





# **Tax Laws Amendment (2010 Measures No. 5) Act 2011**

**No. 61, 2011**

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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

[Assented to 29 June 2011]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (2010  
Measures No. 5) Act 2011*.

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2011
2. Schedules 1 to 4	The day this Act receives the Royal Assent.	29 June 2011
3. Schedule 5	The day after this Act receives the Royal Assent.	30 June 2011
4. Schedule 6	1 July 2011.	1 July 2011
5. Schedule 7	The day this Act receives the Royal Assent.	29 June 2011

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## 4 Amendment of assessments

- (1) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:

- 
- (a) the assessment was made before the commencement of Schedule 2 to this Act; and
  - (b) the amendment is made within 2 years after that commencement; and
  - (c) the amendment is made for the purpose of giving effect to that Schedule.
- (2) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:
- (a) the assessment was made before the commencement of Schedule 3 to this Act; and
  - (b) the amendment is made within 2 years after that commencement; and
  - (c) the amendment is made for the purpose of giving effect to that Schedule.
- (3) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment, after the end of the period mentioned in paragraph (2)(b), of an assessment of your income tax if:
- (a) you requested the amendment before the end of that period; and
  - (b) the amendment is made for the purpose of giving effect to Schedule 3.

## Schedule 1—Film tax offsets

### *Income Tax Assessment Act 1997*

**1 Paragraph 376-10(1)(a)**

Repeal the paragraph.

**2 Paragraph 376-10(1)(b)**

Omit “if the total of the company’s qualifying Australian production expenditure on the film (as determined by the Arts Minister under section 376-30) is at least \$50 million—the company’s qualifying Australian production expenditure”, substitute “the company’s \*qualifying Australian production expenditure”.

**3 Paragraph 376-20(5)(b)**

Repeal the paragraph.

**4 Paragraph 376-20(5)(c)**

Omit “if the total of the company’s qualifying Australian production expenditure on the film is at least \$50 million,”.

**5 Subsection 376-20(5) (note)**

Omit “subparagraph (b)(ii) and”.

**6 Section 376-25**

Repeal the section.

**7 Paragraph 376-45(5)(a)**

Omit “\$5 million”, substitute “\$500,000”.

**8 Section 376-130 (note)**

Omit “The total amount of all production expenditure is relevant to a company’s eligibility for the location offset: see the test in paragraph 376-20(5)(b).”

**9 Section 376-140 (note)**

Repeal the note.

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**10 Paragraph 376-180(1)(d)**

Omit “subparagraph 376-20(5)(b)(ii) and”.

**11 Subsection 376-230(1)**

Repeal the subsection, substitute:

- (1) A company may apply to the \*Arts Minister for the issue of a certificate to the company for a \*film under section 376-20 (certificate for the location offset) when all of the company’s \*qualifying Australian production expenditure for the film has been incurred.

**12 Application provision**

- (1) The amendments made by items 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 of this Schedule apply to a film which commences principal photography or production of the animated image in Australia on or after 1 July 2010.
- (2) The amendment made by item 7 of this Schedule applies to a film which commences post, digital and visual effects production in Australia on or after 1 July 2010.

## Schedule 2—Capital protected borrowings

### *Income Tax Assessment Act 1997*

#### **1 Paragraph 247-20(1)(a)**

Repeal the paragraph, substitute:

- (aa) the borrower has an excess using the method statement in subsection (3) for:
  - (i) a \*capital protected borrowing entered into after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the **2008 Budget time**); or
  - (ii) an extension of the capital protected borrowing; or
- (a) the borrower has an amount that is reasonably attributable to the \*capital protection as mentioned in subsection (2) for a capital protected borrowing entered into or extended on or after 1 July 2007 and at or before the 2008 Budget time; or

#### **2 Paragraph 247-20(1)(b)**

Omit “\*capital”, substitute “capital”.

