providing a *non-cash benefit to another entity (the ***recipient***) if Division 12 would require the payer to withhold an amount (the ***notionally withheld amount***) if, instead of providing the benefit to the recipient, the payer made a payment to the recipient in money equal to the *market value of the benefit when the benefit is provided.

(2) The amount to be paid to the Commissioner is equal to the notionally withheld amount.

Example: Nick is a building contractor who has entered into a voluntary agreement with Mike for the purposes of section 12-55. Nick proposes

to give Mike his old utility van (whose market value is $1,000) as payment for work Mike has done for him over a fortnight.

If Nick were instead to pay Mike $1,000, Nick would have had to withhold $203 under Division 12 (in accordance with withholding rates current at the time).

This section requires Nick to pay $203 to the Commissioner before giving the van to Mike.

(3) This section does not apply to providing:

(a) a *fringe benefit; or

(b) a benefit that is an exempt benefit under the *Fringe Benefits Tax Assessment Act 1986*; or

(c) a benefit that would be an exempt benefit under that Act if paragraphs (d) and (e) of the definition of ***employer*** in subsection 136(1) of that Act were omitted; or

(d) a benefit constituted by the acquisition of a share or right under an employee share scheme (within the meaning of Division 13A of Part III of the *Income Tax Assessment Act 1936*).

14-10 Dividend, interest or royalty received, for a foreign resident, in the form of a non-cash benefit

If:

(a) an entity (the ***payer***) receives in the form of a *non-cash benefit:

(i) a *dividend of a company; or

(ii) interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*); or

(iii) a *royalty; and

(b) section 12-215, 12-250 or 12-285 would have required the payer to withhold an amount if the dividend, interest or royalty had been a payment in money;

the payer must pay that amount to the Commissioner before providing the benefit (or part of it) to another entity.

14-15 Payer can recover amount paid to the Commissioner

(1) The payer may recover from the recipient as a debt an amount that the payer has paid to the Commissioner under section 14-5.

(2) If the payer has paid an amount to the Commissioner under section 14-10, the payer may:

(a) if the payer has provided all of the benefit to another entity—recover the amount from that other entity as a debt; or

(b) if the payer has provided a part of the benefit to another entity—recover from that other entity as a debt the corresponding proportion of the amount paid to the Commissioner.

(3) If the payer can recover an amount from another entity under this section, the payer is entitled to set the amount off against debts due by the payer to the other entity.

[The next Division is Division 16.]

Division 16—Payer's obligations and rights

Table of Subdivisions

Guide to Division 16

16-A To withhold

16-B To pay withheld amounts to the Commissioner

16-C To provide information

16-D Additional rights and obligations of entity that makes a dividend, interest or royalty payment

Guide to Division 16

16-1 What this Division is about

This Division sets out the obligations and rights of an entity required to withhold an amount under Division 12, or to pay an amount to the Commissioner under Division 14.

Note: The entity may also have obligations under other legislation. See, for example, the obligation to keep records under section 262A of the *Income Tax Assessment Act 1936*.

Subdivision 16-A—To withhold

Table of sections

When and how much to withhold

16-5 When to withhold an amount

16-10 How much to withhold

16-15 Variation of amounts required to be withheld

16-20 Payer discharged from liability to recipient for amount withheld

Penalties for not withholding

16-25 Failure to withhold: offence

16-30 Failure to withhold: civil penalty for entity other than exempt Australian government agency
16-35 Failure to withhold: civil penalty for exempt Australian government agency in relation to payment other than dividend, interest or royalty
16-40 Failure to withhold: civil penalty for exempt Australian government agency in relation to dividend, interest or royalty payment
16-45 Remission of penalty under section 16-30, 16-35 or 16-40
16-50 General interest charge on unpaid penalty

When and how much to withhold

16-5 When to withhold an amount

If Division 12 requires an entity to withhold an amount from a payment, the entity must do so when making the payment.

Note 1: An entity is required to withhold an amount under section 12-145 when an investor becomes presently entitled to income of a unit trust.

Note 2: If section 12-215, 12-250 or 12-285 requires an entity to withhold an amount from a payment received by the entity, the entity must do so immediately after receiving the payment.

16-10 How much to withhold

(1) The amount that Division 12 requires to be withheld from a payment (except one covered by section 12-325) is to be worked out under the regulations.

(2) Regulations made for the purposes of this section may deal differently with different payments.

Note: The Commissioner may vary an amount required to be withheld. See section 16-15.

16-15 Variation of amounts required to be withheld

(1) The Commissioner may, for the purposes of meeting the special circumstances of a particular case or class of cases, vary the *amount required to be withheld by an entity from a *withholding payment (except a withholding payment covered by section 12-140 or 12-145). If the Commissioner does so, the amount is varied accordingly.

Note: Section 12-140 is about a payment arising from an investment where the recipient does not quote its tax file number (or, in some cases, its

ABN). Section 12-145 is about an investor becoming presently entitled to income of a unit trust.

(2) The Commissioner's power to vary an amount includes the power to reduce the amount to nil.

(3) A variation must be made by a written notice:

(a) if it applies to a particular entity— that is given to that entity; or

(b) if it applies to a class of entities—that is given to each of the entities, or a copy of which is published in the *Gazette*.

16-20 Payer discharged from liability to recipient for amount withheld

An entity that:

(a) withholds an amount as required by Division 12; or

(b) pays to the Commissioner an amount as required by Division 14;

is discharged from all liability to pay or account for that amount to any entity except the Commissioner.

Note: The entity may be required to refund the amount in some circumstances. See Subdivision 18-B.

Penalties for not withholding

16-25 Failure to withhold: offence

(1) An entity must not fail to withhold an amount as required by Division 12.

Penalty: 10 penalty units.

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: See sections 16-30, 16-35 and 16-40 for an alternative civil penalty.

(2) An entity must not fail to pay to the Commissioner an amount as required by Division 14.

Penalty: 10 penalty units.

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: See sections 16-30, 16-35 and 16-40 for an alternative civil penalty.

(3) An offence against subsection (1) or (2) is a strict liability offence.

(4) If a person is convicted of an offence in relation to:

(a) a failure by that person or someone else to withhold an amount as required by Division 12; or

(b) a failure by that person or someone else to pay to the Commissioner an amount as required by Division 14;

the court may order the convicted person to pay to the Commissioner an amount up to the *amount required to be withheld. The court may so order in addition to imposing a penalty on the convicted person.

16-30 Failure to withhold: civil penalty for entity other than exempt Australian government agency

(1) An entity (except an *exempt Australian government agency) that:

(a) fails to withhold an amount as required by Division 12; or

(b) fails to pay an amount to the Commissioner as required by Division 14;

is liable to pay to the Commissioner a penalty (the ***penalty amount***) equal to that amount.

(2) The penalty amount is due at the time when the entity would have had to pay to the Commissioner the amount referred to in subsection (1).

Note: An entity may become liable under this section in respect of a payment it made or received that is taken to have been subject to withholding tax as a result of a Commissioner's determination under subsection 177F(2A) of the *Income Tax Assessment Act 1936* (see also subsection 177F(2F) of that Act).

16-35 Failure to withhold: civil penalty for exempt Australian government agency in relation to payment other than dividend, interest or royalty

(1) An *exempt Australian government agency that:

(a) fails to withhold an amount as required by Division 12; or

(b) fails to pay to the Commissioner an amount as required by Division 14;

is liable to pay to the Commissioner a penalty of 20 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

(2) The Commissioner must give written notice to the agency about its liability under this section. The notice may be included in any other notice the Commissioner gives to the agency.

(3) The penalty becomes due for payment on the day specified in the notice, which must be at least 14 days after the notice is given to the agency.

Exception

(4) This section does not apply in relation to an *amount required to be withheld from a *withholding payment covered by Subdivision 12-F (about dividend, interest or royalty payment).

16-40 Failure to withhold: civil penalty for exempt Australian government agency in relation to dividend, interest or royalty payment

(1) An *exempt Australian government agency that:

(a) fails to withhold an amount as required by Division 12 from a *withholding payment covered by Subdivision 12-F (about dividend, interest or royalty payment); or

(b) fails to pay to the Commissioner an amount as required by Division 14 in respect of a withholding payment covered by that Subdivision;

is liable to pay to the Commissioner a penalty (the ***penalty amount***) equal to that amount.

(2) The penalty amount is due at the time when the entity would have had to pay to the Commissioner the *amount required to be withheld.

Note: An entity may become liable under this section in respect of a payment it made or received that is taken to have been subject to withholding tax as a result of a Commissioner's determination under subsection 177F(2A) of the *Income Tax Assessment Act 1936* (see also subsection 177F(2F) of that Act).

16-45 Remission of penalty under section 16-30, 16-35 or 16-40

(1) The Commissioner may remit all or a part of a penalty under section 16-30, 16-35 or 16-40.

(2) If the Commissioner decides:

(a) to remit only part of a penalty; or

(b) not to remit any part of a penalty;

the Commissioner must give written notice of the decision to the entity liable to pay the penalty.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

16-50 General interest charge on unpaid penalty

If a penalty under section 16-30, 16-35 or 16-40 remains unpaid after it is due, the entity liable to pay the penalty amount is liable to pay *general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the penalty amount was due to be paid; and

(b) finishes at the end of the last day, at the end of which, any of the following remains unpaid:

(i) the penalty amount;

(ii) general interest charge on any of the penalty amount.

Subdivision 16-B—To pay withheld amounts to the Commissioner

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16-70 Entity to pay amounts to Commissioner
16-75 When amounts must be paid to Commissioner
16-80 Penalty for failure to pay within time
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Who is a large, medium or small withholder

16-95 Meaning of *large withholder*
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16-120 When certain amounts must be paid to the Commissioner
16-125 Meaning of *large withholder*
16-130 When and how some large withholders must pay amounts for July and August 2000
16-135 Meaning of *medium withholder*

When and how to pay amounts to the Commissioner

16-70 Entity to pay amounts to Commissioner

(1) An entity that withholds an amount under Division 12 must pay the amount to the Commissioner in accordance with this Subdivision.

(2) An entity required to pay an amount to the Commissioner under Division 14 must pay that amount to the Commissioner in accordance with this Subdivision (except sections 16-75 and 16-80).

16-75 When amounts must be paid to Commissioner

Large withholder

(1) A *large withholder must pay to the Commissioner as shown in the table an amount it withholds under Division 12 during a month.

Payments by large withholders

Item	If the amount is withheld on this day of week:	It must be paid to the Commissioner on or before:
1	Saturday or Sunday	The second Monday after that day
2	Monday or Tuesday	The first Monday after that day
3	Wednesday	The second Thursday after that day

Payments by large withholders		
Item	**If the amount is withheld on this day of week:**	**It must be paid to the Commissioner on or before:**
4	Thursday or Friday	The first Thursday after that day

Note: A different rule applies for certain kinds of amounts withheld during 2000-01. See section 16-120.

Medium withholders

(2) A *medium withholder must pay to the Commissioner an amount that it withholds during a month under Division 12 by the end of the 21st day of the next month.

Small withholders

(3) If a *small withholder withholds an amount under Division 12 during a month in a *quarter, it must pay the amount to the Commissioner by the end of the 21st day of the month after the end of that quarter.

Note: A different rule applies for certain kinds of amounts withheld during 2000-01. See section 16-120.

16-80 Penalty for failure to pay within time

If an amount that an entity must pay to the Commissioner under subsection 16-70(1) remains unpaid after the time by which it is due to be paid, the entity is liable to pay *general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the unpaid amount was due to be paid; and

(b) finishes at the end of the last day, at the end of which, any of the following remains unpaid:

(i) the unpaid amount;

(ii) general interest charge on any of the unpaid amount.

16-85 How amounts are to be paid

Large withholder

(1) A *large withholder must pay to the Commissioner by a means of *electronic payment:

(a) an amount that it withholds under Division 12; and

(b) an amount that it pays to the Commissioner under Division 14.

Note: A different rule applies for some large withholders for July and August 2000. See section 16-130.

Medium or small withholder

(2) A *medium withholder or *small withholder must pay to the Commissioner:

(a) any amount that it withholds under Division 12; and

(b) any amount that it pays to the Commissioner under Division 14;

by a means of *electronic payment, or any other means approved in writing by the Commissioner.

Commissioner may vary payment method

(3) The Commissioner may, with an entity's agreement, vary the means by which the withholder pays amounts to the Commissioner under this Subdivision. The variation must be by written notice given to the entity.

16-90 Large withholder: penalty for non-electronic payment

(1) A *large withholder that pays an amount by a means that does not comply with this Division is liable to a penalty of 5 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Remission

(2) However, the Commissioner may remit all or a part of the penalty amount.

(3) If the Commissioner decides:

(a) to remit only part of a penalty amount; or

(b) not to remit any part of a penalty amount;

the Commissioner must give written notice of the decision to the entity liable to pay the penalty amount.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

(4) The Commissioner must give written notice to the *large withholder about its liability under this section. The notice may be included in any other notice the Commissioner gives to the large withholder.

(5) The penalty becomes due for payment on the day specified in the notice, which must be at least 14 days after the notice is given to the *large withholder.

General interest charge

(6) If any of the penalty remains unpaid after it is due, the *large withholder is liable to pay the *general interest charge on the unpaid penalty amount for each day in the period that:

(a) started at the beginning of the day by which the penalty amount was due to be paid; and

(b) finishes at the end of the last day, at the end of which, any of the following remains unpaid:

(i) the penalty amount;

(ii) general interest charge on any of the penalty amount.

Exception

(7) This section does not apply if:

(a) the *large withholder is an *exempt Australian government agency; or

(b) the Commissioner has varied under section 16-85 the means by which the large withholder pays amounts to the Commissioner.

Who is a large, medium or small withholder

16-95 Meaning of *large withholder*

(1) An entity is a ***large withholder*** for a particular month (the ***current month***) in a *financial year starting on or after 1 July 2001 if:

(a) it was a *large withholder for June 2001 because of section 16-125; or

(b) the *amounts withheld by the entity during a financial year ending at least 2 months before the current month exceeded $1 million; or

(c) both of the following apply:

(i) at the end of a financial year (the ***threshold year***) ending at least 2 months before the current month, the entity was one of a number of companies that were at that time all members of the same *wholly-owned group;

(ii) the amounts withheld by those companies during the threshold year exceeded $1 million; or

(d) the Commissioner determines under section 16-115 that the entity is a large withholder for the current month.

Note: Different rules apply for working out who is a large withholder for a month in 2000-01. See section 16-125.

Exception

(2) However, the entity is not a *large withholder if the Commissioner determines under section 16-110 that it is a *medium withholder or a *small withholder for the current month.

16-100 Meaning of *medium withholder*

(1) An entity is a ***medium withholder*** for a particular month (the ***current month***) in a *financial year starting on or after 1 July 2001 if it is not a *large withholder for that month and:

(a) it was a *medium withholder for June 2001 because of section 16-135; or

(b) the *amounts withheld by the entity during a financial year ending before the current month exceeded $25,000; or

(c) the Commissioner determines under section 16-110 or 16-115 that the entity is a medium withholder for the current month.

Note: Different rules apply for working out who is a large withholder for a month in 2000-01. See section 16-125.

(2) However, the entity is not a *medium withholder if the Commissioner determines under section 16-110 or 16-115 that the entity is a *large withholder or a *small withholder for the current month.

16-105 Meaning of *small withholder*

An entity is a ***small withholder*** for a particular month if:

(a) there is at least one *amount withheld by the entity during that month; and

(b) the entity is neither a *large withholder nor a *medium withholder for that month.

16-110 Commissioner may vary withholder's status downwards

(1) The Commissioner may, by giving written notice to a *withholder:

(a) make the following determinations:

(i) a determination that a *large withholder is a *medium withholder or a *small withholder;

(ii) a determination that a medium withholder is a small withholder; or

(b) revoke or vary any such determination.

(2) The notice must state that the determination applies:

(a) for specified months; or

(b) for all months from and including a specified month.

(3) The determination has no effect for a particular month unless the notice is given before that month.

(4) An entity that would otherwise be a *large withholder or a *medium withholder for a particular month may apply in writing to the Commissioner for a determination under this section.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

16-115 Commissioner may vary withholder's status upwards

(1) The Commissioner may, by giving written notice to a *withholder:

(a) make the following determinations:

(i) a determination that a *small withholder is a *medium withholder or a *large withholder;

(ii) a determination that a medium withholder is a large withholder; or

(b) revoke or vary any such determination.

(2) The notice must state that the determination applies:

(a) for specified months; or

(b) for all months from and including a specified month.

(3) A determination that a *small withholder is a *medium withholder has no effect for a particular month unless the notice is given before that month.

(4) Any other determination under this section has no effect for a month that is earlier than the second month after the month in which the notice is given.

(5) The Commissioner may, in making a determination under this section, have regard to the following:

(a) the sum of the amounts that the Commissioner considers to be likely to be the *amounts required to be withheld by the entity in the following 12 months;

(b) the extent (if any) to which the entity makes or receives *withholding payments that were previously made or received by another entity;

(c) any failure by the entity to comply with its obligations under this Part;

(d) any *arrangement that was entered into or carried out for the purpose of lengthening the intervals at which the entity is required to pay to the Commissioner amounts withheld from withholding payments;

(e) such other matters as the Commissioner considers relevant.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

Special rules for 2000-01

16-120 When certain amounts must be paid to the Commissioner

If an entity withholds an amount under a provision listed in the table during a month in the *financial year starting on 1 July 2000, it must pay the amount to the Commissioner by the end of the 21st day of the next month.

Provisions under which amounts are withheld during 2000-01

Item	Provision	Subject matter
1	Section 12-140	Payment arising from investment: recipient does not quote tax file number
2	Section 12-145	Investor becoming presently entitled to income of a unit trust
3	Section 12-210	Dividend payment to overseas person
4	Section 12-215	Dividend payment received for a foreign resident
5	Section 12-245	Interest payment to overseas person
6	Section 12-250	Interest payment received for a foreign resident
7	Section 12-255	Interest payment derived by lender in carrying on business through overseas permanent establishment
8	Section 12-280	Royalty payment to overseas person
9	Section 12-285	Royalty payment received for a foreign resident
10	Section 12-320	Mining payment
11	Section 12-325	Natural resource payment

16-125 Meaning of *large withholder*

(1) An entity is a ***large withholder*** for a particular month (the ***current month***) in the *financial year starting on 1 July 2000 if:

(a) the entity was a large remitter in relation to June 2000 because of section 220AAB of the *Income Tax Assessment Act 1936*; or

(b) the total of the deductions that the entity made under Division 2 of Part VI of that Act for the financial year ending on 30 June 2000 exceeded $1 million; or

(c) the total of the entity's *labour hire notional withheld amounts (see subsections (2) to (4)) exceed $1 million; or

(d) at the end of 30 June 2000 the entity was included in a company group as defined in section 220AAI of that Act, and:

(i) the total of the deductions under Division 2 of Part VI of that Act, for the financial year ending on that day, made by the entities that were included in that company group at the end of that day, exceeded $1 million; or

(ii) the total of the labour hire notional withheld amounts (see subsections (2) to (4)) of entities that were included in that company group at the end of that day exceed $1 million; or

(e) the Commissioner determines under section 16-115 that the entity is a large withholder for the current month.

Meaning of labour hire notional withheld amount

(2) If during the *financial year ending on 30 June 2000 an entity made a payment from which section 12-60 (about payments under labour hire arrangements) would have required it to withhold an amount (if that section had applied to payments made during that financial year), that amount is a ***labour hire notional withheld amount*** of the entity.

(3) If:

(a) during the *financial year ending on 30 June 2000 an entity provided a *non-cash benefit to an individual; and

(b) section 12-60 (about payments under labour hire arrangements) would have required the entity to withhold an amount if:

(i) instead of providing the benefit, the entity had paid the individual the *market value of the benefit; and

(ii) that section had applied to payments made during that financial year;

that amount is a ***labour hire notional withheld amount*** of the entity.

(4) For the purposes of subsections (2) and (3), disregard paragraph 12-60(b) (which allows the scope of section 12-60 to be extended by regulations).

Exception

(5) However, an entity is not a *large withholder for a month if the Commissioner determines under section 16-110 that it is a *medium withholder or a *small withholder for that month.

16-130 When and how some large withholders must pay amounts for July and August 2000

(1) This section applies to an entity that is a *large withholder for July or August 2000 (otherwise than because of paragraph 16-125(1)(a)).

(2) The entity must pay to the Commissioner an amount that it withholds during that month under Division 12 by the end of the 21st day after the end of that month.

