A New Tax System (Tax Administration) Act 1999

Act No. 179 of 1999 as amended

[This Act was amended by Act No. 30 of 2003]

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

1 Short title

This Act may be cited as the *A New Tax System (Tax Administration) Act 1999*.

2 Commencement

(1) Subject to this section, this Act commences, or is taken to have commenced, immediately after the commencement of section 1 of the *A New Tax System (Pay As You Go) Act 1999*.

(2) Item 21 of Schedule 12 commences immediately after the commencement of item 1 of Schedule 2.

(3) Item 3 of Schedule 2 commences immediately after the commencement of item 21 of Schedule 12.

(4) Schedule 3 commences immediately after the commencement of item 3 of Schedule 2.

(5) Schedule 4 commences immediately after the commencement of Schedule 3.

(6) Item 4 of Schedule 2 commences immediately after the commencement of Schedule 4.

(7) The following provisions commence on the day on which this Act receives the Royal Assent:

(a) section 1, this section and section 3;

(b) Part 2 of Schedule 5, and the amendments of the *Taxation Administration Act 1953* made by Part 1 of that Schedule;

(c) items 1 to 22 and 24 of Schedule 6;

(d) Schedules 7, 8, 9 and 17;

(e) items 16 and 20 of Schedule 18.

(8) Items 94 to 102 of Schedule 2 commence immediately after the commencement of the *A New Tax System (Indirect Tax Administration) Act 1999*.

(9) The following provisions commence on 1 July 2000:

(a) the provisions of Schedule 5 (other than Part 2 of that Schedule and the amendments of the *Taxation Administration Act 1953* made by Part 1 of that Schedule);

(b) Schedule 11 (other than item 44).

(10) If item 4 of Schedule 7 would, apart from this subsection, commence after (or at the same time as) item 10 of Schedule 5 to the *Taxation Laws Amendment Act (No. 8) 1999*, it is taken to have commenced immediately before the commencement of item 10 of Schedule 5 to that Act. This has effect despite paragraph (7)(d).

(11) Subsection 2(1A) of the *A New Tax System (Pay As You Go) Act 1999* (inserted by item 19 of Schedule 10 to this Act) commences, or is taken to have commenced, at the commencement of section 1 of that Act.

(12) Schedules 12 (other than item 21) and 15 commence, or are taken to have commenced, at the commencement of the *A New Tax System (Goods and Services Tax) Act 1999*.

(13) Items 2, 3 and 4 of Schedule 13 commence immediately after the commencement of item 34 of Schedule 16.

(14) Items 4, 5, 17, 21 and 32 of Schedule 18 commence, or are taken to have commenced, at the commencement of the *A New Tax System (Goods and Services Tax) 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.

Schedule 1—Pay as you go (PAYG) withholding

Part 1—Amendment of the Taxation Administration Act 1953

1 Section 14-15

Repeal the link note, substitute:

Division 15—Working out the amount to withhold

Table of Subdivisions

	Guide to Division 15
15-A	Working out how much to withhold
15-B	Withholding schedules and regulations
15-C	Declarations

Guide to Division 15

15-1 What this Division is about

This Division is mainly about how to work out how much an entity must withhold under Division 12.

In most cases, the entity will need to use either the Commissioner's withholding schedules or the regulations.

The entity will also need to take into account a TFN declaration or declaration under section 15-50 it has been given because, under the schedules and regulations, the declaration may affect how to calculate the amount to withhold.

This Division also deals with when an individual can make such a declaration (other than a TFN declaration) so as to change the amount that must be withheld from payments to the individual.

Subdivision 15-A—Working out how much to withhold

Table of sections

15-10 How much to withhold
15-15 Variation of amounts required to be withheld

15-10 How much to withhold

(1) The amount that Subdivision 12-B, 12-C or 12-D requires to be withheld from a payment is to be worked out under the withholding schedules made under section 15-25. However, if the regulations prescribe how the amount is to be worked out, then it is to be worked out under the regulations.

Note 1: A TFN declaration, declaration under section 15-50 or voluntary agreement may affect how much is required to be withheld under the withholding schedules or regulations.

Note 2: The Commissioner may vary an amount required to be withheld. See section 15-15.

(2) The amount that Subdivision 12-E, 12-F or 12-G (except one covered by section 12-325) requires to be withheld from a payment is to be worked out under the regulations.

Note 1: The amount that section 12-325 requires to be withheld is worked out under that section.

Note 2: The Commissioner may vary an amount required to be withheld. See section 15-15.

15-15 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*.

Subdivision 15-B—Withholding schedules and regulations

Table of sections

15-25 Commissioner's power to make withholding schedules
15-30 Matters to be considered when making withholding schedules
15-35 Regulations about withholding

15-25 Commissioner's power to make withholding schedules

(1) For the purposes of collecting income tax and the other liabilities referred to in paragraphs 11-1(b) and (c), the Commissioner may make one or more withholding schedules specifying the amounts, formulas and procedures to be used for working out the *amount required to be withheld by an entity from a *withholding payment covered by Subdivision 12-B, 12-C or 12-D.

(2) A withholding schedule may deal differently with:

(a) different payments; and

(b) different circumstances of the recipients of those payments; and

(c) different periods in respect of which those payments are made.

This subsection does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

(3) The Commissioner may withdraw a withholding schedule.

(4) A withholding schedule, or the withdrawal of a withholding schedule:

(a) only applies if a notice of it is published in the *Gazette*; and

(b) only applies in relation to payments made after the day the notice is published, or after such later day as is specified by the Commissioner in the notice.

(5) The Commissioner must make each withholding schedule publicly available.

15-30 Matters to be considered when making withholding schedules

The Commissioner must have regard to the following matters when making a withholding schedule:

(a) the rates of income tax as specified in the *Income Tax Rates Act 1986*;

(b) the rates of Medicare levy as specified in the *Medicare Levy Act 1986*;

(c) the rates specified in section 106Q (about repayments of accumulated HEC debts) of the *Higher Education Funding Act 1988*;

(d) any prescribed *tax offsets;

(e) the family tax benefit (within the meaning of the *A New Tax System (Family Assistance) Act 1999*);

(f) the periods in respect of which *withholding payments are made;

(g) any other prescribed matter.

15-35 Regulations about withholding

(1) For the purposes of collecting income tax and the other liabilities referred to in section 11-1, the regulations may specify the amounts, formulas and procedures to be used for working out the *amount required to be withheld by an entity from a *withholding payment covered by Division 12 (except one covered by section 12-325).

(2) The regulations may deal differently with:

(a) different payments; and

(b) different circumstances of the recipients of those payments; and

(c) different periods in respect of which those payments are made.

This subsection does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Subdivision 15-C—Declarations

Table of sections

15-50 Declarations

15-50 Declarations

Declarations about prescribed matters

(1) An individual who:

(a) expects to receive a *withholding payment covered by Subdivision 12-B, 12-C or 12-D from an entity; and

(b) wishes to have a prescribed matter relating to the individual's income tax or other liability referred to in paragraph 11-1(b) or (c) taken into account by the entity in working out the *amount required to be withheld from the payment;

may give the entity a declaration about the matter in the *approved form.

When declarations under subsection (1) can't be given

(2) The individual cannot give a declaration under subsection (1) unless:

(a) a *TFN declaration is in effect between the individual and the entity, or a *voluntary agreement covers the payment; and

(b) if the individual has given another entity a declaration on a prescribed matter—that declaration is not in effect.

Declarations changing information given in TFN declaration

(3) If:

(a) an individual has given a *TFN declaration to an entity; and

(b) the individual made a statement about a prescribed matter in the TFN declaration; and

(c) the individual's circumstances change in relation to the matter;

the individual may give the entity a declaration about the matter in the *approved form.

Regulations

(4) The regulations may prescribe:

(a) the matters about which a declaration under subsection (1) or (3) may be given; and

(b) when a declaration under subsection (1) or (3) starts or ceases to be in effect; and

(c) when a declaration under subsection (1) or (3) is taken to have been given.

(5) If:

(a) an individual gives an entity a declaration under subsection (1) or (3) about a matter; and

(b) the individual's circumstances change in relation to the matter;

the regulations may also prescribe when the individual must give the entity a new declaration about the matter.

2 Group heading before section 16-5 in Schedule 1

Repeal the heading, substitute:

When to withhold

3 Section 16-10 in Schedule 1

Repeal the section.

4 Section 16-15 in Schedule 1

Repeal the section.

Part 2—Amendment of A New Tax System (Family Assistance) (Administration) Act 1999

5 Paragraph 10(5)(a)

Omit "an employment", substitute "a".

6 Subparagraph 10(5)(a)(i)

Omit "the Income Tax Regulations", substitute "section 15-50 in Schedule 1 to the *Taxation Administration Act 1953*".

Part 3—Application and saving

7 Application of amendments

(1) The amendments made by Part 1 apply in relation to a payment made on or after 1 July 2000.

(2) A declaration under section 15-50 in Schedule 1 to the *Taxation Administration Act 1953* can only be given on or after 1 July 2000.

(3) The amendments made by Part 2 apply to a declaration under section 15-50 in Schedule 1 to the *Taxation Administration Act 1953* that is given, or taken to have been given, on or after 1 July 2000.

8 Saving of declarations

A declaration that is effective under Subdivision 2 of Division 2 of Part 7 of the *Income Tax Regulations 1936* immediately before 1 July 2000 continues to have effect as if it were a declaration under section 15-50 in Schedule 1 to the *Taxation Administration Act 1953* given on 1 July 2000.

Schedule 2—Collection and recovery rules

Part 1—Amendment of the Taxation Administration Act 1953

1 At the end of Schedule 1

Add:

[The next Division is Division 250.]

Part 4-15—Collection and recovery of tax-related liabilities and other amounts

Division 250—Introduction

Table of Subdivisions

250-A Guide to Part 4-15

250-B Object of this Part

Subdivision 250-A—Guide to Part 4-15

250-1 What this Part is about

This Part deals with the methods by which the Commissioner may collect and recover amounts of taxes and other liabilities.

These rules may affect you if you are liable to pay an amount of a tax-related liability (see, for example, Division 255). Some of the rules may also affect you because of your relationship with someone else who is liable for such an amount (see Division 260).

Table of sections

250-5 Some important concepts about tax-related liabilities

250-10 Summary of tax-related liabilities

250-5 Some important concepts about tax-related liabilities

(1) A tax-related liability may arise for an entity before it becomes due and payable by that entity.

Example: Under Part 2-5, an entity's liability to pay a withheld amount may arise before the amount is due and payable.

(2) For some tax-related liabilities, an assessment needs to be made before the amount of the relevant liability becomes due and payable.

Example: Under Division 1 of Part VI of the *Income Tax Assessment Act 1936*, an amount of income tax needs to be assessed before it becomes due and payable.

(3) An amount of a tax-related liability may become payable by an entity (for example, when the amount has been assessed) before it is due and payable by that entity.

250-10 Summary of tax-related liabilities

(1) The following table is an index of each tax-related liability under the *Income Tax Assessment Act 1936*. The key provision for the liability, as set out in the table, specifies when the liability becomes due and payable.

Note: The Commissioner may vary the time at which the amount becomes due and payable. See Subdivision 255-B.

Tax-related liabilities under the *Income Tax Assessment Act 1936*

Item	Topic	Provision
5	ultimate beneficiary non-disclosure tax	102UO
10	withholding tax on dividend, interest or royalty	128C(1)
15	special tax payable on dealings by offshore banking units	128NB(3)
20	mining withholding tax	128W(1)
25	untainting tax	160ARDZ
30	franking deficit tax	160ARU(1)

35	franking deficit tax—part year assessment	160ARU(2)
40	deficit deferral tax	160ARUA
45	franking additional tax	160ARV
50	late lodgment penalty	163A(3)
55	income tax, including any liability taken to be income tax for the purposes of section 204	204
60	TFN withholding tax	221YHZW
65	estimate of unremitted amounts	222AGB(2)
70	amount payable under a payment agreement	222ALA
75	penalty under Subdivision B of Part 9	222AOE
80	penalty under Subdivision C of Part 9	222APE
85	penalty for failing to ensure that a company complies with a payment agreement	222AQA
90	family trust distribution tax	271-75 in Schedule 2F

(2) The following table is an index of each tax-related liability under other Acts. The key provision for the liability, as set out in the table, specifies when the liability becomes due and payable.

Note: The Commissioner may vary the time at which the amount becomes due and payable. See Subdivision 255-B.

Tax-related liabilities under other legislation

Item	Topic	Provision	Act
5	net amount, including amounts in respect of luxury car tax and wine equalisation tax	33-5	*A New Tax System (Goods and Services Tax) Act 1999*
10	amount of GST on importations	33-15	*A New Tax System (Goods and Services Tax) Act 1999*
15	amount of luxury car tax on importation	13-20	*A New Tax System (Luxury Car Tax) Act 1999*
20	amount of wine tax on customs dealings	23-5	*A New Tax System (Wine Equalisation Tax) Act 1999*

25	fringe benefits tax	90(1)	*Fringe Benefits Tax Assessment Act 1986*
30	additional tax under Part VIII	90(2)	*Fringe Benefits Tax Assessment Act 1986*
35	fringe benefits tax instalments	103	*Fringe Benefits Tax Assessment Act 1986*
40	petroleum resource rent tax and additional tax	82	*Petroleum Resource Rent Tax Assessment Act 1987*
45	petroleum resource rent tax instalments	95	*Petroleum Resource Rent Tax Assessment Act 1987*
50	superannuation contributions surcharge	15(3)	*Superannuation Contributions Tax (Assessment and Collection) Act 1997*
55	superannuation contributions surcharge	15(8)	*Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*
60	superannuation guarantee charge	46	*Superannuation Guarantee (Administration) Act 1992*
65	additional superannuation guarantee charge	47	*Superannuation Guarantee (Administration) Act 1992*
70	general interest charge	8AAE	*Taxation Administration Act 1953*
75	failure to notify penalty	8AAL	*Taxation Administration Act 1953*
80	late reconciliation statement penalty	8AAR	*Taxation Administration Act 1953*
85	RBA deficit debt	8AAZH(1)	*Taxation Administration Act 1953*
90	administrative overpayment made by Commissioner	8AAZN	*Taxation Administration Act 1953*
95	penalty under Division 4 of Part VI	47	*Taxation Administration Act 1953*
100	penalty for failure to withhold	16-30(2) and 16-40(2) in Schedule 1	*Taxation Administration Act 1953*
105	payment of withheld amount to Commissioner	16-75 in Schedule 1	*Taxation Administration Act 1953*

110	additional withholding tax	16-200(2) in Schedule 1	*Taxation Administration Act 1953*
115	quarterly PAYG instalment	45-60 in Schedule 1	*Taxation Administration Act 1953*
120	annual PAYG instalment	45-70 in Schedule 1	*Taxation Administration Act 1953*
125	general interest charge on shortfall in quarterly instalment worked out on basis of varied rate	45-230(4) in Schedule 1	*Taxation Administration Act 1953*
130	general interest charge on shortfall in quarterly instalment worked out on basis of estimated benchmark tax	45-232 in Schedule 1	*Taxation Administration Act 1953*
135	general interest charge on shortfall in annual instalment	45-235(5) in Schedule 1	*Taxation Administration Act 1953*
140	civil penalty expressed in penalty units	298-15 in Schedule 1	*Taxation Administration Act 1953*
145	termination payment surcharge	11(2)	*Termination Payments Tax (Assessment and Collection) Act 1997*
150	tobacco charge	17(1)	*Tobacco Charges Assessment Act 1955*
155	additional charge	17(1A)	*Tobacco Charges Assessment Act 1955*
160	wool tax	36(1)	*Wool Tax (Administration) Act 1964*
165	additional tax	36(2)	*Wool Tax (Administration) Act 1964*

Subdivision 250-B—Object of this Part

250-25 Object

The object of this Part is to ensure that unpaid amounts of *tax-related liabilities and other related amounts are collected or recovered in a timely manner.

[The next Division is Division 255.]

Division 255—General rules about collection and recovery

Table of Subdivisions

255-A Tax-related liabilities

255-B Commissioner's power to vary payment time

255-C Recovery proceedings

Subdivision 255-A—Tax-related liabilities

Table of sections

255-1 Meaning of *tax-related liability*

255-5 Recovering a tax-related liability that is due and payable

255-1 Meaning of tax-related liability

A ***tax-related liability*** is a pecuniary liability to the Commonwealth arising directly under a *taxation law (including a liability the amount of which is not yet due and payable).

Note 1: See section 250-10 for an index of tax-related liabilities.

Note 2: A taxation law, or a provision of it, may be excluded from being applied to this Part. See section 265-65.

255-5 Recovering a tax-related liability that is due and payable

(1) An amount of a *tax-related liability that is due and payable:

(a) is a debt due to the Commonwealth; and

(b) is payable to the Commissioner.

(2) The Commissioner, a Second Commissioner or a Deputy Commissioner may sue in his or her official name in a court of competent jurisdiction to recover an amount of a *tax-related liability that remains unpaid after it has become due and payable.

Note: The tables in section 250-10 set out each provision that specifies when an amount of a tax-related liability becomes due and payable. The Commissioner may vary that time under Subdivision 255-B.

Subdivision 255-B—Commissioner's power to vary payment time

Table of sections

255-10 To defer the payment time
255-15 To permit payments by instalments
255-20 To bring forward the payment time in certain cases

255-10 To defer the payment time

(1) The Commissioner may, having regard to the circumstances of your particular case, defer the time at which an amount of a *tax-related liability is, or would become, due and payable by you (whether or not the liability has already arisen). If the Commissioner does so, that time is varied accordingly.

Note: General interest charge or any other relevant penalty, if applicable for any unpaid amount of the liability, will begin to accrue from the time as varied. See, for example, paragraph 204(3)(a) of the *Income Tax Assessment Act 1936*.

(2) The Commissioner must do so by written notice given to you.

255-15 To permit payments by instalments

(1) The Commissioner may, having regard to the circumstances of your particular case, permit you to pay an amount of a *tax-related liability by instalments under an *arrangement between you and the Commissioner (whether or not the liability has already arisen).

(2) The *arrangement does not vary the time at which the amount is due and payable.

Note: Despite an arrangement under this section, any general interest charge or other relevant penalty, if applicable for any unpaid amount of the liability, begins to accrue when the liability is due and payable under the relevant taxation law, or at that time as varied under section 255-10 or 255-20.

255-20 To bring forward the payment time in certain cases

(1) If the Commissioner reasonably believes that you may leave Australia before the time at which an amount of a *tax-related liability becomes due and payable by you, the Commissioner may

bring that time forward. If the Commissioner does so, that time is varied accordingly.

Note: General interest charge or any other relevant penalty, if applicable for any unpaid amount of the liability, will begin to accrue from the time as varied. See, for example, paragraph 204(3)(a) of the *Income Tax Assessment Act 1936*.

(2) The Commissioner must do so by written notice given to you.

Subdivision 255-C—Recovery proceedings

Guide to Subdivision 255-C

255-35 What this Subdivision is about

This Subdivision deals with procedural and evidentiary matters relating to proceedings to recover an amount of a tax-related liability.

Table of sections

Operative provisions

255-40 Service of documents if person absent from Australia or cannot be found
255-45 Evidentiary certificate
255-50 Certain statements or averments
255-55 Evidence by affidavit

[This is the end of the Guide.]

Operative provisions

255-40 Service of documents if person absent from Australia or cannot be found

(1) This section applies if a document needs to be served on a person in respect of a proceeding to recover an amount of a *tax-related liability, and the Commissioner, after making reasonable inquiries, is satisfied that:

(a) the person is absent from Australia and does not have any agent in Australia on whom the document can be served; or

(b) the person cannot be found.

(2) The Commissioner may, without the court's leave, serve the document by posting it, or a sealed copy of it, in a letter addressed to the person at any Australian address of the person (including the person's Australian place of business or residence) that is last known to the Commissioner.

255-45 Evidentiary certificate

(1) A certificate:

(a) stating one or more of the matters covered by subsection (2); and

(b) signed by the Commissioner, a Second Commissioner or a Deputy Commissioner;

is prima facie evidence of the matter or matters in a proceeding to recover an amount of a *tax-related liability.

(2) A certificate may state:

(a) that a person named in the certificate has a *tax-related liability; or

(b) that an *assessment relating to a tax-related liability has been made, or is taken to have been made, under a *taxation law; or

(c) that notice of an assessment, or any other notice required to be served on a person in respect of an amount of a tax-related liability, was, or is taken to have been, served on the person under a *taxation law; or

(d) that the particulars of a notice covered by paragraph (c) are as stated in the certificate; or

(e) that a sum specified in the certificate is, as at the date specified in the certificate, a debt due and payable by a person to the Commonwealth.

255-50 Certain statements or averments

(1) In a proceeding to recover an amount of a *tax-related liability, a statement or averment about a matter in the plaintiff's complaint, claim or declaration is prima facie evidence of the matter.

(2) This section applies even if the matter is a mixed question of law and fact. However, the statement or averment is prima facie evidence of the fact only.

(3) This section applies even if evidence is given in support or rebuttal of the matter or of any other matter.

(4) Any evidence given in support or rebuttal of the matter stated or averred must be considered on its merits. This section does not increase or diminish the credibility or probative value of the evidence.

(5) This section does not lessen or affect any onus of proof otherwise falling on a defendant.

255-55 Evidence by affidavit

In a proceeding to recover an amount of a *tax-related liability:

(a) a person may give evidence by affidavit; and

(b) the court may require the person to attend before it:

(i) to be cross-examined on that evidence; or

(ii) to give other evidence relating to the proceedings.

[The next Division is Division 260.]

Division 260—Special rules about collection and recovery

Table of Subdivisions

Guide to Division 260

260-A From third party

260-B From liquidator

260-C From receiver

260-D From agent winding up business for non-resident principal

260-E From deceased person's estate

Guide to Division 260

260-1 What this Division is about

This Division deals with the collection and recovery of an amount from a person who is not personally liable to pay that amount. Apart from Subdivision 260-A, which covers a wider range of amounts, this Division primarily deals with amounts of tax-related liabilities.

Subdivision 260-A—From third party

Table of sections

260-5 Commissioner may collect amounts from third party

260-10 Notice to Commonwealth, State or Territory

260-15 Indemnity

260-20 Offence

260-5 Commissioner may collect amounts from third party

Amount recoverable under this Subdivision

(1) This Subdivision applies if any of the following amounts (the ***debt***) is payable to the Commonwealth by an entity (the ***debtor***) (whether or not the debt has become due and payable):

(a) an amount of a *tax-related liability;

(b) a judgment debt for a *tax-related liability;

(c) costs for such a judgment debt;

(d) an amount that a court has ordered the debtor to pay to the Commissioner following the debtor's conviction for an offence against a *taxation law.

Commissioner may give notice to an entity

(2) The Commissioner may give a written notice to an entity (the ***third party***) under this section if the third party owes or may later owe money to the debtor.

Third party regarded as owing money in these circumstances

(3) The third party is taken to owe money (the ***available money***) to the debtor if the third party:

(a) is an entity by whom the money is due or accruing to the debtor; or

(b) holds the money for or on account of the debtor; or

(c) holds the money on account of some other entity for payment to the debtor; or

(d) has authority from some other entity to pay the money to the debtor.

The third party is so taken to owe the money to the debtor even if:

(e) the money is not due, or is not so held, or payable under the authority, unless a condition is fulfilled; and

(f) the condition has not been fulfilled.

How much is payable under the notice

(4) A notice under this section must:

(a) require the third party to pay to the Commissioner the lesser of, or a specified amount not exceeding the lesser of:

(i) the debt; or

(ii) the available money; or

(b) if there will be amounts of the available money from time to time—require the third party to pay to the Commissioner a specified amount, or a specified percentage, of each amount of the available money, until the debt is satisfied.

When amount must be paid

(5) The notice must require the third party to pay an amount under paragraph (4)(a), or each amount under paragraph (4)(b):

(a) immediately after; or

(b) at or within a specified time after;

the amount of the available money concerned becomes an amount owing to the debtor.

Debtor must be notified

(6) The Commissioner must send a copy of the notice to the debtor.

Setting-off amounts

(7) If an entity other than the third party has paid an amount to the Commissioner that satisfies all or part of the debt:

(a) the Commissioner must notify the third party of that fact; and

(b) any amount that the third party is required to pay under the notice is reduced by the amount so paid.

260-10 Notice to Commonwealth, State or Territory

If the third party is the Commonwealth, a State or a Territory, the Commissioner may give the notice to a person who:

(a) is employed by the Commonwealth, or by the State or Territory (as appropriate); and

(b) has the duty of disbursing public money under a law of the Commonwealth, or of the State or Territory (as appropriate).

260-15 Indemnity

An amount that the third party pays to the Commissioner under this Subdivision is taken to have been authorised by:

(a) the debtor; and

(b) any other person who is entitled to all or a part of the amount;

and the third party is indemnified for the payment.

260-20 Offence

(1) The third party must not fail to comply with the Commissioner's notice.

Penalty: 20 penalty units

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

(2) The court may, in addition to imposing a penalty on a person convicted of an offence against subsection (1) in relation to failing to pay an amount under the notice, order the person to pay to the Commissioner an amount not exceeding that amount.

Subdivision 260-B—From liquidator

Table of sections

260-40 Subdivision does not apply to superannuation guarantee charge
260-45 Liquidator's obligation
260-50 Offence
260-55 Joint liability of 2 or more liquidators
260-60 Liquidator's other obligation or liability

260-40 Subdivision does not apply to superannuation guarantee charge

This Subdivision does not apply to a *tax-related liability that is superannuation guarantee charge imposed by the *Superannuation Guarantee Charge Act 1992*.

260-45 Liquidator's obligation

(1) This Subdivision applies to a person who becomes a liquidator of a company.

(2) Within 14 days after becoming liquidator, the liquidator must give written notice of that fact to the Commissioner.

(3) The Commissioner must, as soon as practicable, notify the liquidator of the amount (the ***notified amount***) that the Commissioner considers is enough to discharge any *outstanding tax-related liabilities that the company has when the notice is given.

(4) The liquidator must not, without the Commissioner's permission, part with any of the company's assets before receiving the Commissioner's notice.

(5) However, subsection (4) does not prevent the liquidator from parting with the company's assets to pay debts of the company not covered by either of the following paragraphs:

(a) the *outstanding tax-related liabilities;

(b) any debts of the company which:

(i) are unsecured; and

(ii) are not required, by an *Australian law, to be paid in priority to some or all of the other debts of the company.

(6) After receiving the Commissioner's notice, the liquidator must set aside, out of the assets available for paying amounts covered by paragraph (5)(a) or (b) (the ***ordinary debts***), assets with a value calculated using the following formula:

formula inserted here

where:

amount of remaining ordinary debts means the sum of the company's ordinary debts other than the *outstanding tax-related liabilities.

(7) The liquidator must, in his or her capacity as liquidator, discharge the *outstanding tax-related liabilities, to the extent of the value of the assets that the liquidator is required to set aside.

(8) The liquidator is personally liable to discharge the liabilities, to the extent of that value, if the liquidator contravenes this section.

260-50 Offence

The liquidator must not fail to comply with subsection 260-45(2), (4), (5), (6) or (7).

Penalty: 10 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

260-55 Joint liability of 2 or more liquidators

If there are 2 or more persons who become liquidators of the company, the obligations and liabilities under this Subdivision:

(a) apply to all the liquidators; but

(b) may be discharged by any of them.

260-60 Liquidator's other obligation or liability

This Subdivision does not reduce any obligation or liability of a liquidator arising elsewhere.

Subdivision 260-C—From receiver

Table of sections

260-75 Receiver's obligation
260-80 Offence
260-85 Joint liability of 2 or more receivers
260-90 Receiver's other obligation or liability

260-75 Receiver's obligation

(1) This Subdivision applies to a person (the ***receiver***) who, in the capacity of receiver, or of receiver and manager, takes possession of a company's assets for the company's debenture holders.

(2) Within 14 days after taking possession of the assets, the receiver must give written notice of that fact to the Commissioner.

(3) The Commissioner must, as soon as practicable, notify the receiver of the amount (the ***notified amount***) that the Commissioner considers is enough to discharge any *outstanding tax-related liabilities that the company has when the notice is given.

(4) The receiver must not, without the Commissioner's permission, part with any of the company's assets before receiving the Commissioner's notice.

(5) However, subsection (4) does not prevent the receiver from parting with the company's assets to pay debts of the company not covered by either of the following paragraphs:

(a) the *outstanding tax-related liabilities;

(b) any debts of the company which:

(i) are unsecured; and

(ii) are not required, by an *Australian law, to be paid in priority to some or all of the other debts of the company.