#### **3 Paragraph 247-20(1)(b)**

Omit “capital protected borrowing, or an extension of a capital protected borrowing, entered into”, substitute “capital protected borrowing entered into or extended”.

#### **4 At the end of subsection 247-20(1)**

Add:

Note: If a capital protected borrowing covered by paragraph (1)(a) or (b) is extended or otherwise changed after the 2008 Budget time, section 247-85 of the *Income Tax (Transitional Provisions) Act 1997* applies to the capital protected borrowing.

#### **5 Subsection 247-20(2)**

Omit “paragraph (1)(b)”, substitute “paragraphs (1)(a) and (b)”.

#### **6 Subsection 247-20(3) (method statement, step 2)**

Omit “subsection (4) or (5)”, substitute “either or both of subsections (4) and (5A)”.

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**7 Subsections 247-20(4) and (5)**

Repeal the subsections, substitute:

(4) If:

- (a) the \*capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
- (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year;

use the rate worked out under subsection (5) at the first time an amount covered by step 1 of the method statement in subsection (3) was incurred, in any income year, during the term of the capital protected borrowing or that part of the term.

(5) The rate (the *adjusted loan rate*), at a particular time, is the sum of:

- (a) the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans at that time; and
- (b) 100 basis points.

(5A) If:

- (a) the \*capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
- (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year;

use the average of the adjusted loan rates applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

**8 Paragraph 247-20(6)(b)**

Omit "(1)(b)", substitute "(1)(a) or (b)".

***Income Tax (Transitional Provisions) Act 1997*****9 Division 247 (heading)**

Repeal the heading, substitute:

**Division 247—Capital protected borrowings****Table of Subdivisions**

247-A Interim apportionment methodology

247-B Other transitional provisions

**Subdivision 247-A—Interim apportionment methodology**

**10 Section 247-5**

Omit “Division”, substitute “Subdivision”.

**11 Section 247-5**

Omit “capital protected borrowing, or an extension of it, is entered into”, substitute “capital protected borrowing is entered into or extended”.

**12 At the end of Division 247**

Add:

**Subdivision 247-B—Other transitional provisions**

**Table of sections**

247-75	Post-July 2007 capital protected borrowings
247-80	Capital protected borrowings in existence on 1 July 2013
247-85	Extensions and other changes

**247-75 Post-July 2007 capital protected borrowings**

- (1) For a capital protected borrowing entered into or extended:
- (a) on or after 1 July 2007; but
  - (b) at or before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the *2008 Budget time*);
- work out the amount that is reasonably attributable to the capital protection using the following method statement.

*Method statement*

- Step 1. Work out the total amount incurred by the borrower under or in respect of the capital protected borrowing for the income year, ignoring amounts that are not in substance for capital protection or interest.
- Step 2. Work out the total interest that would have been incurred for the income year on a borrowing or provision of credit

of the same amount as under the capital protected borrowing at the rate applicable under either or both of subsections (2) and (3).

Step 3. If the step 1 amount exceeds the step 2 amount, the excess is reasonably attributable to the capital protection for the income year.

Example: Amounts that would be ignored under step 1 include amounts that are in substance the repayment of a loan or credit, the payment of an application fee or brokerage commission and the payment of stamp duty or other tax.

(2) If:

- (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
- (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year;

use the Reserve Bank of Australia's Indicator Lending Rate for Personal Unsecured Loans—Variable Rate (the *personal unsecured loan rate*) at the first time an amount covered by step 1 of the method statement in subsection (1) was incurred, in any income year, during the term of the capital protected borrowing or that part of the term.

(3) If:

- (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
- (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year;

use the average of the personal unsecured loan rates applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

### **247-80 Capital protected borrowings in existence on 1 July 2013**

- (1) This section applies to a capital protected borrowing (including one covered by Subdivision 247-A or section 247-75):
  - (a) entered into at or before the 2008 Budget time; and
  - (b) in existence on 1 July 2013; and
  - (c) to which section 247-85 does not apply.