(3) The entity must pay to the Commissioner:

(a) any amount that it withholds under Division 12 during that month; and

(b) any amount that it pays to the Commissioner under Division 14 during that month;

by a means of *electronic payment, or any other means approved in writing by the Commissioner.

16-135 Meaning of *medium withholder*

(1) An entity is a ***medium withholder*** for a particular month (the ***current month***) in the *financial year starting on 1 July 2000 if the entity is not a *large withholder for that month and:

(a) the entity:

(i) was a medium remitter in relation to June 2000 because of section 220AAJ of the *Income Tax Assessment Act 1936*; and

(ii) would still have been a medium remitter in relation to June 2000 because of that section if the only deductions

taken into account under that section were deductions made under Division 2 of Part VI of that Act; or

(b) the total of the deductions that the entity made under Division 2 of Part VI of that Act for the *financial year ending on 30 June 2000 exceeded $25,000; or

(c) the Commissioner determines under section 16-110 or 16-115 that the entity is a medium withholder for the current month.

(2) However, the entity is not a *medium withholder if the Commissioner determines under section 16-110 or 16-115 that the entity is a *large withholder or a *small withholder for the current month.

Subdivision 16-C—To provide information

Table of sections

To the Commissioner

16-150 Commissioner must be notified of amounts

To recipients of withholding payments

16-155 Annual payment summary
16-160 Part-year payment summary
16-165 Payment summary for eligible termination payment
16-170 Form and content of payment summary
16-175 Penalty for not providing payment summary

To the Commissioner

16-150 Commissioner must be notified of amounts

(1) An entity that must pay an amount to the Commissioner under:

(a) subsection 16-70(1) (about amounts withheld under Division 12); or

(b) Division 14 (about payments in respect of non-cash benefits);

must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is

paid). The notification must be in the *approved form and lodged with the Commissioner.

(2) If the entity fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the entity is liable to pay the *failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:

(a) started at the beginning of the day by which the amount was due to be paid; and

(b) finishes at the end of the day before the Commissioner receives notification from the entity, or otherwise becomes aware, of the correct amount.

To recipients of withholding payments

16-155 Annual payment summary

(1) Within 14 days after the end of a *financial year, an entity (the ***payer***) must give a *payment summary (and a copy of it) to another entity (the ***recipient***) if:

(a) during the year the payer made one or more *withholding payments (other than withholding payments covered by section 12-85, 12-215, 12-250 or 12-285) to the recipient; or

(b) during the year the payer received one or more withholding payments covered by section 12-215, 12-250 or 12-285 and, in relation to each of them, the recipient is the foreign resident mentioned in the section; or

(c) the recipient is an individual and has a *reportable fringe benefits amount, for the income year ending at the end of that financial year, in respect of his or her employment (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) by the payer.

(2) The *payment summary must cover:

(a) if paragraph (1)(a) or (b) applies—each of the *withholding payments mentioned in that paragraph, except one covered by a previous payment summary (and a copy of it) given by the payer to the recipient under section 16-160; and

(b) if paragraph (1)(c) applies—the *reportable fringe benefits amount, except so much of it as is covered by a previous

payment summary (and a copy of it) given by the payer to the recipient under this section.

16-160 Part-year payment summary

(1) An entity (the ***payer***) must give a *payment summary (and a copy of it) to another entity (the ***recipient***) if, not later than 21 days before the end of a *financial year, the recipient asks in writing for a payment summary covering:

(a) one or more *withholding payments (other than withholding payments covered by section 12-85, 12-215, 12-250 or 12-285) that the payer made to the recipient during the year; or

(b) one or more withholding payments covered by section 12-215, 12-250 or 12-285, or a part of each such payment, that the payer received during the year for the recipient, if the recipient is the foreign resident mentioned in the section;

other than a payment covered by a previous payment summary (and a copy of it) given under this section.

(2) The payer must comply with the request within 14 days after receiving it, unless the recipient is an individual and has a *reportable fringe benefits amount, for the income year ending at the end of that *financial year, in respect of his or her employment (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) by the payer.

16-165 Payment summary for eligible termination payment

Within 14 days after an entity (the ***payer***) makes a *withholding payment covered by section 12-85 (about *eligible termination payments) to another entity (the ***recipient***), the payer must give the recipient a *payment summary (and a copy of it) that covers that payment. (The summary must cover only that payment.)

16-170 Form and content of payment summary

(1) A ***payment summary*** is a written statement that:

(a) names the payer and the recipient; and

(b) if the recipient has given the recipient's *tax file number or *ABN to the payer—states the tax file number or ABN; and

(c) states the total of the *withholding payments (if any) that it covers, and the total of the *amounts withheld by the payer from those withholding payments; and

(d) specifies the *financial year in which the withholding payments were made; and

(e) specifies the *reportable fringe benefits amount (if any) that it covers and the income year to which that amount relates; and

(f) includes other information that the Commissioner requires to be included in the payment summary.

(2) The Commissioner may, in writing, require particular information to be included in a *payment summary or a class of payment summaries.

(3) A *payment summary may consist of 2 or more statements that each complies with subsection (1) and together cover what section 16-155, 16-160 or 16-165 (as appropriate) requires the payment summary to cover.

(4) The Commissioner may vary any requirements under subsection (1), (2) or (3) by written notice given to an entity. The Commissioner may do so in such instances and to such extent as the Commissioner thinks fit.

16-175 Penalty for not providing payment summary

An entity must not fail to comply with any requirements under section 16-155, 16-160 or 16-165, or subsection 16-170(1), (2) or (3) (including any requirements varied by the Commissioner under subsection 16-170(4)).

Penalty: 20 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Subdivision 16-D—Additional rights and obligations of entity that makes a dividend, interest or royalty payment

Table of sections

16-195 Payer's right to recover amounts of penalty: withholding tax and mining withholding tax
16-200 Payer's liability and right: additional withholding tax

16-195 Payer's right to recover amounts of penalty: withholding tax and mining withholding tax

An entity that has paid an amount of penalty under section 16-30, 16-35 or 16-40 for a *withholding payment covered by:

(a) Subdivision 12-F (about a dividend, interest or royalty payment); or

(b) section 12-320 (about a mining payment);

may recover an amount equal to the amount of penalty from the person liable to pay the *withholding tax, or *mining withholding tax, for the withholding payment.

Note Sections 16-30, 16-35 and 16-40 provide for a civil penalty for failing to comply with Division 12 or 14.

16-200 Payer's liability and right: additional withholding tax

Penalty

(1) An entity that is required:

(a) to withhold an amount from a *withholding payment covered by Subdivision 12-F (about dividend, interest or royalty payment); or

(b) to pay to the Commissioner an amount under Division 14 for a withholding payment covered by that Subdivision;

must pay to the Commissioner an amount of penalty equal to the amount of penalty that a taxpayer is liable to pay under subsection 226(1A) of the *Income Tax Assessment Act 1936* in relation to that withholding payment.

Note: Subsection 226(1A) of the *Income Tax Assessment Act 1936* requires a taxpayer to pay additional withholding tax following a calculation of the taxpayer's withholding tax liability that takes into account determinations made under subsection 177F(2A) of that Act.

(2) The amount is due at the time when the taxpayer becomes liable to pay the penalty.

(3) If the entity pays the amount to the Commissioner, it may recover an amount equal to that amount from the taxpayer.

General interest charge

(4) If any of the amount payable by the entity under this section remains unpaid after it is due, the entity is liable to pay *general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the amount was due to be paid; and

(b) finishes at the end of the last day, at the end of which, any of the following remains unpaid:

(i) the amount;

(ii) general interest charge on any of the amount.

[The next Division is Division 18.]

Division 18—Recipient's entitlements and obligations

Table of Subdivisions

18-A Crediting withheld amounts against liability for income tax, withholding tax or mining withholding tax

18-B Refund of certain withheld amounts

18-C Recipient's obligations

Subdivision 18-A—Crediting withheld amounts against liability for income tax, withholding tax or mining withholding tax

Guide to Subdivision 18-A

18-1 What this Subdivision is about

In general, an entity:

- that receives a withholding payment (except one covered by section 12-215, 12-250 or 12-285); or
- that is the foreign resident for which a withholding payment covered by section 12-215, 12-250 or 12-285 (or a part of it) is received;

is entitled to a credit for the amount withheld from the withholding payment.

However, if that entity is a partnership or trust, a partner, beneficiary or trustee may be entitled to the credit.

This Subdivision tells you:

- who is entitled to a credit; and
- how to work out the amount of the credit.

How a credit is applied is set out in Division 3 of Part IIB.

Table of sections

General exception

18-5 No credit for refunded amount

Entitlement to credits: income tax liability

18-10 Application of sections 18-15, 18-20 and 18-25
18-15 Tax credit for recipient of withholding payments
18-20 Tax credit where recipient is a partnership
18-25 Tax credit where recipient is a trust

Entitlement to credits: dividend, interest or royalty

18-30 Credit: dividend, interest or royalty
18-35 Credit: penalty under section 16-30 or 16-40 or related general interest charge
18-40 Credit: liability under section 16-200

Entitlement to credit: mining payment

18-45 Credit—mining payment

[This is the end of the Guide.]

General exception

18-5 No credit for refunded amount

A person is *not* entitled to a credit under this Subdivision for an *amount withheld from a *withholding payment to the extent that the amount must be refunded under Subdivision 18-B.

Entitlement to credits: income tax liability

18-10 Application of sections 18-15, 18-20 and 18-25

The rules set out in sections 18-15, 18-20 and 18-25 do *not* apply to an *amount withheld from a *withholding payment that is

covered by Subdivision 12-F (about dividend, interest or royalties) or section 12-320 (about mining payments).

18-15 Tax credit for recipient of withholding payments

A person is entitled to a credit equal to the total of the *amounts withheld from *withholding payments made to the person during an income year if:

(a) an assessment has been made of the income tax payable by the person for the income year; or

(b) the Commissioner is satisfied that no income tax is payable by the person for the income year.

18-20 Tax credit where recipient is a partnership

(1) A person is entitled to a credit in respect of *amounts withheld from *withholding payments made to a partnership during an income year if:

(a) the person has an individual interest in the net income or partnership loss of the partnership for that income year that is wholly or partly attributable to those withholding payments; and

(b) the *income tax return of the partnership for the income year has been lodged with the Commissioner; and

(c) either an assessment has been made of the tax payable by the person for the income year, or the Commissioner is satisfied that no tax is payable.

(2) The amount of the credit is worked out using the formula:

$$\text{Amounts withheld} \times \frac{\text{Individual interest}}{\text{Net income/partnership loss}}$$

where:

amounts withheld means the sum of the *amounts withheld from the *withholding payments.

individual interest means so much of the individual interest of the partner as is attributable to the *withholding payments.

net income/partnership loss means so much of the net income or partnership loss for that income year as is attributable to the *withholding payments.

18-25 Tax credit where recipient is a trust

(1) A person is entitled under subsection (2), (4), (6) or (8) to a credit in respect of *amounts withheld (the ***amounts withheld***) from *withholding payments made to the trustee of a trust during an income year.

Trust—section 97

(2) A beneficiary of the trust is entitled to a credit if:

(a) an amount is included in the assessable income of the beneficiary under section 97 of the *Income Tax Assessment Act 1936* in respect of a share of the net income of the trust; and

(b) the share is wholly or partly attributable to the *withholding payments; and

(c) either an assessment has been made of the tax payable by the beneficiary for the income year, or the Commissioner is satisfied that no tax is payable.

(3) The amount of the credit is worked out using the formula:

$$\text{Amounts withheld} \times \frac{\text{Share of net income}}{\text{Net income}}$$

where:

net income means so much of the net income as is attributable to the *withholding payments.

share of net income means so much of that share of the net income as is attributable to the *withholding payments.

Trust—section 98

(4) The trustee of the trust is entitled to a credit if:

(a) under section 98 of the *Income Tax Assessment Act 1936* the trustee is liable to be assessed, and to pay tax, on an amount

in respect of a share of the net income of the trust to which a beneficiary is presently entitled; and

(b) the share is wholly or partly attributable to the *withholding payments; and

(c) either an assessment has been made of that tax, or the Commissioner is satisfied that no tax is payable.

(5) The amount of the credit is worked out using the formula:

$$\text{Amounts withheld} \times \frac{\text{Share of net income}}{\text{Net income}}$$

where:

net income means so much of the net income as is attributable to the *withholding payments.

share of net income means so much of that share of the net income as is attributable to the *withholding payments.

Trust—section 99 or 99A

(6) The trustee of the trust is entitled to a credit under this subsection if:

(a) under section 99 or 99A of the *Income Tax Assessment Act 1936*, the trustee is liable to be assessed, and to pay tax, on the net income of the trust, or on part of it; and

(b) the net income or that part of it is wholly or partly attributable to the *withholding payments; and

(c) either an assessment has been made of that tax, or the Commissioner is satisfied that no tax is payable.

(7) The amount of the credit is worked out using the formula:

$$\text{Amounts withheld} \times \frac{\text{Part of net income}}{\text{Net income}}$$

where:

net income means so much of the net income as is attributable to the *withholding payments.

part of net income means so much of the net income, or of that part of it, as is attributable to the *withholding payments.

Trust—no net income

(8) If there is no net income of the trust for the income year, the trustee is entitled to a credit equal to the sum of the *amounts withheld from the *withholding payments.

Entitlement to credits: dividend, interest or royalty

18-30 Credit: dividend, interest or royalty

(1) A person is entitled to a credit if:

(a) the person's *ordinary income or *statutory income includes a *dividend (or a part of it), interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) or a *royalty; and

(b) the person has borne all or part of an *amount withheld from the dividend, interest or royalty.

(2) The amount of the credit is that amount or part.

Note: A taxpayer may also be entitled to a credit in relation to payment of interest under, or in relation to the transfer of, a qualifying security. See section 221YSA of the *Income Tax Assessment Act 1936*.

18-35 Credit: penalty under section 16-30 or 16-40 or related general interest charge

(1) If an entity has paid:

(a) an amount of penalty under section 16-30 or 16-40 to the Commissioner for a *withholding payment covered by Subdivision 12-F; or

(b) an amount of *general interest charge under section 16-50 for the penalty;

the person liable to pay the *withholding tax for the withholding payment is entitled to a credit equal to the amount of penalty, or general interest charge, as appropriate.

Remission

(2) If:

(a) an entity has paid to the Commissioner an amount of penalty mentioned in paragraph (1)(a); and

(b) the Commissioner remits the whole or a part of the amount of the penalty under section 16-45;

then:

(c) any credit under subsection (1) relating to the amount paid to the Commissioner is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

(3) If:

(a) an entity has paid to the Commissioner an amount of *general interest charge mentioned in paragraph (1)(b); and

(b) the Commissioner remits the whole or a part of the amount of the charge under section 8AAG;

then:

(c) any credit under subsection (1) relating to the amount is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

18-40 Credit: liability under section 16-200

(1) If an entity has paid to the Commissioner:

(a) an amount under subsection 16-200(1) in relation to a penalty payable under subsection 226(1A) of the *Income Tax Assessment Act 1936* for a *withholding payment; or

(b) an amount of *general interest charge under subsection 16-200(4) in relation to that amount;

the person liable to pay the *withholding tax for that withholding payment is entitled to a credit equal to the amount paid by the entity.

Remission

(2) If:

(a) an entity has paid an amount under subsection 16-200(1) in relation to a penalty mentioned in paragraph(1)(a); and

(b) the Commissioner remits the whole or a part of the amount of the penalty under subsection 227(3) of the *Income Tax Assessment Act 1936*;

then:

(c) any credit under subsection (1) relating to the amount paid by the entity is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

(3) If:

(a) an entity has paid to the Commissioner an amount of *general interest charge mentioned in paragraph (1)(b); and

(b) the Commissioner remits the whole or a part of the amount of the charge under section 8AAG;

then:

(c) any credit under subsection (1) relating to the amount is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

Entitlement to credit: mining payment

18-45 Credit—mining payment

Credit—amount withheld

(1) If there is an *amount withheld from a *withholding payment that is covered by section 12-320 (mining payment):

(a) if paragraph (b) does not apply—the person liable to pay *mining withholding tax under section 128V of the *Income Tax Assessment Act 1936* on the payment is entitled to a credit of an amount equal to the amount withheld; or

(b) if, under subsection 128U(4) of that Act, separate mining payments are taken to have been made to, or applied for the benefit of, 2 or more persons because of that payment—each of those persons is entitled to a credit equal to the amount worked out using the formula:

$$\text{The amount withheld} \times \frac{1}{\text{Number of those persons}}$$

Credit—penalty amount

(2) If an entity has paid to the Commissioner a penalty amount under section 16-30 or 16-35 in relation to an *amount required to be withheld under section 12-320 (mining payment):

(a) if paragraph (1)(a) applies—the person mentioned in that paragraph is entitled to a credit equal to the penalty amount; or

(b) if paragraph (1)(b) applies—each of the persons mentioned in that paragraph is entitled to a credit of an amount worked out using the formula:

$$\text{The penalty amount} \times \frac{1}{\text{Number of those persons}}$$

Remission

(3) If the Commissioner remits the whole or a part of the amount of penalty under section 16-45 that has been paid to the Commissioner by the entity:

(a) any credit that relates to the amount is reduced by the amount that is remitted; and

(b) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

Subdivision 18-B—Refund of certain withheld amounts

Table of sections

18-65 Refund of withheld amounts by the payer to the recipient
18-70 Refund of withheld amounts by the Commissioner to the recipient
18-75 Refund of withheld amounts relating to eligible termination payment
18-80 Refund by Commissioner of amount withheld from payment in respect of investment

18-65 Refund of withheld amounts by the payer to the recipient

(1) An entity (the ***payer***) must refund to another entity (the ***recipient***) an amount if:

(a) the payer:

(i) withheld the amount purportedly under Division 12 from a payment made to, or received for, the recipient (whether the amount has been paid to the Commissioner or not); or

(ii) paid the amount to the Commissioner purportedly under Division 14 for a *non-cash benefit provided to, or received for, the recipient; and

(b) the amount was so withheld, or paid to the Commissioner, in error; and

(c) either:

(i) the payer becomes aware of the error; or

(ii) the recipient applies to the payer for the refund;

before the end of 21 July in the financial year after the one in which the amount was so withheld or paid to the Commissioner; and

(d) any information requested by the payer under subsection (3) has been given to the payer, or the time for making the request (see subsection (4)) has passed without such a request being made.

(2) The amount that must be refunded under subsection (1) is a debt recoverable by the recipient from the payer.

Request for tax file number (or in some cases, ABN)

(3) The payer may request the recipient to give to the payer:

(a) in any case—the recipient's *tax file number; or

(b) in any case—evidence of the basis on which the recipient is taken to have quoted its tax file number to the payer; or

(c) if the payment or *non-cash benefit was in respect of a *Part VA investment made by the recipient in the course or furtherance of an *enterprise carried on by it—the recipient's *ABN;

if:

(d) the payment or non-cash benefit was in respect of Subdivision 12-B (payments for work or services) or 12-C (retirement payments and eligible termination payments) or 12-D (benefits and compensation payments) or section 12-140 or 12-145 (recipient does not quote tax file number or ABN); and

(e) when the application for the refund is made, or when the payer otherwise becomes aware of the error, the payer has a record of none of the following:

(i) the recipient's tax file number;

(ii) the basis on which the recipient is taken to have quoted the tax file number to the payer;

(iii) if paragraph (c) applies—the recipient's ABN.

When must the request be made

(4) The request must be made within 7 working days (of the payer) after the payer receives the application for the refund or after the payer otherwise becomes aware of the error (as appropriate).

Recovery of refunded amount

(5) If a payer refunds an amount under subsection (1), the payer may recover from the Commissioner as a debt due to the payer so much of the amount:

(a) which is withheld as mentioned in subparagraph (1)(a)(i) and paid to the Commissioner, or which is paid to the Commissioner as mentioned in subparagraph (1)(a)(ii); and

(b) which the payer has not recorded as being offset under subsection (6).

Offsetting a refunded amount

(6) If:

(a) a payer refunds an amount (the ***refunded amount***) under subsection (1); and

(b) the amount withheld as mentioned in subparagraph (1)(a)(i) that the payer has paid to the Commissioner, or the amount paid to the Commissioner as mentioned in subparagraph (1)(a)(ii), is equal to all or a part of the refunded amount; and

(c) apart from this subsection, the payer would be required to pay to the Commissioner another amount or amounts under Division 14 or subsection 16-70(1) (the ***payment to the Commissioner***); and

(d) the payer records in writing that it offsets all or a part of the amount paid to the Commissioner (as mentioned in paragraph (b)) against the payment to the Commissioner;

the payment to the Commissioner is reduced by so much of the amount as the payer so recorded as being offset.