(6) After receiving the Commissioner's notice, the receiver must set aside, out of the assets available for paying amounts covered by paragraph (5)(a) or (b) (the ***ordinary debts***), assets with a value calculated using the following formula:

formula inserted here

where:

amount of remaining ordinary debts means the sum of the company's ordinary debts other than the *outstanding tax-related liabilities.

(7) The receiver must, in his or her capacity as receiver, or as receiver and manager, discharge the *outstanding tax-related liabilities, to the extent of the value of the assets that the receiver is required to set aside.

(8) The receiver is personally liable to discharge the liabilities, to the extent of that value, if the receiver contravenes this section.

260-80 Offence

The receiver must not fail to comply with subsection 260-75(2), (4), (5), (6) or (7).

Penalty: 10 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

260-85 Joint liability of 2 or more receivers

If 2 or more persons (the ***receivers***) take possession of a company's assets, for the company's debenture holders, in the capacity of receiver, or of receiver and manager, the obligations and liabilities under this Subdivision apply to:

(a) all the receivers; but

(b) may be discharged by any of them.

260-90 Receiver's other obligation or liability

This Subdivision does not reduce any obligation or liability of the receiver or receivers arising elsewhere.

Subdivision 260-D—From agent winding up business for non-resident principal

Table of sections

260-105 Obligation of agent winding up business for non-resident principal
260-110 Offence
260-115 Joint liability of 2 or more agents
260-120 Agent's other obligation or liability

260-105 Obligation of agent winding up business for non-resident principal

(1) This Subdivision applies to an agent whose principal:

(a) is not an Australian resident; and

(b) has instructed the agent to wind up so much of the principal's business as is carried on in Australia.

(2) Within 14 days after receiving the instructions, the agent must give written notice of that fact to the Commissioner.

(3) The Commissioner must, as soon as practicable after receiving the notice, notify the agent of the amount (the ***notified amount***) that the Commissioner considers is enough to discharge any *outstanding tax-related liabilities that the principal has when the notice is given.

(4) Before receiving the Commissioner's notice, the agent must not, without the Commissioner's permission, part with any of the principal's assets that are available for discharging the *outstanding tax-related liabilities.

(5) After receiving the notice, the agent must set aside:

(a) out of the assets available for discharging the *outstanding tax-related liabilities, assets to the value of the notified amount; or

(b) all of the assets so available, if their value is less than the notified amount.

(6) The agent must, in that capacity, discharge the *outstanding tax-related liabilities, to the extent of the value of the assets that the agent is required to set aside.

(7) The agent is personally liable to discharge the liabilities, to the extent of that value, if the agent contravenes this section.

260-110 Offence

A person must not fail to comply with subsection 260-105(2), (4), (5) or (6).

Penalty: 10 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of penalty units.

260-115 Joint liability of 2 or more agents

If 2 or more agents are jointly instructed by the principal to wind up the business, the obligations and liabilities under this Subdivision:

(a) apply to all the agents; but

(b) may be discharged by any of them.

260-120 Agent's other obligation or liability

This Subdivision does not reduce any obligation or liability of the agent or agents arising elsewhere.

Subdivision 260-E—From deceased person's estate

Table of sections

260-140 Administered estate
260-145 Unadministered estate
260-150 Commissioner may authorise amount to be recovered

260-140 Administered estate

(1) This section applies if:

(a) a person has an *outstanding tax-related liability when the person dies; and

(b) either of the following is granted after the death:

(i) probate of the person's will;

(ii) letters of administration of the person's estate.

(2) The Commissioner may, in respect of the liability, deal with the trustee of the deceased person's estate as if:

(a) the deceased person were still alive; and

(b) the trustee were the deceased person.

(3) Without limiting subsection (2), the trustee must:

(a) provide any returns and other information that the deceased person was liable to provide, or would have been liable to provide if he or she were still alive; and

(b) provide any additional returns or other information relating to the liability that the Commissioner requires; and

(c) in the trustee's representative capacity, discharge the liability and any penalty imposed in respect of the liability under a *taxation law (including any *general interest charge) for which the deceased person would be liable if he or she were still alive.

(4) If:

(a) the amount of the liability requires an *assessment under a *taxation law but the assessment has not been made; and

(b) the trustee fails to provide a return or other information in relation to assessing that amount as required by the Commissioner;

the Commissioner may assess that amount. If the Commissioner does so, the assessment has the same effect as if it were made under that taxation law.

(5) A trustee who is dissatisfied with an *assessment under subsection (4) may object in the manner set out in Part IVC.

(6) Part IVC applies in relation to the objection as if the trustee were the deceased person.

260-145 Unadministered estate

(1) This section applies if neither of the following is granted within 6 months after a person's death:

(a) probate of the person's will;

(b) letters of administration of the person's estate.

(2) The Commissioner may determine the total amount of *outstanding tax-related liabilities that the person had at the time of death.

(3) The Commissioner must publish notice of the determination twice in a daily newspaper circulating in the State or Territory in which the person resided at the time of death.

(4) A notice of the determination is conclusive evidence of the *outstanding tax-related liabilities, unless the determination is amended.

(5) A person who is dissatisfied with the determination may object in the manner set out in Part IVC if the person:

(a) claims an interest in the estate; or

(b) is granted probate of the deceased person's will or letters of administration of the estate.

(6) Part IVC applies in relation to the objection as if the person making it were the deceased person.

260-150 Commissioner may authorise amount to be recovered

(1) The Commissioner may, in writing, authorise a person (the ***authorised person***) who is:

(a) a member or a special member of the Australian Federal Police; or

(b) a member of the police force of a State or Territory; or

(c) any other person;

to recover:

(d) the total amount of the *outstanding tax-related liabilities of a deceased person as determined under section 260-145 (about unadministered estates); and

(e) any reasonable costs incurred by the authorised person in recovering that amount;

by seizing and disposing of any property of the deceased person.

(2) The authorised person may seize and dispose of the property as prescribed by the regulations.

[The next Division is Division 265.]

Division 265—Other matters

Table of Subdivisions

265-A Right of person to seek recovery or contribution

265-B Application of laws

Subdivision 265-A—Right of person to seek recovery or contribution

Guide to Subdivision 265-A

265-35 What this Subdivision is about

This Division deals with a person's right to recover from another person an amount paid in discharge of a tax-related liability if:

- the person has paid the amount for or on behalf of the other person;
- the persons are jointly liable to pay the amount.

Table of sections

Operative provisions

265-40 Right of recovery if another person is liable

265-45 Right of contribution if persons are jointly liable

[This is the end of the Guide.]

Operative provisions

265-40 Right of recovery if another person is liable

A person who has paid an amount of a *tax-related liability for or on behalf of another person may:

(a) recover that amount from the other person as a debt (together with the costs of recovery) in a court of competent jurisdiction; or

(b) retain or deduct the amount out of money held by the person that belongs to, or is payable to, the other person.

265-45 Right of contribution if persons are jointly liable

(1) If 2 or more persons are jointly liable to pay an amount of a *tax-related liability, they are each liable for the whole of the amount.

(2) If one of the persons has paid an amount of the liability, the person may recover in a court of competent jurisdiction, as a debt, from another of those persons:

(a) an amount equal to so much of the amount paid; and

(b) an amount equal to so much of the costs of recovery under this section;

as the court considers just and equitable.

Subdivision 265-B—Application of laws

Table of sections

265-65 Non-application of certain taxation laws
265-70 Application of the *Criminal Code*

265-65 Non-application of certain taxation laws

This Part does not apply in relation to a *taxation law, or a provision of a taxation law, that is prescribed by the regulations.

265-70 Application of the Criminal Code

The *Criminal Code* applies to all offences against this Part.

2 Application of Part 4-15 in Schedule 1 to the Taxation Administration Act 1953

(1) Section 255-5 in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to an amount of a tax-related liability that becomes due and payable on or after 1 July 2000.

(2) Subdivision 255-B in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to any tax-related liability (whether arising before, on or after 1 July 2000).

(3) Subdivision 255-C in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to:

(a) a proceeding commenced on or after 1 July 2000 under section 255-5 in that Schedule; and

(b) a proceeding to recover an amount of a tax-related liability if it commenced before 1 July 2000 and is continuing on or after that day, as if it were a proceeding commenced under that section; and

(c) a proceeding to recover an amount of a tax-related liability that became due and payable before 1 July 2000 if the proceeding commences on or after that day, as if it were a proceeding commenced under that section.

(4) Subdivision 260-A in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to any debt (whether payable before, on or after 1 July 2000).

(4A) Despite subitems (2), (3) and (4), nothing can be done under Subdivision 255-B, 255-C or 260-A in Schedule 1 to the *Taxation Administration Act 1953* before 1 July 2000.

(5) Subdivision 260-B in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to a person who becomes a liquidator on or after 1 July 2000 (whether the outstanding tax-related liabilities concerned arise before, on or after that day).

(6) Subdivision 260-C in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to a receiver, or receiver and manager, who takes possession of a company's assets on or after 1 July 2000 (whether the outstanding tax-related liabilities concerned arise before, on or after that day).

(7) Subdivision 260-D in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to an agent who is instructed, on or after 1 July 2000, to wind-up the principal's business in Australia (whether the outstanding tax-related liabilities concerned arise before, on or after that day).

(8) Subdivision 260-E in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to a person who dies on or after 1 July 2000 (whether the outstanding tax-related liabilities concerned arise before, on or after that day).

(9) Section 265-40 in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to an amount of a tax-related liability that is paid on or after 1 July 2000 (whether the liability concerned arises before, on or after that day).

(10) Section 265-45 in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to any tax-related liability arising on or after 1 July 2000.

3 At the end of Schedule 1

Add:

[The next Division is Division 353.]

Part 5-1—The Australian Taxation Office

Division 353—Powers to obtain information and evidence

353-10 Commissioner's power

(1) The Commissioner may by notice in writing require any person:

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

4 At the end of Schedule 1

Add:

[The next Division is Division 444.]

Part 5-45—Application of taxation laws to certain entities

Division 444—Entities that are not legal persons

Table of sections

444-5 Partnerships
444-10 Unincorporated companies
444-15 Superannuation funds

444-5 Partnerships

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

(2) An obligation that this Schedule would otherwise impose on the partnership:

(a) is imposed instead on each partner; 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 Schedule.

444-10 Unincorporated companies

An obligation that this Schedule would otherwise impose on a company that is not incorporated:

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

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

444-15 Superannuation funds

If a *superannuation fund does not have a trustee of the fund, this Schedule applies to the fund as if:

(a) the person who manages the fund were the trustee of the fund; or

(b) each of the persons who manage the fund were 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*.

Part 2—Consequential amendment of Acts

A New Tax System (Goods and Services Tax) Act 1999

5 Section 33-1 (before the note)

Insert:

For provisions about collection and recovery of GST, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* and Division 3 of Part VI of that Act.

6 Section 33-20

Repeal the section.

7 Section 33-25

Repeal the section.

8 Section 33-30

Repeal the section.

Fringe Benefits Tax Assessment Act 1986

9 At the end of subsection 90(2)

Add:

Note: For provisions about collection and recovery of tax and additional tax, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

10 Section 91

Repeal the section.

11 Section 92

Repeal the section.

12 Section 94

Repeal the section.

13 Section 95

Repeal the section.

14 Section 96

Repeal the section.

15 Section 97

Repeal the section.

16 Section 98

Repeal the section.

17 Section 99

Repeal the section.

18 Section 130

Repeal the section.

19 Section 131

Repeal the section.

Income Tax Assessment Act 1936

20 At the end of section 102UO

Add:

Application

(4) Subsections (2) and (3) do not apply in relation to any ultimate beneficiary non-disclosure tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of ultimate beneficiary non-disclosure tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

21 At the end of section 128C

Add:

Application

(9) Subsections (2) and (5) do not apply in relation to any withholding tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of withholding tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

22 At the end of section 128W

Add:

Application

(7) Subsections (2) and (3) do not apply in relation to any mining withholding tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of mining withholding tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

23 At the end of section 205

Add:

Application

(3) The Commissioner must not exercise his or her power under this section (including the extended operation that this section has because of any other provision of this Act) on or after 1 July 2000.

Example: Subsection 163A(8) provides for an extended operation of this section in respect of a penalty under section 163A. The Commissioner therefore must not exercise his or her power under this section because of that extended operation on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about the variation of the time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

24 At the end of section 206

Add:

Application

(3) The Commissioner must not exercise his or her power under this section (including the extended operation that this section has because of any other provision of this Act) on or after 1 July 2000.

Example: Subsection 163A(8) provides for an extended operation of this section in respect of a penalty under section 163A. The Commissioner therefore must not exercise his or her power under this section because of that extended operation on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about the variation of the time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

25 At the end of section 208

Add:

Application

(3) This section does not apply in relation to:

(a) income tax that becomes due and payable on or after 1 July 2000; or

(b) any other amount that becomes due and payable on or after that day, and that is taken to be income tax for the purposes of this section because of any other provision of this Act.

Example: Subsection 160ARW(1) provides that in section 208 income tax includes franking deficit tax, deficit deferral tax and franking additional tax. This section therefore does not apply in relation to any franking deficit tax, deficit deferral tax or franking additional tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of income tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

26 At the end of section 209

Add:

Application

(3) This section does not apply in relation to:

(a) any tax that becomes due and payable on or after 1 July 2000; or

(b) any other amount that becomes due and payable on or after that day, and that is taken to be tax for the purposes of this section because of any other provision of this Act.

Example: Subsection 160ARW(1) provides that in section 209 tax includes franking deficit tax, deficit deferral tax and franking additional tax. This section therefore does not apply in relation to any franking deficit tax, deficit deferral tax or franking additional tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

27 At the end of section 214

Add:

Application

(3) A process must not be served under this section (including the extended operation that this section has because of any other provision of this Act) on or after 1 July 2000.

Example: Subsection 163A(8) provides for an extended operation of this section in respect of a penalty under section 163A. A process therefore must not be served on or after 1 July 2000 under this section because of that extended operation.

Note: For provisions about collection and recovery of income tax and other amounts on or after 1 July 2000 (including provisions about substituted service), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

28 At the end of section 215

Add:

Application

(7) This section (including the extended operation that this section has because of any other provision of this Act) does not apply in relation to:

(a) a person who, on or after 1 July 2000, becomes the liquidator of a company; or

(b) a person who, on or after 1 July 2000, takes possession of assets of a company as a receiver for any debenture holders of the company; or

(c) an agent who, on or after 1 July 2000, is instructed to wind up the principal's business or realise the principal's assets.

Example: Subsection 163A(8) provides for an extended operation of this section in respect of a penalty under section 163A. However, despite that extended operation, this section does not apply in relation to a person mentioned in a paragraph of subsection (7).

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about liquidators, receivers and agents), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

29 At the end of section 216

Add:

Application

(4) This section (including the extended operation that this section has because of any other provision of this Act) does not apply in relation to a person who dies on or after 1 July 2000.

Example: Subsection 163A(8) provides for an extended operation of this section in respect of a penalty under section 163A. However, despite that extended operation, this section does not apply in relation to a person who dies on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about the estate of a deceased taxpayer), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

30 At the end of section 218

Add:

Application

(8) The Commissioner must not issue a notice under this section (including the extended operation that this section has because of any other provision of this Act) on or after 1 July 2000.

Example: Subsection 160ARW(1) provides for an extended operation of this section in respect of franking deficit tax, deficit deferral tax or franking additional tax. The Commissioner therefore must not exercise his or her power under this section because of that extended operation on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions on collecting an amount

from a third person), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

31 At the end of section 220

Add:

Application

(9) This section does not apply in relation to a person who dies on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about the estate of a deceased taxpayer), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

32 At the end of section 220AAH

Add:

Application

(2) The Commissioner must not exercise his or her power under paragraph (1)(a) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts on or after 1 July 2000 (including provisions about the extension of the time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

33 At the end of section 220AAP

Add:

Application

(2) The Commissioner must not exercise his or her power under paragraph (1)(a) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts on or after 1 July 2000 (including provisions about the extension of the time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

34 At the end of section 220AAU

Add:

Application

(2) The Commissioner must not exercise his or her power under paragraph (1)(a) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts on or after 1 July 2000 (including provisions about the extension of time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

35 At the end of section 220AAZA

Add:

Application

(12) This section applies or has effect as follows:

(a) subsections (2), (3) and (4) do not apply in relation to a recoverable amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of subsection (6) on or after 1 July 2000;

(c) a certificate must not be made under subsection (7) on or after 1 July 2000.

Note: For provisions about collection and recovery of recoverable amounts and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

36 At the end of section 220AY

Add:

Application

(8) This section applies or has effect as follows:

(a) subsections (2), (3) and (4) do not apply in relation to a recoverable amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of subsection (6) on or after 1 July 2000;

(c) a certificate must not be made under subsection (7) on or after 1 July 2000.

Note: For provisions about collection and recovery of recoverable amounts and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

37 After subsection 221R(1)

Insert:

Application

(1A) Subsection (1) does not apply in relation to an amount that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

38 At the end of section 221YHN

Add:

Application

(3) This section applies or has effect as follows:

(a) subsection (1), to the extent of its operation apart from paragraph (1)(b), does not apply in relation to an amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of the operation of subsection (2) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

39 After subsection 221YHZD(1AA)

Insert:

Application

(1AAA) The Commissioner must not exercise his or her power under subsection (1AA) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts on or after 1 July 2000 (including provisions about the variation of the time for paying an amount), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

40 At the end of section 221YHZJ

Add:

Application

(7) This section applies or has effect as follows:

(a) subsection (1), to the extent of its operation apart from paragraph (1)(b), does not apply in relation to an amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of the operation of subsection (2) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

41 At the end of section 221YR

Add:

Application

(6) This section applies or has effect as follows:

(a) subsection (1), to the extent of its operation apart from paragraph (1)(b), does not apply in relation to an amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of the operation of subsection (2) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

42 At the end of section 221ZE

Add:

Application

(3) This section applies or has effect as follows:

(a) subsection (1), to the extent of its operation apart from paragraph (1)(b), does not apply in relation to an amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of the operation of subsection (2) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

43 At the end of section 221ZR

Add:

Application

(3) This section applies or has effect as follows:

(a) subsection (1), to the extent of its operation apart from paragraph (1)(b), does not apply in relation to an amount that becomes due and payable on or after 1 July 2000;

(b) an averment must not be made because of the operation of subsection (2) on or after 1 July 2000.

Note: For provisions about collection and recovery of amounts payable under this Division and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

44 At the end of section 258

Add:

Application

(3) This section does not apply in relation to:

(a) tax paid on or after 1 July 2000; or

(b) any other amount paid on or after 1 July 2000, and that is taken to be tax for the purposes of this section because of any other provision of this Act.

Example: Subsection 163A(8) provides that in section 258 tax includes a penalty under section 163A. This section therefore does not apply in relation to such a penalty that is paid on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about recovery of tax paid on behalf of another person), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

45 At the end of section 259

Add:

Application

(3) This section does not apply in relation to:

(a) a liability for tax that arises on or after 1 July 2000; or

(b) any other amount of liability that arises on or after that day, and that is taken to be tax for the purposes of this section because of any other provision of this Act.

Example: Subsection 163A(8) provides that in section 259 tax includes a penalty under section 163A. This section therefore does not apply in relation to such a penalty that arises on or after 1 July 2000.

Note: For provisions about collection and recovery of tax and other amounts on or after 1 July 2000 (including provisions about contribution from joint-taxpayers), see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

46 At the end of section 271-75 in Schedule 2F

Add:

Application

(5) Subsection (4) does not apply in relation to any family trust distribution tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of family trust distribution tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

47 At the end of section 271-85 in Schedule 2F

Add:

Application

(2) Subsection (1) does not apply in relation to any family trust distribution tax or additional tax that becomes due and payable on or after 1 July 2000.

Note: For provisions about collection and recovery of family trust distribution tax, additional tax and other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

Petroleum Resource Rent Tax Assessment Act 1987

48 At the end of subsection 82(2)

Add:

Note: For provisions about collection and recovery of tax and additional tax, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

49 Section 83

Repeal the section.

50 Section 84

Repeal the section.

51 Section 86

Repeal the section.

52 Section 87

Repeal the section.

53 Section 88

Repeal the section.

54 Section 89

Repeal the section.

55 Section 90

Repeal the section.

56 Section 91

Repeal the section.

57 Section 110

Repeal the section.

58 Section 111

Repeal the section.

Sales Tax Assessment Act 1992

59 Section 65

Repeal the section.

60 Section 66

Repeal the section.

61 Section 69

Repeal the section.

62 Section 70

Repeal the section.

63 Section 71

Repeal the section.

64 Section 72

Repeal the section.

65 Section 73

Repeal the section.

66 Section 74

Repeal the section.

67 Section 75

Repeal the section.

68 Section 123

Repeal the section.

69 Section 124

Repeal the section.

Superannuation Contributions Tax (Assessment and Collection) Act 1997

70 Section 26

Repeal the section.

71 Section 27

Repeal the section.

72 Section 40A

Repeal the section.

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997

73 Section 22

Repeal the section.

74 Section 23

Repeal the section.

75 Section 35

Repeal the section.

Superannuation Guarantee (Administration) Act 1992

76 At the end of section 46

Add:

Note: For provisions about collection and recovery of superannuation guarantee charge, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

77 At the end of section 47

Add:

Note: For provisions about collection and recovery of additional superannuation guarantee charge, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

78 Section 48

Repeal the section.

79 Section 50

Repeal the section.

80 Section 51

Repeal the section.

81 Section 53

Repeal the section.

82 Section 54

Repeal the section.

83 Section 55

Repeal the section.

84 Section 56

Repeal the section.

85 Section 78

Repeal the section.

Taxation Administration Act 1953

86 Section 8AAE (note)

Repeal the note, substitute:

Note: For provisions about collection and recovery of the charge, see Part 4-15 in Schedule 1.

87 At the end of section 8AAF

Add:

(4) A notice given to a person by the Commissioner under this section is prima facie evidence of the matters stated in the notice.

88 Subsection 8AAL(3) (note)

Repeal the note.

89 At the end of section 8AAL

Add:

(4) A notice given to a person by the Commissioner under this section is prima facie evidence of the matters stated in the notice.

Note: For provisions about collection and recovery of the penalty, see Part 4-15 in Schedule 1.

90 Subsection 8AAR(3) (note)

Repeal the note.

91 At the end of section 8AAR

Add:

(4) A notice given to a person by the Commissioner under this section is prima facie evidence of the matters stated in the notice.

Note: For provisions about collection and recovery of the penalty, see Part 4-15 in Schedule 1.

92 Division 4 of Part IIA

Repeal the Division.

93 Subsection 8AAZH(1)

Repeal the subsection, substitute:

(1) If there is a deficit on an RBA at the end of a day, the tax debtor is liable to pay the amount to the Commonwealth. The amount is due and payable at the end of that day.

Note: The heading to section 8AAZH is replaced by the heading "**Liability for RBA deficit**".

94 Section 28

Repeal the section.

95 Section 30

Repeal the section.

96 Section 31

Repeal the section.

97 Section 32

Repeal the section.

98 Section 33

Repeal the section.

99 Section 34

Repeal the section.

100 At the end of section 47

Add:

(4) A notice under this section that the Commissioner gives to an entity is prima facie evidence of the matters stated in the notice.

101 Section 55

Repeal the section.

102 Section 58

Repeal the section.

103 Subdivision 20-A in Schedule 1

Repeal the Subdivision.

104 At the end of Subdivision 20-B in Schedule 1

Add:

20-45 Offences that would otherwise be committed by a partnership or unincorporated company

(1) An offence against this Part that would otherwise be committed by a 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, and whether by any act or omission of the partner).

(2) An offence against this Part that would otherwise be committed by a company that is not incorporated is taken to have been committed by each member of the company's committee of management 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).

105 Subdivision 20-C in Schedule 1

Repeal the Subdivision.

106 Section 45-85 in Schedule 1

Repeal the section.

107 Application of amendment

The amendment made by item 93 applies to a deficit on an RBA at the end of 1 July 2000 or a later day.

Termination Payments Tax (Assessment and Collection) Act 1997

108 Section 17

Repeal the section.

109 Section 18

Repeal the section.

110 Section 28A

Repeal the section.

Tobacco Charges Assessment Act 1955

111 At the end of subsection 17(1A)

Add:

Note: For provisions about collection and recovery of charge and additional charge, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

112 Subsections 17(2) and (3)

Repeal the subsections.

113 Section 21

Repeal the section.

114 Section 23

Repeal the section.

115 Section 27

Repeal the section.

116 Section 28

Repeal the section.

Wool Tax (Administration) Act 1964

117 At the end of subsection 36(2)

Add:

Note: For provisions about collection and recovery of tax and additional tax, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

118 Section 37

Repeal the section.

119 At the end of section 42

Add:

Note: For provisions about collection and recovery of the tax, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

120 Section 44

Repeal the section.

121 Section 46

Repeal the section.

122 Section 47

Repeal the section.

123 Section 48

Repeal the section.

124 Section 49

Repeal the section.

125 Section 50

Repeal the section.

126 Section 51

Repeal the section.

127 Section 52

Repeal the section.

128 Section 53

Repeal the section.

129 Section 54

Repeal the section.

Part 3—Saving provisions

130 Recovery of a tax-related liability that is due and payable

Despite its repeal, a provision listed in the table continues to have effect in relation to an amount that became due and payable before 1 July 2000.

Tax-related liability that became due and payable before 1 July 2000

Item	Act	Provision
1	*Fringe Benefits Tax Assessment Act 1986*	section 94
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 86
3	*Sales Tax Assessment Act 1992*	section 69
4	*Superannuation Contributions Tax (Assessment and Collection) Act 1997*	section 26 or 27
5	*Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*	section 22 or 23
6	*Superannuation Guarantee (Administration) Act 1992*	section 50
7	*Termination Payments Tax (Assessment and Collection) Act 1997*	section 17 or 18
8	*Taxation Administration Act 1953*	subsection 8AAV(1) or (2)
9	*Tobacco Charges Assessment Act 1955*	section 21
10	*Wool Tax (Administration) Act 1964*	section 44

131 Time for payment etc. of a tax-related liability

Despite the repeal of a provision listed in the table, anything done under that provision before 1 July 2000 continues to have effect on and after that day as if the provision had not been repealed.

Time for payment etc. of a tax-related liability

Item	Act	Provision
1	*Fringe Benefits Tax Assessment Act 1986*	section 91 or 92
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 83 or 84
3	*Sales Tax Assessment Act 1992*	section 65 or 66

4	*Superannuation Guarantee (Administration) Act 1992*	section 48
5	*Taxation Administration Act 1953*	section 45-85 in Schedule 1
6	*Tobacco Charges Assessment Act 1955*	subsection 17(2) or (3) or section 23
7	*Wool Tax (Administration) Act 1964*	section 37

132 Collecting amounts from third parties

Despite the repeal of a provision listed in the table:

(a) anything done under that provision before 1 July 2000 continues to have effect on and after that day as if the provision had not been repealed; and

(b) anything done on or after that day, under that provision as it continues to have effect because of this item, has effect as if the provision had not been repealed.

Collecting amounts from third parties

Item	Act	Provision
1	*Fringe Benefits Tax Assessment Act 1986*	section 99
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 91
3	*Sales Tax Assessment Act 1992*	section 74
4	*Superannuation Contributions Tax (Assessment and Collection) Act 1997*	section 40A
5	*Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*	section 35
6	*Superannuation Guarantee (Administration) Act 1992*	section 56
7	*Termination Payments Tax (Assessment and Collection) Act 1997*	section 28A
8	*Wool Tax (Administration) Act 1964*	section 54

133 Liquidators, receivers and agents

Despite its repeal, a provision listed in the table continues to have effect in relation to:

(a) a person who becomes a liquidator before 1 July 2000; or

(b) a receiver, or receiver and manager, who takes possession of a company's assets before 1 July 2000; or

(c) an agent who is instructed, before 1 July 2000, to wind up the principal's business in Australia;

as appropriate.

Liquidators, receivers and agents before 1 July 2000

Item	Act	Provision
1	*Fringe Benefits Tax Assessment Act 1986*	section 96
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 88
3	*Sales Tax Assessment Act 1992*	section 123 or 124
4	*Superannuation Guarantee (Administration) Act 1992*	section 53
5	*Tobacco Charges Assessment Act 1955*	section 27
6	*Wool Tax (Administration) Act 1964*	section 47 or 48

134 Deceased estates

Despite its repeal, a provision listed in the table continues to have effect in relation to a person who dies before 1 July 2000.

Person who dies before 1 July 2000

Item	Act	Provision
1	*Fringe Benefits Tax Assessment Act 1986*	section 97 or 98
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 89 or 90
3	*Sales Tax Assessment Act 1992*	section 72 or 73
4	*Superannuation Guarantee (Administration) Act 1992*	section 54 or 55
5	*Tobacco Charges Assessment Act 1955*	section 28
6	*Wool Tax (Administration) Act 1964*	section 49, 50 or 51

135 Amount of tax-related liability paid for someone else

Despite its repeal, a provision listed in the table continues to have effect in relation to an amount that was paid before 1 July 2000.