- (2) Work out the amount that is reasonably attributable to the capital protection using the method statement in subsection 247-75(1) and, for step 2 in that method statement, using the rate applicable under either or both of subsections (3) and (5) on or after 1 July 2013.
- (3) If:
- (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
  - (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year that is on or after 1 July 2013;
- use the rate worked out under subsection (4) at the first time an amount covered by step 1 of that method statement was incurred, in any income year, while the capital protected borrowing is at that fixed rate.
- (4) The rate (the *adjusted loan rate*), at a particular time, is the sum of:
- (a) the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans at that time; and
  - (b) 100 basis points.
- (5) If:
- (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
  - (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year that is on or after 1 July 2013;
- use the average of the adjusted loan rates applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

### **247-85 Extensions and other changes**

- (1) This section applies to a capital protected borrowing entered into at or before the 2008 Budget time (including one covered by Subdivision 247-A or section 247-75) where, after that time, one or both of these events occurred:
- (a) the term of the capital protected borrowing is extended;
  - (b) some other change is made to the terms and conditions of the capital protected borrowing.

- (2) Work out the amount that is reasonably attributable to the capital protection using the method statement in subsection 247-75(1) and, for step 2 in that method statement, using the rate applicable under either or both of subsections (3) and (4) from the earlier of these times:
- (a) the time the extension or change took effect;
  - (b) the start of 1 July 2013;
- (the *switch-over time*).
- (3) If:
- (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
  - (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year that is at or after the switch-over time;
- use the adjusted loan rate (as described in subsection 247-80(4)) applicable at the first time an amount covered by step 1 of that method statement was incurred, in any income year, while the capital protected borrowing is at that fixed rate.
- (4) If:
- (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
  - (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year that is at or after the switch-over time;
- use the average of the adjusted loan rates (as described in subsection 247-80(4)) applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

## **Schedule 3—Extending CGT exemption for certain compulsory acquisitions**

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

#### **1 At the end of section 118-100**

Add:

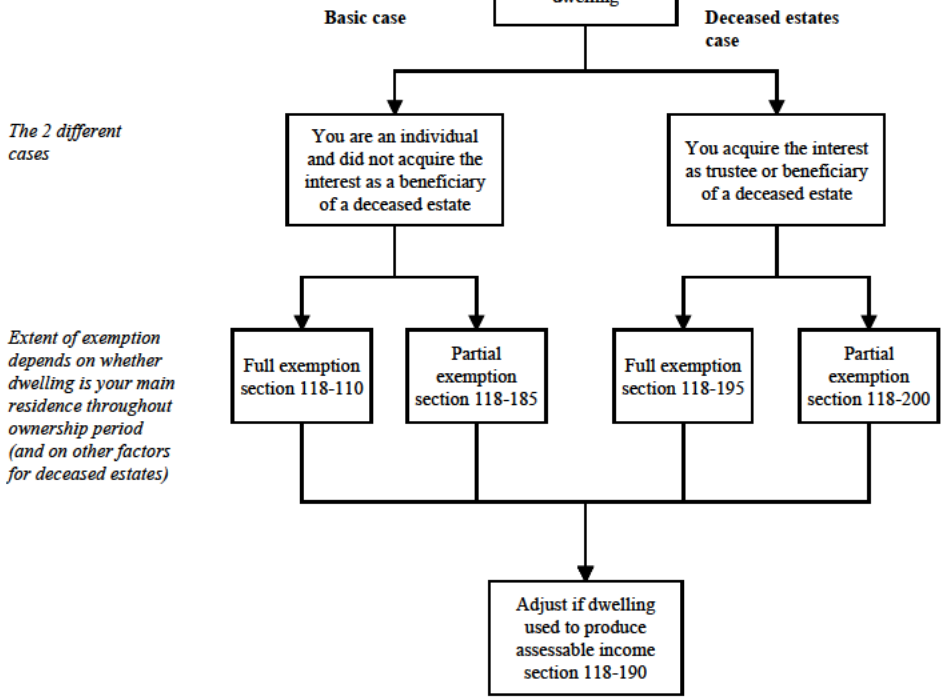
There is a similar exemption for a CGT event that is a compulsory acquisition (or similar arrangement) happening to adjacent land but not also to the dwelling itself.
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#### **2 Section 118-105**