(7) The payer must not record that it offsets any part of an amount that:

(a) the payer has previously recorded under subsection (6); or

(b) the payer has sought to recover from the Commissioner under subsection (5).

18-70 Refund of withheld amounts by the Commissioner to the recipient

(1) An entity (the ***recipient***) may apply in writing to the Commissioner for the refund of an amount if:

(a) another entity (the ***payer***):

(i) withheld an amount purportedly under Division 12 from a payment made to, or received for, the recipient; or

(ii) paid to the Commissioner an amount purportedly under Division 14 for a *non-cash benefit provided to, or received for, the recipient; and

(b) the amount was so withheld, or paid to the Commissioner, in error; and

(c) section 18-65 does not apply because the payer did not become aware of the error, or the recipient did not apply for a refund, as mentioned in subsection 18-65(1); and

(d) if subparagraph (a)(i) applies—the payer has already paid the withheld amount to the Commissioner.

(2) The Commissioner must refund the amount if the application sets out:

(a) if the recipient has a *tax file number—that tax file number; or

(b) if the recipient does not have a tax file number but was taken to have quoted a tax file number to the payer before the amount was withheld or paid to the Commissioner—the basis on which the recipient was taken to have quoted the tax file number; or

(c) if the payment or *non-cash benefit was in respect of a *Part VA investment made by the recipient in the course or furtherance of an *enterprise carried on by it—the recipient's *ABN;

and the Commissioner is satisfied that it would be fair and reasonable to refund the amount, having regard to:

(d) the circumstances that gave rise to the withholding obligation (if any); and

(e) the nature of the error; and

(f) any other matter the Commissioner considers relevant.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

18-75 Refund of withheld amounts relating to eligible termination payment

(1) The Commissioner must refund all or part of an *amount withheld from a *withholding payment covered by section 12-85 (about eligible termination payment) if:

(a) the Commissioner is satisfied that an amount (the ***applied amount***) that is the whole or a part of the *eligible termination payment:

(i) is taken to have been rolled-over for the purposes of Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936*; or

(ii) will be taken to have been rolled-over because of an amount or amounts being paid to a person or persons (the ***payee*** or ***payees***) as mentioned in subsection 27A(12) of that Act; and

(b) if the applied amount is a part of the eligible termination payment—the withheld amount exceeds the amount that would have been the *amount required to be withheld if the eligible termination payment had not included the applied amount.

(3) The amount refundable is:

(a) if the applied amount is the whole of the *eligible termination payment—the *amount withheld from the *withholding payment; or

(b) if the applied amount is a part of the eligible termination payment—the excess referred to in paragraph (2)(b).

(4) The Commissioner must refund that amount:

(a) by paying the refundable amount to the recipient of the *eligible termination payment; or

(b) by paying to the recipient, and the payee or payees on behalf of the recipient, amounts equal in the aggregate to the refundable amount; or

(c) by paying to the payee or payees on behalf of the recipient the refundable amount, or amounts equal in the aggregate to the refundable amount;

as appropriate.

18-80 Refund by Commissioner of amount withheld from payment in respect of investment

The Commissioner must refund to an entity all or part of an *amount withheld from a *withholding payment covered by section 12-140 or 12-145 that was made to that entity if:

(a) the entity applies in writing for the refund; and

(b) the Commissioner is satisfied that the entity was entitled to give *the investment body a declaration under Division 5 of Part VA of the *Income Tax Assessment Act 1936* in relation to the *Part VA investment in respect of which the withholding payment was made, but did not do so; and

(c) the Commissioner is also satisfied it is fair and reasonable to make the refund, having regard to the purposes of this Part and any other matters that the Commissioner considers appropriate.

Note: A person who is dissatisfied with a decision under this section may object against the decision in the manner set out in Part IVC.

Subdivision 18-C—Recipient's obligations

18-100 Obligation to keep payment summary

An entity that is given a *payment summary and a copy of it in any financial year under this Part must retain that copy for 5 years after the end of that year.

Penalty: 30 penalty units.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

[The next Division is Division 20.]

Division 20—Other matters

Table of Subdivisions

20-A How this Part applies to certain entities

20-B Offences

20-C Commissioner's power to obtain information and evidence

20-D Review of decisions

Subdivision 20-A—How this Part applies to certain entities

Table of sections

20-5 Partnerships
20-10 Unincorporated companies
20-15 Superannuation funds

20-5 Partnerships

(1) This Part applies to a partnership as if the partnership were a person, but with the changes set out in this section.

(2) An obligation that would otherwise be imposed on the partnership under this Part:

(a) is imposed on each partner instead; but

(b) may be discharged by any of the partners.

(3) The partners are jointly and severally liable to pay an amount that would otherwise be payable by the partnership under this Part.

(4) An offence against this Part that would otherwise be committed by the partnership is taken to have been committed by each partner who:

(a) aided, abetted, counselled or procured the relevant act or omission; or

(b) was in any way knowingly concerned in, or party to the relevant act or omission (whether directly or indirectly or whether by any act or omission of the partner).

20-10 Unincorporated companies

(1) This Part applies to a company that is not incorporated as if the company were a person, but with the changes set out in this section.

(2) An obligation that would otherwise be imposed on the company under this Part:

(a) is imposed on each member of the committee of management of the company instead; but

(b) may be discharged by any of those members.

(3) An offence against this Part that would otherwise be committed by the company is taken to have been committed by each member of the committee of management of the company who:

(a) aided, abetted, counselled or procured the relevant act or omission; or

(b) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).

20-15 Superannuation funds

If a *superannuation fund does not have a trustee of the fund, then, for the purposes of this Part:

(a) the person who manages the fund is taken to be the trustee of the fund; or

(b) each of the persons who manage the fund is taken to be a trustee of the fund.

Note: The trustee of a superannuation fund is an entity. See subsection 960-100(2) of the *Income Tax Assessment Act 1997*.

Subdivision 20-B—Offences

Table of sections

20-35 Offences
20-40 Joining of charges

20-35 Offences

(1) A person must not:

(a) present a document issued by the Commissioner that specifies a person (the ***specified person***); and

(b) falsely pretend to be the specified person with the intention of obtaining under this Part a credit for, or a payment of, an *amount withheld from a *withholding payment.

(2) A person must not attempt to obtain for the person a credit under this Part for an *amount withheld from a *withholding payment if:

(a) the payment is not covered by section 12-215, 12-250 or 12-285 and was made to another person; or

(b) the payment is covered by section 12-215, 12-250 or 12-285 and the person is not the foreign resident in respect of which all or a part of the payment is received as mentioned in that section.

(3) A person must not, with the intention of obtaining a credit, a payment or any other benefit, present:

(a) a copy of a *payment summary; or

(b) a document purporting to be a copy of a payment summary;

which is not a copy duly given to the person.

Penalty: 60 penalty units, or imprisonment for 12 months, or both.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

20-40 Joining of charges

(1) Charges against the same person for a number of offences against this Part may be joined in one complaint, information or summons if those charges:

(a) are founded on the same facts; or

(b) form a series of offences of the same or a similar character; or

(c) are part of a series of offences of the same or similar character.

(2) Particulars of each offence charged must be set out in a separate paragraph if 2 or more of the charges are included in the same complaint, information or summons.

(3) If the charges are joined, the charges must be tried together unless the court:

(a) considers it just that any of the charges should be tried separately; and

(b) makes an order to that effect.

(4) If a person is convicted of 2 or more of the offences:

(a) the court may impose one penalty for both or all of those offences; but

(b) the penalty must not exceed the sum of the maximum penalties that could be imposed in respect of each offence separately.

Subdivision 20-C—Commissioner's power to obtain information and evidence

20-60 Commissioner's power

(1) The Commissioner may require any person:

(a) to give information to the Commissioner covering any matters relevant to the administration or operation of this Part; and

(b) to attend and to give evidence before the Commissioner or an officer authorised by the Commissioner covering any matters relevant to the administration or operation of this Part; and

(c) to produce any documents in the person's custody or under the person's control that relate to these matters.

(2) The Commissioner may require the information or evidence:

(a) to be given on oath; and

(b) to be given orally or in writing.

For that purpose, the Commissioner or the officer may administer an oath.

(3) The regulations may prescribe scales of expenses to be allowed to persons required to attend before the Commissioner or the officer.

Subdivision 20-D—Review of decisions

20-80 Reviewable decisions

A person who is dissatisfied with any of the following decisions of the Commissioner may object against the decision in the manner set out in Part IVC.

Reviewable decisions

Item	Description
1	Decision not to give a certificate under subsection 12-335(1) exempting an entity from notifying the Commissioner about a natural resource payment
5	Decision to revoke a certificate under subsection 12-335(3)
10	Decision to vary a certificate under subsection 12-335(3)
15	Decision under section 16-45 (about the remission of all or a part of a penalty payable under section 16-30, 16-35 or 16-40)
20	Decision under section 16-90 (about the remission of all or a part of the penalty that a *large withholder is liable to pay because of subsection 16-90(1))
25	Refusal to determine under subsection 16-110(1) that a large withholder is a *medium withholder or a *small withholder for a particular month or particular months
30	Refusal to determine under subsection 16-110(1) that a medium withholder is a small withholder for a particular month or particular months
35	Decision to revoke a determination made under subsection 16-110(1)
40	Decision to vary a determination made under subsection 16-110(1) for a particular month or particular months
45	Determination under subsection 16-115(1) that a small withholder is a medium withholder or a large withholder for a particular month or particular months
50	Determination under subsection 16-115(1) that a medium withholder is a large withholder
55	Decision not to revoke a determination made under subsection 16-115(1)
60	Decision not to vary a determination made under subsection 16-115(1) for a particular month or particular months
65	Decision not to refund an amount under section 18-70

Reviewable decisions	
Item	**Description**
70	Decision not to refund an amount under section 18-80

Part 2-10—Pay as you go (PAYG) instalments

Division 45—Instalment payments

Table of Subdivisions

Guide to Division 45

45-A Basic rules

45-B When instalments are due

45-C Working out instalment amounts

45-D Quarterly payers who pay on the basis of GDP-adjusted notional tax

45-E Annual payers

45-F Varying the instalment rate for quarterly instalments

45-G General interest charge payable in certain cases if instalments are too low

45-H Partnership income

45-I Trust income

45-J How Commissioner works out your instalment rate and notional tax

45-K How Commissioner works out your benchmark instalment rate and benchmark tax

45-L How Commissioner works out amount of quarterly instalment on basis of GDP-adjusted notional tax

Guide to Division 45

45-1 What this Division is about

If you have business or investment income, you must pay instalments towards your income tax liability: usually within 21 days after the end of each quarter. If you are not registered for GST

purposes, you may be able to choose to pay an annual instalment on 21 October after the end of the income year.

You do not have to pay instalments unless the Commissioner has given you an instalment rate.

The amount of a quarterly instalment is worked out by multiplying your instalment income for the quarter by the rate the Commissioner gave you, or by a rate you choose yourself. If you are an individual who is not registered for GST purposes, you may be able to choose to have the amount of your instalment worked out on the basis of your previous year's income tax liability and notified to you by the Commissioner.

The amount of an annual instalment can be your instalment income for the income year multiplied by the rate the Commissioner gave you; or an amount based on your previous year's income tax liability and notified to you by the Commissioner; or your own estimate of your income tax liability for the income year.

Subdivision 45-A—Basic rules

Table of sections

45-5 Object of this Part
45-10 Application of Part
45-15 Liability for instalments
45-20 Information to be given to the Commissioner
45-25 Penalty for failure to notify Commissioner
45-30 Credit for instalments payable

45-5 Object of this Part

The object of this Part is to ensure the efficient collection of:

(a) income tax; and

(b) Medicare levy; and

(c) amounts of liabilities to the Commonwealth under Chapter 5A of the *Higher Education Funding Act 1988*.

45-10 Application of Part

This Part applies to individuals, companies, and the entities listed in items 3 and 4, and 6 to 12, of the table in section 9-1 of the *Income Tax Assessment Act 1997* (which lists the entities that must pay income tax).

Note: This Part applies to a trustee covered by item 5 in that table only to the extent set out in section 45-300.

45-15 Liability for instalments

(1) The Commissioner may give you an instalment rate from time to time, by giving you written notice of the rate.

(2) You are liable to pay instalments under this Division if the Commissioner has given you an instalment rate.

Note 1: The instalment rate that the Commissioner gives you is worked out under section 45-320.

Note 2: If your assessable income has always consisted wholly of withholding payments (other than non-quotation withholding payments), the Commissioner will not give you an instalment rate.

Note 3: Work out the amount of your instalments under Subdivision 45-C.

Note 4: If the Commissioner withdraws the rate under section 45-90, you are not liable to pay further instalments.

45-20 Information to be given to the Commissioner

(1) If you are liable to pay an instalment for a period (even if it is a nil amount), you must notify the Commissioner of the amount of your *instalment income for the period.

(2) You must notify the Commissioner in the *approved form and on or before the day when the instalment is due (regardless of whether it is paid).

Exceptions

(3) Subsection (1) does not apply to:

(a) a quarterly instalment worked out under section 45-112 (on the basis of GDP-adjusted notional tax); or

(b) an annual instalment, unless it is worked out under paragraph 45-115(1)(a) (based on the Commissioner's rate and your instalment income for the income year).

45-25 Penalty for failure to notify Commissioner

If you fail to notify the Commissioner of an amount as required by section 45-20, or you notify an amount that is less than the correct amount, you are liable to pay the *failure to notify penalty on the amount, or on the shortfall, multiplied by the instalment rate that you are required to use to work out the instalment for the period, for each day in the period that:

(a) started at the beginning of the day by which the amount was due to be paid; and

(b) finishes at the end of the day before you notify the Commissioner of the correct amount, or he or she otherwise becomes aware of it.

45-30 Credit for instalments payable

(1) You are entitled to a credit when the Commissioner:

(a) makes an assessment of the income tax you are liable to pay for an income year; or

(b) determines that you do not have a taxable income for an income year, or that no income tax is payable on it.

(2) The credit is equal to:

- the total of each instalment payable by you for the income year (even if you have not yet paid it);

reduced by:

- the total of each credit that you have claimed under section 45-215 in respect of such an instalment.

Note: You can claim a credit under section 45-215 in certain cases where you choose a rate for working out an instalment.

(3) The making of the assessment or determination, and the resulting credit entitlement, do not affect the liability to pay an instalment.

Note: How the credit is applied is set out in Division 3 of Part IIB.

Subdivision 45-B—When instalments are due

Table of sections

45-50 Liability to pay first instalment
45-55 Subsequent quarterly instalments
45-60 When quarterly instalments are due
45-65 Subsequent annual instalments
45-70 When annual instalments are due
45-72 Electronic payment
45-75 Instalments recoverable in same way as income tax
45-80 General interest charge on late payment
45-85 Commissioner may extend time for payment
45-90 Commissioner may withdraw instalment rate

45-50 Liability to pay first instalment

(1) Your first instalment is payable:

(a) for the *instalment quarter in which the Commissioner first gives you an instalment rate (even if it is not the first instalment quarter in an income year); or

(b) if at the end of that quarter you become an *annual payer under Subdivision 45-E—for the income year in which the Commissioner first gives you an instalment rate;

unless the Commissioner withdraws your instalment rate under section 45-90 during that quarter or income year.

(2) However, if paragraph (1)(b) applies but during a later *instalment quarter in that income year you stop being an *annual payer under section 45-150, your first instalment is payable for that later instalment quarter, unless the Commissioner withdraws your instalment rate under section 45-90 during it.

45-55 Subsequent quarterly instalments

If you are liable to pay an instalment for an *instalment quarter, you are liable to pay an instalment for the next one unless:

(a) at the end of that next instalment quarter you become an *annual payer under Subdivision 45-E; or

(b) during that next quarter the Commissioner withdraws your instalment rate under section 45-90.

45-60 When quarterly instalments are due

(1) If your income year ends on 30 June, the table sets out your ***instalment quarters*** and the days on which the instalments for those quarters are due:

Instalment quarters: entity with 1 July to 30 June income year		
Item	**For the *quarter ending on:**	**The instalment is due on or before the next:**
1	30 September	21 October
2	31 December	21 January
3	31 March	21 April
4	30 June	21 July

(2) If your income year ends on a day other than 30 June:

(a) your first ***instalment quarter*** consists of the first 3 months of the income year; and

(b) your second ***instalment quarter*** consists of the fourth, fifth and sixth months of the income year; and

(c) your third ***instalment quarter*** consists of the seventh, eighth and ninth months of the income year; and

(d) your fourth ***instalment quarter*** consists of the tenth, 11th and 12th months of the income year.

(3) If subsection (2) applies, an instalment for an *instalment quarter is due on or before the 21st day of the month after the end of that quarter.

45-65 Subsequent annual instalments

If you are liable to pay an instalment for an income year (the ***previous year***), you must pay an instalment for the next income year unless:

(a) during the previous year you stopped being an *annual payer because of section 45-150, 45-155 or 45-180; or

(b) during that next income year the Commissioner withdraws your instalment rate under section 45-90.

Note 1: Sections 45-150 and 45-180 cover cases where an annual payer becomes registered for GST, becomes a partner in a partnership that is registered for GST, is a partner in a partnership that becomes registered for GST, becomes a participant in a GST joint venture, or becomes a company group member.

Note 2: Section 45-155 covers cases where an annual payer's notional tax is $8,000 or more, or the entity chooses to pay quarterly.

45-70 When annual instalments are due

(1) This section applies if you are liable to pay an annual instalment for the 2002-03 income year or a later income year.

For an instalment you are liable to pay for 2000-01 or 2001-02, see section 45-170.

(2) If the income year ends on 30 June, the instalment is due on or before the next 21 October.

(3) If the income year ends on a day other than 30 June, the instalment is due on or before the 21st day of the fourth month after the end of the income year.

45-72 Electronic payment

You must pay an instalment by *electronic payment if you are required to pay by electronic payment the amount of any other liability to the Commissioner that is due on the same day as the instalment.

45-75 Instalments recoverable in same way as income tax

Instalments are to be treated as income tax for the purposes of sections 208, 209, 214, 254, 255, 258 and 259 of the *Income Tax Assessment Act 1936*.

45-80 General interest charge on late payment

If you fail to pay some or all of an instalment by the time by which the instalment is due to be paid, you are liable to pay the *general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the instalment was due to be paid; and

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

(i) the instalment;

(ii) general interest charge on any of the instalment.

45-85 Commissioner may extend time for payment

(1) The Commissioner may, in a particular case, grant such extension of time for payment of an instalment as he or she considers the circumstances warrant.

(2) If the Commissioner grants an extension of time under subsection (1), the instalment is due to be paid on or before the day or days specified by the Commissioner.

45-90 Commissioner may withdraw instalment rate

(1) The Commissioner may:

(a) by giving you written notice, withdraw your instalment rate; or

(b) by notice published in the *Gazette*, withdraw the instalment rate of a class of entities that includes you.

Note: If the Commissioner does so, you are not liable to pay further instalments (even if you have chosen a rate under section 45-205). See paragraphs 45-55(b) and 45-65(b).

(2) If the Commissioner withdraws your instalment rate and later gives you another one, your first instalment after the withdrawal is payable under section 45-50 as if it were your first instalment, and as if that rate were your first instalment rate.

Subdivision 45-C—Working out instalment amounts

Table of sections

45-110 How to work out amount of quarterly instalment

45-112 Amount of instalment for quarterly payer who pays on basis of GDP-adjusted notional tax

45-115 How to work out amount of annual instalment

45-120 Meaning of *instalment income*

45-110 How to work out amount of quarterly instalment

(1) Work out the amount of an instalment you are liable to pay for an *instalment quarter as follows:

Applicable instalment rate × Your * instalment income for that quarter

(2) For the purposes of the formula in subsection (1):

Applicable instalment rate means:

(a) unless paragraph (b) or (c) applies—the most recent instalment rate given to you by the Commissioner under section 45-15 before the end of that quarter; or

(b) if you have chosen an instalment rate for that quarter under section 45-205—that rate; or

(c) if you have chosen an instalment rate under section 45-205 for an earlier *instalment quarter in that income year (and paragraph (b) does not apply)—that rate.

Note: If you believe the Commissioner's rate is not appropriate for the current income year, you may choose a different instalment rate under Subdivision 45-F.

45-112 Amount of instalment for quarterly payer who pays on basis of GDP-adjusted notional tax

(1) If at the end of an *instalment quarter in an income year you are a *quarterly payer who pays on the basis of GDP-adjusted notional tax, the amount of your instalment for that quarter is the amount notified to you by the Commissioner before the end of that quarter.