Amount paid before 1 July 2000		
Item	**Act**	**Provision**
1	*Fringe Benefits Tax Assessment Act 1986*	section 130
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 110
3	*Sales Tax Assessment Act 1992*	section 70
4	*Wool Tax (Administration) Act 1964*	section 52

136 Right of contribution if entities are jointly liable

Despite its repeal, a provision listed in the table continues to have effect in relation to a liability that arose before 1 July 2000.

Tax-related liability that became due and payable before 1 July 2000		
Item	**Act**	**Provision**
1	*Fringe Benefits Tax Assessment Act 1986*	section 131
2	*Petroleum Resource Rent Tax Assessment Act 1987*	section 111
3	*Sales Tax Assessment Act 1992*	section 71
4	*Superannuation Guarantee (Administration) Act 1992*	section 78
5	*Wool Tax (Administration) Act 1964*	section 53

Schedule 3—Binding oral advice on income tax matters

Part 1—Amendment of the Taxation Administration Act 1953

1 At the end of Schedule 1

Add:

[The next Division is Division 360.]

Part 5-5—Rulings

Division 360—Oral rulings for individuals

Table of Subdivisions

Guide to Division 360

360-A Applying for an oral ruling

360-B How the Commissioner is to deal with the application

360-C When Commissioner must or can refuse the application

360-D Miscellaneous

Guide to Division 360

360-1 What this Division is about

An individual can apply to the Commissioner for an oral ruling about a limited range of matters under an income tax law.

360-5 Outline of this Division

(1) The procedure you need to follow in applying for an oral ruling is set out in Subdivision 360-A.

(2) Before making the ruling, the Commissioner must be satisfied that your tax affairs, and your inquiry, meet certain tests.

See sections 360-65 and 360-100.

(3) There are further matters that may prevent the Commissioner from making the ruling. Important examples are:

(a) during the relevant period you were carrying on a business;

(b) during the relevant period you made payments from which you had to withhold amounts under Part 2-5 (PAYG withholding).

See Subdivision 360-C.

(4) An oral ruling is binding on the Commissioner, but only you can rely on it.

See sections 170BCA, 170BDA, 170BDB and 170BDC of the *Income Tax Assessment Act 1936*.

(5) You are not bound by an oral ruling.

Subdivision 360-A—Applying for an oral ruling

Table of sections

360-20 Application for oral ruling about your own tax
360-25 Application for oral ruling about someone else's tax
360-30 What the application can cover
360-35 How the application is to be made
360-40 Further information may be sought

360-20 Application for oral ruling about your own tax

If you are an individual, you may apply to the Commissioner for a ruling on the way in which, in the Commissioner's opinion, an *income tax law would apply to you in respect of an income year in relation to an *oral ruling arrangement.

360-25 Application for oral ruling about someone else's tax

(1) You may apply to the Commissioner, on another person's behalf, for a ruling on the way in which, in the Commissioner's opinion, an *income tax law would apply to the other person in respect of an income year in relation to an *oral ruling arrangement.

(2) However, you may do so only if the other person is an individual, and:

(a) the other person is under 18 and is your *child; or

(b) the other person is under 18 and you have in relation to him or her all the duties, powers, responsibilities and authority which, by law, a parent has in relation to his or her child; or

(c) the other person is under a legal disability because of a mental impairment, and you hold an enduring power of attorney in relation to him or her; or

(d) the other person:

(i) is under 18; or

(ii) has a physical or mental impairment;

and an *Australian law authorises you to act on his or her behalf in matters including his or her *tax affairs.

(3) If you apply on another person's behalf, the rest of this Division has effect as if the other person had made the application himself or herself, but:

(a) you may communicate with the Commissioner, and otherwise deal with him or her, as if you were the other person; and

(b) the Commissioner may communicate with you, and otherwise deal with you, as if you were the other person.

360-30 What the application can cover

(1) The application may relate to:

(a) a past income year; or

(b) the income year in which the application is made.

It cannot relate to a future income year, or to more than one income year.

(2) An ***oral ruling arrangement*** is:

(a) an action; or
(b) a course of action; or
(c) a course of conduct; or
(d) a transaction;

that has been, is being, or is proposed to be, engaged in, entered into or carried out, but only if none of the parties to it is an *associate of any of the others.

(3) The application may be for a ruling on the way in which the Commissioner would act under the *income tax law to which the application relates.

(4) Subsection (3) covers the following kinds of acts:
(a) forming an opinion; or
(b) refusing or failing to form an opinion; or
(c) attaining a state of mind; or
(d) refusing or failing to attain a state of mind; or
(e) making a determination; or
(f) refusing or failing to make a determination; or
(g) exercising a power; or
(h) refusing or failing to exercise a power.

360-35 How the application is to be made

(1) You must make the application orally, either in person or by live 2-way conversation using a method of communication approved by the Commissioner.

(2) When making the application, you must:
(a) identify yourself to the Commissioner's satisfaction; and
(b) if you make the application on behalf of another person, identify the other person to the Commissioner's satisfaction; and
(c) give whatever information, in whatever form, the Commissioner requires in order to make the ruling.

(3) You may withdraw the application before the ruling is made. You must do so orally, either in person or by live 2-way conversation using a method of communication approved by the Commissioner.

360-40 Further information may be sought

If the Commissioner considers that:

(a) the ruling cannot be made without further information; and

(b) if that information were given, there would be no reason for the Commissioner not to comply with your application;

the Commissioner must request you to give that information to him or her.

Subdivision 360-B—How the Commissioner is to deal with the application

Table of sections

Exercise of powers by delegate

360-60 Delegated power must be exercised at specified place

If the application relates only to basic categories

360-65 When Commissioner must make oral ruling
360-70 Basic categories of assessable income
360-75 Basic categories of exempt income
360-80 Basic categories of deductions
360-85 Basic categories of tax offsets

If the application involves additional categories

360-100 When Commissioner must make oral ruling if satisfied that your tax affairs and inquiry are simple
360-105 Additional categories of assessable income
360-110 Additional categories of deductions
360-115 Additional categories of tax offsets

If the application is successful

360-120 Making the oral ruling

Exercise of powers by delegate

360-60 Delegated power must be exercised at specified place

(1) If the Commissioner delegates to a person a function or power the Commissioner has under this Division, the person must perform the function, or exercise the power, only at places specified in the delegation.

(2) If the person is at such a place, he or she may, in order to perform the function or exercise the power, communicate with a person who is not at such a place by live 2-way conversation using a method approved by the Commissioner.

If the application relates only to basic categories

360-65 When Commissioner must make oral ruling

(1) The Commissioner must comply with your application if he or she is satisfied that:

(a) your application complies with Subdivision 360-A; and

(b) your assessable income for the inquiry period consisted only of one or more items covered by section 360-70; and

(c) during the inquiry period no *CGT event happened from which you could have made a *capital gain or *capital loss (even if you did not make one from the event); and

Note: You are not disqualified by having an unapplied net capital loss for a previous income year.

(d) your *exempt income (if any) for the inquiry period consisted only of one or more items covered by section 360-75; and

(e) your deductions for the inquiry period consisted only of one or more items covered by section 360-80; and

(f) your *tax offsets for the inquiry period consisted only of one or more items covered by section 360-85; and

(g) your application relates only to an item covered by section 360-70, 360-75, 360-80 or 360-85;

unless Subdivision 360-C prevents the Commissioner from complying with the application.

Note: For an alternative basis on which the Commissioner must comply with your application, see section 360-100.

(2) The ***inquiry period*** is:

(a) if your application relates to an earlier income year—that income year; or

(b) if your application relates to the income year during which the application is made—so much of the income year as elapses up to and including the day on which you make the application.

360-70 Basic categories of assessable income

(1) This section covers a payment from which an amount must be withheld (even if the amount is not withheld) under a provision listed in the table, to the extent that the payment is assessable income.

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

(2) This section also covers a payment specified in a provision of the *Income Tax Assessment Act 1997* listed in the table, to the extent that the payment is assessable income.

Social security or other benefit payment

Item	Provision	Subject matter
1	Section 52-10	Social security payments
2	Section 52-65	Veterans' affairs payments
3	Section 52-105	Payments under the *Repatriation Act 1920*
4	Section 55-10	Education entry payments

(3) This section also covers interest payable by a *financial institution or a government body (as defined by section 202A of the *Income*

Tax Assessment Act 1936), to the extent that the interest is assessable income.

(4) This section also covers a *dividend (to the extent that it is assessable income), if the company that pays it is an Australian resident, and a *listed public company whose shares are listed for quotation in the official list of the Australian Stock Exchange Limited, at the earliest of the following times:

(a) if the liability to pay the dividend arises when the dividend is declared—that time;

(b) when the dividend becomes due and payable;

(c) when the dividend is paid.

360-75 Basic categories of exempt income

This section covers *ordinary income, or *statutory income, to the extent that it is *exempt income because of:

(a) subsection 23L(1) of the *Income Tax Assessment Act 1936* (about fringe benefits); or

(b) a provision of the *Income Tax Assessment Act 1997* listed in the table.

Exempt income

Item	Provision	Subject matter
1	section 51-5	Payments to defence personnel
5	item 2.1, 2.1A or 2.1B of the table in section 51-10	Educational grants and payments
10	section 51-30	Welfare payments
15	section 52-10	Social security payments
20	section 52-65	Veterans' affairs payments
25	section 52-105	Payments under the *Repatriation Act 1920*
30	section 52-110	Payments made because of subsection 4(6) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*
35	section 52-120	Child care assistance and child care rebate
40	section 52-125	Private health insurance incentive payments
45	section 52-130	Bonuses for older Australians

50	section 52-140	Commonwealth education and training payment
55	item 1 of the table in section 53-10	Disability services payment
60	item 2 of the table in section 53-10	Domiciliary nursing care benefit
65	item 5 of the table in section 53-10	Wounds and disability pension
70	section 53-20	Payments similar to certain veterans' payments

360-80 Basic categories of deductions

This section covers a deduction for:

(a) an amount of expenditure you incur for managing your *tax affairs as mentioned in paragraph 25-5(1)(a) of the *Income Tax Assessment Act 1997*; or

(b) an amount of an account-keeping fee charged by a *financial institution; or

(c) an amount of a tax imposed under an *Australian law on an account kept with a financial institution (for example, financial institutions duty, debits tax or a similar tax); or

(d) an amount of money that is a gift or contribution to which item 1, 2 or 3 of the table in section 30-15 of the *Income Tax Assessment Act 1997* applies.

360-85 Basic categories of tax offsets

This section covers a *tax offset to which you are entitled because of:

(a) Subdivision 61-H of the *Income Tax Assessment Act 1997* (about premiums under a private health insurance policy); or

(b) a provision of the *Income Tax Assessment Act 1936* listed in the table.

Tax offsets		
Item	**Provision**	**Subject matter**
1	Section 159J	Child of taxpayer who is wholly engaged in keeping house for the taxpayer Invalid relative Parents/parents in law Spouse
5	Section 159L	Housekeeper, caring for child, invalid relative or disabled spouse
10	Section 159K	Sole parent
15	Section 160AQU	Franked dividend of shareholder (other than a partnership or trustee mentioned in paragraph 160AQU(1)(b))
20	Section 159SZ	Personal superannuation contributions
25	Section 159T	Superannuation contributions for a spouse
30	Section 159P	Medical expenses
35	Section 160AAAA	Low income aged person
40	Section 159N	Low income individuals
45	Subsection 160AAA(2)	Rebate for certain social security pensions, allowances or benefits, veterans' pensions, allowances or benefits
50	Subsection 160AAA(3)	Rebate for certain social security benefits or payments
55	Section 79A	Residents of isolated areas

If the application involves additional categories

360-100 When Commissioner must make oral ruling if satisfied that your tax affairs and inquiry are simple

(1) The Commissioner must also comply with your application if:

(a) he or she is satisfied that your application complies with Subdivision 360-A; and

(b) in his or her opinion, your *tax affairs were simple throughout the *inquiry period; and

(c) in his or her opinion, your inquiry is simple; and

(d) he or she is satisfied that your assessable income for the inquiry period consisted only of one or more items, each of which is covered by section 360-70 or 360-105; and

(e) he or she is satisfied that your *exempt income (if any) for the inquiry period consisted only of one or more items covered by section 360-75; and

(f) he or she is satisfied that your deductions for the inquiry period consisted only of one or more items, each of which is covered by section 360-80 or 360-110; and

(g) he or she is satisfied that your *tax offsets for the inquiry period consisted only of one or more items, each of which is covered by section 360-85 or 360-115; and

(h) he or she is satisfied of the matters in subsections (2), (3) and (4) (about your capital gains tax situation);

unless Subdivision 360-C prevents the Commissioner from complying with the application.

CGT events

(2) The Commissioner must be satisfied that during the inquiry period no *CGT event happened from which you could have made a *capital gain or *capital loss (even if you did not make one from the event), except a CGT event from which you could have made a *capital gain or *capital loss covered by subsection (3).

Capital gains and losses

(3) The Commissioner must be satisfied that each *capital gain (if any), and each *capital loss (if any), that you made during the inquiry period:

(a) is to be disregarded because of section 118-5 of the *Income Tax Assessment Act 1997* (about cars, motor cycles and valour decorations); or

(b) resulted from *CGT event A1 happening in relation to shares in a company that was an Australian resident and a *listed public company, and whose shares were listed for quotation in the official list of the Australian Stock Exchange Limited, throughout the period when you owned the first-mentioned shares; or

(c) resulted from *CGT event A1 or E4 happening in relation to units in a unit trust that was a *resident trust for CGT purposes and a *listed widely held trust, and whose units were listed for quotation in the official list of the Australian Stock Exchange Limited, throughout the period when you owned the first-mentioned units.

Note: Similarly, you are not disqualified if CGT event E4 results in a reduction in the cost base of your units, rather than in a capital gain.

Net capital loss for an earlier income year

(4) If during the *inquiry period you made one or more *capital gains each of which is covered by paragraph 360-100(3)(b) or (c), the Commissioner must be satisfied that you have no unapplied *net capital loss for an earlier income year.

Note: You are not otherwise disqualified by having an unapplied net capital loss for a previous income year.

360-105 Additional categories of assessable income

This section covers the following, to the extent that they are assessable income:

(a) a payment from which an amount must be withheld (even if the amount is not withheld) under a provision listed in the table;

Payments covered		
Item	**Provision**	**Subject matter**
1	Section 12-80	Payment of pension or annuity
2	Section 12-120	Compensation, sickness or accident payment

(b) a payment of a pension specified in subsection 55-5(1) (about occupational superannuation schemes) of the *Income Tax Assessment Act 1997*;

(c) an amount in respect of a distribution made by a unit trust that is a *resident trust for CGT purposes and a *listed widely held trust, and whose units are listed for quotation in the official list of the Australian Stock Exchange Limited, at the earliest of the following times:

(ii) when the distribution becomes due and payable;

(iii) when the distribution is made;

(d) a *net capital gain resulting solely from one or more *capital gains covered by subsection 360-100(3).

360-110 Additional categories of deductions

This section covers a deduction that you have and that relates to a payment to you from which an amount must be withheld (even if the amount is not withheld) under a provision listed in the table.

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

360-115 Additional categories of tax offsets

This section covers a *tax offset to which you are entitled because of a provision of the *Income Tax Assessment Act 1936* listed in the table.

Tax offsets

Item	Provision	Subject matter
1	Section 79B	Member of the Defence Force serving overseas
5	Section 160AQX	Franked dividends received by beneficiaries of a trust
10	Section 159SU	Rebateable ETP annuity
15	Section 159SM	Rebateable superannuation pension
20	Section 160AF	Credit for foreign tax paid on foreign income
25	Section 159UQ	Heritage conservation rebate
35	Section 160AB	Loan interest received on securities issued before 1 November 1968
40	Sections 159ZRA and 159ZRB	Lump sum payment in arrears

45	Subsection 23AB(7)	Salary, wages and allowances for service as a member of United Nations forces

If the application is successful

360-120 Making the oral ruling

(1) The Commissioner makes the ruling by communicating its contents to you orally, either in person or by live 2-way conversation using a method approved by the Commissioner. The ruling is made at the time of the communication.

(2) The communication must:

(a) set out the matter ruled on; and

(b) identify the person to whom, and the *income tax law, the income year and the *oral ruling arrangement to which, the ruling relates; and

(c) indicate that the ruling is an *oral ruling; and

(d) if the correctness of the ruling depends on an assumption—set out details of the assumption; and

(e) include a registration identifier for the ruling.

(3) You are not entitled to receive a written record of the communication.

Note: However, you may be able to apply for a private ruling on the matter under Part IVAA.

(4) Neither you nor anyone else is entitled to object against the ruling under Part IVC. The ruling is *not* a taxation decision for the purposes of that Part.

Note: However, you may be able to apply for a private ruling on the matter under Part IVAA. A rulee who is dissatisfied with a private ruling may object against it under Part IVC.

Subdivision 360-C—When Commissioner must or can refuse the application

Table of sections

360-140 Aspects of your tax affairs that disqualify you

360-145 Other grounds on which application must or can be refused

360-150 Assumptions in making private ruling
360-155 Effect on oral ruling if provisions not complied with

360-140 Aspects of your tax affairs that disqualify you

(1) The Commissioner must not comply with your application unless he or she is satisfied that:

(a) throughout the *inquiry period you were an Australian resident; and

(b) at no time during the inquiry period did you carry on a *business; and

(c) at no time during the inquiry period were you a *withholder; and

(d) your assessable income for the inquiry period did not include an amount in respect of a *non-cash benefit.

(2) The Commissioner must not comply with your application if:

(a) your assessable income or *exempt income for the *inquiry period included an amount arising from a transaction with your *associate; or

(b) your deductions for the inquiry period included an amount you paid to your *associate; or

(c) an anti-avoidance provision applies to you in relation to the income year to which your application relates.

360-145 Other grounds on which application must or can be refused

(1) The Commissioner must not comply with your application if:

(a) there is already an *oral ruling, in respect of the same income year, on the matter sought to be ruled on; or

(b) there is already a *private ruling on the matter sought to be ruled on; or

(c) the matter sought to be ruled on has been decided for the purposes of a *Commissioner assessment; or

(d) there is being carried out a *tax audit:

(i) of which you have been informed; and

(ii) that, in the opinion of the Commissioner, will require the Commissioner to decide the matter sought to be ruled on; or

(e) the matter sought to be ruled on is the subject of an objection against a *self assessment; or

(f) you are not a *SPOR taxpayer for the income year to which the application relates, and the application is made later than 4 years after the last day allowed to you for lodging an *income tax return for that income year; or

(g) you are a *SPOR taxpayer for the income year to which the application relates, and the application is made later than 2 years after the last day allowed to you for lodging an *income tax return for that income year.

(2) The Commissioner must not comply with your application if, in his or her opinion:

(a) the application is frivolous or vexatious; or

(b) the *oral ruling arrangement to which the application relates has not been, and is not being, carried out and is not seriously contemplated by you; or

(c) you have not given sufficient information, despite a request under section 360-40, to enable the ruling to be made; or

(d) it would be unreasonable to comply, or continue to attempt to comply, having regard to the extent of the Commissioner's resources that would be required to comply.

(3) The Commissioner must not comply with your application in so far as it involves calculating an amount.

(4) The Commissioner need not comply with your application if he or she is satisfied that, had your application been for a *private ruling, he or she would not have been required to comply with it.

360-150 Assumptions in making oral ruling

If the Commissioner considers that the correctness of an *oral ruling would depend on which assumptions were made about a future event or other matter, the Commissioner may:

(a) decline to make the ruling; or

(b) make such of the assumptions as the Commissioner considers to be most appropriate.

360-155 Effect on oral ruling if provisions not complied with

(1) An *oral ruling is taken never to have been made, and never to have been communicated, if any of these provisions applied to the application for the ruling:

(a) subsection 360-140(2); or

(b) subsection 360-145(1).

(2) The validity of an *oral ruling is not affected because any other provision of this Act has not been complied with.

Subdivision 360-D—Miscellaneous

Table of sections

360-175 Application for oral ruling does not affect obligations and powers
360-180 Effect on oral ruling if tax law re-enacted

360-175 Application for oral ruling does not affect obligations and powers

The fact that there has been an application for an *oral ruling does not in the meantime affect:

(a) your obligation to lodge a return or do any other act; or

(b) the Commissioner's power to make or amend an assessment.

360-180 Effect on oral ruling if tax law re-enacted

If:

(a) the Commissioner makes an *oral ruling about an *income tax law (the ***old law***); and

(b) that law is re-enacted or remade (with or without modifications, and whether or not the old law is repealed);

the ruling is taken also to be an oral ruling about that law as re-enacted or remade (the ***new law***), but only so far as the new law expresses the same ideas as the old law.

Note: Ideas in tax laws are not necessarily different just because different forms of words are used. See:

- section 15AC of the *Acts Interpretation Act 1901*; and
- section 1-3 of the *Income Tax Assessment Act 1997*.

2 Application of Division 360 in Schedule 1 to the Taxation Administration Act 1953

Division 360 in Schedule 1 to the *Taxation Administration Act 1953* applies to the 2000-2001 income year and later income years.

Part 2—Consequential amendment of Act

Income Tax Assessment Act 1936

3 Subsection 170BA(3)

Omit "Subject to section 170BC,", substitute "Subject to sections 170BC and 170BDA,".

4 Paragraph 170BA(3)(c)

Omit "section 170BC", substitute "sections 170BC and 170BDA".

5 After section 170BB

Insert:

170BCA Effect of oral ruling on tax other than withholding tax

(1) In this section:

final tax has the same meaning as in section 170BA.

(2) Expressions used in this section have the same meanings as in Division 360 (Oral rulings) in Schedule 1 to the *Taxation Administration Act 1953*.

(3) If:

(a) there is an oral ruling on the way in which an income tax law applies to a person in respect of a year of income in relation to an oral ruling arrangement (***ruled way***); and

(b) that law applies to that person in respect of that year in relation to that arrangement in a different way; and

(c) the amount of final tax under an assessment in relation to that person would (apart from this section and sections 170BDA, 170BDB and 170BDC) exceed what it would have been if that law applied in the ruled way;

the assessment and amount of final tax must be what they would be if that law applied in the ruled way.

(4) This section has effect subject to sections 170BDA, 170BDB and 170BDC.

Note: The heading to section 170BC is replaced by the heading "**Assessment of tax other than withholding tax if public or private rulings conflict**".

6 After section 170BC

Insert:

170BDA Assessment of tax other than withholding tax if public and oral rulings conflict

(1) In this section:

final tax has the same meaning as in section 170BA.

(2) If:

(a) there is a public ruling on the way in which an income tax law applies to a person in relation to an arrangement; and

(b) there is an oral ruling on the way in which the same income tax law applies to the same person in relation to the same arrangement; and

(c) those ways are different; and

(d) apart from this section, because of there being those different ways, there are conflicting requirements under section 170BA or 170BC and section 170BCA of what the assessment and amount of final tax in relation to that person are to be;

the assessment and amount of final tax must be what they would be if that law so applied in whichever of those ways would result in the lowest amount of final tax.

(3) Expressions used in paragraph (2)(a) have the same meanings as in section 170BA.

(4) Expressions used in paragraph (2)(b) have the same meanings as in Division 360 (Oral rulings) in Schedule 1 to the *Taxation Administration Act 1953*.

170BDB Assessment of tax other than withholding tax if private and oral rulings conflict

(1) In this section:

final tax has the same meaning as in section 170BA.

(2) If:

(a) there is a private ruling on the way in which an income tax law applies to a person in relation to an arrangement (***private ruling way***); and

(b) there is an oral ruling on the way in which the same income tax law applies to the same person in relation to the same arrangement; and

(c) those ways are different; and

(d) apart from this section, because of there being those different ways, there are conflicting requirements under section 170BB or 170BC and section 170BCA of what the assessment and amount of final tax in relation to that person are to be;

the assessment and amount of final tax must be what they would be if that law applied in the private ruling way.

(3) Expressions used in paragraph (2)(a) have the same meanings as in section 170BB.

(4) Expressions used in paragraph (2)(b) have the same meanings as in Division 360 (Oral rulings) in Schedule 1 to the *Taxation Administration Act 1953*.

170BDC Assessment of tax other than withholding tax if public, private and oral rulings conflict

(1) In this section:

final tax has the same meaning as in section 170BA.

(2) If:

(a) there is a public ruling on the way in which an income tax law applies to a person in relation to an arrangement; and

(b) there is a private ruling on the way in which the same income tax law applies to the same person in relation to the same arrangement; and

(c) there is an oral ruling on the way in which the same income tax law applies to the same person in relation to the same arrangement; and

(d) those ways are different;

the assessment and amount of final tax must be what they would be if the oral ruling had not been made.

(3) Expressions used in paragraph (2)(a) have the same meanings as in section 170BA.

(4) Expressions used in paragraph (2)(b) have the same meanings as in section 170BB.

(5) Expressions used in paragraph (2)(c) have the same meanings as in Division 360 (Oral rulings) in Schedule 1 to the *Taxation Administration Act 1953*.

Schedule 4—Payment, ABN and identification verification system

Part 1—Amendment of the Taxation Administration Act 1953

1 At the end of Schedule 1

Add:

[The next Division is Division 400]

Part 5-30—Payment, ABN and identification verification system

Division 400—Guide to Part 5-30

400-1 What Part 5-30 is about

To improve compliance with the tax laws that relate to payments for certain supplies, this Part imposes additional requirements on purchasers and suppliers.

The additional requirements relate to verification of ABNs and to reporting information about payments.

Regulations will specify the supplies that are covered and the additional requirements that apply to payments for those supplies.

400-5 The payment, ABN and identification verification system

(1) There are 4 components in the payment, ABN and identification verification system:

(a) transaction reporting by purchasers (Division 405);

(b) transaction reporting by suppliers (Division 410);

(c) verification of suppliers' *ABNs by purchasers (Division 415);

(d) verification of suppliers' identities by purchasers (Division 417);

One or more of the components may apply to a particular payment. The regulations will specify which components apply.

(2) Where a component of the system applies to a payment, the requirements of that component must be complied with.

Division 405—Transaction reporting by purchasers

Table of sections

405-5 Payments to which this Division applies
405-10 Reporting requirements
405-15 Invoices produced by purchasers

405-5 Payments to which this Division applies

(1) This Division applies to any payments made, or liable to be made, for a *supply where the supply is specified in regulations made for the purpose of this section.

(2) A payment is liable to be made if the obligation to make the payment is notified in an *invoice.

(3) Payments to which this Division applies are called ***Division 405 payments***.

(4) Without limiting the ways in which the regulations may specify a *supply, the regulations may specify a supply by reference to:

(a) the goods or services supplied; or

(b) the supplier; or

(c) the purchaser.

405-10 Reporting requirements

(1) Any entity (the ***purchaser***) that makes, or is liable to make, a *Division 405 payment during a *quarter must give a *Division 405

report to the Commissioner within 21 days after the end of the quarter.

(2) A ***Division 405 report*** is a written statement in the *approved form that names the purchaser and, for each supplier in relation to whom the purchaser made, or was liable to make, a *Division 405 payment during the *quarter:

(a) names the supplier; and

(b) specifies the supplier's *ABN (if known by the purchaser); and

(c) specifies the total of the Division 405 payments that the purchaser made, or was liable to make, to the supplier during the quarter that:

(i) were notified in an invoice during the quarter (unless the payment was reported in an earlier Division 405 report); or

(ii) were made during the quarter but for which no invoice had been received before the end of the quarter.

The report must also include any other information that the Commissioner requires.

(3) The Commissioner may, in writing, require particular information to be included in a *Division 405 report or a class of Division 405 reports.

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

405-15 Invoices produced by purchasers

If a purchaser produces an *invoice that notifies the purchaser's obligation to make a payment, the purchaser is taken to have been notified of the payment at the time that the invoice is produced.

Division 410—Transaction reporting by suppliers

Table of sections

410-5 Payments to which this Division applies

410-10 Reporting requirements
410-15 Invoices produced by purchasers

410-5 Payments to which this Division applies

(1) This Division applies to any payments received, or entitled to be received, for a *supply where the supply is specified in regulations made for the purpose of this section.

(2) A payment is entitled to be received if the obligation to make the payment is notified in an *invoice.

(3) Payments to which this Division applies are called ***Division 410 payments***.

(4) Without limiting the ways in which the regulations may specify a *supply, the regulations may specify a supply by reference to:

(a) the goods or services supplied; or

(b) the supplier; or

(c) the purchaser.