Repeal the section, substitute:

#### **118-105 Map of this Subdivision**

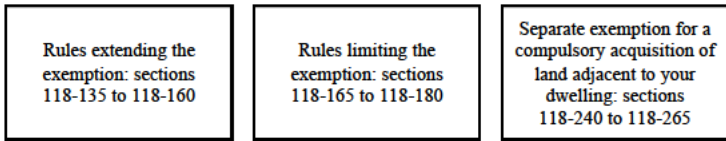
*Event that may attract exemption*



*The 2 different cases*

*Extent of exemption depends on whether dwelling is your main residence throughout ownership period (and on other factors for deceased estates)*

*Other rules that apply*



**3 At the end of subsection 118-110(1)**

Add:

Note 3: There is a separate rule for a CGT event that is a compulsory acquisition (or similar arrangement) happening to adjacent land but not also to the dwelling itself: see section 118-245.

**4 Section 118-120**

Repeal the section, substitute:

## 118-120 Extension to adjacent land etc.

### *Adjacent land*

- (1) This Subdivision applies to a \*dwelling's \*adjacent land (if the same \*CGT event happens to that land or your \*ownership interest in it) as if it were a dwelling.
- (2) Land adjacent to a \*dwelling is its ***adjacent land*** to the extent that the land was used primarily for private or domestic purposes in association with the dwelling.
- (3) The maximum area of \*adjacent land covered by the exemption for the \*CGT event (the ***current event***) is 2 hectares, less the area of the land immediately under the \*dwelling.
- (4) However, if subsection 118-245(2) applied to you for an earlier \*CGT event that happened in relation to:
  - (a) other land that was part of the \*dwelling's \*adjacent land at the time of the earlier CGT event; or
  - (b) your \*ownership interest in that other land at that time;the maximum area of land covered by the exemption for the current event is the \*maximum exempt area for the current event and the dwelling.

### *Adjacent structures*

- (5) This Subdivision applies to an \*adjacent structure of a flat or home unit (if the same \*CGT event happens to that structure or your \*ownership interest in it) as if it were a \*dwelling.
- (6) A garage, storeroom or other structure associated with a flat or home unit is an ***adjacent structure*** of the flat or home unit to the extent that the structure was used primarily for private or domestic purposes in association with the flat or home unit.

## 5 At the end of section 118-165

Add:

Note: There is a separate rule for a CGT event that is a compulsory acquisition (or similar arrangement) happening to adjacent land but not also to the dwelling itself: see section 118-245.

## 6 At the end of Subdivision 118-B

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Add:

### **Compulsory acquisitions of adjacent land only**

#### **118-240 What the following provisions are about**

You can ignore a capital gain or capital loss you make from a compulsory acquisition (or similar arrangement) that happens only to land that is adjacent to:

- (a) a dwelling that is your main residence; or
- (b) a dwelling that passed to you as a beneficiary, or trustee, of a deceased estate;

to the extent that the land was used primarily for private or domestic purposes in association with the dwelling.

There is a limit on the maximum area of land covered by the exemption.

Note: The exemption may not apply in full if the dwelling:

- (a) was not always a main residence; or
- (b) was used for the purpose of producing assessable income.