Note: The Commissioner works out that amount under Subdivision 45-L.

(2) If the Commissioner notifies you of the amount of the instalment *after* the end of that quarter, the instalment is due on or before the 21st day after the day on which the notice is given.

45-115 How to work out amount of annual instalment

(1) The amount of an instalment you are liable to pay for the 2002-03 income year or a later income year is whichever of the following you choose:

(a) the amount worked out using the formula:

$$\text{*Commissioner's instalment rate} \times \text{Your * instalment income for the income year}$$

(b) your most recent *notional tax notified by the Commissioner before the end of the income year under subsection 45-320(5);

(c) the amount that you estimate will be your *benchmark tax for the income year.

Note 1: You cannot choose a different instalment rate under Subdivision 45-F if you are an annual payer. Instead you can work out the amount of your instalment under paragraph (c).

Note 2: You may be liable to general interest charge under section 45-235 if working out your instalment under paragraph (c) leads you to pay an instalment that is less than 85% of your benchmark tax for the income year (worked out by the Commissioner under section 45-365).

For the amount of an instalment you are liable to pay for 2000-01 or 2001-02, see section 45-175.

(2) ***Commissioner's instalment rate*** for an income year means the most recent instalment rate given to you by the Commissioner before the end of the income year.

(3) If you choose to work out your instalment under paragraph (1)(c), you must notify the Commissioner, in the *approved form, of the amount of the instalment on or before the day when it is due.

45-120 Meaning of *instalment income*

General rule

(1) Your ***instalment income*** for a period includes your *ordinary income *derived during that period, but only to the extent that it is assessable income of the income year that is or includes that period.

Note 1: An amount of statutory income is not instalment income unless it is covered by another provision of this section or by Subdivision 45-H or 45-I.

Note 2: If during that period you are a partner in a partnership, or a beneficiary of a trust, your instalment income also includes some of the partnership's or trust's instalment income for the period. See Subdivision 45-H or 45-I.

Statutory income included for some entities

(2) The ***instalment income*** of:

(a) an eligible ADF (as defined in section 267 of the *Income Tax Assessment Act 1936*); or

(b) an eligible superannuation fund (as defined in that section); or

(c) a pooled superannuation trust (as defined in that section);

for a period also includes the entity's *statutory income, to the extent that:

(d) it is reasonably attributable to that period; and

(e) it is assessable income of the income year that is or includes that period.

Exclusion: amounts in respect of withholding payments

(3) Your ***instalment income*** for a period does *not* include amounts in respect of *withholding payments (except *non-quotation withholding payments) made to you during that period.

Farm management deposits: effect of making and repayment

(4) Your ***instalment income*** for a period is reduced (but not below nil) by a *farm management deposit made during that period, but only to the extent that, at the end of that period, you can reasonably expect to be able to deduct the deposit under section 393-10 in Schedule 2G to the *Income Tax Assessment Act 1936* for the income year that is or includes that period.

(5) Your ***instalment income*** for a period also includes an amount that section 393-15 in Schedule 2G to the *Income Tax Assessment Act 1936* includes in your assessable income, for the income year that is or includes that period, because of a repayment during that period of all or some of a *farm management deposit.

Instalment income of entity that is not liable for instalments

(6) An entity can have *instalment income for a period even if the entity is not liable to pay an instalment for that period.

Note: For example, although a partnership does not pay instalments, it is necessary to work out the partnership's instalment income in order to work out instalments payable by the partners. See Subdivision 45-H.

Subdivision 45-D—Quarterly payers who pay on the basis of GDP-adjusted notional tax

Table of sections

45-125 Choosing to pay quarterly instalments on basis of GDP-adjusted notional tax

45-130 Individual stops paying on basis of GDP-adjusted notional tax if he or she chooses to stop, or becomes GST registered

45-135 Individual stops paying on basis of GDP-adjusted notional tax if his or her notional tax is less than $8,000

45-125 Choosing to pay quarterly instalments on basis of GDP-adjusted notional tax

(1) You may choose to pay quarterly instalments on the basis of your *GDP-adjusted notional tax if you are an individual and, at the end of the first *instalment quarter in an income year for which you are liable to pay an instalment, you satisfy the following conditions:

(a) you are neither registered, nor *required to be registered, under Part 2-5 of the *GST Act; and

(b) you are not a partner in a partnership that is registered, or required to be registered, under that Part; and

(c) your most recent *notional tax notified by the Commissioner is $8,000 or more.

Note: This means that you cannot choose to pay quarterly instalments on the basis of your GDP-adjusted notional tax if you are eligible to pay annual instalments.

(2) You must make the choice by notifying the Commissioner, in the *approved form, on or before the day on which that instalment is due.

(3) You are a ***quarterly payer who pays on the basis of GDP-adjusted notional tax*** if you satisfy the conditions in subsection (1), and you choose to pay quarterly instalments on the basis of your *GDP-adjusted notional tax. You are taken to have become such a payer just before the end of that *instalment quarter.

Note: You stop being such a payer if section 45-130 or 45-135 applies to you.

45-130 Individual stops paying on basis of GDP-adjusted notional tax if he or she chooses to stop, or becomes GST registered

(1) You stop being a *quarterly payer who pays on the basis of GDP-adjusted notional tax if, during an *instalment quarter in an income year:

(a) you choose to stop being a *quarterly payer who pays on the basis of GDP-adjusted notional tax; or

(b) you become registered, or *required to be registered, under Part 2-5 of the *GST Act; or

(c) you become a partner in a partnership that is registered, or required to be registered, under that Part; or

(d) a partnership in which you are a partner becomes registered, or required to be registered, under that Part.

(2) You must work out the amount of your instalment for that *instalment quarter, and each later instalment quarter, under section 45-110 (on the basis of your instalment income and the applicable instalment rate).

(3) You may again become a *quarterly payer who pays on the basis of GDP-adjusted notional tax if:

(a) you again satisfy the conditions in section 45-125; and

(b) you again choose under that section to pay quarterly instalments on the basis of your *GDP-adjusted notional tax.

Note: You cannot so choose until the next income year.

45-135 Individual stops paying on basis of GDP-adjusted notional tax if his or her notional tax is less than $8,000

(1) If, during an income year the Commissioner notifies you of your *notional tax, and it is less than $8,000, you stop being a *quarterly payer who pays on the basis of GDP-adjusted notional tax at the start of the *next* income year.

(2) You must work out the amount of your instalment for the first *instalment quarter of that next income year, and each later instalment quarter, under section 45-110 (on the basis of your instalment income and the applicable instalment rate).

(3) You may again become a *quarterly payer who pays on the basis of GDP-adjusted notional tax if:

(a) you again satisfy the conditions in section 45-125; and

(b) you again choose under that section to pay quarterly instalments on the basis of your *GDP-adjusted notional tax.

Note: You can so choose on or before the day on which your first instalment for that next income year is due.

Subdivision 45-E—Annual payers

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When you start and stop being an annual payer

45-140 Choosing to pay annual instalments

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45-150 Entity that becomes GST registered, participant in GST joint venture, or company group member, stops being annual payer

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45-170 Due date for annual instalment

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45-180 Entity that becomes GST registered, participant in GST joint venture, or company group member stops being annual payer

When you start and stop being an annual payer

45-140 Choosing to pay annual instalments

(1) You may choose to pay instalments annually instead of quarterly if, at the end of the first *instalment quarter in an income year for which you would otherwise be liable to pay a quarterly instalment, you satisfy the following conditions:

(a) you are neither registered, nor *required to be registered, under Part 2-5 of the *GST Act; and

(b) you are not a partner in a partnership that is registered, or required to be registered, under that Part; and

(c) your most recent *notional tax notified by the Commissioner is less than $8,000; and

(d) in the case of a company—the company is not a *participant in a *GST joint venture under Division 51 of that Act; and

(e) in the case of a company—the company is not part of an *instalment group.

(2) You must make the choice by notifying the Commissioner, in the *approved form, on or before the day on which that instalment would otherwise be due.

(3) You are an ***annual payer*** if you satisfy the conditions in subsection (1), and you choose to pay instalments annually. You are taken to have become an ***annual payer*** at the end of that *instalment quarter.

Note: You stop being an annual payer if section 45-150, 45-155 or 45-180 applies to you.

45-145 Meaning of *instalment group*

(1) An ***instalment group*** consists of:

(a) a company:

(i) that has *majority control of at least one other company; but

(ii) of which no other company has *majority control; and

(b) any other company of which the first-mentioned company has *majority control.

(2) A company has ***majority control*** of another company if, and only if:

(a) the first company is in a position to cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the other company; or

(b) the first company has the power to appoint or remove the majority of the directors of the other company; or

(c) the other company is, or a majority of its directors are, accustomed or under an obligation, whether formal or informal, to act according to the directions, instructions or wishes of the first company.

45-150 Entity that becomes GST registered, participant in GST joint venture, or company group member, stops being annual payer

(1) You stop being an *annual payer if, during an *instalment quarter in the 2002-03 income year or a later income year:

(a) you become registered, or *required to be registered, under Part 2-5 of the *GST Act; or

(b) you become a partner in a partnership that is registered, or required to be registered, under that Part; or

(c) a partnership in which you are a partner becomes registered, or required to be registered, under that Part; or

(d) in the case of a company—the company becomes a *participant in a *GST joint venture under Division 51 of that Act; or

(e) in the case of a company—the company becomes part of an *instalment group.

Note: If one of those things happens in 2000-01 or 2001-02, see section 45-180.

(2) You must pay an instalment for that *instalment quarter, and later instalment quarters, in accordance with Subdivision 45-B.

(3) If the *instalment quarter referred to in subsection (1) is not the first one in the income year, you must also pay an annual instalment for that income year. The amount of the annual instalment is reduced (but not below nil) by the amount of each

instalment for an instalment quarter in that income year that you must pay under subsection (2).

(4) You may again become an *annual payer if:

(a) you again satisfy the conditions in section 45-140; and

(b) you again choose under that section to pay instalments annually.

45-155 Entity stops being annual payer if notional tax is $8,000 or more, or entity chooses to pay quarterly

(1) You stop being an *annual payer at the end of an income year if, during that income year:

(a) the Commissioner notifies you of your *notional tax, and it is $8,000 or more; or

(b) you choose to pay instalments quarterly instead of annually.

(2) You must pay an instalment for the first *instalment quarter of the *next* income year, and later instalment quarters, in accordance with Subdivision 45-B.

(3) You must still pay an annual instalment for the income year referred to in subsection (1).

(4) You may again become an *annual payer if:

(a) you again satisfy the conditions in section 45-140; and

(b) you again choose under that section to pay instalments annually.

Special rules for 2000-01 and 2001-02

45-170 Due date for annual instalment

(1) This section applies if you are liable to pay an annual instalment for the 2000-01 or 2001-02 income year.

(2) The instalment is due on or before a day that is notified to you in writing by the Commissioner and is at least 30 days after the Commissioner gives you the notice. If that day is earlier than 31 March in that income year, the instalment is due on or before that 31 March.

(3) However, in the case of an entity that is an instalment taxpayer for that income year (as defined by subsection 221AZK(1) of the *Income Tax Assessment Act 1936*), the instalment is due on or before the 15th day of the 6th month after the end of that income year.

45-175 Amount of annual instalment

(1) Unless subsection (2) applies, the amount of an annual instalment you are liable to pay for the 2000-01 or 2001-02 income year is whichever of the following you choose:

(a) your most recent *notional tax notified by the Commissioner at least 30 days before the day on which the instalment is due;

(b) the amount that you estimate will be your *benchmark tax for the income year.

Note: You may be liable to general interest charge under section 45-235 if working out your instalment under paragraph (b) leads you to pay an instalment that is less than 85% of your benchmark tax for the income year (worked out by the Commissioner under section 45-365).

(2) If an entity is an instalment taxpayer (as defined by subsection 221AZK(1) of the *Income Tax Assessment Act 1936*) for the 2000-01 or 2001-02 income year, the amount of an annual instalment that the entity is liable to pay for that income year is worked out under section 45-115, as if that section applied to that income year.

45-180 Entity that becomes GST registered, participant in GST joint venture, or company group member stops being annual payer

(1) You stop being an *annual payer if, during an *instalment quarter in the 2000-01 or 2001-02 income year:

(a) you become registered, or *required to be registered, under Part 2-5 of the *GST Act; or

(b) you become a partner in a partnership that is registered, or required to be registered, under that Part; or

(c) a partnership in which you are a partner becomes registered, or required to be registered, under that Part; or

(d) in the case of a company—the company becomes a *participant in a *GST joint venture under Division 51 of that Act; or

(e) in the case of a company—the company becomes part of an *instalment group.

(2) You must pay an instalment for the first *instalment quarter of the *next* income year, and later instalment quarters, in accordance with Subdivision 45-B.

(3) You must still pay an annual instalment for the income year referred to in subsection (1).

(4) You may again become an *annual payer if:

(a) you again satisfy the conditions in section 45-140; and

(b) you again choose under that section to pay instalments annually.

Subdivision 45-F—Varying the instalment rate for quarterly instalments

Table of sections

45-200 Application
45-205 Choosing a varied instalment rate
45-210 Notifying Commissioner of varied instalment rate
45-215 Credit on using varied rate in certain cases

45-200 Application

This Subdivision applies if you are a *quarterly payer.

45-205 Choosing a varied instalment rate

(1) You may choose an instalment rate for working out under section 45-110 the amount of your instalment for an *instalment quarter in an income year.

(2) If you do so, you must use that instalment rate to work out the amount of that instalment. (You cannot later choose another instalment rate for working out that amount.)

Note 1: If choosing a rate leads you to pay an instalment that is too low, you may be liable to general interest charge under section 45-230.

Note 2: If you choose a rate under this section, you must use it even if the Commissioner later gives you a new instalment rate.

(3) You must also use that instalment rate to work out the amount of the instalment that you are liable to pay for each later *instalment quarter in that income year, unless you choose another instalment rate under subsection (1) for working out that amount.

Note 1: If you choose a rate under this section, you must use it even if the Commissioner later gives you a new instalment rate.

Note 2: If a rate you have chosen for an instalment quarter is not appropriate for a later instalment quarter in the same income year, you should choose another rate under subsection (1) for the later quarter. If the earlier rate is too low, you may be liable to general interest charge under section 45-230.

(4) However, for working out under section 45-110 the amount of your instalment for an *instalment quarter in a later income year, you must use the most recent instalment rate given to you by the Commissioner before the end of that quarter, unless you again choose another instalment rate under subsection (1).

45-210 Notifying Commissioner of varied instalment rate

If you work out the amount of an instalment using an instalment rate you have chosen under section 45-205, you must specify that rate in the notice about your instalment income that you must give the Commissioner under section 45-20.

45-215 Credit on using varied rate in certain cases

(1) You are entitled to claim a credit if:

(a) the amount of your instalment for an *instalment quarter (the ***current quarter***) in an income year is to be worked out using an instalment rate you chose under section 45-205; and

(b) either:

(i) that rate is lower than the instalment rate you used to work out the amount of your instalment for the previous instalment quarter (if any) in the same income year; or

(ii) the amount of your instalment for a previous instalment quarter in the same income year was the amount

notified to you by the Commissioner under section 45-112 (because you were a quarterly payer on the basis of GDP-adjusted notional tax); and

(c) the amount worked out using the method statement is greater than nil.

Method statement

Step 1. Add up the instalments you are liable to pay for the earlier *instalment quarters in the income year (even if you have not yet paid all of them).

Step 2. Subtract from the step 1 amount each earlier credit that you have claimed under this section in respect of the income year.

Step 3. Multiply the total of your *instalment income for those earlier *instalment quarters by the instalment rate to be used for the current quarter.

Step 4. Subtract the step 3 amount from the step 2 amount.

Step 5. If the result is a positive amount, it is the amount of the credit you can claim.

(2) A claim for a credit must be made in the *approved form on or before the day on which the instalment for the current quarter is due.

Note: How the credit is applied is set out in Division 3 of Part IIB.

(3) The credit entitlement does not affect your liability to pay an instalment.

Subdivision 45-G—General interest charge payable in certain cases if instalments are too low

Table of sections

45-230 Liability to GIC on shortfall in quarterly instalment and on any excess credit under section 45-215
45-235 Liability to GIC on shortfall in annual instalment

45-240 Commissioner may remit general interest charge

45-230 Liability to GIC on shortfall in quarterly instalment and on any excess credit under section 45-215

(1) You are liable to pay the *general interest charge under this section if:

(a) you use an instalment rate (the ***varied rate***) under section 45-205 to work out the amount of your instalment for an *instalment quarter (the ***variation quarter***) in an income year; and

(b) the varied rate is less than 85% of your *benchmark instalment rate for that income year that the Commissioner works out under Subdivision 45-K.

(2) You are liable to pay the *general interest charge on the amount worked out as follows:

$$\left[\text{Rate discrepancy} \times \text{Your * instalment income for the variation quarter}\right] + \text{Credit Adjustment}$$

where:

rate discrepancy means the difference between the varied rate and the lesser of:

(a) the most recent instalment rate given to you by the Commissioner before the end of the variation quarter; and

(b) your *benchmark instalment rate for that income year.

credit adjustment means:

(a) if, as a result of using the varied rate for the variation quarter, you claimed a credit under section 45-215—the amount worked out as follows:

$$\text{Rate discrepancy} \times \text{Your * instalment income for the earlier instalment quarters in that income year}$$

or the amount of the credit, whichever is less; and

(b) otherwise—nil.

(3) You are liable to pay the charge for each day in the period that:

(a) started at the beginning of the day by which the instalment for the variation quarter was due to be paid; and

(b) finishes at the end of the earlier of the following days:

(i) the day on which your assessed tax for the income year is due to be paid;

(ii) the last day on which you pay any of that tax.

(4) The Commissioner must give you written notice of the *general interest charge to which you are liable under subsection (2). You must pay the charge within 14 days after the notice is given to you.

(5) If any of the *general interest charge to which you are liable under subsection (2) remains unpaid at the end of the 14 days referred to in subsection (4), you are also liable to pay the *general interest charge on the unpaid amount for each day in the period that:

(a) starts at the end of those 14 days; and

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

(i) the unpaid amount;

(ii) general interest charge on the unpaid amount.

45-235 Liability to GIC on shortfall in annual instalment

(1) You are liable to pay the *general interest charge under this section if:

(a) you choose to estimate the amount of your instalment (the ***estimated instalment amount***) for an income year under paragraph 45-115(1)(c) or 45-175(1)(b); and

(b) that amount is less than 85% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).

(2) If you estimated the amount of the instalment under paragraph 45-175(1)(b), you are liable to pay the *general interest charge on the difference between the estimated instalment amount and the lower of the following amounts:

(a) your most recent *notional tax notified by the Commissioner at least 30 days before the day on which the instalment was due;

(b) your *benchmark tax for the income year.

(3) If you estimated the amount of the instalment under paragraph 45-115(1)(c), you are liable to pay the *general interest charge on the difference between the estimated instalment amount and the lowest of the following amounts:

(a) the amount of your instalment worked out using the most recent instalment rate given to you by the Commissioner before the end of the income year;

(b) your most recent *notional tax notified by the Commissioner before the end of the income year under subsection 45-320(5);

(c) your *benchmark tax for the income year.

(4) You are liable to pay the charge for each day in the period that:

(a) started at the beginning of the day by which the instalment for the income year was due to be paid; and

(b) finishes at the end of the earlier of the following days:

(i) the day on which your assessed tax for the income year is due to be paid;

(ii) the last day on which you pay any of that tax.

(5) The Commissioner must give you written notice of the *general interest charge to which you are liable under subsection (2) or (3). You must pay the charge within 14 days after the notice is given to you.

(6) If any of the *general interest charge to which you are liable under subsection (2) or (3) remains unpaid at the end of the 14 days referred to in subsection (5), you are also liable to pay the *general interest charge on the unpaid amount for each day in the period that:

(a) starts at the end of those 14 days; and

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

(i) the unpaid amount;

(ii) general interest charge on the unpaid amount.

45-240 Commissioner may remit general interest charge

The Commissioner may, if he or she is satisfied that because special circumstances exist it would be fair and reasonable to do

so, remit the whole or any part of any *general interest charge payable under subsection 45-230(2) or subsection 45-235(2) or (3).