410-10 Reporting requirements

(1) Any entity (the ***supplier***) that receives, or is entitled to receive, a *Division 410 payment during a *quarter must give a *Division 410 report to the Commissioner within 21 days after the end of the quarter.

(2) A ***Division 410 report*** is a written statement in the *approved form that names the supplier and, for each purchaser in relation to whom the supplier received, or was entitled to receive, a *Division 410 payment during the *quarter:

(a) names the purchaser; and

(b) specifies the purchaser's *ABN (if known by the supplier); and

(c) specifies the total of the Division 410 payments that the supplier received, or was entitled to receive, from the purchaser during the quarter that:

(i) were notified in an invoice during the quarter (unless the payment was reported in an earlier Division 410 report); or

(ii) were received during the quarter but for which no invoice had been provided before the end of the quarter.

The report must also include any other information that the Commissioner requires.

(3) The Commissioner may, in writing, require particular information to be included in a *Division 410 report or a class of Division 410 reports.

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

410-15 Invoices produced by purchasers

If a purchaser produces an *invoice that notifies the purchaser's obligation to make a payment, the supplier is taken to have notified the purchaser of the payment at the time that the invoice is produced.

Division 415—Verification of suppliers' ABNs by purchasers

Table of sections

415-5 Payments to which this Division applies
415-10 ABN verification requirements
415-15 Method of obtaining ABN verification
415-20 Verification applies to later payments

415-5 Payments to which this Division applies

(1) This Division applies if:

(a) a payment is made, or is liable to be made, by an entity (the ***purchaser***) to another entity (the ***supplier***) for a *supply; and

(b) the supply is specified in regulations made for the purpose of this section; and

(c) the supplier has purported to *quote his or her *ABN to the purchaser.

(2) Payments to which this Division applies are called ***Division 415 payments***.

(3) Without limiting the ways in which the regulations may specify a *supply, the regulations may specify a supply by reference to:

(a) the goods or services supplied; or

(b) the supplier; or

(c) the purchaser.

415-10 ABN verification requirements

Before the purchaser makes a *Division 415 payment to the supplier, the purchaser must obtain verification that the *ABN *quoted by the supplier is the ABN entered in the *Australian Business Register with the name given by the supplier.

Note: If the purchaser has reasonable grounds to believe that the supplier has not correctly quoted his or her ABN, the purchaser is required to withhold an amount under section 12-190.

415-15 Method of obtaining ABN verification

(1) To obtain verification of a supplier's *ABN, a purchaser must seek the verification in a manner approved in writing by the Commissioner.

(2) Without limiting the Commissioner's power under subsection (1), the Commissioner may approve verifications being sought orally or by way of electronic transmission.

(3) Verification of an *ABN may be obtained in such form, including orally or by way of electronic transmission, as the Commissioner approves in writing.

(4) The Commissioner may, by written notice, vary any requirements under subsection (1) in relation to:

(a) a purchaser or class of purchaser; or

(b) a supplier or class of supplier.

The Commissioner may do so in such instances and to such extent as the Commissioner thinks fit.

415-20 Verification applies to later payments

(1) Verification of a supplier's ABN applies to all later *Division 415 payments by the purchaser to the supplier unless there is a period of 2 years during which no *Division 415 payment is made by the purchaser to the supplier. If this occurs, the verification continues to apply to any purchases before 1 July first occurring after the end of the 2 year period.

(2) However, verification of a supplier's *ABN does not apply to a *Division 415 payment if the purchaser has reasonable grounds to believe that the *ABN *quoted by the supplier is no longer the ABN entered in the *Australian Business Register with the name given by the supplier.

Division 417—Verification of suppliers' identities by purchasers

Table of sections

417-5 Payments to which this Division applies
417-10 Identity verification requirements
417-15 Method of obtaining identity verification
417-20 Verification applies to later payments

417-5 Payments to which this Division applies

(1) This Division applies if:

(a) a payment is made, or liable to be made, by an entity (the ***purchaser***) to another entity (the ***supplier***) for a *supply; and

(b) the supply is specified in regulations made for the purpose of this section.

(2) Payments to which this Division applies are called ***Division 417 payments***.

(3) Without limiting the ways in which the regulations may specify a *supply, the regulations may specify a supply by reference to:

(a) the goods or services supplied; or

(b) the supplier; or

(c) the purchaser.

417-10 Identity verification requirements

Before the purchaser makes a *Division 417 payment, the purchaser must obtain verification of the supplier's identity.

Note: If the purchaser has reasonable grounds to believe that the supplier has not correctly quoted his or her ABN, the purchaser is required to withhold an amount under section 12-190.

417-15 Method of obtaining identity verification

(1) To obtain verification of a supplier's identity, a purchaser must carry out the identity verification procedure that is determined, in writing, by the Commissioner.

(2) The Commissioner may determine different identity verification procedures for:

(a) different purchasers or classes of purchasers; or

(b) different suppliers or classes of suppliers.

417-20 Verification applies to later payments

(1) Verification of a supplier's identity applies to all later *Division 417 payments by the purchaser to the supplier unless there is a period of 2 years during which no *Division 417 payment is made by the purchaser to the supplier. If this occurs, the verification continues to apply to any purchases before 1 July first occurring after the end of the 2 year period.

(2) However, verification of a supplier's identity does not apply to a later *Division 417 payment if the purchaser has reasonable grounds to believe that the verified identity is not the supplier's true identity.

Division 420—Penalties for not reporting or verifying

Table of sections

420-5 Failing to report: civil penalty

420-5 Failing to report or verify: civil penalty

An entity that fails to:

(a) give a *Division 405 report to the Commissioner as required by section 405-10; or

(b) give a *Division 410 report to the Commissioner as required by section 410-10; or

(c) verify a supplier's *ABN as required by section 415-10; or

(d) verify a supplier's identity as required by section 417-10;

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

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

Note 2: Division 298 contains machinery provisions for civil penalties.

Division 425—Other matters

Table of sections

425-20 Constructive payment
425-25 Non-cash benefits
425-30 Amounts to be expressed in Australian currency

425-20 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.

425-25 Non-cash benefits

For the purposes of this Part, if an entity (the ***payer***) provides a *non-cash benefit to another entity (the ***recipient***), the payer is taken to have made a payment of an amount equal to the *market value of the benefit provided.

425-30 Amounts to be expressed in Australian currency

If this Part requires a payment made in foreign currency to be reported, the payment:

(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 paid.

Part 2—Application of amendments

2 Application

The amendments made by this Schedule apply to payments made, liable to be made, received or entitled to be received on or after 1 July 2000.

Schedule 5—TFN declarations and certain annual reports

Part 1—Amendments

Income Tax Assessment Act 1936

1 Section 202A

Insert:

> ***approved form*** has the same meaning as in the *Income Tax Assessment Act 1997*.

2 Section 202A

Insert:

> ***eligible PAYG payment*** means:
>
> (a) a payment from which an amount must be withheld under Subdivision 12-B (other than section 12-55), Subdivision 12-C or Subdivision 12-D in Schedule 1 to the *Taxation Administration Act 1953*; or
>
> (b) a non-cash benefit in respect of which an amount is payable to the Commissioner under section 14-5 in Schedule 1 to the *Taxation Administration Act 1953* because of the application of that section in relation to Subdivision 12-B, 12-C or 12-D of that Schedule;
>
> and has a meaning affected by section 202AA.

3 Section 202A (definition of employee)

Repeal the definition.

4 Section 202A (definition of employer)

Repeal the definition.

5 Section 202A (definition of employment declaration)

Repeal the definition.

6 Section 202A

Insert:

payer means a person who makes an eligible PAYG payment, or is likely to make an eligible PAYG payment.

7 Section 202A

Insert:

recipient means a person who receives an eligible PAYG payment, or is likely to receive an eligible PAYG payment.

8 Section 202A

Insert:

TFN declaration means a declaration made for the purposes of section 202C.

9 After section 202A

Insert:

202AA Definition of eligible PAYG payment

In applying the definition of ***eligible PAYG payment*** in section 202A:

(a) a requirement to withhold a nil amount is treated as a requirement to withhold an amount; and

(b) a requirement to pay a nil amount to the Commissioner is treated as a requirement to pay an amount to the Commissioner; and

(c) the following provisions in Schedule 1 to the *Taxation Administration Act 1953* are to be disregarded, namely: section 12-1, subsection 12-45(2), subsection 12-110(2) and subsection 12-115(2).

10 Subsection 202BC(2)

Omit “employers”, substitute “payers”.

11 Subsection 202BC(2)

Omit “employer”, substitute “payer”.

12 Subsection 202BD(1)

Omit “an employer”, substitute “a payer”.

13 Subsection 202BD(1)

Omit “the employer”, substitute “the payer”.

14 Subsection 202BD(5)

Omit “employer”, substitute “payer”.

15 Subsection 202BD(6)

Omit “an employer of the employee (being an employer whose name and address is not stated on the application), the employer’s”, substitute “a payer of the applicant (being a payer whose name and address is not stated on the application), the payer’s”.

16 Division 3 of Part VA (heading)

Repeal the heading, substitute:

Division 3—Quotation of tax file numbers by recipients of eligible PAYG payments

17 Section 202C

Repeal the section, substitute:

202C TFN declarations by recipients of eligible PAYG payments

(1) A person who is a recipient of a payer, or expects to become a recipient of a payer, may make a TFN declaration in relation to the payer.

(2) To be effective, the declaration must be made in the approved form.

18 Subsection 202CA(1)

Repeal the subsection, substitute:

(1) Subject to this Division, a TFN declaration commences to have effect when it is made.

Note: Under section 202CB, a TFN declaration is not effective unless the tax file number of the recipient is stated in the declaration.

(1A) A TFN declaration ceases to have effect when the recipient makes another TFN declaration in relation to the payer.

(1B) A TFN declaration ceases to have effect 12 months after it is made if no eligible PAYG payment is made by the payer to the recipient during that 12 month period.

(1C) If:

(a) the payer makes an eligible PAYG payment to the recipient after the TFN declaration is made; and

(b) a period of 12 months then elapses without any further eligible PAYG payment being made by the payer to the recipient;

then the TFN declaration ceases to have effect at the end of that period of 12 months.

Note: The heading to section 202CA is altered by omitting "**employment declaration**" and substituting "**TFN declaration**".

19 Subsection 202CA(2)

Omit "An employment declaration", substitute "A TFN declaration".

20 Subsection 202CA(3)

Omit "employment declarations" (wherever occurring), substitute "TFN declarations".

21 Subsections 202CB(1) to (5)

Repeal the subsections, substitute:

(1) Subject to subsections (2) and (4) and subsection 202CE(2), a TFN declaration is not effective for the purposes of this Part unless the tax file number of the recipient is stated in the declaration.

(2) For the purposes of this Part, a recipient is taken to have stated his or her tax file number in a TFN declaration if the declaration includes a statement:

(a) that an application by the recipient for a tax file number is pending; or

(b) that the recipient has a tax file number but does not know what it is and has asked the Commissioner to inform him or her of the number.

(3) Where:

(a) a TFN declaration includes such a statement; and

(b) the recipient who made the declaration fails to inform the payer of the recipient's tax file number within 28 days after making the declaration;

subsection (2) does not apply to the declaration in respect of any time after the end of the period of 28 days.

(4) For the purposes of this Part, a recipient is taken to have stated his or her tax file number in a TFN declaration in relation to a payer while a notice under section 202BD given to the payer in relation to the recipient is in force.

(5) If:

(a) the tax file number of a recipient is withdrawn under section 202BF; and

(b) at the time of the withdrawal, the number is stated in a TFN declaration;

the declaration is taken to state the tax file number of the recipient in spite of the withdrawal of the number.

Note: The heading to section 202CB is altered by omitting "**employment declaration**" and substituting "**TFN declaration**".

22 Subsection 202CB(6)

Omit "an employment declaration", substitute "a TFN declaration".

23 Paragraph 202CB(6)(b)

Repeal the paragraph, substitute:

(b) by a person who is a recipient for the purposes of this Part because the person receives, or expects to receive, a payment referred to in paragraph (a).

24 Subsection 202CB(7)

Omit "an employment declaration", substitute "a TFN declaration".

25 Paragraph 202CB(7)(b)

Repeal the paragraph, substitute:

(b) by a person who is a recipient for the purposes of this Part because the person receives, or expects to receive, such a pension or allowance.

26 Section 202CC

Repeal the section, substitute:

202CC Making a replacement TFN declaration in place of an ineffective declaration

Nothing in this Division prevents a recipient making a new TFN declaration in place of a TFN declaration that is ineffective under subsection 202CB(1).

27 Subsection 202CD(1)

Omit "an employee gives an employer an employment declaration, the employer", substitute "a recipient gives a payer a TFN declaration, the payer".

Note: The heading to section 202CD is altered by omitting "**employment declaration**" and substituting "**TFN declaration**".

28 Paragraph 202CD(1)(b)

Omit "within the forwarding period for the declaration", substitute "within 14 days after the declaration is made".

29 Subsections 202CD(2) and (3)

Repeal the subsections.

30 Paragraphs 202CD(4)(a) and (b)

Repeal the paragraphs, substitute:

(a) a TFN declaration, when given to a payer, does not quote the recipient's tax file number; and

(b) before the payer sends the declaration to the Deputy Commissioner, the recipient informs the payer of the recipient's tax file number;

31 Subsection 202CD(4)

Omit "the employer" (last occurring), substitute "the payer".

32 Subsection 202CD(5)

Omit "employee", substitute "recipient".

33 After subsection 202CD(5)

Insert:

(5A) A payer who fails to comply with subsection (1) or (4) is liable to pay to the Commissioner a penalty of 10 penalty units.

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

Note 2: Division 298 in Schedule 1 to the *Taxation Administration Act 1953* contains machinery provisions relating to civil penalties.

34 Subsection 202CD(6)

Omit "employer", substitute "payer".

35 Subsection 202CD(6)

Omit "an employment declaration", substitute "a TFN declaration".

36 Paragraph 202CE(1)(a)

Omit "an employment declaration", substitute "a TFN declaration".

37 Paragraph 202CE(1)(b)

Omit "employee", substitute "recipient".

38 Subsection 202CE(1)

Omit "employer", substitute "payer".

39 Subsection 202CE(1)

Omit "employee's", substitute "recipient's".

40 Subsection 202CE(2)

Omit "employment declaration", substitute "TFN declaration".

41 Subsection 202CE(2)

Omit "employee's", substitute "recipient's".

42 Paragraph 202CE(3)(a)

Omit “an employment declaration”, substitute “a TFN declaration”.

43 Subparagraph 202CE(3)(a)(ii)

Omit “employee’s”, substitute “recipient’s”.

44 Paragraph 202CE(3)(b)

Omit “employee”, substitute “recipient”.

45 Subsection 202CE(3)

Omit “employer” (wherever occurring), substitute “payer”.

46 Subsection 202CE(4)

Omit “employee”, substitute “recipient”.

47 Subsection 202CE(5)

Omit “employee”, substitute “recipient”.

48 Subsection 202CE(6)

Omit “employment declaration”, substitute “TFN declaration”.

49 Subsection 202CE(6)

Omit “employee”, substitute “recipient”.

50 Subsection 202CE(7)

Omit “an employment declaration”, substitute “a TFN declaration”.

51 Paragraph 202CE(7)(b)

Repeal the paragraph, substitute:

(b) by a person who is a recipient for the purposes of this Part because the person receives, or expects to receive, a payment referred to in paragraph (a).

52 Subsection 202CE(8)

Omit “an employment declaration”, substitute “a TFN declaration”.

53 Paragraph 202CE(8)(b)

Repeal the paragraph, substitute:

(b) by a person who is a recipient for the purposes of this Part because the person receives, or expects to receive, such a pension or allowance.

54 After section 202CE

Insert:

202CF Payer must notify Commissioner if no TFN declaration by recipient

(1) If, after the commencement of this section, a person (the ***payer***) commences a relationship with another person under which, or as a result of which, the payer will make (or will be likely to make) eligible PAYG payments to a person (the ***recipient***), whether or not the recipient is a party to the relationship, the payer must give notice to the Commissioner in the approved form, within 14 days after the commencement of the relationship, unless a TFN declaration made by the recipient to the payer is in effect at the end of that 14 day period.

(2) If, at the commencement of this section, a person (the ***payer***) has a relationship with another person under which, or as a result of which, the payer will make (or will be likely to make) eligible PAYG payments to a person (the ***recipient***), whether or not the recipient is a party to the relationship, the payer must give notice to the Commissioner in the approved form, not later than 31 October 2000, unless a TFN declaration made by the recipient to the payer is in effect on 31 October 2000.

(3) A payer who fails to comply with subsection (1) or (2) is liable to pay to the Commissioner a penalty of 10 penalty units.

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

Note 2: Division 298 in Schedule 1 to the *Taxation Administration Act 1953* contains machinery provisions relating to civil penalties.

55 Subsection 202EA(1)

Omit “an employee as a result of being paid”, substitute “a recipient because the person receives, or expects to receive,”.

56 Subsection 202EA(1)

Omit “an employment declaration”, substitute “a TFN declaration”.

57 Subsection 202EA(2)

Omit “an employment declaration”, substitute “a TFN declaration”.

58 Subsection 202EA(2)

Omit “an employer”, substitute “a payer”.

59 Subsection 202EA(3)

Omit “an employment declaration”, substitute “a TFN declaration”.

60 Subsection 202EF(1)

Repeal the subsection, substitute:

(1) For the purposes of this Part, a recipient is taken to have quoted the recipient’s tax file number in a TFN declaration given to the payer concerned under section 202C if all eligible PAYG payments by the payer to the recipient would be exempt from income tax because of Division 1A of Part III.

61 Subsection 202EF(3)

Repeal the subsection, substitute:

(3) Subsection (1) or (2) continues to have effect until the end of one month after the payments or income would no longer be exempt from income tax because of Division 1A of Part III.

62 Paragraph 202EF(4)(a)

Omit “employment”, substitute “payments”.

63 Paragraph 202EF(4)(b)

Omit “income derived from the employment, or from the investment”, substitute “the payments, or income derived from the investment”.

64 Subsection 202EF(4)

Omit “employer”, substitute “payer”.

Social Security Act 1991

65 Subsection 23(1) (definition of employment declaration)

Repeal the definition.

66 Subsection 23(1)

Insert:

> ***TFN declaration*** has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

Social Security Administration Act 1999

67 Paragraph 76(2)(a)

Omit "an employment declaration", substitute "a TFN declaration".

68 Paragraph 76(3)(a)

Omit "an employment declaration", substitute "a TFN declaration".

Taxation Administration Act 1953

69 After section 16-150 in Schedule 1

Insert:

16-153 Annual reports about withholding payments and reportable fringe benefits

(1) An entity must give a report to the Commissioner in the *approved form, not later than 31 October after the end of a *financial year, if during the financial year:

(a) the entity made any payment from which an amount was required to be withheld under section 12-190, Subdivision 12-F (other than section 12-215, 12-250 or 12-285) or Subdivision 12-G; or

(b) the entity provided any *non-cash benefit in respect of which an amount was required to be paid to the Commissioner under Division 14 because of the application of that Division in relation to section 12-190, Subdivision 12-F (other than section 12-215, 12-250 or 12-285) or Subdivision 12-G; or

(c) the entity received any payment from which an amount was required to be withheld under section 12-215, 12-250 or 12-285; or

(d) the entity received any non-cash benefit in respect of which an amount was required to be paid to the Commissioner under Division 14 because of the application of that Division in relation to section 12-215, 12-250 or 12-285.

(2) An entity must give a report to the Commissioner in the form required by subsection (3), not later than 14 August after the end of a *financial year, if during the financial year:

(a) the entity made any payment from which an amount was required to be withheld under Subdivision 12-B, 12-C or 12-D; or

(b) the entity provided any *non-cash benefit in respect of which an amount was required to be paid to the Commissioner under Division 14 because of the application of that Division in relation to Subdivision 12-B, 12-C or 12-D; or

(c) any person has a *reportable fringe benefit amount for the income year ending at the end of the financial year in respect of the person's employment by the entity.

(3) The report under subsection (2) must be either:

(a) a report in the *approved form; or

(b) a report consisting of:

(i) copies of all the summaries that the entity gave in relation to the *financial year under section 16-155 in respect of payments, *non-cash benefits and *reportable fringe-benefit amounts covered by subsection (2) of this section; and

(ii) an accompanying statement in the approved form.

(4) An entity that fails to comply with subsection (1) or (2) is liable to pay to the Commissioner a penalty of 10 penalty units.

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

Note 2: Division 298 contains machinery provisions relating to civil penalties.

(5) In applying this section:

(a) a requirement to pay a nil amount to the Commissioner is to be treated as a requirement to pay an amount to the Commissioner; and

(b) a requirement to withhold a nil amount is to be treated as a requirement to withhold an amount.

(6) The Commissioner may, to meet the special circumstances of a particular case or class of cases, vary the requirements of this section.

(7) 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*.

Veterans' Entitlements Act 1986

70 Subsection 128A(1) (definition of employment declaration)

Repeal the definition.

71 Subsection 128A(1)

Insert:

TFN declaration has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

72 Subparagraph 128A(4)(a)(i)

Omit "an employment declaration", substitute "a TFN declaration".

Part 2—Application and transitional

73 Application of new annual reporting rules

Section 16-153 in Schedule 1 to the *Taxation Administration Act 1953* applies for the financial year commencing on 1 July 2000, and for all later financial years.

74 Transitional rules for TFN declarations

(1) Any employment declaration that is effective under Part VA of the *Income Tax Assessment Act 1936* immediately before 1 July 2000 continues to have effect as if it were a TFN declaration given on 1 July 2000 under that Part (as amended by this Act).

(2) For such a declaration, subsection 202CD(1) of the *Income Tax Assessment Act 1936* applies as if that subsection specified 28 days instead of 14 days.

Schedule 6—Shorter period of review (SPOR) taxpayers

Part 1—Income Tax Assessment Act 1936

1 Subsection 6(1)

Insert:

shorter period of review taxpayer or ***SPOR taxpayer*** has the meaning given by section 6AD.

2 After section 6AC

Insert:

6AD Shorter period of review taxpayer

(1) For the purposes of this Act, a taxpayer is a ***shorter period of review taxpayer*** or a ***SPOR taxpayer*** for a year of income if the taxpayer is an individual, other than an individual in the capacity of a trustee, who, for that year of income:

(a) satisfies the SPOR income test under subsection (2); and

(b) satisfies the SPOR deduction test under subsection (3); and

(c) is not ineligible to be a SPOR taxpayer under subsection (4).

(2) A taxpayer satisfies the ***SPOR income test*** for a year of income if the taxpayer's assessable income for that year of income consists only of one or more of the following amounts:

(a) an amount that is salary or wages for the purposes of Subdivision AB of Division 17 of Part III;

(b) an amount of interest payable by a financial institution or a government body (as defined by section 202A);

(c) an amount that is a dividend, if the company that paid it was a resident, and a listed public company (as defined by subsection 995-1(1) of the *Income Tax Assessment Act 1997*) whose shares were listed for quotation in the official list of the Australian Stock Exchange Limited, at the earliest of the following times:

(i) if the liability to pay the dividend arose when the dividend was declared—that time;

(ii) when the dividend became due and payable;

(iii) when the dividend was paid.

(3) A taxpayer satisfies the ***SPOR deduction test*** for a year of income if the only amounts that are deducted from the taxpayer's assessable income in the Commissioner's determination of the amount of the taxpayer's taxable income (if any) for that year of income are one or more of the following amounts:

(a) an amount to the extent that it was expenditure incurred for managing tax affairs as mentioned in paragraph 25-5(1)(a) of the *Income Tax Assessment Act 1997*;

(b) an amount that was paid in respect of:

(i) an account-keeping fee charged by a financial institution; or

(ii) a tax imposed under a law of the Commonwealth, of a State or of a Territory in relation to an account kept with such an institution (for example, financial institutions duty, debits tax or a similar tax);

(c) an amount of a gift of money, or an amount of a contribution of money, to which item 1, 2 or 3 in the table in section 30-15 of the *Income Tax Assessment Act 1997* applies.

(4) A taxpayer is ***ineligible*** to be a SPOR taxpayer for a year of income if any of the following circumstances exist in relation to the taxpayer for that year of income:

(a) the taxpayer is not a resident of Australia for the whole of that year of income;

(b) the taxpayer is entitled to a credit under Division 18 or 18A of Part III;

(c) an amount of expenditure incurred to an associate (as defined by subsection 318(1)) was deducted from the taxpayer's assessable income in the Commissioner's determination of the amount of the taxpayer's taxable income (if any);

(d) the taxpayer derived income from an associate (as defined by subsection 318(1));

(e) the taxpayer added up a capital gain or capital loss made during that year of income under step 1 of the method

statement in subsection 102-5(1) or 102-10(1) of the *Income Tax Assessment Act 1997*;

(f) the taxpayer derived an amount of income that is exempt from tax under section 23AF or 23AG.

3 Subsections 161E(1) and (2)

Repeal the subsections, substitute:

(1) The taxpayer must retain the declaration:

(a) if the taxpayer is not a SPOR taxpayer for the year of income to which the return or application for amendment relates—for 5 years after the declaration is made; or

(b) if the taxpayer is a SPOR taxpayer for the year of income to which the return or application for amendment relates—until the end of 2 years starting on:

(i) the day on which tax is due and payable under the taxpayer's assessment or amended assessment for that year of income; or

(ii) if no tax is due and payable for that year of income—the 30th day after the day on which notice from the Commissioner containing a statement to that effect is served on the taxpayer.

(2) The taxpayer must produce the declaration if requested to do so by the Commissioner within the period of 5 years or 2 years, as the case requires.

(2A) If:

(a) either of the following subparagraphs applies:

(i) the taxpayer is not a SPOR taxpayer for the year of income to which the return or application for amendment relates but had reasonable grounds to believe that he or she was a SPOR taxpayer for that year of income;

(ii) the taxpayer was a SPOR taxpayer for that year of income but ceased to be a SPOR taxpayer for that year of income as a result of an amended assessment notice of which was served on the taxpayer after the 2 years referred to in paragraph (1)(b); and

(b) if the Commissioner served on the taxpayer within the 2 years referred to in paragraph (1)(b) a notice requiring him or her to produce the declaration and the taxpayer was capable of doing so—the taxpayer complied with the notice;

the taxpayer is not guilty of an offence for:

(c) failing to retain the declaration for the 5 years referred to in paragraph (1)(a); or

(d) failing to produce the declaration within that period because the declaration had not been retained.

4 Subsection 170(1A)

Omit all the words after paragraph (b), substitute:

the Commissioner may:

(c) if the taxpayer is not a SPOR taxpayer for the year of income to which the amended assessment relates—within 4 years after the day on which notice of the amended assessment was served; or

(d) if the taxpayer is a SPOR taxpayer for the year of income to which the amended assessment relates—within 2 years after the day on which tax is due and payable under the amended assessment;

further amend the assessment in, or in respect of, that particular in a way that increases the taxpayer's liability to the extent that the Commissioner thinks necessary.

5 Paragraphs 170(2)(a) and (b)

Repeal the paragraphs, substitute:

(a) if the Commissioner is of the opinion that the avoidance of tax is due to fraud or evasion—at any time; or

(b) if paragraph (a) does not apply, the taxpayer is a relevant entity within the meaning of Division 1B of Part VI and the assessment is taken by section 166A to have been made—within 4 years after the day on which the assessment is so taken to have been made; or

(c) if neither paragraph (a) nor (b) applies and the taxpayer is not a SPOR taxpayer for the year of income to which the assessment relates—within 4 years after the day on which tax became due and payable under the assessment; or

(d) if neither paragraph (a) nor (b) applies and the taxpayer is a SPOR taxpayer for the year of income to which the assessment relates—within 2 years after the day on which tax became due and payable under the assessment;

6 Subsection 170(3)

Repeal the subsection, substitute:

(3) An amendment effecting a reduction in a taxpayer's liability under an assessment is not to be made:

(a) if the taxpayer is a relevant entity within the meaning of Division 1B of Part VI and the assessment is taken by section 166A to have been made—after the end of 4 years after the day on which the assessment is so taken to have been made; or

(b) if paragraph (a) does not apply and the taxpayer is not a SPOR taxpayer for the year of income to which the assessment relates—after the end of 4 years after the day on which tax became due and payable under the assessment; or

(c) if paragraph (a) does not apply and the taxpayer is a SPOR taxpayer for the year of income to which the assessment relates—after the end of 2 years after the day on which tax became due and payable under the assessment.

