



Tax Laws Amendment (2012 Measures No. 5) Act 2012

No. 184, 2012

**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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No. 184, 2012

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

[Assented to 10 December 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Laws Amendment (2012 Measures No. 5) Act 2012*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Conservation tillage refundable tax offset

Income Tax Assessment Act 1997

1 Section 385-235

After “comprising”, insert “the tool, or”.

2 Application of amendment

The amendment made by this Schedule applies to:

- (a) the 2012-13 income year; and
- (b) the 2013-14 income year; and
- (c) the 2014-15 income year.

Schedule 2—Mature age worker tax offset

Income Tax Assessment Act 1997

1 Section 61-550

Omit “is aged 55 or over at the end of the income year and who has worked during the”, substitute “was born on or before 30 June 1957 and who has worked during the current”.

2 Section 61-555

Omit “aged 55 or over”, substitute “born on or before 30 June 1957”.

3 Section 61-560

Omit “is aged 55 or over at the end of the income year”, substitute “was born on or before 30 June 1957”.

4 Application of amendments

The amendments made by this Schedule apply to assessments for the 2012-13 income year and later income years.

Schedule 5—Deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-80(2) (after table item 9.2.1)

Insert:

9.2.2	The Diamond Jubilee Trust Australia	the gift must be made after 31 October 2012 and before 1 July 2015
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2 Section 30-315 (after table item 44)

Insert:

44AAAA	Diamond Jubilee Trust Australia	item 9.2.2
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Schedule 6—Wine equalisation tax

Part 1—Producer rebates

A New Tax System (Wine Equalisation Tax) Act 1999

1 After section 19-15

Insert:

19-17 Earlier producer rebates

- (1) Despite section 19-15, if any of the wine was *manufactured using other wine, the amount of the *producer rebates to which you would be entitled under that section is reduced by the sum of the amounts of any *earlier producer rebates relating to the wine.
- (2) An *earlier producer rebate* relating to wine is:
 - (a) if you are notified under subsection (3) of the amount of the producer's *producer rebate for other wine that was used to *manufacture the wine—so much of that producer rebate as relates to the amount of the other wine so used; or
 - (b) if you are not notified under subsection (3) in relation to other wine that was used to *manufacture the wine—an amount equal to what would have been so much of the producer's producer rebate for the other wine as relates to the amount of the other wine so used if:
 - (i) the producer had been entitled to a producer rebate for a *wholesale sale of the other wine to you; and
 - (ii) subsections 19-15(2) and (3) and this section did not affect the amount of that producer rebate.

There is no earlier producer rebate in relation to other wine that was used to manufacture the wine if you are notified under subsection (3) that the producer of the other wine is not entitled to a producer rebate for the other wine.

Example: Winemaker A makes a wholesale sale of 100 litres of wine that it has manufactured to Winemaker B for \$200. Winemaker B uses that wine to manufacture 100 litres of wine and then sells 30 litres to a distributor for \$100.

Winemaker A has a rebate of \$58 (assuming that it is not reduced because of an earlier producer rebate, and that Winemaker A has not already had the maximum rebate).

Winemaker B's rebate for the \$100 sale of 30 litres to the distributor would be \$29. However, Winemaker A's earlier producer rebate reduces Winemaker B's rebate for the 30 litres by \$17.40 (30/100 x \$58). Winemaker B's rebate is therefore \$11.60. (It does not matter whether Winemaker A notifies Winemaker B of the earlier producer rebate.)

If Winemaker A had not been entitled to any producer rebate, and Winemaker B had been notified accordingly, Winemaker B's rebate for the \$100 sale would have been \$29.

- (3) The *producer of the other wine, or (if the producer did not *supply the other wine to you) the supplier of the other wine, may notify you, in the *approved form, that:
 - (a) the producer is entitled to a *producer rebate of a specified amount for the other wine; or
 - (b) the producer is not entitled to a producer rebate for the other wine.
- (4) If the *supply of other wine includes wine of 2 or more types of wine, subsection (3) applies as if there were separate supplies for each type of wine.
- (5) For the purposes of subsection (2), if the only reason why an entity is not, or would not be, entitled to a *producer rebate for other wine is that paragraph 19-5(2)(c) has not yet been complied with:
 - (a) the entity is taken to be entitled to the rebate for the other wine; and
 - (b) the amount of that rebate is taken to be an amount equal to 29% of the approved selling price for the other wine.

2 After section 19-25

Insert:

19-28 Obligations relating to certain wholesale sales

- (1) A person commits an offence if:
 - (a) the person gives a notice under subsection 19-17(3), or a notice that purports to be a notice under subsection 19-17(3); and
 - (b) the notice contains a statement that:

- (i) is false or misleading in a material particular; or
- (ii) omits any matter or thing without which the statement is false or misleading in a material particular.

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) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

3 Section 33-1

Insert:

earlier producer rebate has the meaning given by section 19-17.

4 Application of amendments

- (1) The amendments made by this Part apply in relation to assessable dealings on or after the day (the *application day*) that is the later of:
 - (a) 1 December 2012; or
 - (b) the day on which this Act receives the Royal Assent.
- (2) If the wine to which such an assessable dealing relates was manufactured using other wine that was supplied before the application day, the *A New Tax System (Wine Equalisation Tax) Act 1999* as amended by this Part applies in relation to the assessable dealing as if:
 - (a) you have been notified, under subsection 19-17(3) of that Act as so amended, that the producer of the other wine is not entitled to a producer rebate for the other wine; and
 - (b) section 19-28 of that Act as so amended did not apply in relation to that notice.

Part 2—Technical amendments

A New Tax System (Wine Equalisation Tax) Act 1999

5 Subsection 13-15(4)

Omit “are guilty of”, substitute “commit”.

6 Subsection 13-15(4) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

7 Section 13-35 (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

8 Section 19-30

Omit “is guilty of”, substitute “commits”.

9 Section 19-30 (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

10 Subsection 27-5(2)

Omit “are guilty of”, substitute “commit”.

11 Subsection 27-5(2) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

*[Minister's second reading speech made in—
House of Representatives on 19 September 2012
Senate on 19 November 2012]*

(159/12)