Subdivision 45-H—Partnership income

45-260 Instalment income for a period in which you are in a partnership

(1) Your ***instalment income*** for a period (the ***current period***) includes an amount for each partnership in which you are a partner at any time during the current period. The amount is worked out using the formula:

$$\frac{\text{Your assessable income from the partnership for the last income year}}{\text{Partnership's * instalment income for that income year}} \times \text{Partnership's *instalment income for the current period}$$

(2) For the purposes of the formula in subsection (1):

your assessable income from the partnership for the last income year means so much of your individual interest in the partnership's net income for an income year as was included by section 92 of the *Income Tax Assessment Act 1936* in your assessable income for the most recent income year:

(a) that ended before the start of the current period; and

(b) for which you have an assessment, or for which the Commissioner has notified you that you do not have a taxable income.

(3) However, if for any reason the component defined in subsection (2) does not exist or is a nil amount, or the partnership had no *instalment income for that income year, your ***instalment income*** for the current period includes, for that partnership, an amount that is fair and reasonable having regard to:

(a) the extent of your interest in the partnership during the current period; and

(b) the partnership's *instalment income for the current period; and

(c) any other relevant circumstances.

Subdivision 45-I—Trust income

Table of sections

Instalment income of trust beneficiary

45-280 Instalment income for a period in which you are a beneficiary of a trust

Application of Part to trustees

45-300 Trustees to whom this Part applies

Instalment income of trust beneficiary

45-280 Instalment income for a period in which you are a beneficiary of a trust

(1) Your ***instalment income*** for a period (the ***current period***) includes an amount for each trust of which you are a beneficiary at any time during the current period. The amount is worked out using the formula:

$$\frac{\text{Your assessable income from the trust for the last income year}}{\text{Trust's * instalment income for that income year}} \times \text{Trust's * instalment income for the current period}$$

(2) For the purposes of the formula in subsection (1):

your assessable income from the trust for the last income year means so much of a share of the net income of the trust for an income year as was included by Division 6 of Part III of the *Income Tax Assessment Act 1936* in your assessable income for the most recent income year:

(a) that ended before the start of the current period; and

(b) for which you have an assessment, or for which the Commissioner has notified you that you do not have a taxable income.

(3) However, if for any reason the component defined in subsection (2) does not exist or is a nil amount, or the trust had no *instalment

income for that income year, your ***instalment income*** for the current period includes, for that trust, an amount that is fair and reasonable having regard to:

(a) the extent of your interest in the trust, and your interest in the income of the trust, during the current period; and

(b) the trust's *instalment income for the current period; and

(c) any other relevant circumstances.

Application of Part to trustees

45-300 Trustees to whom this Part applies

(1) This Part applies to a trustee covered by any of items 6 to 12 in the table in section 9-1 of the *Income Tax Assessment Act 1997*.

(2) This Part also applies for an income year to the trustee of a trust if for the previous income year the trustee was liable to be assessed, and to pay tax, under section 98 (except subsection 98(3) or (4)) or section 99 or 99A of the *Income Tax Assessment Act 1936*.

Subdivision 45-J—How Commissioner works out your instalment rate and notional tax

Table of sections

45-320 Working out instalment rate
45-325 Working out your *notional tax*
45-330 Working out your *adjusted taxable income*
45-335 Working out your *adjusted withholding income*
45-340 *Adjusted tax* on adjusted taxable income or on adjusted withholding income

45-320 Working out instalment rate

(1) An instalment rate that the Commissioner gives you must be the percentage worked out to 2 decimal places (rounding up if the third decimal place is 5 or more) using the formula:

$$\frac{\text{Your * notional tax}}{\text{Base assessment instalment income}} \times 100$$

However, the instalment rate must be a nil rate if either component of the formula is nil.

(2) For the purposes of the formula in subsection (1):

base assessment instalment income means so much of your assessable income, as worked out for the purposes of the *base assessment, as the Commissioner determines is *instalment income for the *base year.

(3) The ***base assessment*** is the latest assessment for your most recent income year for which an assessment has been made. However, if the Commissioner is satisfied that there is a later income year for which you do not have a taxable income, the ***base assessment*** is the latest return or other information from which an assessment for that income year would have been made.

(4) The ***base year*** is the income year to which the *base assessment relates.

(5) When the Commissioner gives you the instalment rate, he or she must also notify you of the amount of your *notional tax, as worked out for the purposes of working out the instalment rate.

(6) The Commissioner may incorporate notice of the instalment rate and the amount of your *notional tax in notice of your assessment.

45-325 Working out your *notional tax*

Notional tax if you have no withholding income

(1) Your ***notional tax*** is your *adjusted tax (worked out under section 45-340) on your *adjusted taxable income (worked out under section 45-330) for the *base year.

Notional tax if you have withholding income

(2) However, your ***notional tax*** (as worked out under subsection (1)) is reduced if your assessable income for the *base assessment includes amounts in respect of *withholding payments (except *non-quotation withholding payments).

(3) It is reduced (but not below nil) by your *adjusted tax (worked out under section 45-340) on your *adjusted withholding income (worked out under section 45-335) for the *base year.

Commissioner may take into account effect of the law, as applying to income years after base year

(4) For the purposes of working out your *notional tax, the Commissioner may work out an amount as if provisions of an Act or regulations, as they may reasonably be expected to apply for the purposes of your assessment for a later income year, had applied for the purposes of the *base assessment.

Commissioner may take into account proposed changes to the law so as to reduce instalment rate

(5) For the purposes of working out your *notional tax, the Commissioner may work out an amount as if provisions of an Act or regulations that, in the Commissioner's opinion, are likely to be enacted or made had applied for the purposes of the *base assessment. But the Commissioner may do so only if, as a result, the instalment rate given to you is reduced.

45-330 Working out your *adjusted taxable income*

(1) Your ***adjusted taxable income*** for the *base year is your total assessable income for the *base assessment, reduced by:

(a) any *net capital gain included in that assessable income; and

(b) your deductions for the base year (except *tax losses), as used in making that assessment; and

(c) the amount of any tax loss, to the extent that you can carry it forward to the next income year.

Exception: superannuation entities and net capital gains

(2) Paragraph (1)(a) does not apply in the case of:

(a) an eligible ADF (as defined in section 267 of the *Income Tax Assessment Act 1936*) for the *base year; or

(b) an eligible superannuation fund (as defined in that section) for that year; or

(c) a pooled superannuation trust (as defined in that section) for that year.

45-335 Working out your *adjusted withholding income*

Your ***adjusted withholding income*** for the *base year is:

- the total of the amounts included in your assessable income for the *base assessment in respect of *withholding payments (except *non-quotation withholding payments);

reduced by:

- your deductions for that year, as used in making that assessment, to the extent that they reasonably relate to those amounts.

45-340 *Adjusted tax* on adjusted taxable income or on adjusted withholding income

Your ***adjusted tax*** on your *adjusted taxable income, or on your *adjusted withholding income, for the *base year is worked out as follows:

Method statement

Step 1. The income tax payable on your *adjusted taxable income, or on your *adjusted withholding income, for the *base year is worked out disregarding any *tax offset under:

(a) Subdivision 61-H of the *Income Tax Assessment Act 1997* (for a premium under a private health insurance policy); or

(b) section 159N of the *Income Tax Assessment Act 1936* (for certain low income individuals); or

(c) section 159T of the *Income Tax Assessment Act 1936* (for individuals who make superannuation contributions for a spouse).

Step 2.	The Medicare levy payable on your *adjusted taxable income, or on your *adjusted withholding income, for the *base year is worked out disregarding sections 8B, 8C, 8D, 8E, 8F and 8G of the *Medicare Levy Act 1986* (which increase Medicare levy in certain cases).
Step 3.	The amount (if any) that you would have been liable to pay for the *base year in respect of an accumulated HEC debt under the *Higher Education Funding Act 1988* if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year is worked out.
Step 4.	The results of steps 1, 2 and 3 are added together, and reduced by what would have been your *FTB amount (if any) for the *base year if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year. The result is your ***adjusted tax*** on your *adjusted taxable income, or on your *adjusted withholding income.

Subdivision 45-K—How Commissioner works out your benchmark instalment rate and benchmark tax

Table of sections

45-355 When Commissioner works out benchmark instalment rate and benchmark tax
45-360 How Commissioner works out *benchmark instalment rate*
45-365 Working out your *benchmark tax*
45-370 Working out your *adjusted assessed taxable income* for the variation year
45-375 *Adjusted assessed tax* on adjusted assessed taxable income

45-355 When Commissioner works out benchmark instalment rate and benchmark tax

(1) The Commissioner may work out your *benchmark instalment rate for an income year (the ***variation year***) if, under section 45-205, you choose an instalment rate to work out the amount of your instalment for an *instalment quarter in that year.

(2) The Commissioner may work out your *benchmark tax for an income year (the ***variation year***) if, under paragraph 45-115(1)(c) or 45-175(1)(b), you estimate the amount of your annual instalment for that year.

45-360 How Commissioner works out *benchmark instalment rate*

(1) Your ***benchmark instalment rate*** for the variation year is the percentage worked out to 2 decimal places (rounding up if the third decimal place is 5 or more) using the formula:

$$\frac{\text{Your * benchmark tax}}{\text{Variation year instalment income}} \times 100$$

However, your ***benchmark instalment rate*** is a nil rate if either component of the formula is nil.

(2) For the purposes of the formula in subsection (1):

variation year instalment income means so much of your assessable income for the variation year as the Commissioner determines is *instalment income for that year.

45-365 Working out your *benchmark tax*

Benchmark tax if you had no withholding income

(1) Your ***benchmark tax*** is your *adjusted assessed tax (worked out under section 45-375) on your *adjusted assessed taxable income (worked out under section 45-370) for the variation year.

Benchmark tax if you had withholding income

(2) However, your ***benchmark tax*** (as worked out under subsection (1)) is reduced if your assessable income for the variation year includes amounts in respect of *withholding payments.

(3) It is reduced (but not below nil) by the total amount of the credits to which you are entitled for the variation year under section 18-15 (for amounts withheld from withholding payments made to you during the variation year).

45-370 Working out your *adjusted assessed taxable income* for the variation year

(1) Your ***adjusted assessed taxable income*** for the variation year is your taxable income for the year, reduced by any *net capital gain included in your assessable income for the year.

Exception: superannuation entities and net capital gains

(2) In working out the ***adjusted assessed taxable income***, taxable income is not reduced by any *net capital gain in the case of:

(a) an eligible ADF (as defined in section 267 of the *Income Tax Assessment Act 1936*) for the variation year; or

(b) an eligible superannuation fund (as defined in that section) for the variation year; or

(c) a pooled superannuation trust (as defined in that section) for the variation year.

45-375 *Adjusted assessed tax* on adjusted assessed taxable income

Your ***adjusted assessed tax*** on your *adjusted assessed taxable income for the variation year is worked out as follows:

Method statement

Step 1. The income tax payable on your *adjusted assessed taxable income for the variation year is worked out disregarding any *tax offset under:

(a) Subdivision 61-H of the *Income Tax Assessment Act 1997* (for a premium under a private health insurance policy); or

(b) section 159N of the *Income Tax Assessment Act 1936* (for certain low income individuals); or

(c) section 159T of the *Income Tax Assessment Act 1936* (for individuals who make superannuation contributions for a spouse).

Step 2.	The Medicare levy payable on your *adjusted assessed taxable income for the variation year is worked out disregarding sections 8B, 8C, 8D, 8E, 8F and 8G of the *Medicare Levy Act 1986* (which increase Medicare levy in certain cases).
Step 3.	The amount (if any) that you would have been liable to pay for the variation year in respect of an accumulated HEC debt under the *Higher Education Funding Act 1988* if your taxable income for that year had been your *adjusted assessed taxable income for that year is worked out.
Step 4.	The results of steps 1, 2 and 3 are added together, and reduced by what would have been your *FTB amount (if any) for the variation year if your taxable income for that year had been your *adjusted assessed taxable income for that year. The result is your ***adjusted assessed tax*** on your *adjusted assessed taxable income for the variation year.

Subdivision 45-L—How Commissioner works out amount of quarterly instalment on basis of GDP-adjusted notional tax

Table of sections

45-400 Working out amount of instalment
45-405 Working out your *GDP-adjusted notional tax*

45-400 Working out amount of instalment

The Commissioner must work out in accordance with the table an amount that he or she notifies to you under section 45-112 as the amount of your instalment for an *instalment quarter in an income year (the ***current year***).

Amount of quarterly instalment worked out on basis of GDP-adjusted notional tax		
Item	**If the instalment quarter is:**	**The amount of the instalment is:**
1	the first in that income year for which you are liable to pay an instalment	25% of your *GDP-adjusted notional tax
2	the second in that income year for which you are liable to pay an instalment	50% of your *GDP-adjusted notional tax, reduced by the amount of your instalment for the earlier *instalment quarter in that income year
3	the third in that income year for which you are liable to pay an instalment	75% of your *GDP-adjusted notional tax, reduced by the total of your instalments for earlier *instalment quarters in that income year
4	the fourth in that income year for which you are liable to pay an instalment	100% of your *GDP-adjusted notional tax, reduced by the total of your instalments for earlier *instalment quarters in that income year

45-405 Working out your *GDP-adjusted notional tax*

(1) Your ***GDP-adjusted notional tax*** is worked out in the same way as your *notional tax would be worked out under Subdivision 45-J for the purposes of working out an instalment rate if that instalment rate were to be given to you at the same time as notice of the amount of the instalment referred to in section 45-400.

(2) However, in applying Subdivision 45-J for the purposes of subsection (1):

(a) your *adjusted taxable income for the *base year; and

(b) your *adjusted withholding income (if any) for the *base year;

are each increased in accordance with the formula:

$$\text{Original amount} \times \left(1 + \text{GDP adjustment}\right)$$

(3) For the purposes of the formula in subsection (2):

original amount means the amount that, apart from subsection (2), would be your *adjusted taxable income for the *base year, or your *adjusted withholding income for the *base year, as appropriate.

GDP adjustment means the percentage (rounded to the nearest whole number, rounding down a number ending in .5) worked out using the formula:

$$\left(100 \times \frac{\text{Sum of GDP amounts (current year)}}{\text{Sum of GDP amounts (previous year)}} \right) - 100$$

or 0% if the percentage worked out using the formula is negative.

(4) For the purposes of the formula in subsection (3):

sum of GDP amounts (current year) means the sum of the *GDP amounts, for the *quarters in the last calendar year (the ***later calendar year***) ending at least 3 months before the start of the current year, specified in the document referred to in subsection (6).

sum of GDP amounts (previous year) means the sum of the *GDP amounts, for the *quarters in the calendar year (the ***earlier calendar year***) before the later calendar year, specified in the document referred to in subsection (6).

(5) The ***GDP amount*** for a *quarter is the amount published by the Australian Statistician as the original gross domestic product at current prices for that quarter.

(6) The ***GDP adjustment*** must be worked out on the basis of the first document that:

(a) is published by the Australian Statistician after the end of the later calendar year; and

(b) sets out the *GDP amounts for all the *quarters in both the later calendar year and the earlier calendar year.

(7) To avoid doubt, subsections 45-325(4) and (5) also have effect for the purposes of working out your *GDP-adjusted notional tax.

3 Application of Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*

(1) Division 12 (except section 12-190) in Schedule 1 to the *Taxation Administration Act 1953* applies to a payment made on or after 1 July 2000.

(1A) Section 12-190 in Schedule 1 to the *Taxation Administration Act 1953* applies to a payment made on or after 1 July 2000, but only if some or all of the supply is made on or after that day. (When a supply is made is determined for the purposes of this subitem in the same way as for the purposes of the *A New Tax System (Goods and Services Tax Transition) Act 1999*.)

(2) Section 12-215, 12-250 or 12-285 in Schedule 1 to the *Taxation Administration Act 1953* applies to an amount received on or after 1 July 2000.

(3) Section 12-260 in Schedule 1 to the *Taxation Administration Act 1953* applies to interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) if the transaction in relation to which the interest is payable is entered into on or after 1 July 2000, unless paragraph 221YL(2E)(a) of the *Income Tax Assessment Act 1936* has been complied with in relation to the interest before the transaction is entered into.

(3A) A certificate in force under subsection 221YHZB(4) of the *Income Tax Assessment Act 1936* at the end of 30 June 2000 has effect after that day (with such modifications, if any, as the circumstances require) as if the Commissioner had given it under section 12-335 in Schedule 1 to the *Taxation Administration Act 1953*.

(4) Division 14 in Schedule 1 to the *Taxation Administration Act 1953* applies to a non-cash benefit provided on or after 1 July 2000.

(5) Subdivision 16-C in Schedule 1 to the *Taxation Administration Act 1953* applies to the financial year starting on 1 July 2000 and to later financial years.

4 Application of Part 2-10 in Schedule 1 to the *Taxation Administration Act 1953*

(1) Part 2-10 in Schedule 1 to the *Taxation Administration Act 1953* applies to the 2000-2001 income year and later income years.

(2) However, the Commissioner may give an entity an instalment rate before the start of the 2000-2001 income year. In that case, section 45-50 in that Schedule applies as if the rate had been given on the first day of that income year.

Part 2—Consequential amendment of Acts

Income Tax Assessment Act 1997

5 After section 26-20

Insert:

26-25 Interest or royalty

(1) You cannot deduct under this Act a payment of interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) or a *royalty if:

(a) you are required to withhold an amount from the interest or royalty under Division 12 in Schedule 1 to the *Taxation Administration Act 1953*; and

(b) either:

(i) you fail to withhold the amount; or

(ii) after withholding the amount, you fail to comply with section 16-70 in that Schedule in relation to that amount.

(2) You cannot deduct under this Act a payment of interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*), or a *royalty, that is in the form of a *non-cash benefit if:

(a) you are required to pay to the Commissioner an amount under section 14-5 or 14-10 in Schedule 1 to the *Taxation Administration Act 1953* for that payment; and

(b) you fail to do so.

(3) If:

(a) apart from subsection (1) or (2), you can deduct a payment of interest (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936*) or a *royalty, for an income year; and

(b) the *withholding tax payable for the interest or the royalty is paid;

you can deduct the interest or royalty for that income year.

6 Section 28-185

Repeal the section, substitute:

28-185 Application of Subdivision 28-J to recipients and payers of certain withholding payments

Application to recipients

(1) If an individual receives, or is entitled to receive, *withholding payments covered by subsection (3), this Subdivision applies to him or her:

(a) in the same way as it applies to an employee; and

(b) as if an entity (a ***notional employer***) that makes (or is liable to make) such payments to him or her were his or her employer; and

(c) as if any other individual who receives, or is entitled to receive, such payments from a notional employer were also an employee of the notional employer.

Application to payers

(2) This Division applies to an entity that makes, or is liable to make, *withholding payments covered by subsection (3):

(a) in the same way as it applies to an employer; and

(b) as if an individual to whom the entity makes (or is liable to make) such payments were the entity's employee.

Withholding payments covered

(3) This subsection covers a *withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Withholding payments covered

Item	Provision	Subject matter
1	Section 12-35	Payment to employee

Withholding payments covered		
Item	**Provision**	**Subject matter**
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-50	Return to work payment
5	Subdivision 12-C	Retirement payments, eligible termination payments and annuities
6	Subdivision 12-D	Benefit and compensation payments

7 Parts 4-5 and 4-10

Repeal the Parts.

8 Section 900-12

Repeal the section, substitute:

900-12 Application to recipients and payers of certain withholding payments

Application to recipients

(1) If an individual receives, or is entitled to receive, *withholding payments covered by subsection (3), this Division applies to him or her:

(a) in the same way as it applies to an employee; and

(b) as if an entity that makes (or is liable to make) such payments to him or her were his or her employer; and

(c) as if the withholding payments covered by subsection (3) that he or she receives (or is entitled to receive) were salary or wages.

Application to payers

(2) This Division applies to an entity that makes, or is liable to make, *withholding payments covered by subsection (3):

(a) in the same way as it applies to an employer; and

(b) as if an individual to whom the entity makes (or is liable to make) such payments were the entity's employee.

Withholding payments covered

(3) This subsection covers a *withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Withholding payments covered

Item	Provision	Subject matter
1	Section 12-35	Payment to employee
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-50	Return to work payment
5	Subdivision 12-C	Retirement payments, eligible termination payments and annuities
6	Subdivision 12-D	Benefit and compensation payments

Income Tax Assessment Act 1936

9 Subsection 6(1AA)

Omit all the words after "(the ***1997 Act***)", substitute ", or for the purposes of Schedule 1 to the *Taxation Administration Act 1953*, except as provided in the 1997 Act or in that Schedule".

10 Subsection 6(1) (at the end of the definition of *this Act*)

Add:

; and (c) Schedule 1 to the *Taxation Administration Act 1953*.