7 Subsection 170(5)

Repeal the subsection, substitute:

(5) If an assessment has, under this section, been amended in any particular, the Commissioner may:

(a) if the taxpayer is not a SPOR taxpayer for the year of income to which the assessment relates—within 4 years after the day on which tax became due and payable under the amended assessment; or

(b) if the taxpayer is a SPOR taxpayer for the year of income to which the assessment relates—within 2 years after the day on which tax became due and payable under the amended assessment;

make, in or in respect of that particular, such further amendment of the assessment as, in the Commissioner's opinion, is necessary to

effect such reduction in the taxpayer's liability under the assessment as is just.

8 Subsection 170(6)

Repeal the subsection, substitute:

(6) If:

(a) a taxpayer applies for an amendment of his or her assessment; and

(b) either of the following subparagraphs applies:

(i) if the taxpayer is not a SPOR taxpayer for the year of income to which the assessment relates—the application is made within 4 years after the day on which tax became due and payable under the assessment;

(ii) if the taxpayer is a SPOR taxpayer for the year of income to which the assessment relates—the application is made within 2 years after the day on which tax became due and payable under the assessment; and

(c) the taxpayer has supplied to the Commissioner within the period applicable under subparagraph (b)(i) or (ii), as the case may be, all information needed by the Commissioner for the purpose of deciding the application;

the Commissioner may amend the assessment when he or she decides the application even though that period has elapsed.

9 Paragraph (b) of subsection 170(6A) (second occurring)

Repeal the paragraph, substitute:

(b) either of the following subparagraphs applies:

(i) if the taxpayer is not a SPOR taxpayer for the year of income to which the application relates—the application is made within 4 years after the last day allowed to the taxpayer for lodging a return in relation to the taxpayer's income for that year of income;

(ii) if the taxpayer is a SPOR taxpayer for the year of income to which the application relates—the application is made within 2 years after the last day allowed to the taxpayer for lodging a return in relation to the taxpayer's income for that year of income; and

10 Subsection 170(6A) (second occurring)

Renumber as subsection (6AA).

11 After subsection 170(9D)

Insert:

(9E) Nothing in this section prevents the amendment of an assessment within 4 years after the day on which tax became due and payable under the assessment if:

(a) the amendment relates wholly to one of the following:

(i) an amount included in the taxpayer's assessable income other than an amount referred to in subsection 6AD(2);

(ii) an amount (other than an amount referred to in subsection 6AD(3)) that was deducted from the taxpayer's assessable income in the Commissioner's determination of the amount of the taxpayer's taxable income;

(iii) an amount (other than an amount referred to in subsection 6AD(3)) that the taxpayer was entitled to deduct, but was not deducted, from the taxpayer's assessable income in the Commissioner's determination of the amount of the taxpayer's taxable income; or

(b) the amendment is necessary because circumstances referred to in subsection 6AD(4) that were previously believed to exist in relation to the taxpayer for a year of income have been found not to exist; or

(c) the amendment is necessary, in the Commissioner's opinion, to make a correct assessment solely because of an amendment made under paragraph (a) or (b).

(9F) If:

(a) the Commissioner makes an amendment of an assessment on the assumption that the taxpayer was not a SPOR taxpayer for the year of income to which the assessment related; and

(b) the Commissioner would not have been authorised under this Act to make the amendment if the taxpayer had been a SPOR taxpayer for that year of income; and

(c) the Commissioner afterwards becomes aware that the taxpayer is a SPOR taxpayer for that year of income;

nothing in this section prevents the Commissioner from making a further amendment of the assessment for the purpose of reversing the effect of the earlier amendment.

12 Subsection 251R(6D)

Omit "subsection (6F)", substitute "subsections (6F) and (6FA)".

13 Subsection 251R(6F)

Repeal the subsection, substitute:

(6F) Subject to subsection (6FA), subsection (6D) does not apply, and is taken never to have applied, if the first person fails to retain the family agreement until the end of:

(a) if the first person is not a SPOR taxpayer for the year of income concerned—5 years beginning on the date of lodgment of the first person's return of income for that year of income; or

(b) if the first person is a SPOR taxpayer for the year of income concerned—2 years beginning on:

(i) the day on which tax is due and payable under the first person's assessment for that year of income; or

(ii) if no tax is due and payable for that year of income—the 30th day after the day on which notice from the Commissioner containing a statement to that effect is served on the first person.

(6FA) If:

(a) either of the following subparagraphs applies:

(i) the first person is not a SPOR taxpayer for the year of income concerned but had reasonable grounds to believe that he or she was a SPOR taxpayer for that year of income;

(ii) the first person was a SPOR taxpayer for the year of income concerned but ceased to be a SPOR taxpayer for that year of income as a result of an amended assessment notice of which was served on that person after the 2 years referred to in paragraph (6F)(b); and

(b) if the Commissioner served on the first person within the period of 2 years referred to in paragraph (6F)(b) a notice requiring him or her to produce the family agreement and

that person was capable of doing so—that person complied with the notice;

subsection (6F) applies as if the first person were a SPOR taxpayer for the year of income concerned.

Part 2—Taxation Administration Act 1953

14 Section 2

Insert:

> ***SPOR taxpayer*** has the meaning given by section 6AD of the *Income Tax Assessment Act 1936*.

15 Subsection 14ZAL(2)

After "14ZAN(f)", insert "or (fa)".

16 Paragraph 14ZAN(f)

Repeal the paragraph, substitute:

(f) where the rulee is not a SPOR taxpayer for the year of income to which the application relates—the application is made later than 4 years after the last day allowed to the rulee for lodging a return in relation to the rulee's income for that year of income; or

(fa) where the rulee is a SPOR taxpayer for the year of income to which the application relates—the application is made later than the end of 2 years after the last day allowed to the rulee for lodging a return in relation to the rulee's income for that year of income; or

17 Paragraph 14ZW(1)(aa)

After "if", insert "the person is not a SPOR taxpayer for the year of income in respect of which the assessment, determination, notice or decision to which the taxation objection relates was made and".

18 After paragraph 14ZW(1)(aa)

Insert:

(aaa) if the person is a SPOR taxpayer for the year of income to which the taxation objection relates and the taxation objection is made under section 175A of the *Income Tax Assessment Act 1936*—2 years after notice of the taxation decision to which it relates has been served on the person; or

19 Subsection 14ZW(1A)

Repeal the subsection, substitute:

(1A) If a private ruling relates to a year of income for which a person is not a SPOR taxpayer, the person cannot lodge a taxation objection against the ruling after the end of whichever of the following ends last:

(a) 60 days after the private ruling was made;

(b) 4 years after the last day allowed to the person for lodging a return in relation to the person's income for that year of income.

(1AA) If a private ruling relates to a year of income for which a person is a SPOR taxpayer, the person cannot lodge a taxation objection against the ruling after the end of whichever of the following ends last:

(a) 60 days after the private ruling was made;

(b) 2 years after the last day allowed to the person for lodging a return in relation to the person's income for that year of income.

20 After subsection 14ZW(1B)

Insert:

(1BA) If:

(a) section 14ZV applies to a taxation objection; and

(b) apart from this subsection, paragraph (1)(aaa) would apply to the taxation objection;

the person must lodge the taxation objection before the end of whichever of the following ends last:

(c) 2 years after notice of the assessment or determination that has been amended by the amended assessment or amended determination to which the taxation objection relates has been served on the person;

(d) 60 days after the notice of the amended assessment to which the taxation objection relates has been served on the person.

21 Subsection 14ZW(2)

Repeal the subsection, substitute:

(2) If the period within which an objection by a person is required to be lodged has passed, the person may nevertheless lodge the objection with the Commissioner together with a written request asking the Commissioner to deal with the objection as if it had been lodged within that period.

22 Subsections 14ZW(3), 14ZX(3), 14ZY(1) and 14ZYA(1)

Omit "the 4 years or the 60 days", substitute "the required period".

23 Section 18-100

Repeal the section, substitute:

18-100 Obligation to keep payment summary

(1) An entity that is given a *payment summary and a copy of it in any financial year under this Part must retain the copy:

(a) if the entity is not a *SPOR taxpayer for the income year constituted by that financial year—for 5 years after the end of that financial year; or

(b) if the entity is a SPOR taxpayer for that income year—for 2 years after:

(i) the day on which tax is due and payable under the entity's assessment for that income year; or

(ii) if no tax is due and payable for that income year—the 30th day after the day on which notice by the Commissioner containing a statement to that effect is served on the entity.

Penalty: 30 penalty units.

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

(2) An entity is not guilty of an offence for failing to retain a copy of a *payment summary given to the entity in a financial year if:

(a) either of the following subparagraphs applies:

(i) the entity was not a *SPOR taxpayer for the income year constituted by that financial year but had reasonable grounds to believe that the entity was a SPOR taxpayer for that income year;

(ii) the entity was a SPOR taxpayer for that income year but ceased to be a SPOR taxpayer for that income year as a result of an amended assessment notice of which was served on the entity after the 2 years referred to in paragraph (1)(b); and

(b) if the Commissioner served on the entity within the 2 years referred to in paragraph (1)(b) a notice requiring the entity to produce the summary—the entity complied with the notice.

Part 3—Application of amendments

24 Application

(1) The amendment made by item 2 applies in respect of the year of income commencing on 1 July 2000 or a later year of income.

(2) The amendment made by item 3 applies to declarations made on or after 1 July 2000 in respect of returns given or applications for amendments made in respect of the year of income commencing on that day or a later year of income.

(3) The amendments made by items 4 to 9 and 11 apply to amendments made on or after 1 July 2000 in respect of assessments for the year of income commencing on that day or a later year of income.

(4) The amendments made by items 12 and 13 apply to family agreements entered into on or after 1 July 2000 in respect of the year of income commencing on that day or a later year of income.

(5) The amendments made by items 15 and 16 apply in respect of applications made on or after 1 July 2000 for private rulings for the year of income commencing on that day or a later year of income.

(6) The amendments made by items 17 to 22 apply in respect of taxation objections made on or after 1 July 2000 in respect of assessments or private rulings for the year of income commencing on that day or a later year of income.

Schedule 7—Endorsement of deductible gift recipients

Income Tax Assessment Act 1997

1 After subsection 30-5(4)

Insert:

(4AA) Subdivision 30-BA provides for the Commissioner to endorse as a deductible gift recipient an entity that is, or operates, a fund, authority or institution. The relevance of the Subdivision to you is that generally you can deduct only a gift you make to a recipient that is endorsed or named in:

(a) this Division; or

(b) regulations made for the purposes of this Division.

Note: The fact that gifts to a recipient registered in the Australian Business Register are deductible will be shown in the Register.

(4AB) Subdivision 30-CA sets out administrative rules which do not directly affect whether you can deduct a gift you make. The rules require:

(a) a receipt issued by an entity for a gift to the entity or to a fund, authority or institution operated by the entity to show the entity's ABN; and

(b) the Australian Business Registrar to enter in the Australian Business Register a statement in relation to an entity entered in the Register if:

(i) gifts to the entity are deductible; or

(ii) gifts to a fund, authority or institution operated by the entity are deductible.

2 Subsection 30-15(2) (table item 1, after paragraph (a) in the column headed "Special conditions")

Insert:

(aa) the fund, authority or institution must either meet the requirements of section 30-17 or be mentioned by name in the relevant table item in Subdivision 30-B; and

3 Subsection 30-15(2) (table item 2, paragraph (a) in the column headed "Recipient")

Repeal the paragraph, substitute:

(a) the purpose of providing money, property or benefits:
- to a fund, authority or institution gifts to which are deductible under item 1 of this table; and
- for any purposes set out in the item of the table in Subdivision 30-B that covers the fund, authority or institution; or

4 Subsection 30-15(2) (table item 2, at the end of the column headed "Special conditions")

Add:

; and
(c) the fund must meet the requirements of section 30-17, unless the fund is a *prescribed private fund.

5 Subsection 30-15(2) (table item 4, after paragraph (b) in the column headed "Special conditions")

Insert:

(ba) the institution must meet the requirements of section 30-17, unless it is the Australiana Fund; and

6 At the end of Subdivision 30-A

Add:

30-17 Requirements for certain recipients

(1) This section sets out requirements to be met for you to be able to deduct a gift you make to a fund, authority or institution described in the column headed "Recipient" of item 1, 2 or 4 of the table in section 30-15. However, this section does not apply to:

(a) a fund, authority or institution that is mentioned by name in an item of a table in Subdivision 30-B; or

(b) a *prescribed private fund; or

(c) the Australiana Fund.

(2) The fund, authority or institution must:

(a) be an entity or *government entity that is endorsed under Subdivision 30-BA as a *deductible gift recipient; or

(b) in the case of a fund—either:

(i) be owned legally by an entity that is endorsed under Subdivision 30-BA as a *deductible gift recipient for the operation of the fund; or

(ii) be under the control of one or more persons who constitute a *government entity that is endorsed under Subdivision 30-BA as a *deductible gift recipient for the operation of the fund; or

(c) in the case of an authority or institution—be part of an entity or *government entity that is endorsed under Subdivision 30-BA as a *deductible gift recipient for the operation of the authority or institution.

Example: A public fund that is established and maintained for constructing a building to be used by a State school and is controlled by the principal of the school would be an example of a fund under the control of one or more persons who constitute a government entity that is endorsed as a deductible gift recipient for the operation of the fund, if the school were so endorsed.

7 After Subdivision 30-B

Insert:

Subdivision 30-BA—Endorsement of deductible gift recipients

Guide to Subdivision 30-BA

30-115 What this Subdivision is about

This Subdivision sets out rules about endorsement of entities and government entities as deductible gift recipients. Endorsement of an entity described (except by name) in Subdivision 30-A, 30-B or 30-D lets you deduct a gift you make to a fund, authority or institution that is, or is operated by, the entity.

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Government entities treated like entities

30-180 How this Subdivision applies to government entities

[This is the end of the Guide.]

Endorsement as a deductible gift recipient

30-120 Endorsement by Commissioner

If an entity applies for it, the Commissioner must endorse the entity:

(a) as a *deductible gift recipient, if the entity is entitled to be endorsed as a deductible gift recipient; or

(b) as a *deductible gift recipient for the operation of a fund, authority or institution, if the entity is entitled to be endorsed as a deductible gift recipient for the operation of the fund, authority or institution.

30-125 Entitlement to endorsement

Endorsement of an entity that is a fund, authority or institution

(1) An entity is entitled to be endorsed as a *deductible gift recipient if the entity:

(a) has an *ABN; and

(b) is a fund, authority or institution that:

(i) is described (but not by name) in item 1, 2 or 4 of the table in section 30-15; and

(ii) is not described by name in Subdivision 30-B if it is described in item 1 of that table; and

(iii) meets the relevant conditions (if any) identified in the column headed "Special conditions" of the item of that table in which it is described; and

(c) meets the requirements of subsections (4), (5) and (6).

Endorsement of an entity for operating a fund, authority etc.

(2) An entity is entitled to be endorsed as a *deductible gift recipient for the operation of a fund, authority or institution that is described (but not by name) in item 1, 2 or 4 of the table in section 30-15 and is not described by name in Subdivision 30-B if:

(a) the entity has an *ABN; and

(b) the entity:

(i) legally owns the fund; or

(ii) includes the authority or institution; and

(c) the fund, authority or institution meets the relevant conditions (if any) identified in the column headed "Special conditions" of that item; and

(d) the entity meets the requirements of subsections (4), (5) and (6).

Relevant special conditions in table in section 30-15

(3) To avoid doubt, a condition requiring the fund, authority or institution to meet the requirements of section 30-17 is not a relevant condition for the purposes of subparagraph (1)(b)(iii) or paragraph (2)(c).

Note: Section 30-17 requires the entity to be endorsed under this Subdivision as a deductible gift recipient.

Maintaining gift fund

(4) The entity must maintain for the principal purpose of the fund, authority or institution a fund (the ***gift fund***):

(a) to which gifts of money or property for that purpose are to be made; and

(b) to which any money received by the entity because of such gifts is to be credited; and

(c) that does not receive any other money or property.

Limits on use of gift fund

(5) The entity must use the following only for the principal purpose of the fund, authority or institution:

(a) gifts made to the gift fund;

(b) any money received because of such gifts.

Transfer of assets from gift fund

(6) A law (outside this Subdivision), a document constituting the entity or rules governing the entity's activities must require the entity to transfer, at the first occurrence of an event described in subsection (7), any surplus assets of the gift fund to a fund, authority or institution gifts to which can be deducted under this Division.

Events requiring transfer

(7) The events are:

(a) the winding up of the gift fund; and

(b) if the entity is endorsed because of a fund, authority or institution—the revocation of the entity's endorsement under this Subdivision relating to the fund, authority or institution.

Note 1: There are 2 ways an entity can be endorsed because of a fund, authority or institution. An entity can be endorsed either *because it is* a fund, authority or institution or *because it operates* a fund, authority or institution.

Note 2: Section 30-170 deals with revocation of endorsement.

30-130 Applying for endorsement

(1) An entity may apply to the Commissioner for endorsement.

(2) The application:

(a) must be in a form approved by the Commissioner; and

(b) must be signed for the entity, or include the entity's *electronic signature if the application is *lodged electronically; and

(c) must be lodged at, or posted to, an office or facility designated by the Commissioner as a receiving centre for applications of that kind; and

(d) may be lodged electronically.

Note: The Commissioner could approve a form that is part of an application form for an ABN.

30-135 Dealing with an application for endorsement

Requesting further information or documents

(1) The Commissioner may request an applicant to give the Commissioner specified information, or a specified document, the Commissioner needs to decide whether the applicant is entitled to endorsement unless the information or document is given.

Treating application as being refused

(2) After the time worked out under subsection (3), the applicant may give the Commissioner written notice that the applicant wishes to treat the application as having been refused, if the Commissioner has *not* given the applicant before that time written notice that the Commissioner endorses or refuses to endorse the applicant.

Note: Section 30-140 requires the Commissioner to give the applicant written notice if the Commissioner endorses or refuses to endorse the applicant.

(3) The time is the end of the 60th day after the application was made. However, if before that time the Commissioner requests the applicant under subsection (1) to give information or a document, the time is the later of the following (or either of them if they are the same):

(a) the end of the 28th day after the last day on which the applicant gives the Commissioner information or a document he or she has requested;

(b) the end of the 60th day after the application was made.

(4) If the applicant gives notice under subsection (2), section 30-150 operates as if the Commissioner had refused the application on the day on which the notice is given.

Note: Section 30-150 lets the applicant object against refusal of an application in the manner set out in Part IVC of the *Taxation Administration Act 1953*. That Part provides for review of the refusal objected against.

(5) The notice given by the applicant:

(a) may be *lodged electronically; and

(b) must be signed for the applicant, or include the applicant's *electronic signature if the application is *lodged electronically.

30-140 Notifying outcome of application for endorsement

(1) The Commissioner must give the applicant written notice if:

(a) the Commissioner endorses the applicant; or

(b) the Commissioner refuses to endorse the applicant.

(2) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

30-145 Date of effect of endorsement

(1) The endorsement has effect from a date specified by the Commissioner.

(2) The date specified may be any date (including a date before the application for endorsement was made and a date before the applicant had an *ABN).

Note: An entity may fail to apply for endorsement by 30 June 2000. The Commissioner may endorse an application by such an entity from 1 July 2000.

30-150 Review of refusal of endorsement

If the applicant is dissatisfied with the Commissioner's refusal to endorse the applicant in accordance with the application, the applicant may object against the refusal in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Note: That Part provides for review of the refusal objected against.

30-155 Checking entitlement to endorsement

(1) The Commissioner may request an entity that is endorsed to give the Commissioner information or a document that is relevant to the entity's entitlement to endorsement. The entity must comply with the request.

Note 1: Section 30-125 sets out the conditions for an entity to be entitled to be endorsed.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. Failure to comply with this subsection is an offence against section 8C of that Act. Also, the Commissioner may revoke the endorsement of the entity under section 30-170 if it fails to comply with this subsection.

Note 3: Section 30-165 modifies the way this subsection operates in relation to partnerships and unincorporated bodies.

(2) The request:

(a) is to be made by notice in writing to the entity; and

(b) may ask the entity to give the information in writing; and

(c) must specify:

(i) the information or document the entity is to give; and

(ii) the period within which the entity is to give the information or document.

The period specified under subparagraph (c)(ii) must end at least 28 days after the notice is given.

(3) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

(4) If the request is for the entity to give information in writing, the document setting out the information:

(a) must be given to the Commissioner; and

(b) may be *lodged electronically; and

(c) must be signed for the entity, or include the entity's *electronic signature if the document is lodged electronically.

30-160 Telling Commissioner of loss of entitlement to endorsement

(1) Before, or as soon as practicable after, an entity that is endorsed ceases to be entitled to be endorsed, the entity must give the Commissioner written notice of the cessation.

Note 1: Section 30-125 sets out when an entity is entitled to be endorsed.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. Failure to comply with this subsection is an offence against section 8C of that Act.

Note 3: Section 30-165 modifies the way this subsection operates in relation to partnerships and unincorporated bodies.

(2) The notice:

(a) may be *lodged electronically; and

(b) must be signed for the entity, or include the entity's *electronic signature if the document is lodged electronically.

(3) Subsection (1) does not apply to an entitlement to endorsement ceasing because the entity ceases to have an *ABN.

30-165 Partnerships and unincorporated bodies

Application to partnerships

(1) If, apart from this subsection, section 30-155 or 30-160 would impose an obligation on a partnership, the obligation is imposed on each partner, but may be discharged by any of the partners.

Application to unincorporated bodies

(2) If, apart from this subsection, section 30-155 or 30-160 would impose an obligation on an unincorporated association or body, the obligation is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.

Defences for partners and members of committee of management

(3) In a prosecution of a person for an offence against section 8C of the *Taxation Administration Act 1953* because of subsection (1) or (2), it is a defence if the person proves that the person:

(a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and

(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

30-170 Revoking endorsement

(1) The Commissioner may revoke the endorsement of an entity if:

(a) the entity is not entitled to be endorsed; or

(b) the Commissioner has requested the entity under section 30-155 to provide information or a document that is relevant to its entitlement to endorsement and the entity has not provided the requested information or document within the time specified in the request; or

(c) the entity has contravened Subdivision 30-CA (which requires the entity to ensure that certain things are stated in any receipts it issues for certain gifts).

Note: Section 30-125 sets out the conditions for an entity to be entitled to be endorsed.

(2) The revocation has effect from a date specified by the Commissioner (which may be a date before the Commissioner decided to revoke the endorsement).

(3) However, if the Commissioner revokes the endorsement because the entity is not entitled to it, the Commissioner must not specify a date before the date on which the entity first ceased to be entitled.

(4) The Commissioner must give the entity written notice if the Commissioner revokes its endorsement.

(5) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

30-175 Review of revocation of endorsement

If the entity is dissatisfied with the revocation of its endorsement, the entity may object against the revocation in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Note: That Part provides for review of the revocation objected against.

Government entities treated like entities

30-180 How this Subdivision applies to government entities

(1) The other sections of this Subdivision apply in relation to a *government entity in the same way as they apply in relation to an entity.

(2) Subparagraph 30-125(2)(b)(i) (as applied by this section) operates as if it referred to the *government entity consisting of persons, one or more of whom controlled the fund (instead of referring to the entity legally owning the fund).

(3) If, apart from this subsection, section 30-155 or 30-160 (as applied by this section) would impose an obligation on a *government entity:

(a) that is an unincorporated association or body; and

(b) for whose management a single person is responsible to persons or bodies outside the government entity;

the obligation is imposed on that person.

(4) Subsection (3) has effect despite:

(a) subsection (1); and

(b) subsection 30-165(2) as it applies because of this section.

8 After Subdivision 30-C

Insert:

Subdivision 30-CA—Administrative requirements relating to ABNs

Guide to Subdivision 30-CA

30-226 What this Subdivision is about

An entity must ensure certain details must appear on a receipt it issues for a gift that:

(a) is made to the entity or a fund, authority or institution it operates; and

(b) is of a kind that the giver can deduct under Subdivision 30-A.

If the entity has an ABN, the Australian Business Registrar must state in the Australian Business Register that the entity is a deductible gift recipient.

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30-228 Content of receipt for gift

30-229 Australian Business Register must show deductibility of gifts to deductible gift recipient

[This is the end of the Guide.]

Requirements

30-227 Entities to which this Subdivision applies

(1) This Subdivision sets out requirements relating to a *deductible gift recipient.

(2) A ***deductible gift recipient*** is an entity or *government entity that:

(a) is a fund, authority or institution described in item 1, 2, 4, 5 or 6 of the table in section 30-15 and is:

(i) endorsed under Subdivision 30-BA as a deductible gift recipient; or

(ii) mentioned by name in that table or in Subdivision 30-B; or

(iii) a *prescribed private fund; or

(b) is endorsed as a deductible gift recipient for the operation of a fund, authority or institution described in item 1, 2 or 4 of the table in section 30-15.

30-228 Content of receipt for gift

If a *deductible gift recipient issues a receipt for a gift described in the relevant item of the table in section 30-15 to the fund, authority or institution, the deductible gift recipient must ensure that the receipt states:

(a) the name of the fund, authority or institution; and

(b) the *ABN (if any) of the deductible gift recipient; and

(c) the fact that the receipt is for a gift.

Note: If the deductible gift recipient is endorsed as a deductible gift recipient and it contravenes this section, the Commissioner may revoke its endorsement: see section 30-170.

30-229 Australian Business Register must show deductibility of gifts to deductible gift recipient

(1) If a *deductible gift recipient has an *ABN, the *Australian Business Registrar must enter in the *Australian Business Register

in relation to the deductible gift recipient a statement that it is a deductible gift recipient for a specified period.

Note 1: An entry (or lack of entry) of a statement required by this section does not affect whether you can deduct a gift to the fund, authority or institution.

Note 2: This section will apply to all entities and government entities that are endorsed as deductible gift recipients under Subdivision 30-BA, because they must have ABNs to be endorsed. It will also apply to other entities described or named in Subdivision 30-A if they have ABNs.

(2) If the *deductible gift recipient is a deductible gift recipient only because it is endorsed under Subdivision 30-BA as a deductible gift recipient for the operation of a fund, authority or institution, the statement must name the fund, authority or institution.

(3) The *Australian Business Registrar may remove the statement from the *Australian Business Register after the end of the period.

(4) The *Australian Business Registrar must take reasonable steps to ensure that a statement appearing in the *Australian Business Register under this section is true. For this purpose, the Registrar may:

(a) change the statement; or

(b) remove the statement from the Register if the statement is not true; or

(c) remove the statement from the Register and enter another statement in the Register under this section.

(5) Making, changing or removing an entry in the *Australian Business Register as required or permitted by this section does not contravene section 16 of the *Income Tax Assessment Act 1936* (Officers to observe secrecy).

9 After subsection 30-230(2)

Insert:

(2A) When you die, one of the following requirements must be met:

(a) the recipient must be endorsed under Subdivision 30-BA as a deductible gift recipient;

(b) there must be an entity endorsed under Subdivision 30-BA as a *deductible gift recipient for the operation of the recipient institution.

This subsection does not apply if the recipient is The Australiana Fund.

10 Paragraph 30-265(2)(a)

Omit "can", substitute "are to".

11 Paragraph 30-300(3)(a)

Omit "can", substitute "are to".

12 Subsection 30-315(2) (after table item 17)

Insert:

17A	Australian Business Register	section 30-229

13 Subsection 30-315(2) (after table item 46)

Insert:

46A	Endorsement as a deductible gift recipient	Subdivision 30-BA

14 Subsection 30-315(2) (after table item 94)

Insert:

94A	Receipts for gifts	Subdivision 30-CA

15 Paragraph 50-60(d)

Repeal the paragraph, substitute:

(d) distributes solely, and has at all times since 1 July 1997 distributed solely, to a charitable fund, foundation or institution that, to the best of the trustee's knowledge, meets the description and requirements in item 1 or 2 of the table in section 30-15.

16 Paragraph 50-65(b)

Repeal the paragraph, substitute:

(b) a scientific research fund that meets the description and requirements in item 1 or 2 of the table in section 30-15.

17 Paragraph 50-70(b)

Repeal the paragraph, substitute:

(b) is a society, association or club that meets the description and requirements in item 1 of the table in section 30-15; or

18 Application

(1) The amendments of Subdivisions 30-A and 30-D of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to gifts made on or after 1 July 2000.

(2) Section 30-228 of the *Income Tax Assessment Act 1997* applies to gifts made on or after 1 July 2000.

(3) The amendments of Division 50 of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to ordinary income and statutory income for a period starting on or after 1 July 2000.

Schedule 8—Endorsing entities as exempt from income tax

Income Tax Assessment Act 1997

1 Section 50-5 (table item 1.1, column headed "Special conditions")

Omit "section 50-50", substitute "sections 50-50 and 50-52".

2 Section 50-5 (table item 1.5, column headed "Special conditions")

Repeal the cell, substitute:

see sections 50-52 and 50-57

3 Section 50-5 (table item 1.5A, column headed "Special conditions")

Omit "section", substitute "sections 50-52 and".