#### **118-245 CGT events happening only to adjacent land**

*Total adjacent land is 2 hectares or less*

- (1) A \*capital gain or \*capital loss you make from a \*CGT event that happens in relation to land (the *exempt land*), or your \*ownership interest in it, is disregarded if:
- (a) you are an individual; and
  - (b) the exempt land is all or part of a \*dwelling's \*adjacent land at the time of the CGT event; and
  - (c) the CGT event does not happen in relation to the dwelling and does not happen in relation to your ownership interest in the dwelling; and
  - (d) one of the following subparagraphs applies:
    - (i) the dwelling was your main residence throughout all or part of your \*ownership period of the dwelling;

- (ii) your ownership interest in the dwelling \*passed to you as a beneficiary in a deceased estate;
- (iii) you own your ownership interest in the dwelling as the trustee of a deceased estate; and
- (e) section 118-250 (about compulsory acquisitions of adjacent land) applies to the CGT event and the exempt land; and
- (f) the sum of the following is 2 hectares or less:
  - (i) the area of all of the dwelling's adjacent land at the time of the CGT event;
  - (ii) the area of the land immediately under the dwelling;
  - (iii) if this section applied to you for an earlier CGT event that involved reducing the area of the dwelling's adjacent land at the time of that earlier CGT event—that reduction in area.

Note: You may get only a partial exemption for the gain or loss (see section 118-260).

*Total adjacent land is more than 2 hectares*

- (2) If:
  - (a) apart from paragraph (1)(f), subsection (1) would apply to the gain or loss; and
  - (b) you choose this subsection to apply to the gain or loss; disregard so much of the gain or loss that relates to land (the **exempt land**) within the \*maximum exempt area for the \*CGT event and the \*dwelling.

Note: You may get only a partial exemption for this portion of the gain or loss (see section 118-260).

### **118-250 Compulsory acquisitions of adjacent land**

- (1) This section applies to the \*CGT event and the exempt land if the CGT event involves:
  - (a) the compulsory \*acquisition of the exempt land by:
    - (i) an \*Australian government agency; or
    - (ii) an entity under a power conferred by an \*Australian law; or
  - (b) you \*disposing of the exempt land to an entity in circumstances meeting all of these conditions:

- (i) the disposal takes place after a notice was served on you by or on behalf of the entity;
- (ii) the notice invited you to negotiate with the entity with a view to the entity acquiring the exempt land by agreement;
- (iii) the notice informed you that if the negotiations were unsuccessful, the exempt land would be compulsorily acquired by the entity;
- (iv) the compulsory acquisition would have been under a power of compulsory acquisition conferred by an Australian law.

Note: For paragraph (b), the entity may be an Australian government agency.

(2) This section applies to the \*CGT event and the exempt land if the CGT event involves:

- (a) your \*ownership interest in the exempt land being compulsorily cancelled (however described) or varied (however described) by:
  - (i) an \*Australian government agency; or
  - (ii) an entity under a power conferred by an \*Australian law; or
- (b) you surrendering (however described) or varying (however described) your ownership interest in the exempt land in circumstances meeting all of these conditions:
  - (i) the surrender or variation takes place after a notice was served on you by or on behalf of an entity;
  - (ii) the notice invited you to negotiate with the entity with a view to you agreeing to surrender or vary your ownership interest;
  - (iii) the notice informed you that if the negotiations were unsuccessful, your ownership interest would be compulsorily cancelled, or varied, under a power conferred by an Australian law.

Note: For paragraph (b), the entity may be an Australian government agency.

(3) This section applies to the \*CGT event and the exempt land if the CGT event involves:

- (a) an interest or right in or relating to the exempt land being compulsorily conferred on:

- (i) an \*Australian government agency; or
  - (ii) an entity under a power conferred by an \*Australian law; or
- (b) you conferring on an entity an interest or right in or relating to the exempt land in circumstances meeting all of these conditions:
- (i) the conferral takes place after a notice was served on you by or on behalf of an entity;
  - (ii) the notice invited you to negotiate with the entity with a view to you agreeing to confer an interest or right in or relating to the exempt land;
  - (iii) the notice informed you that if the negotiations were unsuccessful, an interest or right in or relating to the exempt land would be compulsorily conferred on the entity under a power conferred by an Australian law.