11 Paragraph 220AF(1)(c)

After "1994", insert "and before 1 July 2000".

12 Subsection 220AJ(1)

After "financial year", insert "ending on or before 30 June 2000".

13 Paragraph 220AQ(1)(b)

After "first person", insert "on or before 30 June 2000".

14 Paragraph 220AQ(2)(c)

After "form", insert ", and on or before 30 June 2000".

15 At the end of section 221AKA

Add:

(3) This Division does not apply to a taxpayer for the 2000-01 income year or a later income year.

Note: For the 2000-01 income year a taxpayer may be liable to pay PAYG instalments: see Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

16 Before section 221AZJ

Insert in Subdivision B of Division 1C of Part VI:

221AZJA Application of this Division

A taxpayer is not liable to pay instalments under this Division for the 2000-01 income year or a later income year.

Note: For the 2000-01 income year a taxpayer may be liable to pay PAYG instalments: see Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

17 Subsection 221AZK(2)

After "subsection (3A)", insert "of this section and to sections 221AZJA, 221AZKB, 221AZKC and 221AZKE".

18 After section 221AZKA

Insert:

221AZKB For 1999-2000, some medium and small taxpayers need not pay instalment due in month 18

(1) For the 1999-2000 year of income, a medium taxpayer is not liable to pay the instalment that would otherwise be due on the 1st day of month 18.

(2) For the 1999-2000 year of income, a small taxpayer is not liable to pay the instalment that would otherwise be due on the 15th day of month 18.

Note: This subsection does not cover a small taxpayer whose assessed tax for the 1999-2000 is more than $300,000. See subsection 221AZK(3A).

To qualify, taxpayer must be quarterly instalment payer

(3) However, subsection (1) or (2) applies only if the taxpayer is liable to pay an instalment for the first instalment quarter of the 2000-01 year of income under Division 45 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount of that instalment is nil).

Note: This means that an entity that becomes an annual payer at the end of that instalment quarter under Subdivision 45-E in Schedule 1 to the *Taxation Administration Act 1953* does not qualify.

Effect on amount of final instalment

(4) In working out the amount of the final instalment of a small or medium taxpayer for the 1999-2000 year of income, disregard a previous instalment that the taxpayer is not liable to pay because of this section.

221AZKC Deferring payment of the final instalment for 1999-2000

(1) Depending on the amount of its assessed tax for the 1999-2000 year of income, an instalment taxpayer may defer payment of all or some of its final instalment for that year.

(2) However, subsection (1) applies only if the taxpayer is liable to pay a quarterly instalment for the first instalment quarter of the 2000-01 year of income under Division 45 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount of that instalment is nil).

Note: This means that an entity that becomes an annual payer at the end of that instalment quarter under Subdivision 45-E in Schedule 1 to the *Taxation Administration Act 1953* does not qualify.

How much can be deferred, and for how long?

(3) The table shows:

(a) how much of the final instalment can be deferred (the ***deferred amount***); and

(b) the number of equal quarterly payments by which the taxpayer must pay off the deferred amount.

However, the deferred amount cannot be more than the whole of the instalment (reduced by any credits or offsets specified in paragraph 221AZP(1)(b)).

Paying off final instalment for 1999-2000

Item	Amount of assessed tax for 1999-2000	Maximum amount deferred	Number of equal quarterly payments
1	less than $8,000	100% of the assessed tax	21
2	$8,000 to $300,000	42% of the assessed tax	21
3	more than $300,000	20% of the assessed tax	10

Note: The amount of each quarterly payment is the deferred amount divided by the number of payments.

(4) If only some of the final instalment can be deferred, the rest is still due on the day on which the whole of the instalment would otherwise be due. Section 221AZMAA (which applies the general interest charge to unpaid amounts) applies as if the rest of the final instalment were the whole of the final instalment.

When the quarterly payments are due

(5) The first of the quarterly payments is due:

(a) if (disregarding anything the Commissioner does under section 206) the final instalment would otherwise be due on the 1st day of month 18 for the 1999-2000 year of income—on the 21st day of month 19 for that year; and

(b) if (disregarding anything the Commissioner does under section 206) the final instalment would otherwise be due on the 1st or 15th day of month 21 for the 1999-2000 year of income—on the 21st day of month 22 for that year.

Note: The due date for the first quarterly payment is the same as for the taxpayer's next quarterly instalment for the 2000-01 year of income under Division 45 in Schedule 1 to the *Taxation Administration Act 1953*. If the taxpayer's year of income ends on 30 June 2000, the due date will be 21 January or 21 April 2001.

(6) Each of the remaining quarterly payments is due 3 months after the day on which the previous quarterly payment is due (or would be

due apart from anything the Commissioner does under section 206).

(7) A quarterly payment is due on a particular day even if no quarterly instalment of the taxpayer is due on that day under Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: If some or all of a quarterly payment is not paid on time, the taxpayer is liable to pay the general interest charge on the unpaid amount: see section 221AZMAA.

(8) Quarterly payments are to be treated as tax for the purposes of sections 206, 208, 209, 214, 254, 255, 258 and 259.

221AZKE Modified application of sections 221AZKB and 221AZKC to entity adopting a substituted accounting period

Sections 221AZKB and 221AZKC apply to an entity with modifications that the Commissioner determines in writing if the Commissioner has granted the entity leave under section 18 to adopt an accounting period ending on a day other than 30 June and, as a result:

(a) the entity's 1999-2000 year of income will end on a day of a calendar year that does not correspond to the last day of the entity's 1998-99 year of income; or

(b) the entity's 2000-01 year of income will end on a day of a calendar year that does not correspond to the last day of the entity's 1999-2000 year of income.

19 Subsection 221AZMAA(1)

After "instalment" (second occurring), insert "or quarterly payment".

20 Subsection 221AZMAA(1)

After "the instalment" (wherever occurring), insert "or quarterly payment".

21 Subsection 221AZMAA(1)

After "221AZK", insert "or 221AZKC".

22 Subsection 221C(1A)

After "salary or wages" (first occurring), insert "before 1 July 2000".

23 Section 221K

After "at any time", insert "before 1 July 2000".

24 Subsection 221S(2)

After "times", insert "before 1 July 2000".

25 After subsection 221S(2)

Insert:

(2A) An arrangement under subsection (1), or an authorisation under subsection (2), does not apply to a payment of salary or wages made after 30 June 2000.

26 At the end of subsection 221YB(2)

Add "(except the 2000-01 year of income and later income years)".

27 At the end of subsection 221YB(2)

Add:

Note: For the 2000-01 income year you may be liable to pay PAYG instalments: see Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

28 At the end of subsection 221YBA(1)

Add "(except the 2000-01 year of income and later income years)".

29 At the end of subsection 221YBA(1)

Add:

Note: For the 2000-01 income year you may be liable to pay PAYG instalments: see Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

30 Before section 221YHA

Insert:

221YHAAH Division does not apply to payments made after 30 June 2000

This Division does not apply to a prescribed payment made after 30 June 2000.

31 Paragraph 221YHDD(1)(a)

Before "a person", insert "before 1 July 2000,".

32 After subsection 221YHDD(4)

Insert:

(4A) If:

(a) this section applies; and

(b) the project or part is not completed by the end of 30 June 2000;

the householder must, within 6 weeks after that day:

(c) in accordance with subsection (5), complete and sign, in respect of the project, the part of a householder payment summary form relating to the householder; and

(d) make a copy of the form; and

(e) send the form to the Commissioner.

(The completed form does not need to cover prescribed payments made after 30 June 2000.)

33 After subsection 221YHDD(6)

Insert:

(6A) Subject to subsection (7), the householder must keep the copy that paragraph (4A)(d) requires to be made for 6 months after it is made.

34 Subsection 221YHDD(8)

After "(6)", insert ", (6A)".

35 Subsection 221YHZB(1)

After "non-resident" (second occurring), insert "before 1 July 2000".

36 After subsection 221YHZC(1)

Insert:

(1AAAA) Subsection (1A) does not apply to a payment made after 30 June 2000.

Note: Instead, the investment body must withhold an amount under section 12-140 or 12-145 in Schedule 1 to the *Taxation Administration Act 1953*.

37 Subsection 221YHZD(1B)

After "202DA", insert "and before 1 July 2000".

38 Subsection 221YHZD(1B)

Omit "until", substitute "unless".

39 Paragraph 221YHZQ(1)(b)

Repeal the paragraph, substitute:

(b) if the investment body had paid the deemed payment amount to the investor in money, and section 12-150 in Schedule 1 to the *Taxation Administration Act 1953* had not been enacted, section 12-140 in that Schedule would have required the investment body to withhold an amount (the ***notional deduction***) from the payment; and

40 Before subsection 221YL(1)

Insert:

(1A) This section (except subsections (2D), (2DA) and (2E)) does not apply to a dividend, interest or a royalty paid after 30 June 2000.

Note: Instead, see Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*.

41 After subsection 221YL(2D)

Insert:

(2DA) However, subsection (2E) does not apply in relation to the interest if the transaction in relation to which it is payable is entered into on or after 1 July 2000, unless the lender complied with paragraph (2E)(a) in relation to the interest before the transaction is entered into.

Note: Instead, the lender must notify the borrower under section 12-260 in Schedule 1 to the *Taxation Administration Act 1953*.

42 Subsection 221YP(1)

Omit "until", substitute "before 1 July 2000 unless".

43 Subsection 221YP(2)

Omit "until", substitute "before 1 July 2000 unless".

44 Subsection 221YP(3A)

Omit "until", substitute "before 1 July 2000 unless".

45 Subsection 221ZB(1)

After "shall not", insert "before 1 July 2000".

46 Before section 221ZM

Insert in Division 6 of Part VI:

221ZMA Division does not apply to withdrawals made after 30 June 2000

This Division does not apply to a withdrawal from a film account made after 30 June 2000.

47 Subsection 221ZXB(1)

After "if", insert ", before 1 July 2000,".

48 After subsection 262A(2)

Insert:

(2A) If an entity is required to withhold an amount under Division 12 in Schedule 1 to the *Taxation Administration Act 1953*, or to pay an amount to the Commissioner under Division 14 of that Schedule, the entity must keep records that record and explain all transactions and other acts engaged in by the entity that are relevant for the purposes of that Schedule.

49 After subsection 262A(4)

Insert:

(4AAA) Subsection (4) does not apply to any record required to be kept by a provision in Schedule 1 to the *Taxation Administration Act 1953*.

49A Application

The amendment of the *Income Tax Assessment Act 1936* made by item 39 of this Schedule applies to an income year that *ends after* 30 June 2000.

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

50 Paragraph 9-20(2)(a)

Repeal the paragraph, substitute:

(a) by a person as an employee or in connection with earning *withholding payments covered by subsection (4) (unless the activity or series is done in supplying services as the holder of an office that the person has accepted in the course of or in connection with an activity or series of activities of a kind mentioned in subsection (1)); or

Note: Acts done as mentioned in paragraph (a) will still form part of the activities of the enterprise to which the person provides work or services.

51 Paragraph 9-20(2)(d)

Repeal the paragraph, substitute:

(d) as a member of a local governing body established by or under a *State law or *Territory law (except a local governing body to which subsection 12-45(3) in Schedule 1 to the *Taxation Administration Act 1953* applies).

52 At the end of section 9-20

Add:

(4) This subsection covers a *withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Withholding payments covered		
Item	**Provision**	**Subject matter**
1	Section 12-35	Payment to employee
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-60	Payment under labour hire arrangement, or specified by regulations

53 Section 9-39 (at the end of the table)

Add:

12	Supply under arrangement covered by PAYG voluntary agreement	Division 113

54 Section 37-1 (after table item 33)

Insert:

33A	Supply under arrangement covered by PAYG voluntary agreement	Division 113

55 Paragraph 111-5(1)(a)

Omit ", other *PAYE earner".

56 Paragraph 111-5(1)(a)

Omit ", PAYE earner".

57 Subsection 111-5(1)

Omit ", PAYE earner" (last occurring).

58 At the end of subsection 111-5(1)

Add:

Note: This section also applies if you reimburse the recipient of certain withholding payments: see section 111-20.

59 Paragraph 111-5(3)(a)

Omit ", *PAYE earner".

60 Paragraph 111-5(3)(b)

Omit ", PAYE earner".

61 Paragraph 111-10(2)(a)

Omit ", *PAYE earner".

62 Paragraph 111-10(2)(a)

Omit ", PAYE earner".

63 After section 111-15

Insert:

111-20 Application of Division to recipients of certain withholding payments

(1) If you make, or are liable to make, *withholding payments covered by subsection (2), this Division applies to you as if:

(a) an individual to whom you make (or are liable to make) such payments were your employee; and

(b) his or her activities in connection with earning such payments were activities as your employee.

(2) This subsection covers a *withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Withholding payments covered

Item	Provision	Subject matter
1	Section 12-35	Payment to employee
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-55	Voluntary agreement to withhold
5	Section 12-60	Payment under labour hire arrangement, or specified by regulations

64 At the end of Part 4-2

Add:

Division 113—PAYG voluntary agreements

113-1 What this Division is about

A supply is *not* a taxable supply if:

(a) an amount must be withheld from payment for the supply because of section 12-55 in Schedule 1 to the *Taxation Administration Act 1953* (about voluntary agreements to withhold); and

(b) the acquisition of the thing supplied would be a creditable acquisition if the supply *were* a taxable supply.

113-5 Supply of work or services not a taxable supply

(1) A supply that you make is not a *taxable supply to the extent that you make it under an arrangement (within the meaning of the *Income Tax Assessment Act 1997*) if:

(a) the arrangement the performance of which, in whole or in part, involves the performance of work or services (whether or not by you); and

(b) an agreement is in force that:

(i) complies with section 12-55 in Schedule 1 to the *Taxation Administration Act 1953* (about voluntary agreements to withhold); and

(ii) states that the section covers payments under the arrangement, or payments under a series of arrangements that includes the arrangement; and

(c) you, and the entity acquiring what you supply under the arrangement, are parties to that agreement; and

(d) you have an *ABN that is in force and is quoted in the agreement; and

(e) the acquisition, by that entity, of what you supply under the arrangement would be a *creditable acquisition (and not *partly creditable) if the supply were a *taxable supply.

(2) This section has effect despite section 9-5 (about what is a taxable supply.)

65 Section 195-1

Insert:

non-cash benefit has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

66 Section 195-1 (definition of *PAYE earner*)

Repeal the definition.

67 Section 195-1 (note at the end of the definition of *taxable supply*)

Omit "and 90-5", substitute ", 90-5 and 113-1".

68 Section 195-1

Insert:

withholding payment has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

69 Section 195-1

Insert:

withholding payment covered by a particular provision in Schedule 1 to the *Taxation Administration Act 1953* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

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

70 Item 7 of Schedule 1

Omit "At the end of the Act", substitute "After Part V".

71 Item 7 of Schedule 1

Omit "Add:", substitute "Insert:".

A New Tax System (Australian Business Number) Act 1999

72 Paragraph 38(2)(a)

Repeal the paragraph, substitute:

(a) by a person as an employee or in connection with earning *withholding payments covered by subsection (3) (unless the activity or series is done in supplying services as the holder of an office that the person has accepted in the course of or in connection with an activity or series of activities of a kind mentioned in subsection (1)); or

Note: Acts done as mentioned in paragraph (a) will still form part of the activities of the enterprise to which the person provides work or services.

73 Paragraph 38(2)(d)

Repeal the paragraph, substitute:

(d) as a member of a local governing body established by or under a *State law or *Territory law (except a local governing body to which subsection 12-45(3) in Schedule 1 to the *Taxation Administration Act 1953* applies).

74 At the end of section 38

Add:

(3) This subsection covers a *withholding payment covered by any of the provisions in Schedule 1 to the *Taxation Administration Act 1953* listed in the table.

Withholding payments covered

Item	Provision	Subject matter
1	Section 12-35	Payment to employee
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-60	Payment under labour hire arrangement, or specified by regulations

75 Section 41

Insert:

non-cash benefit has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

76 Section 41 (definition of *PAYE earner*)

Repeal the definition.

77 Section 41

Insert:

withholding payment has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

78 Section 41

Insert:

withholding payment covered by a particular provision in Schedule 1 to the *Taxation Administration Act 1953* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

Fringe Benefits Tax Assessment Act 1986

79 Subsection 136(1) (definition of *current employee*)

Repeal the definition, substitute:

current employee means a person who receives, or is entitled to receive, salary or wages.

80 Subsection 136(1) (definition of *current employer*)

Repeal the definition, substitute:

current employer means a person (including a government body) who pays, or is liable to pay, salary or wages, and includes:

(a) in the case of a partnership—each partner; and

(b) in the case of any other unincorporated association or body of persons—its manager or other principal officer.

81 Subsection 136(1) (definition of *salary or wages*)

Repeal the definition, substitute:

> ***salary or wages*** means a payment from which an amount must be withheld (even if the amount is not withheld) under a provision in Schedule 1 to the *Taxation Administration Act 1953* listed in the table, to the extent that the payment is assessable income.

Withholding payments covered

Item	Provision	Subject matter
1	Section 12-35	Payment to employee
2	Section 12-40	Payment to company director
3	Section 12-45	Payment to office holder
4	Section 12-115	Commonwealth education or training payment
5	Section 12-120	Compensation, sickness or accident payment

Note: Section 137 extends the meaning of ***salary or wages*** for some purposes.

82 Subsection 137(1)

Omit "section 221A of the *Income Tax Assessment Act 1936*", substitute "a definition in subsection 136(1)".

83 Subsection 137(2)

Repeal the subsection.

84 Application

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Part apply to a payment made, or a benefit provided, on or after 1 July 2000.

Taxation Administration Act 1953

85 Subsection 8AAB(5) (after table item 17)

Insert:

17A	16-50 in Schedule 1	*Taxation Administration Act 1953*

17B	16-80 in Schedule 1	*Taxation Administration Act 1953*
17C	16-90 in Schedule 1	*Taxation Administration Act 1953*
17D	16-200 in Schedule 1	*Taxation Administration Act 1953*
17E	45-80 in Schedule 1	*Taxation Administration Act 1953*
17F	45-230 in Schedule 1	*Taxation Administration Act 1953*
17G	45-235 in Schedule 1	*Taxation Administration Act 1953*

86 Subsection 8AAJ(1)

Repeal the subsection, substitute:

(1) There are certain provisions of Acts that make persons liable to pay the failure to notify penalty. Subsections (4) and (5) list the provisions.

87 Subsection 8AAJ(4)

Omit "Sections 91Z and 95A of the *Sales Tax Assessment Act 1992* also deal with liability to the penalty.".

88 At the end of section 8AAJ

Add:

(5) The following table is an index of the provisions of Acts other than the *Income Tax Assessment Act 1936* that deal with liability to the penalty.

Liability to the penalty under other Acts

Item	Section	Act
1	91Z	*Sales Tax Assessment Act 1992*
2	95A	*Sales Tax Assessment Act 1992*
3	16-150 in Schedule 1	*Taxation Administration Act 1953*
4	45-25 in Schedule 1	*Taxation Administration Act 1953*

Schedule 2—Running balance accounts, general interest charge and related matters

Part 1—Running balance accounts

Division 1—Amendment of Part IIB of the Taxation Administration Act 1953

1 Section 8AAZA (definition of *deficit*)

Repeal the definition.

2 Section 8AAZA

Insert:

excess non-RBA credit means a credit that arises under section 8AAZLA or 8AAZLB.

3 Section 8AAZA (definition of *RBA class*)

Repeal the definition.

4 Section 8AAZA (definition of *RBA deficit*)

Repeal the definition.

5 Section 8AAZA (definition of *RBA deficit debt*)

Repeal the definition, substitute:

RBA deficit debt, in relation to an RBA of an entity, means a balance in favour of the Commissioner, based on:

(a) primary tax debts that have been allocated to the RBA and that are currently payable; and

(b) payments made in respect of current or anticipated primary tax debts of the entity, and credits to which the entity is entitled under a taxation law, that have been allocated to the RBA.

6 Section 8AAZA

Insert:

RBA surplus, in relation to an RBA of an entity, means a balance in favour of the entity, based on:

(a) primary tax debts that have been allocated to the RBA; and

(b) payments made in respect of current or anticipated primary tax debts of the entity, and credits to which the entity is entitled under a taxation law, that have been allocated to the RBA.

7 Section 8AAZA (definition of *special priority credit*)

Repeal the definition.

8 Subsection 8AAZC(1)

Repeal the subsection, substitute:

(1) The Commissioner may establish one or more systems of accounts for primary tax debts.