4 Section 50-5 (table item 1.5B, column headed "Special conditions")

Omit "section", substitute "sections 50-52 and".

5 Section 50-5 (note)

Repeal the note, substitute:

Note 1: Section 50-52 has the effect that certain charitable institutions, funds and trusts are exempt from income tax only if they are endorsed under Subdivision 50-B.

Note 2: Section 50-80 may affect which item a trust is covered by.

6 Paragraph 50-50(b)

Repeal the paragraph, substitute:

(b) is an institution that meets the description and requirements in item 1 of the table in section 30-15; or

7 Section 50-50 (note)

Renumber as Note 1.

8 At the end of section 50-50

Add:

Note 2: The entity must also meet other conditions to be exempt from income tax: see section 50-52.

9 After section 50-50

Insert:

50-52 Special condition for items 1.1, 1.5, 1.5A and 1.5B

(1) An entity covered by item 1.1, 1.5, 1.5A or 1.5B is not exempt from income tax unless the entity is endorsed as exempt from income tax under Subdivision 50-B.

Note: The entity will not be exempt from income tax unless it also meets other conditions: see section 50-50 (for an entity covered by item 1.1), 50-57 (for an entity covered by item 1.5) or section 50-60 (for an entity covered by item 1.5A or 1.5B).

(2) However, an entity that is a charitable institution prescribed for the purposes of paragraph 50-50(c) or (d) may be exempt from income tax even if the entity is not endorsed as exempt from income tax under Subdivision 50-B (as long as the entity meets the other requirements of this Division).

(3) This section has effect despite all the other sections of this Subdivision.

Note: This means that an entity covered both by an item other than 1.1, 1.5, 1.5A or 1.5B and by one of those items is not exempt from income tax unless the entity is endorsed under Subdivision 50-B as exempt from income tax (or is prescribed for the purposes of paragraph 50-50(c) or (d)) and the entity meets the requirements of whichever of sections 50-50, 50-57 and 50-60 is relevant.

10 Paragraph 50-55(b)

Repeal the paragraph, substitute:

(b) is an institution that meets the description and requirements in item 1 of the table in section 30-15; or

11 After section 50-55

Insert:

50-57 Special condition for item 1.5

A fund covered by item 1.5 is not exempt from income tax unless the fund is applied for the purpose for which it was established.

Note: The fund must also meet another condition to be exempt from income tax: see section 50-52.

12 Section 50-60 (note)

Renumber as Note 1.

13 At the end of section 50-60

Add:

Note 2: The fund must also meet other conditions to be exempt from income tax: see section 50-52.

14 Subsection 50-80(1)

After "Subdivision", insert "and Subdivision 50-B"

15 Section 50-80 (link note)

Repeal the link note, substitute:

Subdivision 50-B—Endorsing charitable entities as exempt from income tax

Guide to Subdivision 50-B

50-100 What this Subdivision is about

This Subdivision sets out rules about endorsement of charitable institutions and trust funds for charitable purposes as exempt from income tax. Such entities are only exempt from income tax if they are endorsed.

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[This is the end of the Guide.]

Endorsing charitable entities as exempt from income tax

50-105 Endorsement by Commissioner

The Commissioner must endorse an entity as exempt from income tax if the entity:

(a) is entitled to be endorsed as exempt from income tax; and

(b) has applied for endorsement.

50-110 Entitlement to endorsement

General rule

(1) An entity is entitled to be endorsed as exempt from income tax if the entity meets all the relevant requirements of this section.

Which entities are entitled to be endorsed?

(2) To be entitled, the entity must be an entity covered by item 1.1, 1.5, 1.5A or 1.5B of the table in section 50-5.

Requirement for ABN

(3) To be entitled, the entity must have an *ABN.

(4) However, for a trust:

(a) covered by item 1.5 of the table in section 50-5 because the trust is covered by paragraph 50-80(1)(d); or

(b) covered by item 1.5A of the table in section 50-5 (because the trust is covered by paragraph 50-80(1)(c));

to be entitled, the existing trust mentioned in paragraph 50-80(1)(a) must have an *ABN.

Requirement to meet special conditions

(5) To be entitled, either:

(a) the entity must meet the relevant conditions referred to in the column headed "Special conditions" of whichever of items 1.1, 1.5, 1.5A and 1.5B of the table in section 50-5 covers the entity; or

(b) both of the following conditions must be met:

(i) the entity must not have carried on any activities as a charitable institution (if the entity is covered by item 1.1 of the table in section 50-5) or for public charitable purposes (if the entity is covered by item 1.5, 1.5A or 1.5B of that table);

(ii) there must be reasonable grounds for believing that the entity will meet the relevant conditions referred to in the column headed "Special conditions" of whichever of items 1.1, 1.5, 1.5A or 1.5B of the table in section 50-5 covers the entity.

(6) To avoid doubt, the condition set out in section 50-52 (requiring the entity to be endorsed under this Subdivision) is not a relevant condition for the purposes of subsection (5).

50-115 Applying for endorsement

(1) An entity may apply to the Commissioner for endorsement.

(2) The application:

(a) must be in a form approved by the Commissioner; and

(b) must be signed for the entity, or include the entity's *electronic signature if the application is *lodged electronically; and

(c) must be lodged at, or posted to, an office or facility designated by the Commissioner as a receiving centre for applications of that kind; and

(d) may be lodged electronically.

Note: The Commissioner could approve a form that is part of an application form for an ABN.

50-120 Dealing with an application for endorsement

Requesting further information or documents

(1) The Commissioner may request an applicant to give the Commissioner specified information, or a specified document, the Commissioner needs to decide whether the applicant is entitled to endorsement unless the information or document is given.

Treating application as being refused

(2) After the time worked out under subsection (3), the applicant may give the Commissioner written notice that the applicant wishes to treat the application as having been refused, if the Commissioner has *not* given the applicant before that time written notice that the Commissioner endorses or refuses to endorse the applicant.

Note: Section 50-125 requires the Commissioner to give the applicant written notice if the Commissioner endorses or refuses to endorse the applicant.

(3) The time is the end of the 60th day after the application was made. However, if before that time the Commissioner requests the applicant under subsection (1) to give information or a document, the time is the later of the following (or either of them if they are the same):

(a) the end of the 28th day after the last day on which the applicant gives the Commissioner information or a document he or she has requested;

(b) the end of the 60th day after the application was made.

(4) If the applicant gives notice under subsection (2), section 50-135 operates as if the Commissioner had refused the application on the day on which the notice is given.

Note: Section 50-135 lets the applicant object against refusal of an application in the manner set out in Part IVC of the *Taxation*

Administration Act 1953. That Part provides for review of the refusal objected against.

(5) The notice given by the applicant:

(a) may be *lodged electronically; and

(b) must be signed for the applicant, or include the applicant's *electronic signature if the application is *lodged electronically.

50-125 Notifying outcome of application for endorsement

(1) The Commissioner must give the applicant written notice if:

(a) the Commissioner endorses the applicant; or

(b) the Commissioner refuses to endorse the applicant.

(2) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

50-130 Date of effect of endorsement

(1) The endorsement has effect from a date specified by the Commissioner.

(2) The date specified may be any date (including a date before the application for endorsement was made and a date before the applicant had an *ABN).

Note: An entity may fail to apply for endorsement by 30 June 2000. The Commissioner may endorse an application by such an entity from 1 July 2000.

50-135 Review of refusal of endorsement

If the applicant is dissatisfied with the Commissioner's refusal to endorse the applicant in accordance with the application, the applicant may object against the refusal in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Note: That Part provides for review of the refusal objected against.

50-140 Checking entitlement to endorsement

(1) The Commissioner may request an entity that is endorsed as exempt from income tax to give the Commissioner information or a document that is relevant to the entity's entitlement to endorsement. The entity must comply with the request.

Note 1: Section 50-110 sets out the conditions for an entity to be entitled to be endorsed.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. Failure to comply with this subsection is an offence against section 8C of that Act. Also, the Commissioner may revoke the endorsement of the entity under section 50-155 if it fails to comply with this subsection.

Note 3: Section 50-150 modifies the way this subsection operates in relation to partnerships and unincorporated bodies.

(2) The request:

(a) is to be made by notice in writing to the entity; and

(b) may ask the entity to give the information in writing; and

(c) must specify:

(i) the information or document the entity is to give; and

(ii) the period within which the entity is to give the information or document.

The period specified under subparagraph (c)(ii) must end at least 28 days after the notice is given.

(3) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

(4) If the request is for the entity to give information in writing, the document setting out the information:

(a) must be given to the Commissioner; and

(b) may be *lodged electronically; and

(c) must be signed for the entity, or include the entity's *electronic signature if the document is lodged electronically.

50-145 Telling Commissioner of loss of entitlement to endorsement

(1) Before, or as soon as practicable after, an entity that is endorsed as exempt from income tax ceases to be entitled to be endorsed, the entity must give the Commissioner written notice of the cessation.

Note 1: An entity ceases to be entitled to endorsement if it ceases to be covered by item 1.1, 1.5, 1.5A or 1.5B of the table in section 50-5 or ceases to meet the special conditions identified in the item that covers it: see section 50-110.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. Failure to comply with this subsection is an offence against section 8C of that Act.

Note 3: Section 50-150 modifies the way this subsection operates in relation to partnerships and unincorporated bodies.

(2) The notice:

(a) may be *lodged electronically; and

(b) must be signed for the entity, or include the entity's *electronic signature if the document is lodged electronically.

(3) Subsection (1) does not apply to an entitlement to endorsement ceasing because the entity ceases to have an *ABN.

50-150 Partnerships and unincorporated bodies

Application to partnerships

(1) If, apart from this subsection, section 50-140 or 50-145 would impose an obligation on a partnership, the obligation is imposed on each partner, but may be discharged by any of the partners.

Application to unincorporated bodies

(2) If, apart from this subsection, section 50-140 or 50-145 would impose an obligation on an unincorporated association or body, the obligation is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.

Defences for partners and members of committee of management

(3) In a prosecution of a person for an offence against section 8C of the *Taxation Administration Act 1953* because of subsection (1) or (2), it is a defence if the person proves that the person:

(a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and

(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

50-155 Revoking endorsement

(1) The Commissioner may revoke the endorsement of an entity as exempt from income tax if:

(a) the entity is not entitled to be endorsed as exempt from income tax; or

(b) the Commissioner has requested the entity under section 50-140 to provide information or a document that is relevant to its entitlement to endorsement and the entity has not provided the requested information or document within the time specified in the request.

Note: Section 50-110 sets out the conditions for an entity to be entitled to be endorsed.

(2) The revocation has effect from a day specified by the Commissioner (which may be a day before the Commissioner decided to revoke the endorsement).

(3) However, if the Commissioner revokes the endorsement because the entity is not entitled to it, the Commissioner must not specify a day before the day on which the entity first ceased to be entitled.

(4) The Commissioner must give the entity written notice if the Commissioner revokes its endorsement.

(5) The Commissioner may give the notice by way of electronic transmission. This does not limit the ways in which the Commissioner may give the notice.

50-160 Review of revocation of endorsement

If the entity is dissatisfied with the revocation of its endorsement as exempt from income tax, the entity may object against the revocation in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Note: That Part provides for review of the revocation objected against.

[The next Division is Division 51.]

16 Application

Subdivision 50-A of the *Income Tax Assessment Act 1997* as amended by this Schedule applies in relation to ordinary income and statutory income for a period starting on or after 1 July 2000.

Schedule 9—ABNs

Part 1—ABNs for government entities

A New Tax System (Australian Business Number) Act 1999

1 At the end of section 16

Add:

Application to government entities headed by one person

(4) If, apart from this subsection, section 14 or 15 (as applied by section 5) would impose an obligation on a *government entity:

(a) that is an unincorporated association or body; and

(b) for whose management a single person is responsible to persons or bodies outside the government entity;

the obligation is imposed on that person.

(5) Subsection (4) has effect despite:

(a) subsection (2); and

(b) sections 14 and 15 as they apply because of section 5.

2 Section 41 (at the end of the definition of government entity)

Add:

; or (e) an organisation that:

(i) is not an entity; and

(ii) is either established by the Commonwealth, a State or a Territory (whether under a law or not) to carry on an enterprise or established for a public purpose by an *Australian law; and

(iii) can be separately identified by reference to the nature of the activities carried on through the organisation or the location of the organisation;

whether or not the organisation is part of a Department or branch described in paragraph (a), (b), (c) or (d) or of another organisation of the kind described in this paragraph.

Part 2—Changes relating to tax-deductible gifts

A New Tax System (Australian Business Number) Act 1999

3 At the end of section 10

Add:

(2) The *Registrar may request *you to give the Registrar specified information or a specified document the Registrar needs to be satisfied that:

(a) you are entitled to have an *ABN; or

(b) your identity is established.

4 At the end of section 13

Add:

(4) For the purposes of measuring the 28 days mentioned in subsection (2), disregard each period (if any):

(a) starting on the day when the *Registrar requests *you under subsection 10(2) to give the Registrar specified information or a specified document; and

(b) ending at the end of the day you give the Registrar the specified information or document.

5 At the end of subsection 25(2)

Add:

Note: Section 30-229 of the *Income Tax Assessment Act 1997* also requires the Registrar to make entries in the Australian Business Register about entities gifts to which are tax-deductible.

Part 3—Technical correction

A New Tax System (Australian Business Number) Act 1999

6 Subsection 14(1) (note 1)

Omit “subsection (3)”, substitute “section 15”.

Schedule 10—Pay as you go (PAYG) system of collecting income tax etc. liabilities

Part 1—Amendment of the Taxation Administration Act 1953

1 Section 2

After "Act" (first occurring), insert "(except Schedule 1)".

2 Section 12-60 in Schedule 1

Repeal the section, substitute:

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

(1) 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 enterprise is a *business of arranging for persons to perform work or services directly for clients of the entity, or the enterprise includes a business of that kind that is not merely incidental to the main activities of the enterprise; and

(b) 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 directly for a client of the entity.

For exceptions, see section 12-1.

Example 1: Staffprovider Ltd keeps a database of skilled persons who are willing for their services to be provided to third parties. Staffprovider arranges with Corporate Pty Ltd to provide to it the services of a computer programmer in return for payment. Staffprovider arranges with Jane for her to do computer programming for Corporate. Staffprovider must withhold amounts under this section from payments it makes to Jane under the arrangement with her.

Example 2: Ian is a solicitor who regularly briefs barristers to represent his clients. Briefing barristers is merely incidental to Ian's main activities as a solicitor, so he does not have to withhold amounts under this section from payments he makes to barristers.

(2) 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 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.

3 Subsection 16-125(4) in Schedule 1

Omit "paragraph 12-60(b)", substitute "subsection 12-60(2)".

4 Paragraph 45-20(3)(a) in Schedule 1

After "tax", insert "or estimated benchmark tax".

5 Subsections 45-112(1) and (2) in Schedule 1

Repeal the subsections, substitute:

(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:

(a) unless paragraph (b) or (c) applies—the amount that the Commissioner works out under Subdivision 45-L, and notifies to you, as the amount of the instalment; or

(b) if you choose to work out the amount of the instalment on the basis of your estimate of your *benchmark tax for that income year, and you notify the Commissioner in accordance with subsection (2)—the amount worked out under Subdivision 45-M; or

(c) if paragraph (b) applied to your instalment for an earlier *instalment quarter in that income year—the amount that the Commissioner works out under Subdivision 45-M, and notifies to you, as the amount of the instalment.

(2) If the amount of the instalment is worked out under paragraph (1)(b) on the basis of your estimate of your *benchmark tax for the income year, you must notify the Commissioner in the *approved form, on or before the day when the instalment is due (disregarding subsection (3)), of the amount of that estimate.

(3) If:

(a) *after* the end of an *instalment quarter the Commissioner notifies you of an amount as the amount of your instalment for that quarter; and

(b) the amount of your instalment for that quarter is *not* worked out under paragraph (1)(b);

the instalment is due on or before the 21st day after the day on which the notice is given.

6 Subsection 45-125(2) in Schedule 1

After "due", insert "(disregarding subsection 45-112(3))".

7 Subsection 45-125(3) (note) in Schedule 1

Repeal the note.

8 At the end of section 45-125 in Schedule 1

Add:

(4) You stop being such a payer at the start of the *next* income year (or earlier under section 45-130). However, you may again become such a payer if:

(a) you again satisfy the conditions in subsection (1) of this section; and

(b) you again choose under that subsection 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.

9 Section 45-130 (heading) in Schedule 1

Repeal the heading, substitute:

45-130 Individual stops paying on basis of GDP-adjusted notional tax if he or she becomes GST registered

10 Paragraph 45-130(1)(a) in Schedule 1

Repeal the paragraph.

11 Section 45-135 in Schedule 1

Repeal the section.

12 Paragraph 45-215(1)(c) in Schedule 1 (step 2 of the method statement)

After "section", insert "or section 45-420".

13 Section 45-230 (heading) in Schedule 1

Repeal the heading, substitute:

45-230 Liability to GIC on shortfall in quarterly instalment worked out on the basis of varied rate

14 After section 45-230 in Schedule 1

Insert:

45-232 Liability to GIC on shortfall in quarterly instalment worked out on the basis of estimated benchmark tax

(1) You are liable to pay the *general interest charge under this section if:

(a) the amount of your instalment for an *instalment quarter (the ***variation quarter***) in an income year is worked out under paragraph 45-112(1)(b) or (c) on the basis of your estimate of your *benchmark tax for that income year; and

(b) the estimate used is less than 85% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).

Amount on which the charge is payable

(2) You are liable to pay the *general interest charge on the amount worked out as follows (if it is a positive amount):

*Acceptable amount of the instalment – Actual amount

where:

actual amount means:

(a) the amount of your instalment, as worked out on the basis of the estimate; or

(b) if, as a result of using the estimate, you claimed a credit under section 45-420 for the variation quarter—the amount of the credit, expressed as a negative amount.

(3) The ***acceptable amount*** of your instalment for an *instalment quarter in an income year is:

(a) if the amount of the instalment is worked out under paragraph 45-112(1)(b) or (c)—the amount worked out using the table in this subsection (which can be a negative amount); or

(b) otherwise—the amount notified to you by the Commissioner under paragraph 45-112(1)(a) as the amount of your instalment for that *instalment quarter.

Acceptable amount of an instalment

Item	If the *instalment quarter is:	The acceptable amount of your instalment for that instalment quarter is:
1	the first in that income year for which you are liable to pay an instalment	the lower of: (a) the amount that the Commissioner notified to you under paragraph 45-112(1)(a) as the amount of your instalment for that *instalment quarter; and (b) 25% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).
2	the second in that income year for which you are liable to pay an instalment	the lower of: (a) the amount that the Commissioner *would have* notified to you under paragraph 45-112(1)(a) as the amount of your instalment for that *instalment quarter if the amounts of all your instalments for that income year had been required to be worked out under Subdivision 45-L; and (b) the amount worked out by subtracting: • the *acceptable amount of your instalment for the earlier instalment quarter in that income year; from: • 50% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).

3	the third in that income year for which you are liable to pay an instalment	the lower of: (a) the amount that the Commissioner *would have* notified to you under paragraph 45-112(1)(a) as the amount of your instalment for that *instalment quarter if the amounts of all your instalments for that income year had been required to be worked out under Subdivision 45-L; and (b) the amount worked out by subtracting: • the total of the *acceptable amounts of your instalments for the earlier instalment quarters in that income year; from: • 75% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).
4	the fourth in that income year for which you are liable to pay an instalment	the lower of: (a) the amount that the Commissioner *would have* notified to you under paragraph 45-112(1)(a) as the amount of your instalment for that *instalment quarter if the amounts of all your instalments for that income year had been required to be worked out under Subdivision 45-L; and (b) the amount worked out by subtracting: • the total of the *acceptable amounts of your instalments for the earlier instalment quarters in that income year; from: • 100% of your *benchmark tax for the income year (which the Commissioner works out under section 45-365).

Period for which the charge is payable

(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 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.

Commissioner to notify you

(5) 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.

Further charge if charge under subsection (2) remains unpaid

(6) 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 (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.

45-233 Reduction in GIC liability under section 45-232 if shortfall is made up in later instalment

(1) This section reduces the amount (the ***shortfall***) on which you are liable to pay the *general interest charge under subsection 45-232(2) if, for a later *instalment quarter (the ***later quarter***) that is in the same income year as the variation quarter, the amount worked out as follows is a negative amount:

$$\text{*Acceptable amount of your instalment for the later quarter} - \text{Actual amount of your instalment for the later quarter}$$

That amount (expressed as a positive number) is called the ***top up***.

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

actual amount of your instalment for the later quarter means:

(a) the amount of your instalment for the later quarter, as worked out under section 45-112; or

(b) if you claimed a credit under section 45-420 for the later quarter—the amount of the credit, expressed as a negative amount.

Amount of the reduction

(3) The shortfall is reduced by applying so much of the top up as does not exceed the shortfall.

(4) However, if some of the top up has already been applied (under any other application or applications of this section) to reduce the amount on which you are liable to pay the *general interest charge under subsection 45-232(2) as it applies to a different *instalment quarter, the shortfall is reduced by applying so much of the top up as has not already been applied, and does not exceed the shortfall.

Period for which reduction has effect

(5) The reduction has effect for each day in the period that:

(a) started at the beginning of the day by which the instalment for the later 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.

15 Section 45-240 in Schedule 1

After "45-230(2)", insert "or 45-232(2)".

16 After subsection 45-355(1) in Schedule 1

Insert:

(1A) The Commissioner may work out your *benchmark tax for an income year (the ***variation year***) if, under paragraph 45-112(1)(b) or (c), the amount of your instalment for an *instalment quarter in an income year is worked out on the basis of your estimate of your *benchmark tax for that income year.

17 Section 45-400 in Schedule 1

Omit "section 45-112", substitute "paragraph 45-112(1)(a)".

18 At the end of Division 45 in Schedule 1

Add:

Subdivision 45-M—How amount of quarterly instalment is worked out on basis of your estimate of your benchmark tax

Table of sections

45-410 Working out amount of instalment
45-415 Estimating your benchmark tax
45-420 Credit in certain cases where amount of instalment is nil

45-410 Working out amount of instalment

(1) For the purposes of paragraph 45-112(1)(b) or (c), the amount of your instalment for an *instalment quarter in an income year is:

(a) the amount worked out, in accordance with this section, on the basis of the estimate of your *benchmark tax for that income year that section 45-415 requires to be used, if that amount is positive; or

(b) otherwise—nil.

Note: If the amount is negative, you can claim a credit under section 45-420.

First instalment quarter

(2) If the *instalment quarter is the first in that income year for which you are liable to pay an instalment, the amount is 25% of the estimate of your *benchmark tax.

Second instalment quarter

(3) If the *instalment quarter is the second in that income year for which you are liable to pay an instalment, the amount is worked out by subtracting:

- the amount of your instalment under section 45-112 for the earlier *instalment quarter in that income year;

from:

- 50% of the estimate of your *benchmark tax.

Third instalment quarter

(4) If the *instalment quarter is the third in that income year for which you are liable to pay an instalment, the amount is worked out using this method statement.

Method statement	
Step 1.	The total of your instalments under section 45-112 for earlier *instalment quarters in that income year is subtracted from 75% of the estimate of your *benchmark tax.
Step 2.	If you were entitled to claim a credit under section 45-420 for the second of those earlier *instalment quarters, the amount of the credit is added to the step 1 amount.

Fourth instalment quarter

(5) If the *instalment quarter is the fourth in that income year for which you are liable to pay an instalment, the amount is worked out using this method statement.

Method statement	
Step 1.	The total of your instalments under section 45-112 for earlier *instalment quarters in that income year is subtracted from the estimate of your *benchmark tax.
Step 2.	For each credit that you were entitled to claim under section 45-420 for any of those earlier *instalment quarters, the amount of the credit is added to the step 1 amount.

45-415 Estimating your benchmark tax

(1) If you choose under paragraph 45-112(1)(b) to work out the amount of your instalment for an *instalment quarter in an income year on the basis of your estimate of your *benchmark tax for that

income year, you must make the estimate on or before the day on which the instalment is due (disregarding subsection 45-112(3)).

(2) Having done so, you must use that estimate to work out the amount of that instalment. (You cannot later make another estimate for working out that amount.)

Note: If your estimate leads you to pay an instalment that is too low, you may be liable to general interest charge under section 45-232.

(3) The Commissioner must also use that estimate to work out under this Subdivision the amount of each instalment:

(a) that you are liable to pay for a later *instalment quarter in that income year; and

(b) whose amount he or she must notify to you under paragraph 45-112(1)(c);

unless a later application of this subsection requires him or her to use a later estimate you make under subsection (1) of this section.

Note: This means that if an estimate you have made is not appropriate for a later instalment quarter in the same income year, you should choose under paragraph 45-112(1)(b) to work out the amount of your instalment for that later quarter on the basis of a new estimate under this section. If the instalment that the Commissioner works out on the basis of the earlier estimate is too low, you may be liable to general interest charge under section 45-232.

45-420 Credit in certain cases where amount of instalment is nil

(1) You are entitled to claim a credit if the amount of your instalment for an *instalment quarter (the ***current quarter***) in an income year is nil because the amount worked out for the current quarter in accordance with section 45-410 is negative. The amount of the credit is equal to that amount, expressed as a positive amount.

(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.

Part 2—Amendment of other Acts

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

19 After subsection 2(1)

Insert:

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

20 After subitem 3(3) of Schedule 1

Insert:

(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*.

21 After item 49 of Schedule 1

Insert:

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.

Income Tax Assessment Act 1936

22 Subsection 6(1) (paragraph (b) of the definition of this Act)

Repeal the paragraph, substitute:

(b) Part IVC of the *Taxation Administration Act 1953*, so far as that Part relates to:

(i) this Act or the *Income Tax Assessment Act 1997*; or

(ii) Schedule 1 to the *Taxation Administration Act 1953*; and

23 Paragraph 221YHZQ(1)(b)

After “money”, insert “at the end of the year of income”.

24 Application

The amendment of the *Income Tax Assessment Act 1936* made by item 23 of this Schedule applies to an income year that *ends after* 30 June 2000.

Schedule 11—PAYG withholding consequential amendments

Aboriginal Land Rights (Northern Territory) Act 1976

1 Subsection 64A(2)

Omit "subsection 221ZB(1) of the *Income Tax Assessment Act 1936* does not apply", substitute "neither subsection 221ZB(1) of the *Income Tax Assessment Act 1936* nor section 12-320 in Schedule 1 to the *Taxation Administration Act 1953* applies".

2 Subsection 64A(2)

Omit "that Act", substitute "the *Income Tax Assessment Act 1936*".

Bankruptcy Act 1966

3 Paragraph 139U(3)(b)

After "group certificate", insert "or payment summary (within the meaning of section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*)".

Child Support (Registration and Collection) Act 1988

4 Subsection 4(1) (paragraph (b) of the definition of employee)

Repeal the paragraph, substitute:

(b) in any other case—means a person who receives, or is entitled to receive, work and income support related withholding payments.

5 Subsection 4(1) (definition of employer)

Repeal the definition, substitute:

employer means a person who makes, or is liable to make, work and income support related withholding payments.

6 Subsection 4(1) (definition of salary and wages)

Omit "salary or wages within the meaning of Division 2 of Part VI of the *Income Tax Assessment Act 1936*", substitute "work and income support related withholding payments".

7 Subsection 4(1)

Insert:

work and income support related withholding payments means payments from which an amount must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld).

Note: The payments covered are: payments to employees and company directors, payments to office holders, return to work payments, payments under labour hire arrangements, payments of pensions and annuities, eligible termination payments, payments for unused leave, benefit payments, compensation payments and payments specified by regulations.

8 Subsection 46(8)

Omit all the words after "after", substitute "amounts (if any) that are required to be withheld from the salary or wages under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953* have been withheld".

9 Paragraph 72B(4)(b)

Repeal the paragraph, substitute:

(b) money due by the person to the debtor is taken to be money that comes to the person on behalf of the debtor, other than money that is:

(i) a natural resource payment or a royalty payment within the meaning of Division 3B of Part VI of the *Income Tax Assessment Act 1936*; or

(ii) a payment of a royalty referred to in Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* or a payment to which section 12-325 of that Schedule applies (natural resource payments).

Crimes (Taxation Offences) Act 1980

10 Subsection 3(1) (after paragraph (g) of the definition of income tax)

Insert:

(ga) any amount payable to the Commissioner under Subdivision 16-A or 16-B in Schedule 1 to the *Taxation Administration Act 1953*; and

Defence Act 1903

11 Subsection 120B(16) (paragraph (a) of the definition of net salary)

Repeal the paragraph, substitute:

(a) pursuant to Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*; and

12 Application

The amendment made by item 11 applies to salary (within the meaning of section 120B of the *Defence Act 1903*) that first becomes payable on or after 1 July 2000.