Note: For paragraph (b), the entity may be an Australian government agency.

- (4) This section applies to the \*CGT event and the exempt land if:
- (a) your \*ownership interest in the exempt land:
    - (i) was conferred on you by an \*Australian government agency; and
    - (ii) had a limited, but renewable, period of operation; and
  - (b) the CGT event involves that ownership interest not being renewed by that agency.

### 118-255 *Maximum exempt area*

Your *maximum exempt area* for the \*CGT event and the \*dwelling is 2 hectares less the amount worked out as follows:

*Method statement*

Step 1. Identify each earlier \*CGT event (if any) that:

- (a) happened in relation to land that was part of the \*dwelling's \*adjacent land at the time of the earlier CGT event, or happened in relation to your \*ownership interest in that land at that time; and

(b) resulted in you losing rights to the substantial use and enjoyment of that land either completely or for at least 10 years;

for which you made a \*capital gain or \*capital loss that was wholly or partly disregarded because of the application of subsection 118-245(2).

Step 2. For each earlier \*CGT event covered by step 1, work out the area of the exempt land for that application of subsection 118-245(2).

Step 3. Add the results from step 2 to the area of the land immediately under the \*dwelling.

### **118-260 Partial exemption rules**

- (1) If section 118-245 applies to a \*CGT event, the amount of the \*capital gain or \*capital loss that you would have made apart from this section from the CGT event is increased by an amount that is reasonable having regard to the following:
  - (a) the extent that the \*dwelling was not a main residence for the relevant period;
  - (b) the extent that the dwelling was used for the \*purpose of producing assessable income during the relevant period.
- (2) In determining what is a reasonable increase, have regard to the principles in this Subdivision applicable to \*CGT events happening in relation to a \*dwelling or your \*ownership interest in it.

### **118-265 Extension to adjacent structures**

Sections 118-245 to 118-260 (with appropriate modifications) apply to an \*adjacent structure of a flat or home unit in a corresponding way to the way they apply to a \*dwelling's \*adjacent land.

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

Insert:

*adjacent land* has the meaning given by subsection 118-120(2).

## 8 Subsection 995-1(1)

Insert:

*adjacent structure* has the meaning given by subsection 118-120(6).

## 9 Subsection 995-1(1)

Insert:

*maximum exempt area* has the meaning given by section 118-255.

## 10 Application provision

- (1) Subject to subitem (2), the amendments made by this Schedule apply in relation to CGT events happening on or after the day (the *commencement day*) this Act receives the Royal Assent.
- (2) You may choose the amendments made by this Schedule to apply in relation to CGT events relating to you that happen during the period:
  - (a) starting at the start of the 2004-05 income year; and
  - (b) ending immediately before the commencement day.
- (3) A choice you can make under subitem (2) must be made:
  - (a) by the day you lodge your income tax return for the income year that includes the commencement day; or
  - (b) within a further time allowed by the Commissioner.
- (4) The way you prepare your income tax return for the applicable income year is sufficient evidence of the making of a choice under subitem (2).

## **Schedule 4—Deductions in relation to benefits for terminal medical conditions**

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

#### **1 After paragraph 295-460(a)**

Insert:

- (aa) a benefit consisting of an amount payable to an individual because a \*terminal medical condition exists in relation to the individual;

#### **2 Paragraph 295-460(c)**

Omit “a person under an income stream because of the person’s”, substitute “an individual under an income stream because of the individual’s”.

#### **3 Subparagraph 295-470(1)(b)(i)**

After “295-460(a)”, insert “, (aa)”.

#### **4 Subsection 995-1(1) (paragraph (a) of the definition of *disability superannuation benefit*)**

Omit “a person”, substitute “an individual”.

#### **5 Subsection 995-1(1) (paragraph (b) of the definition of *disability superannuation benefit*)**

Omit “person”, substitute “individual”.