Note: This section does not prevent the Commissioner from establishing other accounts that are not RBAs.

9 Subsection 8AAZC(4)

Omit "Within an RBA class,".

10 After subsection 8AAZC(4)

Insert:

(4A) Without limiting subsection (4), separate RBAs may be established for different types of primary tax debts.

11 Subsection 8AAZD(1)

Repeal the subsection, substitute:

(1) The Commissioner may allocate a primary tax debt to an RBA that has been established for that type of tax debt.

Note: General interest charge on an RBA deficit debt is not allocated to the RBA: it accrues automatically under section 8AAZF.

Separate RBAs for one entity

(1A) If 2 or more RBAs for an entity have been established for that kind of tax debt, the Commissioner may allocate the debt to any one of those RBAs, or between any 2 or more of those RBAs, in the manner the Commissioner determines.

Note: Separate RBAs may be established for different businesses or undertakings conducted by the same entity, for different parts of the same business or undertaking or for different periods: see subsection 8AAZC(5).

Note: The following heading to subsection 8AAZD(2) is inserted "*Definition*".

12 Section 8AAZE

Repeal the section.

13 Subsection 8AAZF(1)

Omit "a deficit on an RBA", substitute "an RBA deficit debt".

Note: The heading to section 8AAZF is altered by adding at the end "**debt**".

14 Subsection 8AAZF(1)

Omit "that deficit", substitute "that RBA deficit debt".

15 Subsection 8AAZF(2)

Repeal the subsection, substitute:

(2) The balance of the RBA is altered in the Commissioner's favour by the amount of the general interest charge payable.

16 Subsection 8AAZH(1)

After "deficit", insert "debt".

Note: The heading to section 8AAZH is altered by adding at the end "**debt**".

17 Subsection 8AAZH(2) (example)

Omit "deficit on the RBA", substitute "RBA deficit debt".

18 Paragraph 8AAZJ(1)(a)

After "deficit", insert "debt".

19 Paragraph 8AAZJ(1)(b)

Omit "was allocated to the RBA", substitute "is payable on the RBA deficit debt".

20 Paragraph 8AAZJ(1)(d)

After "deficit", insert "debt".

21 Section 8AAZK

Repeal the section.

22 Division 3 of Part IIB

Repeal the Division, substitute:

Division 3—Treatment of payments, credits and RBA surpluses

8AAZL Amounts covered by this Division

(1) This Division sets out how the Commissioner must treat the following kinds of amount:

(a) a payment the Commissioner receives in respect of a current or anticipated tax debt or tax debts of an entity;

(b) a credit (including an excess non-RBA credit) that an entity is entitled to under a taxation law;

(c) an RBA surplus of an entity.

(2) The Commissioner must treat each such amount using the method set out in section 8AAZLA or 8AAZLB (but not both).

Note: In either case, section 8AAZLC has some additional rules that apply to RBA surpluses and to certain excess non-RBA credits.

8AAZLA Method 1—allocating the amount first to an RBA

(1) The Commissioner may, in the manner he or she determines, allocate the amount to an RBA of the entity.

(2) The Commissioner must then also apply the amount against the following kinds of debts (if there are any):

(a) tax debts that have been allocated to that RBA;

(b) general interest charge on such tax debts.

(3) To the extent that the amount is not applied under subsection (2), it gives rise to an ***excess non-RBA credit*** in favour of the entity that:

(a) is equal to the part of the amount that is not applied; and

(b) relates to the RBA to which the amount was allocated.

8AAZLB Method 2—applying the amount first against a non-RBA tax debt

(1) The Commissioner may, in the manner he or she determines, apply the amount against a non-RBA tax debt of the entity.

(2) If the non-RBA tax debt is:

(a) a tax debt that has been allocated to an RBA; or

(b) general interest charge on such a tax debt;

the Commissioner must then also allocate the amount to that RBA.

(3) To the extent that the amount is not applied under subsection (1), it gives rise to an ***excess non-RBA credit*** in favour of the entity that is equal to the part of the amount that is not applied.

(4) The excess non-RBA credit relates to the RBA (if any) that the Commissioner determines and the balance of that RBA is adjusted in the entity's favour by the amount of that credit.

Separate RBAs for one entity

(5) If the non-RBA tax debt mentioned in subsection (1) has been allocated to 2 or more RBAs, the Commissioner must allocate the amount applied between those RBAs in the proportions in which the tax debt was allocated.

Note: Separate RBAs may be established for different businesses or undertakings conducted by the same entity, for different parts of the same business or undertaking or for different periods: see subsection 8AAZC(5).

8AAZLC RBA surplus and related credits must remain equivalent if one or the other is applied

RBA surpluses

(1) If an RBA surplus is allocated or applied under this Division, the Commissioner must reduce by the same amount excess non-RBA credits that relate to the RBA.

Excess non-RBA credits

(2) If, under this Division, an excess non-RBA credit that relates to an RBA (the ***related RBA***) is:

(a) allocated to an RBA; or

(b) applied against a non-RBA tax debt;

the related RBA is adjusted in the Commissioner's favour by the same amount.

8AAZLD Special priority credits: HEC and FS assessment debts

If, under this Division, the Commissioner is to apply a credit that arises under Schedule 1 to this Act (the PAYG system), the Commissioner must apply it, whether under section 8AAZLA or 8AAZLB:

(a) first, against any HEC assessment debt of the entity; and

(b) then against any FS assessment debt of the entity;

before applying it against other non-RBA tax debts of the entity.

8AAZLE Instructions to Commissioner not binding

In doing anything under this Division, the Commissioner is not required to take account of any instructions of any entity.

Division 3A—Refunds of RBA surpluses and credits

8AAZLF Commissioner must refund RBA surpluses and credits

(1) The Commissioner must refund to an entity so much of:

(a) an RBA surplus of the entity; or

(b) a credit (including an excess non-RBA credit) in the entity's favour;

as the Commissioner does not allocate or apply under Division 3.

Voluntary payments only to be refunded on request

(2) However, the Commissioner is not required to refund an RBA surplus or excess non-RBA credit that arises because a payment is made in respect of an anticipated tax debt of an entity unless the entity later requests, in the approved manner, that the Commissioner do so.

(3) On receiving such a request, the Commissioner must refund so much of the amount as the Commissioner does not allocate or apply under Division 3.

Effect of refunding RBA surplus

(4) If the Commissioner refunds an RBA surplus under this section, the Commissioner must reduce by the same amount excess non-RBA credits that relate to the RBA.

Effect of refunding credit that relates to an RBA

(5) If, under this section, the Commissioner refunds an excess non-RBA credit that relates to an RBA, the RBA is adjusted in the Commissioner's favour by the same amount.

8AAZLG Retaining refunds until information or notification given

(1) The Commissioner may retain an amount that he or she otherwise would have to refund to an entity under section 8AAZLF, if the entity has not given the Commissioner a notification:

(a) that affects or may affect the amount that the Commissioner refunds to the entity; and

(b) that the entity is required to give the Commissioner under any of the following provisions:

Provisions under which notification required		
Item	**These provisions:**	**which deal with:**
1	Part VII of the *Fringe Benefits Tax Assessment Act 1986*	collection and recovery of fringe benefits tax
2	the indirect tax law (within the meaning of Part VI of this Act)	goods and services tax, luxury car tax and wine equalisation tax
3	Schedule 1 to this Act	the PAYG system—withholding and instalments

(2) The Commissioner may retain the amount until the entity has given the Commissioner that notification.

8AAZLH How refunds are made

(1) This section applies to refunds payable to an entity of RBA surpluses, or excess non-RBA credits that relate to an RBA, if primary tax debts arising under any of the provisions set out in paragraph 8AAZLG(1)(b) have been allocated to that RBA.

(2) The Commissioner must pay those refunds to the credit of a financial institution account nominated by the entity.

(3) However, the Commissioner may direct that any such refunds be paid to the entity in a different way.

(4) If an entity has not nominated a financial institution account for the purposes of this section and the Commissioner has not directed that any such refunds be paid in a different way, the Commissioner is not obliged to refund any amount to the entity until the entity does so.

Division 2—Consequential amendments

23 Multiple amendments

The specified provisions of the Acts listed in this Division are amended by omitting "section 8AAZL" and substituting "Division 3 of Part IIB".

Income Tax Assessment Act 1936

24 Subsection 160AN(3)

25 Subsection 160AN(4)

26 Paragraph 160APYBB(b)

27 Subsection 163B(10) (definition of *income tax crediting amount*)

28 Subsection 220AZC(6)

29 Subsection 221YHG(5)

30 Subsection 221YHZL(6)

31 Subsection 221YT(3)

32 Subsection 221ZG(3)

Sales Tax Assessment Act 1992

33 Section 56

Taxation (Interest on Overpayments and Early Payments) Act 1983

34 Subsection 3(1) (paragraph (a) of the definition of *income tax crediting amount*)

Division 3—Application and transitional

35 Application

(1) The amendments made by this Part, so far as they relate to the establishment, operation and effect of RBAs, apply to all tax debts owing on or after 1 July 2000, regardless of when the debts arose.

(2) The amendments made by this Part, so far as they relate to the treatment of payments and credits by the Commissioner, apply to the treatment of

payments or credits by the Commissioner on or after 1 July 2000, regardless of when the payments were made or when the credits arose.

36 Transitional—existing RBAs

Although item 8 repeals and substitutes subsection 8AAZC(1) of the *Taxation Administration Act 1953*, an RBA system established under the old version of that subsection continues in existence after the commencement of that item as if it had been established under the new version of that subsection.

Part 2—General interest charge

Crimes (Taxation Offences) Act 1980

37 Subsection 3(1) (paragraph (b) of the definition of *income tax*)

Omit "section 207, 221AG, 221AY, 221AZE or", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3), section".

38 Subsection 3(1) (paragraph (d) of the definition of *income tax*)

Omit "221EAA(1), section 220AAE, 220AAM or 220AAR or subsection 220AAV(3)", substitute "221EAA(1) or section 220AAE, 220AAM or 220AAR".

39 Subsection 3(1) (paragraph (g) of the definition of *income tax*)

Omit "220AS(2)", substitute "220AS(1)".

Income Tax Assessment Act 1936

40 At the end of section 102UO

Add:

(3) Any unpaid ultimate beneficiary non-disclosure tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner suing in his or her official name.

41 Sections 102UP and 102UQ

Repeal the sections, substitute:

102UP Late payment of ultimate beneficiary non-disclosure tax

If any of the ultimate beneficiary non-disclosure tax which a person is liable to pay remains unpaid 60 days after the day by

which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the 60th day after the day by which the ultimate beneficiary non-disclosure tax was due to be paid; and

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

(i) the ultimate beneficiary non-disclosure tax;

(ii) general interest charge on any of the ultimate beneficiary non-disclosure tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

42 Subsections 163B(5) and (6)

Repeal the subsections.

43 Subsection 163B(8)

Omit "170, 172, 174", substitute "204".

46 Section 220AAF

Omit "the general interest charge", substitute "a penalty".

47 Section 220AAF (note)

Repeal the note.

48 Section 220AAW

Repeal the section, substitute:

220AAW Large remitters—non-electronic payment

(1) A large remitter that pays an amount other than by electronic transfer is liable to a penalty of the greater of:

(a) $500; or

(b) assuming that the general interest charge applied to the amount that was paid other than by electronic transfer—an amount equal to the general interest charge that would be

payable for each day in a period of 7 days starting at the beginning of the day on which the payment became due.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

(2) However, the Commissioner may remit some or all of the penalty.

(3) The penalty becomes due for payment on the day the payment was made.

(4) If any of the penalty remains unpaid after the time by which it is due to be paid, the large remitter is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:

(a) started at the beginning of the day by which the penalty amount was due to be paid; and

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

(i) the penalty amount;

(ii) general interest charge on any of the penalty amount.

(5) This section does not apply to an exempt Australian government agency (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*).

49 Paragraph 220AAZF(g)

Omit "220AAX(5)", substitute "220AAW(2)".

50 At the end of section 221AZM

Add "The credit arises when the Commissioner makes an assessment of the income tax payable by the taxpayer or determines that no income tax is payable."

51 At the end of section 221N

Add:

(3) A person who is dissatisfied with a decision of the Commissioner under subsection (1) in relation to the person may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

52 At the end of section 221YDB

Add:

(3) If any of the additional tax payable under this section remains unpaid after the last day for which it is payable, the taxpayer is liable to pay the general interest charge on the unpaid additional tax for each day in the period that:

(a) started at the beginning of the next day; and

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

(i) the additional tax;

(ii) general interest charge on any of the additional tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

53 Before subsection 221YHZD(1)

Insert:

(1AAA) A person who deducts, or purports to deduct, under subsection 221YHZC(1), an amount from a payment to a non-resident must pay the amount to the Commissioner within 14 days after the end of the month in which the person makes the payment to the non-resident.

54 Paragraph 221YHZD(1) (penalty)

After "Penalty", insert "for a contravention of this subsection".

55 Subsection 221YHZD(2)

Omit "subsection (1)", substitute "subsection (1AAA)".

56 Subsection 254(2)

Omit "a provision of this Act", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3) or section 221YDB".

57 Subsection 255(4)

Omit "a provision of this Act", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3) or section 221YDB".

58 Subsection 258(2)

Omit "a provision of this Act", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3) or section 221YDB".

59 Subsection 259(2)

Omit "a provision of this Act", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3) or section 221YDB".

60 Subsection 265(12)

Omit "a provision of this Act", substitute "section 163AA, section 170AA, subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3) or section 221YDB".

61 Section 271-80 of Schedule 2F

Repeal the section, substitute:

271-80 Late payment of family trust distribution tax

If any of the family trust distribution tax which a person is liable to pay remains unpaid 60 days after the day by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the 60th day after the day by which the family trust distribution tax was due to be paid; and

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

(i) the family trust distribution tax;

(ii) general interest charge on any of the family trust distribution tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

62 Section 271-85 of Schedule 2F

Omit ", and any unpaid additional tax payable under section 271-80,".

Income Tax Assessment Act 1997

63 Paragraph 20-25(2A)(a)

Omit "general interest charge", substitute "*general interest charge".

64 Paragraph 25-5(1)(c)

Omit "general interest charge", substitute "*general interest charge".

65 At the end of section 25-5

Add:

No double deduction for general interest charge on a running balance account

(7) If you deduct *general interest charge that applies to an RBA deficit debt, you can't also deduct the corresponding general interest charge on tax debts that have been allocated to the RBA.

Note: RBAs (running balance accounts) are dealt with in Part IIB of the *Taxation Administration Act 1953*.

Sales Tax Assessment Act 1992

66 Section 56

Omit "*Taxation Administration Act 1955*", substitute "*Taxation Administration Act 1953*".

67 Subsection 95A(1)

After "fails to notify", insert "the amount of tax payable on".

Note: The heading to section 95A is altered by omitting "**of**" and substituting "**amount of tax payable on**".

68 Subsection 95A(1)

Omit "the assessable dealing", substitute "the tax payable".

69 Subsection 95A(2)

Omit "an amount of", substitute "the amount of tax payable on".

70 Subsection 95A(2)

Omit "the assessable dealing", substitute "the tax payable".

71 At the end of subsection 99(1)

Add "(other than failure to notify penalty under section 95A)".

72 Subsection 99(3)

After "this Part", insert "(other than section 95A)".

73 Section 100

After "this Part", insert "(other than failure to notify penalty under section 95A)".

74 At the end of section 100

Add:

Note: The Commissioner may remit failure to notify penalty under section 8AAM of the *Taxation Administration Act 1953*.

Taxation Administration Act 1953

75 Subsection 8AAB(4) (before table item 1)

Insert:

1AA	102UP	payment of ultimate beneficiary non-disclosure tax

76 Subsection 8AAB(4) (at the end of the table)

Add:

31	271-80 of Schedule 2F	payment of family trust distribution tax

77 Subsection 8AAF(2)

Repeal the subsection.

78 After section 8AAG

Insert:

8AAGA Rounding of the charge

If the amount of the charge payable for any period is not a multiple of 5 cents, the Commissioner may round it down to the nearest multiple of 5 cents.

79 Subsection 8AAP(4) (table item 3, entry headed "Topic")

Omit "PPS payment summary", substitute "PPS payment reconciliation statement form".

80 Subsection 8AAQ(2)

Omit "reconciliation statement", substitute "statement, report or form".

81 Paragraph 8AAZD(2)(b)

Omit "debt; or", substitute "debt.".

82 Paragraph 8AAZD(2)(c)

Repeal the paragraph.

Taxation (Interest on Overpayments and Early Payments) Act 1983

83 Subsection 3(1) (paragraphs (baa), (ba) and (bb) of the definition of *relevant tax*)

Repeal the paragraphs, substitute:

(baa) an amount payable to the Commissioner under subsection 220AS(1) of the Tax Act;

(ba) an amount payable to the Commissioner under subsection 221EAA(1) of the Tax Act;

(bb) an amount payable to the Commissioner under subsection 221YHH(1) of the Tax Act;

84 Subsection 3(1) (paragraph (caa) of the definition of *relevant tax*)

Repeal the paragraph.

85 Subparagraph 12A(1)(a)(i)

After "under", insert "section 163AA, section 170AA,".

86 Subparagraph 12A(1)(a)(i)

Omit "subsection 221AZP(1)", substitute "subsection 204(3), subsection 221AZMAA(1), subsection 221AZP(1), subsection 221YD(3)".

Taxation Laws Amendment Act (No. 3) 1999

87 Items 84 and 85 of Schedule 1

Repeal the items.

Note: These items contained misdescribed amendments. The correct amendments are in items 44 and 45 of this Schedule.

88 Items 355, 356 and 357 of Schedule 1

Repeal the items.

Note: These items contained misdescribed amendments. The correct amendment is in item 83 of this Schedule.

89 Subitems 398(3), (4) and (5) of Schedule 1

Repeal the subitems.

90 Subitem 399(2) of Schedule 1

Omit "where", substitute "to the extent that".

91 Subitem 399(2) of Schedule 1

Omit "starts", substitute "occurs".

92 Application of amendments

The amendments made by this Part apply in relation to amounts that are due to be paid on or after 1 July 1999.

93 Transitional—pre-1 July 1999 debts

(1) This item applies to an amount (including an amount of penalty or interest) that a person owes to the Commonwealth directly under a taxation law (including a law that has been repealed or amended) and that became payable at any time before 1 July 1999, if all or some of the amount (the ***unpaid debt***) remains unpaid at the beginning of 1 July 1999.

(2) The person is liable, and is taken to have been liable, to pay general interest charge on the unpaid debt for each day in the period that:

(a) started at the beginning of the day by which the amount was due to be paid; and

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

(i) the unpaid debt;

(ii) general interest charge on any of the unpaid debt.

(3) The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

(4) For the purposes of this item, the ***general interest charge rate*** for a day before 1 July 1999 is taken to have been 12.72% divided by the number of days in the calendar year that the day was in.

(5) If this item results in a person being liable, or being taken to have been liable, to pay both general interest charge and some other penalty or interest in respect of the same debt, the Commissioner must remit either that general interest charge or that other penalty or interest (the Commissioner chooses which).

Part 3—Fringe benefits tax

Fringe Benefits Tax Assessment Act 1986

94 Subparagraphs 9(2)(c)(i) and (ii)

Repeal the subparagraphs, substitute:

(i) if the annualised number of whole kilometres the car travelled during the year of tax was more than 40,000—0.07; or

(ii) if the annualised number of whole kilometres the car travelled during the year of tax was not less than 25,000 and not more than 40,000—0.11; or

(iii) if the annualised number of whole kilometres the car travelled during the year of tax was not less than 15,000 and not more than 24,999—0.20; or

(iv) in any other case—0.26;

95 Subsection 11(1) (*d*efinition of *D*)

Repeal the definition, substitute:

D is the number of days in the year of tax.

96 Subsection 11(2) (*d*efinition of *D*)

Repeal the definition, substitute:

D is the number of days in the year of tax.

97 Section 12

Repeal the section, substitute:

12 Depreciated value

(1) In this Subdivision, the ***depreciated value*** of a car at a particular time (the ***relevant time***) is the amount worked out using the formula:

A – B

where:

A is:

(a) if the car was owned by the person at the start of 1 July 1986—the depreciated value worked out under subsection (2); or

(b) in any other case—the cost price of the car to the person.

B is the total amount of depreciation (if any) that would have been taken to have been incurred by the person in respect of the car for the period after the start of 1 July 1986 and before the relevant time when the person owned the car, if the depreciation taken to have been incurred for that period were calculated in accordance with subsection 11(1).