Higher Education Funding Act 1988

13 Subsection 106U(3)

Omit "Division 2 of Part VI of the Assessment Act applies", substitute "Part 2-5 (other than section 12-55 and Subdivisions 12-E, 12-F and 12-G) in Schedule 1 to the *Taxation Administration Act 1953* applies".

Income Tax Assessment Act 1936

14 Sub-subparagraph 16(4)(ga)(i)(C)

Omit "for the purposes of Division 2 of Part VI of this Act".

15 Subsection 16(4AA)

Insert:

employee has the meaning given by subsection 221A(1).

16 Subsection 16(4AA) (definition of employer)

Repeal the definition, substitute:

employer has the meaning given by subsection 221A(1).

17 Subsection 23AB(1) (definition of tax deductions unapplied)

Repeal the definition, substitute:

tax deductions unapplied, in relation to a deceased person, means the amount of:

(a) any deductions made in pursuance of Division 2 of Part VI from salary, wages or allowances derived by the deceased person in respect of United Nations service; or

(b) any amounts withheld under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953* from work and income support related withholding payments and benefits derived by the deceased person in respect of United Nations service;

that have not been credited in payment of income tax and in respect of which a payment has not been made by the Commissioner.

18 Subsection 23AB(1)

Insert:

work and income support related withholding payments and benefits has the meaning given by subsection 221A(1).

19 Subsections 102AF(1) and (2)

Repeal the subsections, substitute:

(1) A reference in this Division to employment income is to be read as a reference to:

(a) work and income support related withholding payments and benefits within the meaning of subsection 221A(1); and

(b) payments made for services rendered or to be rendered; and

(c) compensation, sickness or accident payments:

(i) made to an individual because of the individual's or another's incapacity for work; and

(ii) calculated at a periodical rate.

20 Subsections 102L(10) and (11)

After "221YK(2))", insert "of this Act, or in Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* (except section 12-225),".

21 After subsection 102L(12)

Insert:

(12A) Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* applies in respect of units in a prescribed trust estate in the same way as it applies in respect of shares.

22 Subsections 102T(11) and (12)

After "221YK(2))", insert "of this Act, or in Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* (except section 12-225),".

23 After subsection 102T(13)

Insert:

(13A) Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* applies in respect of units in a prescribed trust estate in the same way as it applies in respect of shares.

24 Paragraph 109R(3)(b)

Omit "PAYE earnings", substitute "work and income support related withholding payments and benefits".

25 After paragraph 109R(3)(b)

Insert:

(ba) payments covered by section 12-55 in Schedule 1 to the *Taxation Administration Act 1953*; or

26 At the end of section 109ZA

Add:

; and (c) Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* (which deals with PAYG withholding).

27 Section 109ZD

Insert:

work and income support related withholding payments and benefits has the meaning given by subsection 221A(1).

28 Paragraph 128B(9C)(d)

After "221YS(1)", insert "of this Act, or section 18-30 in Schedule 1 to the *Taxation Administration Act 1953*,".

29 At the end of subparagraph 128TD(1)(b)(iii)

Add "or withheld from the dividend under Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*".

30 Subsection 128U(3)

Repeal the subsection, substitute:

(3) For the purposes of this Division, a mining payment is taken to include any amount that:

(a) has been, or purports to have been, deducted from the mining payment for the purposes of section 221ZB; or

(b) has been, or purports to have been, withheld from the mining payment for the purposes of section 12-320 in Schedule 1 to the *Taxation Administration Act 1953*.

31 Subsection 159ZR(1) (paragraph (c) of the definition of eligible income)

Repeal the paragraph, substitute:

(c) a payment covered by section 12-80 or 12-120 in Schedule 1 to the *Taxation Administration Act 1953*;

32 Subsection 159ZR(1) (definition of salary or wages)

Repeal the definition, substitute:

salary or wages means payments covered by sections 12-35, 12-40 (except payments of remuneration to a director of the company who is also an associate of the company), 12-45, 12-80, 12-110, 12-115 and 12-120 in Schedule 1 to the *Taxation Administration Act 1953*.

33 Subparagraph 160AQH(1)(b)(vi)

After "221YL", insert "or withheld from the dividend under Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*".

34 Paragraph 160ZZZJ(1)(b)

Omit "sections 128B and 221YL", substitute "section 128B of this Act, and either section 221YL of this Act or Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*,".

35 Subsection 160ZZZJ(2)

Omit "Sections 128B and 221YL", substitute "Section 128B of this Act, and section 221YL of this Act or Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953* (as the case may be),".

36 Subsection 170(10AA) (after table item 1)

Insert:

5	Subsection 26-25(3)	Deduction for interest or royalty if withholding tax paid

37 Paragraph 202D(8)(b)

After "Part VI", insert "of this Act, and for the purposes of Subdivision 12-E in Schedule 1 to the *Taxation Administration Act 1953*".

38 Subsection 202DDB(1)

After "Part VI", insert "of this Act, and for the purposes of Subdivision 12-E in Schedule 1 to the *Taxation Administration Act 1953*".

39 Paragraph 202EE(1)(c)

After "221YL", insert ", or withhold an amount under Subdivision 12-F in Schedule 1 to the *Taxation Administration Act 1953*,".

40 Paragraph 202EE(1)(d)

After "deduction", insert ", or withhold such an amount,".

41 Subsection 221A(1) (definition of employee)

Omit "salary or wages", substitute "work and income support related withholding payments and benefits".

42 Subsection 221A(1) (definition of employer)

Omit "any salary or wages", substitute "work and income support related withholding payments and benefits".

43 Subsection 221A(1)

Insert:

work and income support related withholding payments and benefits means:

(a) payments from which an amount must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld); and

(b) non-cash benefits in relation to which the provider of the benefit must pay an amount to the Commissioner under Division 14 in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not paid).

Note: The payments covered by paragraph (a) are: payments to employees and company directors, payments to office holders, return to work payments, payments under labour hire arrangements, payments of pensions and annuities, eligible termination payments, payments for unused leave, benefit payments, compensation payments and payments specified by regulations.

44 After section 221YHZX

Insert:

221YHZXA Extended operation of certain provisions of the Taxation Administration Act

In addition to their effect apart from this section, sections 18-15, 18-20 and 18-25 in Schedule 1 to the *Taxation Administration Act 1953* also have effect as if:

(a) in respect of an investor who has not adopted an accounting period in lieu of an income year—an amount paid under this Subdivision in relation to the income year and in relation to an eligible deferred interest investment of the investor; or

(b) in respect of any other investor—an amount paid under this Subdivision during an income year of the investor and in relation to an eligible deferred interest investment of the investor;

were an amount withheld during the income year, under subsection 12-140(1) in Schedule 1 to the *Taxation Administration Act 1953* from a payment to the investor.

221YHZXB Penalty for failure to pay within time

If an amount that an entity must pay to the Commissioner under this Subdivision 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.

45 Paragraph 221YHZZ(b)

After "221YHZK", insert "of this Act, or under section 18-15, 18-20 or 18-25 in Schedule 1 to the *Taxation Administration Act 1953*,".

46 Division 8 of Part VI (heading)

Repeal the heading, substitute:

Division 8—Prompt recovery, through estimates and payment agreements, of certain amounts not remitted

47 At the end of subsection 222AFA(1)

Add "of this Act, or Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*.".

48 Subsection 222AFA(4)

Omit all the words after "liabilities", substitute:

under:

(a) Division 1AAA, 3B or 4; or

(b) this Division; or

(c) Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*.

49 Subsection 222AFA(5)

After "221YR", insert "of this Act, and Part 4-10 in Schedule 1 to the *Taxation Administration Act 1953*".

50 Subsection 222AFB(1) (at the end of the definition of remittance provision)

Add:

; (e) in Schedule 1 to the *Taxation Administration Act 1953*—section 16-70.

51 Paragraph 222AHE(4)(c)

Repeal the paragraph, substitute:

(c) the sum of all amounts withheld under Division 12 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were withheld during the period;

(d) the sum of all amounts required to be paid under Division 14 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were so paid during the period;

(e) what has been done to comply with Division 16 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the amounts withheld (if any) and the amounts so paid (if any);

(f) without limiting paragraphs (b) and (e), what has been done to discharge the liability to which the estimate relates.

52 Paragraph 222AID(4)(c)

Repeal the paragraph, substitute:

(c) the sum of all amounts withheld under Division 12 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were withheld during the period;

(d) the sum of all amounts required to be paid under Division 14 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were so paid during the period;

(e) what has been done to comply with Division 16 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the amounts withheld (if any) and the amounts so paid (if any);

(f) without limiting paragraphs (b) and (e), what has been done to discharge the liability to which the estimate relates.

53 Paragraph 222AIH(3)(c)

Repeal the paragraph, substitute:

(c) the sum of all amounts withheld under Division 12 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were withheld during the period;

(d) the sum of all amounts required to be paid under Division 14 in Schedule 1 to the *Taxation Administration Act 1953* during the relevant period, or the fact that no amounts were so paid during the period;

(e) what has been done to comply with Division 16 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the amounts withheld (if any) and the amounts so paid (if any);

(f) without limiting paragraphs (b) and (e), what has been done to discharge the liability to which the estimate relates.

54 Paragraph 222AJB(1)(b)

After "3B or 4", insert "of this Act, or Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*".

Note: The heading to section 222AJB is replaced by the heading "**Effect of paying the general interest charge or late payment penalty**".

55 Subsection 222AJB(3)

After "3B or 4", insert "of this Act, or of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*".

56 Subsection 222ALA(6)

After "the other provisions of this Division", substitute "and Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*".

57 Subsection 222ANA(1)

After "4 or 8", insert "of this Act, or under Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*".

58 Subsection 222ANA(4)

After "221YR", insert "of this Act, and Part 4-10 in Schedule 1 to the *Taxation Administration Act 1953*,".

59 Subdivision B of Division 9 of Part VI (heading)

Repeal the heading, substitute:

Subdivision B—Company failing to remit deductions, amounts withheld etc.

60 Subsection 222AOA(1)

Repeal the subsection, substitute:

(1) This Subdivision applies if a company incorporated under the Corporations Law of a State or Territory has:

(a) made one or more deductions having a particular due date, for the purposes of Division 1AA, 2, 3A, 3B or 4; or

(b) withheld one or more amounts having a particular due date, for the purposes of Division 12 in Schedule 1 to the *Taxation Administration Act 1953*; or

(c) provided one or more non-cash benefits on a particular day in relation to which it is required to pay an amount to the Commissioner under Division 14 in Schedule 1 to the *Taxation Administration Act 1953*, and has not paid that amount or those amounts.

61 Subsection 222AOA(2)

Repeal the subsection, substitute:

(2) The earliest day on which the company, for the purposes of one of those Divisions (other than Division 14 in Schedule 1 to the *Taxation Administration Act 1953*):

(a) made a deduction that has that particular due date; or

(b) withheld an amount that has that particular due date;

is called the ***first deduction day***.

62 Paragraph 222AOB(1)(a)

Repeal the paragraph, substitute:

(a) comply with its obligations in relation to deductions (if any) and amounts withheld (if any) whose due date is the same as the due date;

Note: The heading to section 222AOB is altered by adding at the end "**—deductions and amounts withheld**".

63 After subsection 222AOB(1)

Insert:

(1A) For the purposes of paragraph (1)(a), the obligations are:

(a) to comply with Division 1AAA, 3B or 4, as the case may be, in relation to each deduction (if any):

(i) that the company has made for the purposes of Division 1AAA, 3B or 4; and

(ii) whose due date is the same as the due date; and

(b) to comply with Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953* in relation to each amount that the company has withheld (if any):

(i) for the purposes of Division 12 of that Schedule; and

(ii) whose due date is the same as the due date;

64 At the end of paragraph 222AOB(1)(b)

Add "(if any) and amounts withheld (if any)".

65 After section 222AOB

Insert:

222AOBA Directors to cause company to remit or to go into voluntary administration or liquidation—non-cash benefits

(1) The persons who are directors of the company on the day (the ***benefit day***) on which the benefit or benefits (referred to in paragraph 222AOA(1)(c)) are provided must cause the company to do at least one of the following before the end of the benefit day:

(a) comply with Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953* in relation to each benefit provided on the benefit day;

(b) make an agreement with the Commissioner under section 222ALA in relation to the company's liability under that Subdivision in respect of each such benefit;

(c) appoint an administrator of the company under section 436A of the Corporations Law;

(d) begin to be wound up within the meaning of that Law.

(2) This section is complied with when:

(a) the company complies as mentioned in paragraph (1)(a); or

(b) the company makes an agreement as mentioned in paragraph (1)(b); or

(c) an administrator of the company is appointed under section 436A, 436B or 436C of the Corporations Law; or

(d) the company begins to be wound up within the meaning of that Law;

whichever first happens, even if the directors did not cause the event to happen.

(3) If this section is not complied with before the end of the benefit day, the persons who are directors of the company on that day continue to be under the obligation imposed by subsection (1) until this section is complied with.

66 Section 222AOC

After "in respect of deductions", insert "or amounts withheld".

67 Paragraph 222AOC(a)

Repeal the paragraph, substitute:

(a) that the company has deducted for the purposes of Division 1AAA, 3B or 4 of this Act, or withheld for the purposes of Division 12 in Schedule 1 to the *Taxation Administration Act 1953* (as the case requires); and

68 At the end of section 222AOC

Add:

(2) If section 222AOBA is not complied with before the end of the benefit day, each person who is a director of the company on the benefit day is liable to pay to the Commissioner, by way of penalty, an amount equal to the unpaid amount or amounts that the

company is required to pay under Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953* in respect of the benefit or benefits provided on the benefit day.

69 Section 222AOD

Omit "section 222AOC", substitute "subsection 222AOC(1)".

70 At the end of section 222AOD

Add:

(2) If:

(a) after the benefit day, a person becomes, or again becomes, a director of the company at a time when section 222AOBA has not yet been complied with in relation to the benefit or benefits provided on the benefit day; and

(b) at the end of 14 days after the person becomes a director, that section has still not been complied with in relation to that benefit or those benefits;

the person is liable to pay to the Commissioner, by way of penalty, an amount equal to the unpaid amount of the liability referred to in subsection 222AOC(2).

71 Paragraph 222AOE(a)

Omit "section 222AOC", substitute "subsection 222AOC(1) or (2) (whichever relates to the penalty)".

72 Paragraph 222AOG(b)

After "222AOB", insert "or 222AOBA (whichever relates to the penalty)".

Note: The heading to section 222AOG is altered by inserting "**or 222AOBA**" after "**222AOB**".

73 Paragraph 222AOH(1)(b)

Omit "section 222AOC", substitute "subsection 222AOC(1) or (2) (whichever relates to the penalty)".

74 Paragraph 222AOI(c)

Omit "liability", substitute "liabilities".

75 Paragraph 222AOJ(3)(a)

After "subsection 222AOB(1)", insert "or 222AOBA(1) (whichever is relevant)".

76 Subsection 255(2A)

After "Division 3B of Part VI", insert "of this Act, or section 12-325 in Schedule 1 to the *Taxation Administration Act 1953* (as the case requires)".

77 Subsection 265A(5)

Repeal the subsection, substitute:

(5) In this section:

tax deductions unapplied, in relation to a deceased person, means the total of:

(a) any deductions made in pursuance of Division 2 of Part VI from pay or allowances earned by the deceased person as a member of the Defence Force; or

(b) any amounts withheld under paragraph 12-45(1)(c) in Schedule 1 to the *Taxation Administration Act 1953* from amounts earned by the deceased person as a member of the Defence Force;

that have not been credited in payment of income tax or social contribution, and in respect of which a payment has not been made by the Commissioner.

78 Subparagraph 274(1)(aa)(ii)

Omit "salary or wages (within the meaning of Division 2 of Part VI)", substitute "work and income support related withholding payments and benefits (within the meaning of subsection 221A(1))".

79 Application

The amendment made by item 78 applies in relation to contributions (within the meaning of section 274 of the *Income Tax Assessment Act 1936*) made in relation to the year of income commencing on 1 July 2000 and later years of income.

Income Tax Assessment Act 1997

80 Section 3-1 (table item 3)

Repeal the item.

81 Section 12-5 (table)

Omit:

interest, no deduction for interest paid by a non-resident until the withholding tax payable has been paid	**221YRA(1)**

substitute:

interest, no deduction for interest paid to a non-resident until the withholding tax payable has been paid	26-25

82 Section 12-5 (table)

Omit:

royalties	
royalty paid where tax instalment deductions have not been made by the payer, no deduction for	**221YRA**

substitute:

royalties	
royalty, no deduction for royalty paid to a non-resident until the withholding tax payable has been paid	26-25

83 After paragraph 25-5(2)(b)

Repeal the paragraph, substitute:

(b) an amount withheld or payable under Part 2-5 or Part 2-10 in Schedule 1 to the *Taxation Administration Act 1953*; or

84 Subsections 26-30(4) and (5)

Repeal the subsections, substitute:

This section also applies to individuals who are not employees

(4) If an individual is *not* an employee, but receives, or is entitled to receive, *withholding payments covered by subsection (6), this section applies to the individual as if:

(a) he or she were an employee; and

(b) the entity, who pays (or is liable to pay) *withholding payments covered by subsection (6) that result in the individual being in receipt of, or entitled to receive, such payments, were the individual's employer; and

(c) any other individual who receives (or is entitled to receive) *withholding payments covered by subsection (6):

(i) that result in that other individual being in receipt of, or entitled to receive, such payments; and

(ii) that the entity pays (or is liable to pay) to that other individual;

were an employee of the entity.

This section also applies to entities who are not employers

(5) If an entity is *not* an employer, but pays (or is liable to pay) *withholding payments covered by subsection (6), this section applies to the entity as if:

(a) it were an employer; and

(b) an individual to whom the entity pays (or is liable to pay) such withholding payments were the entity's employee.

Withholding payments covered

(6) 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 12-40	Payment to company director
2	Section 12-45	Payment to office holder
3	Section 12-50	Return to work payment
4	Subdivision 12-D	Benefit, training and compensation payments

85 Subsection 28-170(3) (note in table item 4)

Omit "PAYE earnings: see section 28-185", substitute "withholding payments covered by subsection 28-185(3)".

86 Subsection 28-180(1) (note)

Omit "PAYE earnings: see section 28-185", substitute "withholding payments covered by subsection 28-185(3)".

87 Section 34-5

Repeal the section, substitute:

34-5 This Division applies to employees and others

(1) This Division applies not only to an individual who is an employee. It also applies to an individual who is *not* an employee, but who receives, or is entitled to receive, *withholding payments covered by subsection (3).

(2) If an individual is *not* an employee, but is covered by subsection (1), this Division applies to the individual as if:

(a) he or she were an employee; and

(b) the entity, who pays (or is liable to pay) *withholding payments covered by subsection (3) that result in the individual being in receipt of, or entitled to receive, such payments, were the individual's employer; and

(c) any other individual who receives (or is entitled to receive) *withholding payments covered by subsection (3):

(i) that result in that other individual being in receipt of, or entitled to receive, such payments; and

(ii) that the entity pays (or is liable to pay) to that other individual;

were an employee of the entity.

(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 12-40	Payment to company director
2	Section 12-45	Payment to office holder
3	Section 12-50	Return to work payment

4	Subdivision 12-D	Benefit, training and compensation payments

88 Section 34-7

Omit "*PAYE earnings", substitute "*withholding payments covered by subsection 34-5(3)".

89 Paragraph 34-7(b)

Omit "*PAYE earnings", substitute "such withholding payments".

90 Subsection 34-10(1) (note 1)

Omit "PAYE earners and other".

91 Paragraph 130-90(1A)(a)

Omit "a *PAYE earner of the company or of another company", substitute "an individual who receives (or is entitled to receive) *withholding payments covered by subsection (5) from the company or from another company".

92 Paragraph 130-90(1A)(b)

Omit "a PAYE earner", substitute "an individual".

93 Subsections 130-90(2), (3) and (4)

Omit "*PAYE earner", substitute "individual".

94 At the end of section 130-90

Add:

(5) 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

95 Subsection 900-30(1) (note)

Repeal the note, substitute:

Note: This Division also applies to withholding payments that are not salary or wages: see subsection 900-12(3).

96 Subsection 900-30(3) (note)

Repeal the note, substitute:

Note: This Division also applies to individuals who are not employees: see section 900-12.

97 Subsection 900-30(5) (note)

Repeal the note, substitute:

Note: This Division also applies to individuals who are not employees: see section 900-12.

98 Subsection 900-30(7) (note 1)

Repeal the note, substitute:

Note 1: This Division also applies to withholding payments that are not salary or wages: see subsection 900-12(3).

99 Section 900-45 (note)

Omit "PAYE earnings: see section 900-12", substitute "withholding payments covered by subsection 900-12(3)".

100 Subsection 900-95(3) (note)

Repeal the note, substitute:

Note: This Division also applies to withholding payments that are not salary or wages: see subsection 900-12(3).

101 Section 900-135 (heading)

Repeal the heading, substitute:

900-135 Evidence on a payment summary

102 Subsection 900-135(1)

Omit "group certificate", substitute "*payment summary".

103 Subsection 900-135(1) (note)

Omit "PAYE earnings: see section 900-12", substitute "withholding payments covered by subsection 900-12(3)".

104 Subsection 900-135(2)

Omit "certificate", substitute "*payment summary".

105 Subsection 900-220(2) (note)

Omit "PAYE earnings: see section 900-12", substitute "withholding payments covered by subsection 900-12(3)".

Income Tax Rates Act 1986

106 Subsection 16(1) (definition of salary or wages)

Repeal the definition, substitute:

salary or wages means payments from which an amount must be withheld under a provision of Subdivision 12-B (other than section 12-55), 12-C or 12-D in Schedule 1 to the *Taxation Administration Act 1953* (even if the amount is not withheld).

Note: The payments covered are: payments to employees and company directors, payments to office holders, return to work payments, payments under labour hire arrangements, payments of pensions and annuities, eligible termination payments, payments for unused leave, benefit payments, compensation payments and payments specified by regulations.

Public Service Act 1922

107 Subsection 64(18) (paragraph (a) of the definition of net salary)

Repeal the paragraph, substitute:

(a) any sum deducted from that salary under Part 2-5 in Schedule 1 to the *Taxation Administration Act 1953*; and

108 Application

If the *Public Service Act 1922* has not been repealed on or before 1 July 2000, the amendment made by item 107 applies to salary (within the meaning of section 64 of that Act) that first becomes payable on or after 1 July 2000.

Social Security Act 1991

109 Subparagraph 93C(1)(a)(i)

After "group certificate", insert "or payment summary (within the meaning of section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*)".

110 Paragraph 93C(2)(a)

After "group certificate", insert "or payment summary (within the meaning of section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*)".

Taxation Administration Act 1953

111 Sub-subparagraph 8WC(1)(b)(iii)(A)

After "that Act", insert ", or withheld under section 12-140 or 12-145 in Schedule 1 to this Act,".

112 Sub-subparagraph 8WC(1)(b)(iii)(B)

After "that Act", insert ", or under section 14-5 in Schedule 1 to this Act,".

Taxation (Interest on Overpayments and Early Payments) Act 1983

113 Subsection 3(1) (after paragraph (bc) of the definition of relevant tax)

Insert:

(bd) an amount payable to the Commissioner under section 16-80 in Schedule 1 to the *Taxation Administration Act 1953*;

114 Subsection 3(1) (after paragraph (c) of the definition of relevant tax)

Insert:

(ca) an amount payable to the Commissioner under Subdivision 16-A (other than section 16-50) in Schedule 1 to the *Taxation Administration Act 1953*; and

Veterans' Entitlements Act 1986

115 Subparagraph 45UA(1)(a)(i)

After "group certificate", insert "or payment summary (within the meaning of section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*)".

116 Paragraph 45UA(2)(a)

After "group certificate", insert "or payment summary (within the meaning of section 16-170 in Schedule 1 to the *Taxation Administration Act 1953*)".

Schedule 12—Civil penalties

A New Tax System (Goods and Services Tax) Act 1999

1 At the end of subsection 31-25(2)

Add:

Note 1: A penalty applies if you fail to lodge your GST return electronically as required—see section 288-10 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: If you lodge your GST return electronically, you must also electronically notify the Commissioner of other BAS amounts—see section 288-5 in that Schedule.

2 Subsection 33-10(2) (note)

Repeal the note, substitute:

Note 1: A penalty applies if you fail to pay electronically as required—see section 288-20 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: You must also pay other tax debts electronically—see section 288-15 in that Schedule.

Income Tax Assessment Act 1936

3 After section 221AZKC

Insert:

221AZKD Notification of deferred payments

(1) An instalment taxpayer that chooses to defer payment of a final instalment under section 221AZKC must notify the Commissioner of the amount of the instalment on or before the day on which the amount is due to be paid under that section (regardless of whether it is paid).

(2) The notification must be in the approved form and lodged with the Commissioner.

(3) In this section:

approved form has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

Taxation Administration Act 1953

4 Subsection 8AAZLG(1)

Repeal the subsection, substitute:

(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 BAS provisions (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*).

5 Subsection 8AAZLH(1)

Omit "provisions set out in paragraph 8AAZLG(1)(b)", substitute "BAS provisions (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*)".

6 Section 41

Repeal the section.

7 Sections 42, 44 and 45 (note)

Omit "Note", substitute "Note 1".

8 At the end of sections 42, 44 and 45

Add:

Note 2: Division 298 in Schedule 1 contains machinery provisions for civil penalties.

9 Subsection 47(1)

Repeal the subsection, substitute:

(1) The Commissioner must notify an entity that is liable to a penalty under section 43 or 46 of the amount of the penalty.

10 Subsection 48(1)

Omit “this Part”, substitute “section 43 or 46”.

11 Subsection 16-35(1) (note) in Schedule 1

Omit “Note”, substitute “Note 1”.

12 At the end of subsection 16-35(1) in Schedule 1

Add:

Note 2: Division 298 in this Schedule contains machinery provisions for civil penalties.

13 Subsections 16-35(2) and (3) in Schedule 1

Repeal the subsections.

14 Section 16-45 (heading) in Schedule 1

Repeal the heading, substitute:

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

15 Subsection 16-45(1) in Schedule 1

Omit “, 16-35”.

16 Section 16-50 in Schedule 1

Omit “, 16-35”.

17 Subsection 16-85(1) (note) in Schedule 1

Omit “Note”, substitute “Note 1”.

18 At the end of subsection 16-85(1) in Schedule 1

Add:

Note 2: A penalty applies if a large withholder fails to pay electronically as required—see section 288-20.

Note 3: A large withholder must also pay other tax debts electronically—see section 288-15.

19 Section 16-90 in Schedule 1

Repeal the section.

20 Section 45-72 in Schedule 1

Repeal the section.

21 At the end of Schedule 1

Add:

[The next Division is Division 288.]

Part 4-25—Charges and civil penalties for failing to meet obligations

Division 288—Electronic notification and payment

Table of sections

288-5 Electronic notification of BAS amounts
288-10 Penalty for non-electronic notification
288-15 Electronic payment of tax debts
288-20 Penalty for non-electronic payment

288-5 Electronic notification of BAS amounts

An entity that, under section 31-25 of the *GST Act, chooses or is required to *lodge a *GST return electronically must also electronically notify the Commissioner of all other *BAS amounts whose notification is required on the same day as the GST return (ignoring any extension allowed by the Commissioner under paragraph 31-10(b) of that Act).

288-10 Penalty for non-electronic notification

An entity that:

(a) under subsection 31-25(2) of the *GST Act, is required to *lodge a *GST return electronically; or

(b) under section 288-5 in this Schedule, is required to notify another *BAS amount electronically;

but lodges or notifies it in another way, is liable to a civil penalty of 5 penalty units.

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

Note 2: Division 298 contains machinery provisions for civil penalties.

288-15 Electronic payment of tax debts

(1) An entity that, under subsection 33-10(2) of the *GST Act, is required to pay a *net amount for a tax period *electronically must also electronically pay the Commissioner all of its other *tax debts that are due to be paid during that period.

(2) A *large withholder that, under subsection 16-85(1) in this Schedule, is required to pay an amount *electronically in a particular month must also electronically pay the Commissioner all of its other *tax debts that are due to be paid during that month.

288-20 Penalty for non-electronic payment

An entity that:

(a) under subsection 33-10(2) of the *GST Act, is required to pay a *net amount for a tax period *electronically; or

(b) under subsection 16-85(1) or section 288-15 in this Schedule, is required to pay an amount electronically;

but pays it another way, is liable to a civil penalty of 5 penalty units for each payment of one or more such amounts.

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

Note 2: Division 298 contains machinery provisions for civil penalties.

[The next Division is Division 298.]