#### **6 Application provision**

The amendments made by this Schedule apply in relation to a benefit provided on or after 16 February 2008.

#### **7 Transitional provision—actuaries’ certificates**

Subsection 295-465(3) of the *Income Tax Assessment Act 1997* (Actuary’s certificate) applies to an amount as if the reference in that subsection to the date for lodgment of a fund’s income tax return for an income year were a reference to the day the fund applies to amend the fund’s assessment for the income year, if:

**Schedule 4** Deductions in relation to benefits for terminal medical conditions

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- (a) the relevant premiums are attributable (in whole or in part) to a liability to provide benefits that are covered by paragraph 295-460(aa) of that Act, as inserted by this Schedule; and
- (b) the date for lodgment occurred before the commencement of this item; and
- (c) the fund applies to amend the assessment under section 170 of the *Income Tax Assessment Act 1936*.

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## **Schedule 5—Non-profit sub-entities**

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

#### **1 Section 63-25 (after the heading)**

Insert:

- (1) Subsection 23-15(2) applies in relation to a \*non-profit sub-entity of an entity (the *parent entity*) whether or not the parent entity is a non-profit body.

#### **2 Section 63-25**

Before “Regulations”, insert “(2)”.

#### **3 After section 63-25**

Insert:

#### **63-27 Application of particular provisions relating to charitable institutions etc.**

##### *Application of particular provisions*

- (1) For the purposes of the provisions mentioned in subsection (2), a \*non-profit sub-entity of an entity (the *parent entity*) is taken to be a body of the following type, if the parent entity is a body of that type:
  - (a) a non-profit body;
  - (b) a charitable institution, a trustee of a charitable fund or a \*gift-deductible entity;
  - (c) a \*government school;
  - (d) an \*endorsed charitable institution or an \*endorsed trustee of a charitable fund;
  - (e) a gift-deductible entity endorsed as a deductible gift recipient (within the meaning of the \*ITAA 1997) under section 30-120 of the ITAA 1997;
  - (f) a fund, authority or institution of a kind referred to in paragraph 30-125(1)(b) of the ITAA 1997;
  - (g) a body that has a particular \*gift-deductible purpose;

- (h) a body that operates a particular \*retirement village;
  - (i) a particular \*school.
- (2) The provisions are:
- (a) paragraph 9-15(3)(b) (gifts to non-profit bodies not consideration); and
  - (b) Subdivision 38-G (Activities of charitable institutions etc.); and
  - (c) Subdivision 40-E (Schools tuckshops and canteens); and
  - (d) Subdivision 40-F (fund-raising events); and
  - (e) section 111-18 (reimbursement of volunteers' expenses); and
  - (f) section 129-45 (Gifts to gift-deductible entities); and
  - (g) Division 157 (Accounting basis of charitable institutions etc.).
- (3) To avoid doubt, subsection (1) does not prevent the \*non-profit sub-entity being a body of a particular type merely because the parent entity is not a body of that type.

#### **4 Application provision**

The amendments made by this Schedule apply to tax periods commencing on or after the day this item commences.

## **Schedule 6—Running balance accounts**

### *Taxation Administration Act 1953*

#### **1 Paragraph 8AAZL(3)(a)**

Repeal the paragraph, substitute:

- (a) that is due but not yet payable; or

## Schedule 7—Education expenses tax offset (uniforms)

### *Income Tax Assessment Act 1997*

#### **1 Subsection 61-640(4) (at the end of the table)**

Add:

- |   |   |  |
|---|---|--|
| 7 | Clothing (including hats) and footwear that is required or approved by a primary or secondary school to be worn as its school uniform | cost of acquiring (whether by way of purchase, hire or hire-purchase). |
|---|---|--|

#### **2 Application provision**

The amendment made by this Schedule applies to expenses incurred on or after 1 July 2011.

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*[Minister's second reading speech made in—  
House of Representatives on 25 November 2010  
Senate on 2 March 2011]*