(2) The ***depreciated value*** of a car owned by a person at the start of 1 July 1986 is the cost price of the car to that person, reduced by the total amount of depreciation that would have been taken to have been incurred by the person in respect of the car for the period before that time when it was owned by the person if:

(a) the depreciation taken to have been incurred for that period were calculated in accordance with subsection 11(1); and

(b) each year starting on 1 July were a year of tax.

98 Paragraph 19(1)(b)

Omit all the words from and including "both", substitute "a once-only deduction (in this subsection called the ***gross deduction***), other than a foreign income deduction, would, or would if not for section 82A, and Subdivisions F, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts in respect of the gross interest".

99 Subparagraph 19(1)(ba)(ii)

Omit all the words from and including "allowable", substitute "allowable as a once-only deduction other than a foreign income deduction to the recipient under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* in respect of that interest if that interest had been incurred and paid by the recipient on the last day of the loan period".

100 Subparagraph 19(1)(ca)(i)

Repeal the subparagraph.

101 Subparagraph 19(1)(ca)(ii)

Omit "in the case of the second standard year of tax or a subsequent year of tax—".

102 Paragraph 19(1)(d)

Omit all the words and subparagraphs after "apply" to and including "recipient gives", substitute "and the loan fringe benefit is a car loan benefit in respect of a car held by the recipient during a period (in this subsection also called the ***holding period***) in the year of tax, the recipient gives".

103 Paragraphs 19(2)(a) and (b)

Repeal the paragraphs, substitute:

(a) purchase a particular car; or

(b) pay a Division 28 car expense;

104 Paragraph 24(1)(b)

Omit all the words and subparagraphs from and including "both", substitute "a once-only deduction (in this subsection called the ***gross deduction***), other than a foreign income deduction, would, or would if not for section 82A, and Subdivisions F, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts in respect of the gross expenditure".

105 Subparagraph 24(1)(ba)(ii)

Omit all the words and sub-subparagraphs from and including "allowable" to and including "recipient under", substitute "allowable as a once-only deduction other than a foreign income deduction to the recipient under".

106 Paragraph 26(1)(*c*) (definition of *C*)

Repeal the definition, substitute:

C is the number of days in the year of tax;

107 Paragraph 26(2)(a) (definition of *B*)

Repeal the definition, substitute:

B is the number of days in the current year of tax; and

108 Paragraph 26(3)(a)

Repeal the paragraph.

109 Paragraph 29(1)(a) (definition of *DYT*)

Repeal the definition, substitute:

DYT is the number of days in the current year of tax;

110 Subsection 29(3A)

Repeal the subsection, substitute:

(3A) For the purposes of this section:

(a) the ***single quarters statutory amount*** in relation to a year of tax is the amount calculated:

(i) by multiplying the indexation factor for that year of tax by the single quarters statutory amount in relation to the immediately preceding year of tax; or

(ii) if the amount ascertained that way is not an amount of whole dollars—by rounding the amount to the nearest dollar (rounding 50 cents upwards); and

(b) the ***standard statutory amount*** in relation to a year of tax is the amount calculated:

(i) by multiplying the indexation factor for that year of tax by the standard statutory amount in relation to the immediately preceding year of tax; or

(ii) if the amount ascertained that way is not an amount of whole dollars—by rounding the amount to the nearest dollar (rounding 50 cents upwards).

111 Paragraph 44(1)(b)

Omit all the words and subparagraphs from and including "both", substitute "a once-only deduction (in this subsection called the ***gross deduction***), other than a foreign income deduction, would, or would if not for section 82A, and Subdivisions F, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts in respect of the gross expenditure".

112 Subparagraph 44(1)(ba)(ii)

Omit all the words and subparagraphs from and including "allowable", substitute "allowable as a once-only deduction other than a foreign income deduction to the recipient under either of those Acts in respect of that consideration if that consideration had been incurred and paid by the recipient at the provision time".

113 Paragraph 47(6)(aa)

Omit "in the case of a standard year of tax—".

114 Paragraph 52(1)(b)

Omit all the words and subparagraphs from and including "both", substitute "a once-only deduction (in this subsection called the ***gross deduction***), other than a foreign income deduction, would, or would if not for section 82A, and Subdivisions F, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts in respect of the gross expenditure".

115 Subparagraph 52(1)(ba)(ii)

Omit all the words and sub-subparagraphs from and including "allowable", substitute "allowable as a once-only deduction other than a foreign income deduction to the recipient under either of those Acts in respect of so much of that consideration as was taken into account for the purposes of section 48, 49, 50 or 51 of the *Income Tax Assessment Act 1936*, or section 4-15 or 8-1 of the *Income Tax Assessment Act 1997*, if that consideration had been incurred and paid by the recipient at the comparison time".

116 Subparagraph 61C(3)(b)(i)

Repeal the subparagraph.

117 Paragraphs 62(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) if the taxable value or the sum of the taxable values does not exceed $500—an amount equal to the taxable value or the sum of the taxable values; or

(b) in any other case—$500.

118 Section 68

Omit "28 days after the end of the year", substitute "21 May in the next year of tax".

119 Subsection 90(1)

Omit "the twenty-eighth day after the end of the", substitute "21 May in the next".

120 Section 102

Omit all the words and paragraphs after "pay", substitute ", in accordance with this Division, 4 instalments of tax in respect of each year of tax.".

121 Sections 103, 104 and 105

Repeal the sections, substitute:

103 When instalment of tax payable

Subject to this Division, the 4 instalments of tax payable in respect of a year of tax are due and payable as follows:

When instalments of tax are due and payable

Item	This instalment ...	is due and payable on:
1	first instalment	21 July in that year of tax
2	second instalment	21 October in that year of tax
3	third instalment	21 January in that year of tax
4	fourth instalment	21 April in the next year of tax

104 Notice of the amount of an instalment

An employer must notify the Commissioner, in the approved form, of the amount of an instalment on or before the day on which the instalment is due and payable.

105 Entitlement to instalment credit

(1) If:

(a) an employer is or was liable to pay an instalment of tax in respect of a year of tax; and

(b) the Commissioner makes an assessment of the tax payable, or determines that no tax is payable, by the employer in respect of that year of tax;

the employer is entitled to a credit equal to the amount of the instalment when the assessment or determination is made.

Note: How the credit is applied is set out in Division 3 of Part IIB of the *Taxation Administration Act 1953*.

(2) The making of the assessment or determination, and the resulting credit entitlement, do not affect the liability to pay the instalment.

122 Subdivision B of Division 2 of Part VII

Repeal the Subdivision.

123 Subdivision C of Division 2 of Part VII (heading)

Repeal the heading, substitute:

Subdivision C—Working out the amount of instalments

124 Section 109 (definition of *employer's estimate*)

Omit "standard".

125 Section 109 (definition of *estimated tax*)

Omit "standard".

126 Section 109 (definition of *GIC period*)

Repeal the definition, substitute:

GIC period, in relation to an instalment in relation to a year of tax, means:

(a) for a first instalment—the period starting at the beginning of 21 July, and finishing at the end of 20 October, in the year of tax; or

(b) for a second instalment—the period starting at the beginning of 21 October, and finishing at the end of 20 January, in the year of tax; or

(c) for a third instalment—the period starting at the beginning of 21 January in the year of tax and finishing at the end of 20 April in the next year of tax; or

(d) for a fourth instalment—the period starting at the beginning of 21 April, and finishing at the end of 20 May, in the next year of tax.

127 Section 109 (definition of *relevant fraction*)

Repeal the definition, substitute:

relevant fraction, in relation to an instalment, means:

(a) 0.25 for a first instalment; or

(b) 0.50 for a second instalment; or

(c) 0.75 for a third instalment; or

(d) 1.00 for a fourth instalment.

128 Subsection 110(1)

Repeal the subsection, substitute:

(1) Subject to this section, the notional tax amount of an employer in respect of a year of tax is the amount of the tax that was assessed in respect of the employer in respect of the immediately preceding year of tax.

129 Paragraph 110(2)(a)

Omit "standard".

130 Subsection 110(5)

Omit "standard year of tax, being an instalment that becomes due and payable on the twenty-eighth", substitute "year of tax, being an instalment that becomes due and payable on the 21st".

131 Subsection 111(1)

Omit "standard".

132 Subsection 111(1)

Omit "twenty-eighth", substitute "21st".

133 Subsection 111(2)

Omit "standard".

134 Subsection 112(1)

Omit "standard".

135 Subsection 112(1)(b)

Omit "statement in writing", substitute "written statement, in the approved form,".

136 Subsection 136(1)

Insert:

> ***approved form*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

137 Subsection 136(1) (definition of *standard year of tax*)

Repeal the definition.

138 Subsection 136(1) (definition of *transitional year of tax*)

Repeal the definition.

139 Subsection 136(1) (definition of *year of tax*)

Repeal the definition, substitute:

> ***year of tax*** means the year starting on 1 April 1987, and each later year starting on 1 April.

140 Application of amendments

The amendments made by this Part apply in relation to the year of tax starting on 1 April 2000 and all later years of tax.

Schedule 3—Consequential amendment of Chapter 6 (the Dictionary) of the Income Tax Assessment Act 1997

1 Subsection 995-1(1)

Insert:

ABN has the meaning given by the *A New Tax System (Australian Business Number) Act 1999*.

2 Subsection 995-1(1)

Insert:

adjusted assessed tax has the meaning given by section 45-375 in Schedule 1 to the *Taxation Administration Act 1953*.

3 Subsection 995-1(1)

Insert:

adjusted assessed taxable income has the meaning given by section 45-370 in Schedule 1 to the *Taxation Administration Act 1953*.

4 Subsection 995-1(1)

Insert:

adjusted taxable income has the meaning given by section 45-330 in Schedule 1 to the *Taxation Administration Act 1953*.

5 Subsection 995-1(1)

Insert:

adjusted withholding income has the meaning given by section 45-335 in Schedule 1 to the *Taxation Administration Act 1953*.

6 Subsection 995-1(1)

Insert:

amount required to be withheld by an entity from a *withholding payment means:

(a) the amount that the entity must withhold from the payment under Division 12 in Schedule 1 to the *Taxation Administration Act 1953*; or

(b) the amount that Division 14 in that Schedule requires the entity to pay to the Commissioner in respect of the *non-cash benefit of which the withholding payment consists;

or that amount as varied by the Commissioner under section 16-15 in the Schedule.

7 Subsection 995-1(1)

Insert:

amount withheld by an entity from a *withholding payment means:

(a) an amount that the entity withheld from the payment under Division 12 in Schedule 1 to the *Taxation Administration Act 1953*; or

(b) an amount that the entity paid to the Commissioner under Division 14 in that Schedule in respect of the *non-cash benefit of which the withholding payment consists.

8 Subsection 995-1(1)

Insert:

annual payer means an entity that has become an annual payer under section 45-140 in Schedule 1 to the *Taxation Administration Act 1953*, and has not since ceased to be an annual payer under section 45-150, 45-155 or 45-180 in that Schedule.

9 Subsection 995-1(1)

Insert:

approved form: a notice, application or other document is in the ***approved form*** if, and only if:

(a) it is in the form approved in writing by the Commissioner in relation to that kind of notice, application or other document; and

(b) it is signed by a person or persons as the form requires; and

(c) it contains the information that the form requires, and any further information or statement as the Commissioner requires; and

(d) for a notice, application or document that is required to be lodged with the Commissioner—it is lodged at the place and in the manner that the Commissioner requires.

The Commissioner may combine in the same approved form more than one notice, application or other document.

10 Subsection 995-1(1)

Insert:

Australian Business Register means the Australian Business Register established and maintained under the *A New Tax System (Australian Business Number) Act 1999*.

11 Subsection 995-1(1)

Insert:

Australian Business Registrar means the Registrar of the *Australian Business Register.

12 Subsection 995-1(1)

Insert:

Australian legislature means:

(a) the Parliament of the Commonwealth of Australia; or

(b) the Parliament of a State; or

(c) the Legislative Assembly for the Australian Capital Territory; or

(d) the Legislative Assembly of the Northern Territory of Australia.

13 Subsection 995-1(1)

Insert:

base assessment has the meaning given by section 45-320 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Subsection 995-1(1)

Insert:

base year has the meaning given by section 45-320 in Schedule 1 to the *Taxation Administration Act 1953*.

15 Subsection 995-1(1)

Insert:

benchmark instalment rate has the meaning given by section 45-360 in Schedule 1 to the *Taxation Administration Act 1953*.

16 Subsection 995-1(1)

Insert:

benchmark tax has the meaning given by section 45-365 in Schedule 1 to the *Taxation Administration Act 1953*.

17 Subsection 995-1(1)

Insert:

carried on in Australia, in relation to an *enterprise, has the meaning given by subsection 9-25(6) of the *GST Act.

18 Subsection 995-1(1)

Insert:

carrying on an *enterprise includes doing anything in the course of the commencement or termination of the enterprise.

19 Subsection 995-1(1)

Insert:

electronic payment means a payment by way of electronic transmission, in an electronic format approved by the Commissioner.

20 Subsection 995-1(1)

Insert:

electronic signature of a person means a unique identification of the person in electronic form that is approved by the Commissioner for the purposes of the definition of ***electronic signature*** in section 6 of the *Income Tax Assessment Act 1936*.

21 Subsection 995-1(1)

Insert:

enterprise has the meaning given by section 9-20 of the *GST Act.

22 Subsection 995-1(1)

Insert:

failure to notify penalty means the penalty worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

23 Subsection 995-1(1)

Insert:

farm management deposit has the same meaning as in Schedule 2G to the *Income Tax Assessment Act 1936*.

24 Subsection 995-1(1)

Insert:

foreign resident means a person who is not a resident of Australia for the purposes of the *Income Tax Assessment Act 1936*.

Note: ***Foreign resident*** is not asterisked in this Act.

25 Subsection 995-1(1)

Insert:

FTB amount for an income year means an amount of family tax benefit (within the meaning of the *A New Tax System (Family Assistance) (Administration) Act 1999*) to which an individual is entitled in respect of the income year.

26 Subsection 995-1(1)

Insert:

GDP-adjusted notional tax has the meaning given by section 45-405 in Schedule 1 to the *Taxation Administration Act 1953*.

27 Subsection 995-1(1)

Insert:

GDP amount for a *quarter has the meaning given by section 45-405 in Schedule 1 to the *Taxation Administration Act 1953*.

28 Subsection 995-1(1)

Insert:

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

29 Subsection 995-1(1)

Insert:

GST joint venture has the meaning given by section 51-5 of the *GST Act.

30 Subsection 995-1(1)

Insert:

instalment group has the meaning given by section 45-145 in Schedule 1 to the *Taxation Administration Act 1953*.

31 Subsection 995-1(1)

Insert:

instalment income has the meaning given by sections 45-120, 45-260 and 45-280 in Schedule 1 to the *Taxation Administration Act 1953*.

32 Subsection 995-1(1)

Insert:

instalment quarter has the meaning given by section 45-60 in Schedule 1 to the *Taxation Administration Act 1953*.

33 Subsection 995-1(1)

Insert:

investment body for a *Part VA investment has the meaning given by section 202D of the *Income Tax Assessment Act 1936*.

34 Subsection 995-1(1)

Insert:

investor for a *Part VA investment has the meaning given by section 202D of the *Income Tax Assessment Act 1936*.

35 Subsection 995-1(1)

Insert:

invoice means a document notifying an obligation to make a payment.

36 Subsection 995-1(1)

Insert:

labour hire notional withheld amount has the meaning given by section 16-125 in Schedule 1 to the *Taxation Administration Act 1953*.

37 Subsection 995-1(1)

Insert:

large withholder has the meaning given by sections 16-95 and 16-125 in Schedule 1 to the *Taxation Administration Act 1953*.

38 Subsection 995-1(1)

Insert:

market value of a *non-cash benefit: in working out the market value of a *non-cash benefit, disregard anything that would prevent or restrict conversion of the benefit to money.

39 Subsection 995-1(1)

Insert:

medium withholder has the meaning given by section 16-100 and 16-135 in Schedule 1 to the *Taxation Administration Act 1953*.

40 Subsection 995-1(1)

Insert:

mining withholding tax means income tax payable under section 128V of the *Income Tax Assessment Act 1936*.

41 Subsection 995-1(1)

Insert:

natural resource has the meaning given by section 6 of the *Income Tax Assessment Act 1936*.

42 Subsection 995-1(1)

Insert:

non-cash benefit is property or services in any form except money. If a non-cash benefit is dealt with on behalf of an entity, or is provided or dealt with as an entity directs, the benefit is taken to be provided to the entity.

43 Subsection 995-1(1)

Insert:

non-quotation withholding payment means a *withholding payment covered by Subdivision 12-E in Schedule 1 to the *Taxation Administration Act 1953*.

Note: Subdivision 12-E and Division 14 in that Schedule deal with collecting amounts on account of income tax payable by recipients of certain payments or non-cash benefits who have not quoted their tax file number or ABN, as appropriate.

44 Subsection 995-1(1)

Insert:

notional tax has the meaning given by section 45-325 in Schedule 1 to the *Taxation Administration Act 1953*.

45 Subsection 995-1(1)

Insert:

Part VA investment means an investment of a kind mentioned in section 202D of the *Income Tax Assessment Act 1936*.

46 Subsection 995-1(1)

Insert:

participant, in relation to a *GST joint venture, has the meaning given by section 51-5 or paragraph 51-70(1)(a) of the *GST Act.

47 Subsection 995-1(1)

Insert:

PAYG instalment means an instalment payable under Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

48 Subsection 995-1(1)

Insert:

payment summary has the meaning given by section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*.

49 Subsection 995-1(1)

Insert:

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

50 Subsection 995-1(1)

Insert:

quarterly payer means an entity that is liable to pay *PAYG instalments and is not an *annual payer.

51 Subsection 995-1(1)

Insert:

quarterly payer who pays on the basis of GDP-adjusted notional tax means an individual who has become such a payer under section 45-125 in Schedule 1 to the *Taxation Administration Act 1953*, and has not since ceased to be one under section 45-130 or 45-135 in that Schedule.

52 Subsection 995-1(1)

Insert:

quote an entity's *ABN means quote in a form and manner approved by the Commissioner.

53 Subsection 995-1(1)

Insert:

quoted: an entity has ***quoted*** its *tax file number in connection with a *Part VA investment if the entity is taken, for the purposes of Part VA of the *Income Tax Assessment Act 1936*, to have quoted its tax file number in connection with the investment.

54 Subsection 995-1(1)

Insert:

reportable fringe benefits amount for an income year in respect of an employee's employment by an employer has the same meaning as in the *Fringe Benefits Tax Assessment Act 1986* (as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*).

55 Subsection 995-1(1)

Insert:

required to be registered has the meaning given by the *GST Act.

56 Subsection 995-1(1)

Insert:

small withholder has the meaning given by section 16-105.

57 Subsection 995-1(1)

Insert:

supply has the meaning given by section 9-10 of the *GST Act.

58 Subsection 995-1(1)

Insert:

tax file number means a tax file number as defined in section 202A of the *Income Tax Assessment Act 1936.*

59 Subsection 995-1(1)

Insert:

withholder means a *large withholder, a *medium withholder or a *small withholder.

60 Subsection 995-1(1)

Insert:

withholding payment means:

(a) a payment from which an amount must be withheld under Division 12 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld); or

(b) a *non-cash benefit in respect of which Division 14 in that Schedule requires an amount to be paid to the Commissioner.

(A withholding payment that consists of a non-cash benefit is made when the benefit is provided. The amount of the withholding payment is taken to be the *market value of the benefit at that time.)

Note: Divisions 12 and 14 in Schedule 1 to the *Taxation Administration Act 1953* deal with collecting amounts on account of income tax payable by the recipient of the payment or non-cash benefit.

61 Subsection 995-1(1)

Insert:

withholding payment covered by a particular provision in Schedule 1 to the *Taxation Administration Act 1953* means a *withholding payment consisting of:

(a) a payment from which an amount must be withheld under that provision (even if the amount is not withheld); or

(b) a *non-cash benefit provided by an entity if that provision would have required the entity to withhold an amount if, instead of providing the benefit, the entity had paid the *market value of the benefit; or

(c) a non-cash benefit provided to an entity if that provision would have required the entity to withhold an amount if the benefit had been a payment of an amount equal to the market value of the benefit.

62 Subsection 995-1(1)

Insert:

withholding tax means income tax payable under section 128B of the *Income Tax Assessment Act 1936*.

63 Subsection 995-1(1) (after paragraph (b) of the definition of *this Act*)

Insert:

and (c) Schedule 1 to the *Taxation Administration Act 1953*;