Division 298—Machinery provisions for civil penalties

Table of sections

298-5 Scope of Division
298-10 Notification of liability
298-15 Due date for penalty
298-20 Remission of penalty
298-25 General interest charge on unpaid penalty

298-5 Scope of Division

This Division applies if a taxation law imposes on an entity a civil penalty expressed in penalty units.

298-10 Notification of liability

The Commissioner must give written notice to the entity of the entity's liability to pay the penalty. The notice may be included in any other notice the Commissioner gives to the entity.

298-15 Due date for penalty

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 entity.

298-20 Remission of penalty

(1) The Commissioner may remit all or a part of the penalty.

(2) If the Commissioner decides:

(a) not to remit the penalty; or

(b) to remit only part of the penalty;

the Commissioner must give written notice of the decision to the entity.

(3) If:

(a) the Commissioner refuses to any extent to remit an amount of penalty; and

(b) the amount of penalty payable after the refusal is more than 2 penalty units; and

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

(c) the entity is dissatisfied with the decision;

the entity may object against the decision in the manner set out in Part IVC.

298-25 General interest charge on unpaid penalty

If any of the penalty remains unpaid after it is due, the entity is liable to pay the *general interest charge on the unpaid amount of the penalty 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.

Note: The general interest charge is worked out under Division 1 of Part IIA.

Schedule 13—Delayed refund interest

Taxation (Interest on Overpayments and Early Payments) Act 1983

1 After subsection 8A(1)

Insert:

(1A) In determining the ***appropriate due day*** for the purposes of paragraph (1)(b), disregard the effect of section 221AZKC of the Tax Act.

Note: Section 221AZKC allows a taxpayer to defer payment of its final tax instalment for the 1999-2000 year of income. However, this subsection means that the taxpayer is not entitled to any interest for a payment made after the original due date under section 221AZK (even if it is made before the due date under section 221AZKC).

2 Subparagraph 12A(1)(a)(i)

Omit ", or section 45-240 in Schedule 1 to".

3 Subparagraph 12A(1)(a)(i)

Omit ", or under section 42-230, 45-232 or 45-235 of the *Taxation Administration Act 1953*".

4 Subparagraph 12A(1)(a)(iiia)

Repeal the subparagraph.

5 After Part IIIA

Insert:

Part IIIAA—Delayed refund interest on running balance account (RBA) surpluses

12AA Entitlement to interest for RBA surpluses after notification of BAS amount

If:

(a) the Commissioner has allocated a BAS amount to an RBA of an entity; and

(b) section 12AB does not apply (that section is about remission of penalties); and

(c) under subsection 8AAZLF(1) of the *Taxation Administration Act 1953*, the Commissioner is required to refund to the entity the whole or part of an RBA surplus for that RBA; and

(d) the refund takes place after the RBA interest day;

then interest is payable by the Commissioner to the entity on the amount refunded.

Note: Section 12AF defines ***BAS amount***, ***RBA surplus*** and ***RBA interest day***.

12AB Entitlement to interest for RBA surpluses after request for remission

If:

(a) the Commissioner has allocated a BAS amount to an RBA of an entity; and

(b) the entity requests the Commissioner to remit a penalty of which the entity has been notified by the Commissioner; and

(c) as a result of the Commissioner remitting the penalty, the Commissioner is required, under subsection 8AAZLF(1) of the *Taxation Administration Act 1953*, to refund to the entity the whole or part of an RBA surplus for that RBA; and

(d) the refund takes place after the RBA interest day;

then interest is payable by the Commissioner to the entity on the amount refunded.

Note: Section 12AF defines ***BAS amount***, ***RBA surplus*** and ***RBA interest day***.

12AC Entitlement to interest for RBA surpluses after request for refund

If:

(a) the Commissioner has allocated a payment to an RBA of an entity; and

(b) the Commissioner has allocated or intends to allocate a BAS amount to that RBA; and

(c) under subsection 8AAZLF(2) of the *Taxation Administration Act 1953*, the Commissioner, as a result of a request by the entity, is required to refund the whole or part of an RBA surplus for that RBA; and

(d) the refund takes place after the RBA interest day;

then interest is payable by the Commissioner to the entity on the amount refunded.

Note: Section 12AF defines ***BAS amount***, ***RBA surplus*** and ***RBA interest day***.

12AD Period of interest for RBA surpluses

Interest under this Part is payable for the period from the end of the RBA interest day until the end of the day on which the refund takes place.

12AE Rate of interest for RBA surpluses

Interest under this Part is payable at the annual rate or rates provided for in section 214A of the Tax Act.

12AF Definitions

In this Part:

BAS amount has the same meaning as in subsection 995-1(1) of the Tax Act.

RBA interest day for an RBA surplus means the 14th day after the latest of the following days:

(a) either:

(i) if section 12AA applies—the day on which the surplus arises; or

(ii) if section 12AB or 12AC applies—the day on which the relevant request is made;

(b) if, by the day applicable under paragraph (a), the person has not given the Commissioner a notification that is required for the refund under section 8AAZLG of the *Taxation Administration Act 1953* and that is accurate so far as it relates to the refund—the day on which that notification is given to the Commissioner;

(c) unless the Commissioner has given a direction under subsection 8AAZLH(3) of the *Taxation Administration Act 1953*—the day on which the person nominates a financial institution account for the purposes of that section.

RBA surplus has the same meaning as in section 8AAZA.

6 Application of amendments

(1) The amendments made by items 2, 3 and 4 apply to credits that arise on or after 1 July 2000.

(2) The amendment made by item 5 applies to RBA surpluses that arise on or after 1 July 2000.

Schedule 14—PAYG withholding registration

Taxation Administration Act 1953

1 After Subdivision 16-B of Division 16 in Schedule 1

Insert:

Subdivision 16-BA—To be registered

Table of sections

Registration of withholders

16-140 Withholders must be registered
16-141 Registration and cancellation

Branch registration

16-142 Branches may be registered
16-143 Separate amounts for entities and branches
16-144 Cancellation of branch registration
16-145 Effect on branches of cancelling the entity's registration

Registration of withholders

16-140 Withholders must be registered

(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 apply to register with the Commissioner.

(2) The entity must apply in the *approved form by the day on which the entity is first required:

(a) to withhold an amount under Division 12; or

(b) to pay an amount to the Commissioner under Division 14.

However, the Commissioner may allow a longer period for applying.

(3) An entity that contravenes this section is liable to a civil penalty of 5 penalty units.

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

Note 2: Division 298 contains machinery provisions for civil penalties.

16-141 Registration and cancellation

The Commissioner may register an entity or cancel the registration of an entity at any time.

Branch registration

16-142 Branches may be registered

The Commissioner may register a branch of a registered entity if:

(a) the entity applies, in the *approved form, for registration of the branch; and

(b) the entity has an *ABN or has applied for one; and

(c) the Commissioner is satisfied that the branch maintains an independent system of accounting, and can be separately identified by reference to:

(i) the nature of the activities carried on through the branch; or

(ii) the location of the branch; and

(d) the Commissioner is satisfied that the entity is *carrying on an enterprise through the branch, or intends to carry on an enterprise through the branch, from a particular date specified in the application.

A branch that is so registered is a ***PAYG withholding branch***.

Note: A branch may be both a PAYG withholding branch under this Subdivision and a GST branch under the GST Act.

16-143 Separate amounts for entities and branches

(1) If an entity has a *PAYG withholding branch, this Part applies to the entity as if the amounts that it must pay to the Commissioner under this Part were separated into the following classes:

(a) for each such branch of the entity, a class of amounts that relate to the branch; and

(b) a class of amounts that do not relate to any of the entity's branches.

Note: This section does not impose any legal obligations on the branches. The entity remains legally responsible under this Part for all amounts that relate to its branches.

(2) Those amounts are worked out as if the branch were a separate entity and as if:

(a) all payments made through the branch, from which amounts are required to be withheld under Division 12, were made by that separate entity; and

(b) all non-cash benefits provided through the branch, in respect of which Division 14 requires an amount to be paid to the Commissioner, were provided by that separate entity.

16-144 Cancellation of branch registration

The Commissioner must cancel the registration of a *PAYG withholding branch of an entity if the Commissioner is satisfied that the branch does not satisfy paragraph 16-142(c) or (d).

16-145 Effect on branches of cancelling the entity's registration

If an entity's registration is cancelled, the registration of any *PAYG withholding branches of the entity ceases to have effect.

Schedule 15—Consequential amendment of indirect tax law

A New Tax System (Goods and Services Tax) Act 1999

1 Section 35-5

Repeal the section, substitute:

35-5 Entitlement to refund

If the *net amount for a tax period is less than zero, the Commissioner must, on behalf of the Commonwealth, pay that amount (expressed as a positive amount) to you.

Note 1: See Division 3A of Part IIB and section 39 of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay you. Division 3 of Part IIB allows the Commissioner to apply the amount owing as a credit against tax debts that you owe to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in refunding the amount.

2 Section 35-10

Repeal the section.

3 Section 35-99 (note)

Omit "Sections 38 and 39 of the Taxation Administration Act 1953 also relate", substitute "Section 39 of the *Taxation Administration Act 1953* also relates".

4 Section 51-60

Repeal the section, substitute:

51-60 Refunds relating to GST joint ventures

If the *net amount relating to a *GST joint venture for a tax period is less than zero, the Commissioner must, on behalf of the

Commonwealth, pay that net amount (expressed as a positive amount) to the *joint venture operator of the GST joint venture.

Note 1: See Division 3A of Part IIB and section 39 of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay the operator. Division 3 of Part IIB allows the Commissioner to apply the amount owing as a credit against tax debts that the operator owes to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in refunding the amount.

5 Section 54-65

Repeal the section, substitute:

54-65 Refunds relating to GST branches

If an entity has a *GST branch and the *net amount relating to the *GST branch for a tax period is less than zero, the Commissioner must, on behalf of the Commonwealth, pay that net amount (expressed as a positive amount) to the entity.

Note 1: See Division 3A of Part IIB and section 39 of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay the entity. Division 3 of Part IIB allows the Commissioner to apply the amount owing as a credit against tax debts that the entity owes to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in refunding the amount.

6 Section 195-1 (definition of financial institution account)

Repeal the definition.

A New Tax System (Wine Equalisation Tax) Act 1999

7 Section 17-20

Omit all the words and paragraphs from and including “as follows”, substitute “under Division 3 of Part IIB of the *Taxation Administration Act 1953*”.

8 Section 17-25

Omit “under”, substitute “in accordance with”.

Taxation Administration Act 1953

9 Section 8AAZA

Insert:

> ***credit*** includes an amount that the Commissioner must pay to a taxpayer under a taxation law, whether or not described as a credit.

10 At the end of subsection 8AAZLG(2)

Add "or the Commissioner makes an assessment of the amount, whichever happens first."

11 At the end of section 8AAZLG

Add:

> Note: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in making the payment under subsection (2).

12 At the end of subsection 8AAZLH(2)

Add "The account nominated must be maintained at a branch or office of the institution that is in Australia."

13 Section 29

Repeal the section.

14 Section 38

Repeal the section.

15 Subsection 39(1)

Omit all the words before paragraph (a), substitute "This section applies to:".

Note: The heading to section 39 is replaced by the heading "**Restriction on refunds**".

16 At the end of paragraph 39(1)(b)

Add "or applied under Division 3 of Part IIB of this Act".

17 Subsection 39(2)

Repeal the subsection.

18 Subsection 39(3)

Omit “subsection (2)”, substitute “Division 3 or 3A of Part IIB”.

Schedule 16—PAYG instalments consequential amendments

Crimes (Taxation Offences) Act 1980

1 Subsection 3(1) (at the end of the definition of income tax)

Add:

; and (i) an amount payable to the Commissioner under Division 45 in Schedule 1 to the *Taxation Administration Act 1953*.

Higher Education Funding Act 1988

2 At the end of section 106U

Add:

(5) Division 45 in Schedule 1 to the *Taxation Administration Act 1953* applies, so far as it is capable of application, in relation to the collection of an HEC assessment debt of a person as if the HEC assessment debt were income tax.

Income Tax Assessment Act 1936

3 Subsection 6(1)

Insert:

full self-assessment taxpayer, for a year of income (the ***current year***), means any of the following:

(a) a company;

(b) the trustee of a trust that is a corporate unit trust in relation to the current year for the purposes of Division 6B of Part III;

(c) the trustee of a trust that is a public trading trust in relation to the current year for the purposes of Division 6C of Part III;

(d) the trustee of a fund that is an eligible ADF (as defined in section 267) in relation to the current year;

(e) the trustee of a fund that is an eligible superannuation fund (as defined in section 267) in relation to the current year;

(f) the trustee of a fund that is a pooled superannuation trust (as defined in section 267) in relation to the current year.

Note: A corporate limited partnership is taken to be a company under section 94J, so it will fall within paragraph (a) of this definition.

4 Subsection 102AAM(12)

After "(as defined in subsection 221AZK(1))", insert "or a full self-assessment taxpayer".

5 Paragraph 102AAM(13A)(a)

After "(as defined in subsection 221AZK(1))", insert "or a full self-assessment taxpayer".

6 Paragraph 102AAM(13A)(c) (note)

After "see", insert "section 161AA and".

7 After section 161A

Insert:

161AA Contents of returns of full self-assessment taxpayers

A full self-assessment taxpayer must, in a return for a year of income, specify:

(a) its taxable income or its net income for that year of income; and

(b) the amount (if any) of the tax payable on that taxable income or net income; and

(c) the amount of interest (if any) payable by the taxpayer under section 102AAM for that year of income.

8 Paragraph 163A(1)(a)

Omit "or an instalment taxpayer", substitute ", an instalment taxpayer or a full self-assessment taxpayer".

Note: The heading to section 163A is altered by omitting "**and instalment taxpayers**" and substituting "**, instalment taxpayers and full self-assessment taxpayers**".

9 Paragraph 163B(1)(a)

Omit "or an instalment taxpayer", substitute ", an instalment taxpayer or a full self-assessment taxpayer".

Note: The heading to section 163B is altered by omitting "**and instalment taxpayers**" and substituting "**, instalment taxpayers and full self-assessment taxpayers**".

10 At the end of section 166A

Add:

(3) If:

(a) at a particular time, a full self-assessment taxpayer gives a return in respect of a year of income for which the taxpayer is a full self-assessment taxpayer; and

(b) before that time, no return has been given, and no assessment has been made, in relation to the taxpayer in respect of the income of the year of income;

the following provisions apply:

(c) the Commissioner is taken to have made an assessment of the taxable income or net income, and the tax payable on that income, equal to those respective amounts specified in the return;

(d) the assessment is taken to have been made on the day on which the return is lodged;

(e) on and after the day on which the Commissioner is taken to have made the assessment, the return is taken to be a notice of the assessment:

(i) under the hand of the Commissioner; and

(ii) served on the taxpayer on the day on which the Commissioner is taken to have made the assessment.

11 Subparagraph 170AA(4)(a)(i)

Omit "or an instalment taxpayer within the meaning of Division 1C of Part VI", substitute ", an instalment taxpayer within the meaning of Division 1C of Part VI or a full self-assessment taxpayer".

12 After subparagraph 170AA(4)(a)(ib)

Insert:

(ic) if subsection (1) or (1A) applies and the taxpayer is a full self-assessment taxpayer—the day on which tax

became due and payable under the first assessment in respect of income of the taxpayer of the year of income;

13 After subsection 170AA(7A)

Insert:

(7B) If the taxpayer is a full self-assessment taxpayer for a year of income and, on the basis of the taxpayer's return, the taxable income or net income was nil, or no tax was payable on the taxable income or net income, the following provisions apply for the purposes of subsection (6):

(a) the Commissioner is taken to have served a notice of the kind specified in paragraph (6)(a);

(b) the reference in paragraph (6)(c) to the end of 30 days after the date of service of the notice is to be read as a reference to the date on which the tax becomes due and payable under subsection 204(1A).

14 After subsection 204(1)

Insert:

(1A) Subject to the provisions of this Part, the tax payable by a full self-assessment taxpayer for a year of income becomes due and payable as follows:

(a) if the taxpayer's year of income ends on 30 June—on 1 December of the following year of income or on such later date as the Commissioner allows by notice published in the *Gazette*;

(b) if the taxpayer's year of income ends on a day other than 30 June—on the first day of the sixth month of the following year of income, or on such later date as the Commissioner allows by notice published in the *Gazette*.

15 At the end of section 221AZJA

Add:

(2) If a taxpayer is not liable to pay instalments under this Division because of subsection (1), the taxpayer is no longer to be regarded as an instalment taxpayer within the meaning of this Division for the purposes of:

(a) a provision of this Act apart from this Division; and

(b) a provision of any other Act.

16 Subsection 222A(1) (paragraph (e) of the definition of taxation officer statement)

After "section", insert "161AA,".

17 Paragraphs 222(1B)(a) and (b)

After "section", insert "161AA or".

Income Tax Assessment Act 1997

18 Subsection 3-5(3) (item 1, note)

Omit "section 750-1", substitute "Schedule 1 to the *Taxation Administration Act 1953*".

19 Subsection 3-5(3) (item 4, note)

Omit "section 750-20", substitute "Division 3A of Part IIB of the *Taxation Administration Act 1953*".

Taxation (Interest on Overpayments and Early Payments) Act 1983

20 Subsection 3(1)

Add:

full self-assessment taxpayer has the same meaning as in subsection 6(1) of the Tax Act.

21 Paragraph 8B(1)(a)

Omit "neither a relevant entity nor an instalment taxpayer", substitute "not a relevant entity, an instalment taxpayer or a full self-assessment taxpayer".

22 Paragraph 8B(1)(b)

Omit "or an instalment taxpayer", substitute ", an instalment taxpayer or a full self-assessment taxpayer".

23 Paragraph 8E(1)(a)

Omit “neither a relevant entity nor an instalment taxpayer”, substitute “not a relevant entity, an instalment taxpayer or a full self-assessment taxpayer”.

24 Paragraph 8E(2)(a)

Omit “neither a relevant entity nor an instalment taxpayer”, substitute “not a relevant entity, an instalment taxpayer or a full self-assessment taxpayer”.

25 Paragraph 8G(1)(a)

Omit “or an instalment taxpayer”, substitute “, an instalment taxpayer or a full self-assessment taxpayer”.

Note: The heading to section 8G is altered by omitting “**and instalment taxpayers**” and substituting “**, instalment taxpayers and full self-assessment taxpayers**”.

26 Paragraphs 8G(1)(e) and (f)

Repeal the paragraphs, substitute:

(e) if the person furnishes the return of income for the year of income 30 days or more before:

(i) if the person is an instalment taxpayer—the final instalment day; or

(ii) if the person is a full self-assessment taxpayer—the due date for payment of the assessed tax;

the first crediting occurs 30 days or more after the day on which the person furnishes the return; and

(f) if the person furnishes the return of income for the year of income after 30 days or more before:

(i) if the person is an instalment taxpayer—the final instalment day; or

(ii) if the person is a full self-assessment taxpayer—the due date for payment of the assessed tax;

the first crediting occurs after the first instalment day, or after the due date for payment of the assessed tax, as the case requires;

27 Paragraph 8G(2)(a)

Omit "a relevant entity or an instalment taxpayer", substitute "a relevant entity, an instalment taxpayer or a full self-assessment taxpayer".

28 Subsection 8H(1)

After "applies", insert "to a person who is an instalment taxpayer or a relevant entity".

Note: The heading to section 8H is altered by omitting "**and instalment taxpayers**", and substituting "**, instalment taxpayers and full self-assessment taxpayers**".

29 After subsection 8H(1)

Insert:

(1A) If subsection 8G(1) applies to a person who is a full self-assessment taxpayer, the interest is payable on the excess mentioned in paragraph 8G(1)(d) for the period from the beginning of the earlier of the following days:

(a) the 30th day after the day on which the person furnishes the return of income for the year of income;

(b) the due date for payment of the assessed tax;

until the end of the day on which the first crediting occurs.

30 Subsection 8H(2)

After "applies", insert "to a person who is a relevant entity or an instalment taxpayer".

31 After subsection 8H(2)

Insert:

(2A) If subsection 8G(2) applies to a person who is a full self-assessment taxpayer and subsection (3) of this section does not apply, the interest is payable on the excess mentioned in paragraph 8G(2)(c) for the period from the beginning of the due date for payment of assessed tax until the end of the day on which the later crediting occurs.

32 Paragraph 8H(3)(d)

Repeal the paragraph, substitute:

(d) on so much of the excess as is not attributable to payments mentioned in paragraph (b):

(i) if the person is a relevant entity or an instalment taxpayer—for the period from the beginning of the final instalment day until the end of the day on which the later crediting occurs; or

(ii) if the person is a full self-assessment taxpayer—for the period from the beginning of the due date for payment of assessed tax until the end of the day on which the later crediting occurs.

33 Subparagraph 12A(1)(a)(i)

After "8AAG of", insert ", or section 45-240 in Schedule 1 to,".

34 At the end of subparagraph 12A(1)(a)(i)

Add "of the Tax Act, or under section 42-230, 45-232 or 45-235 of the *Taxation Administration Act 1953*".

35 After subparagraph 12A(1)(a)(iii)

Insert:

(iiia) applies or refunds the whole or part of an amount, in respect of a credit under section 45-215 or 45-420 in Schedule 1 to the *Taxation Administration Act 1953*; or

36 Subsection 13(4)

Omit "or an instalment taxpayer", substitute ", an instalment taxpayer or a full self-assessment taxpayer".

37 Application

The amendments made by this Schedule apply to the 2000-2001 year of income and later years of income.

Schedule 17—Savings rebate

Income Tax Assessment Act 1936

1 Subsection 221YCAA(2) (paragraph (m) of the definition of qualifying reductions)

After “tax offset under”, insert “Subdivision 61-A or”.

2 Application

The amendment made by this Schedule applies for the purposes of working out amounts of provisional tax (including instalments) payable for the 1999-2000 income year and later income years.

Schedule 18—Consequential amendment of Chapter 6 (the Dictionary) of the Income Tax Assessment Act 1997

1 Subsection 995-1(1)

Insert:

acceptable amount of an instalment for an *instalment quarter has the meaning given by section 45-232 in Schedule 1 to the *Taxation Administration Act 1953*.

2 Subsection 995-1(1) (definition of amount required to be withheld)

Omit "16-15", substitute "15-15".

3 Subsection 995-1(1) (definition of assessment)

Repeal the definition, substitute:

assessment, in relation to a *tax-related liability, has the meaning given by a *taxation law that provides for the assessment of the amount of the liability.

Note: The table lists provisions of taxation laws that define ***assessment***.

Taxation laws that define *assessment*

Item	Taxation law	Provision
1	*Income Tax Assessment Act 1936*	subsection 6(1)
5	*Fringe Benefits Tax Assessment Act 1986*	subsection 136(1)
10	*Petroleum Resource Rent Tax Assessment Act 1987*	section 2
15	*Superannuation Guarantee (Administration) Act 1992*	section 6
20	*Superannuation Contributions Tax (Assessment and Collection) Act 1997*	section 43

25	*Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*	section 38
30	*Termination Payments Tax (Assessment and Collection) Act 1997*	section 31

4 Subsection 995-1(1)

Insert:

BAS amounts means any debts or credits that arise directly under the *BAS provisions.

Note: BAS stands for Business Activity Statement.

5 Subsection 995-1(1)

Insert:

BAS provisions means:

(a) Part VII of the *Fringe Benefits Tax Assessment Act 1986*; and

(b) the indirect tax law (within the meaning of Part VI of the *Taxation Administration Act 1953*); and

(c) Parts 2-5 and 2-10 in Schedule 1 to the *Taxation Administration Act 1953* (which are about the PAYG system); and

(d) the following:

(i) section 221AZK of the *Income Tax Assessment Act 1936* in cases in which section 221AZKC applies (that section allows deferral of tax instalment payments);

(ii) section 221AZKD (which requires notification of deferred tax instalment payments).

Note: BAS stands for Business Activity Statement.

6 Subsection 995-1(1)

Insert:

Commissioner assessment has the meaning given by section 14ZAA of the *Taxation Administration Act 1953*.

7 Subsection 995-1(1)

Insert:

deductible gift recipient has the meaning given by section 30-227.

8 Subsection 995-1(1)

Insert:

Division 405 payment has the meaning given by section 405-5 in Schedule 1 to the *Taxation Administration Act 1953*.

9 Subsection 995-1(1)

Insert:

Division 405 report has the meaning given by section 405-10 in Schedule 1 to the *Taxation Administration Act 1953*.

10 Subsection 995-1(1)

Insert:

Division 410 payment has the meaning given by section 410-5 in Schedule 1 to the *Taxation Administration Act 1953*.

11 Subsection 995-1(1)

Insert:

Division 410 report has the meaning given by section 410-10 in Schedule 1 to the *Taxation Administration Act 1953*.

12 Subsection 995-1(1)

Insert:

Division 415 payment has the meaning given by section 415-5 in Schedule 1 to the *Taxation Administration Act 1953*.

13 Subsection 995-1(1)

Insert:

Division 417 payment has the meaning given by section 417-5 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Subsection 995-1(1)

Insert:

financial institution has the meaning given by section 202A of the *Income Tax Assessment Act 1936*.

15 Subsection 995-1(1)

Insert:

fringe benefits tax law has the meaning given by section 14ZAAA of the *Taxation Administration Act 1953*.

16 Subsection 995-1(1)

Insert:

government entity has the meaning given by the *A New Tax System (Australian Business Number) Act 1999*.

17 Subsection 995-1(1)

Insert:

GST return has the same meaning as in section 195-1 of the *GST Act.

18 Subsection 995-1(1)

Insert:

income tax law has the meaning given by section 14ZAAA of the *Taxation Administration Act 1953*.

19 Subsection 995-1(1)

Insert:

listed widely held trust has the meaning given by section 272-115 in Schedule 2F to the *Income Tax Assessment Act 1936*.

20 Subsection 995-1(1)

Insert:

lodge electronically: a document is lodged electronically if it is transmitted to the Commissioner in an electronic format approved by the Commissioner.

21 Subsection 995-1(1)

Insert:

net amount has the same meaning as in section 195-1 of the *GST Act.

22 Subsection 995-1(1)

Insert:

oral ruling means a ruling applied for under section 360-20 or 360-25 in Schedule 1 to the *Taxation Administration Act 1953*.

23 Subsection 995-1(1)

Insert:

oral ruling arrangement has the meaning given by section 360-30 in Schedule 1 to the *Taxation Administration Act 1953*.

24 Subsection 995-1(1)

Insert:

outstanding tax-related liability of an entity at a particular time means a *tax-related liability of the entity:

(a) that has arisen at or before that time (whether or not it is due and payable at that time); and

(b) an amount of which has not been paid before that time.

25 Subsection 995-1(1)

Insert:

PAYG withholding branch has the meaning given by section 16-142 in Schedule 1 to the *Taxation Administration Act 1953*.

28 Subsection 995-1(1)

Insert:

private ruling has the meaning given by section 14ZAA of the *Taxation Administration Act 1953*.

29 Subsection 995-1(1)

Insert:

self assessment has the meaning given by section 14ZAA of the *Taxation Administration Act 1953*.

30 Subsection 995-1(1)

Insert:

tax affairs means affairs relating to *tax.

31 Subsection 995-1(1)

Insert:

tax audit means an examination of a person's financial affairs by the Commissioner for the purposes of an *income tax law or *fringe benefits tax law.

32 Subsection 995-1(1)

Insert:

tax debt has the same meaning as in section 8AAZA of the *Taxation Administration Act 1953*.

33 Subsection 995-1(1)

Insert:

taxation law means:

(a) an Act of which the Commissioner has the general administration; or

(b) regulations under such an Act.

34 Subsection 995-1(1)

Insert:

tax-related liability has the meaning given by section 255-1 in Schedule 1 to the *Taxation Administration Act 1953*.

35 Subsection 995-1(1)

Insert:

TFN declaration means a declaration made for the purposes of section 202C of the *Income Tax Assessment Act 1936* on or after 1 July 2000.

36 Subsection 995-1(1) (paragraph (b) of the definition of this Act)

Repeal the paragraph, substitute:

(b) Part IVC of the *Taxation Administration Act 1953*, so far as that Part relates to:

(i) this Act or the *Income Tax Assessment Act 1936*; or

(ii) Schedule 1 to the *Taxation Administration Act 1953*; and

37 Subsection 995-1(2)

Repeal the subsection, substitute:

(2) So far as a provision of the *Income Tax Assessment Act 1997* gives an expression a particular meaning, the provision:

(a) does *not* also have effect for the purposes of the *Income Tax Assessment Act 1936* (the ***1936 Act***), except as provided in the 1936 Act; and

(b) does *not* also have effect for the purposes of Part IVC of the *Taxation Administration Act 1953*, except as provided in that Part.