





# **Treasury Laws Amendment (2021 Measures No. 2) Act 2021**

**No. 110, 2021**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Treasury Laws Amendment (2021 Measures No. 2) Act 2021

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

[Assented to 13 September 2021]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Treasury Laws Amendment (2021 Measures No. 2) Act 2021*.

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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>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 September 2021
2. Schedules 1 and 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2021
3. Schedule 3	The day after this Act receives the Royal Assent.	14 September 2021

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### **Part 1—Amendments**

#### *Income Tax Assessment Act 1997*

**1 Subsection 30-20(1) (table item 1.1.3, column headed “Special conditions—fund, authority or institution”, paragraph (b))**

Repeal the paragraph, substitute:

- (b) the public fund must be, or be operated by, an \*Australian government agency or a \*registered charity; and

**2 Subsection 30-20(1) (table item 1.1.8, column headed “Special conditions—fund, authority or institution”, paragraph (a))**

Repeal the paragraph, substitute:

- (a) the public fund must be, or be operated by, an \*Australian government agency or a \*registered charity; and

**3 Subsection 30-25(1) (cell at table item 2.1.8, column headed “Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the public fund must be:

- (a) an \*Australian government agency; or
- (b) a \*registered charity; or
- (c) operated by an Australian government agency or a registered charity

**4 Subsection 30-25(1) (cell at table item 2.1.9, column headed “Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the public fund must be:

- (a) an \*Australian government agency; or
- (b) a \*registered charity; or
- (c) operated by an Australian government agency or a registered charity

**5 Subsection 30-25(1) (cell at table item 2.1.10, column headed “Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the public fund must be:

- (a) an \*Australian government agency; or
- (b) a \*registered charity; or
- (c) operated by an Australian government agency or a registered charity

**6 Subsection 30-25(1) (cell at table item 2.1.11, column headed “Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the public fund must be:

- (a) an \*Australian government agency; or
- (b) a \*registered charity; or
- (c) operated by an Australian government agency or a registered charity

**7 Subsection 30-40(1) (cell at table item 3.1.1, column headed “Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the approved research  
institute must be:

- (a) an \*Australian  
government agency; or
- (b) a \*registered charity; or
- (c) operated by an Australian  
government agency or a  
registered charity

**8 Subsection 30-45(1) (cell at table item 4.1.3, column headed  
“Special conditions—fund, authority or institution”)**

Repeal the cell, substitute:

the public fund must  
be:

- (a) an \*Australian  
government  
agency; or
- (b) a \*registered  
charity; or
- (c) operated by an  
Australian  
government  
agency or a  
registered charity

**9 Section 30-102 (table item 12A.1.3, column headed “Fund,  
authority or institution”, paragraph (a))**

Repeal the paragraph, substitute:

- (a) the fund is established and maintained by a \*registered charity or an \*Australian  
government agency;

**10 Section 30-260**

Repeal the section, substitute:

**30-260 Meaning of *environmental organisation***

An *environmental organisation* is an entity that meets the  
following criteria:

**Schedule 1** Deductible gift recipients  
**Part 1** Amendments

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- (a) the entity satisfies each requirement in sections 30-265 and 30-270;
- (b) the entity is a \*registered charity or an \*Australian government agency.

Note: A body corporate or a cooperative society must satisfy a further requirement: see section 30-275.

**11 Subsection 30-300(1)**

Repeal the subsection, substitute:

- (1) A *cultural organisation* is a \*registered charity, or an \*Australian government agency, that satisfies each requirement in this section.

## **Part 2—Application and transitional provisions**

### **12 Interpretation**

In this Part:

***application date*** means the day that is 3 months after the day on which this Act receives the Royal Assent.

***extended application date***, for a fund, authority or institution, means the day that is determined under subitem 16(1) or that applies because of subitem 16(5).

***transitional application date*** means the day that is 12 months after the application date.

### **13 Application—general**

The amendments made by this Schedule do not apply in relation to a fund, authority or institution before the application date.

### **14 Transitional—existing deductible gift recipients**

- (1) This item applies if:
  - (a) immediately before the application date, gifts or contributions to a fund, authority or institution were deductible because the fund, authority or institution satisfied a requirement of Division 30 of the *Income Tax Assessment Act 1997*; and
  - (b) at that date, the fund, authority or institution no longer satisfies the requirement because of the amendments made by Part 1 of this Schedule (disregarding this item).
- (2) The amendments made by this Schedule do not apply in relation to the fund, authority or institution during the period that:
  - (a) starts on the application date; and
  - (b) ends on the earliest of:
    - (i) the time at which the fund, authority or institution first satisfies the requirement mentioned in subitem (1) (as amended by this Schedule); and
    - (ii) if the fund, authority or institution does not have an extended application date—the transitional application date; and

- (iii) if the fund, authority or institution has an extended application date—the extended application date.

## **15 Transitional—new applicants**

- (1) This item applies if, immediately before the application date:
  - (a) either:
    - (i) a fund, authority or institution had made an application under section 426-15 in Schedule 1 to the *Taxation Administration Act 1953* for endorsement as a deductible gift recipient; or
    - (ii) another entity made an application under that section for endorsement as a deductible gift recipient for the operation of the fund, authority or institution; and
  - (b) the Commissioner had not decided the application.
- (2) The amendments made by this Schedule do not apply in relation to the fund, authority or institution during the period that:
  - (a) starts on the application date; and
  - (b) ends on the earliest of:
    - (i) if the application mentioned in subitem (1) is refused—the day on which notice is given of the refusal under section 426-25 in Schedule 1 to the *Taxation Administration Act 1953*; and
    - (ii) if the fund, authority or institution does not have an extended application date—the transitional application date; and
    - (iii) if the fund, authority or institution has an extended application date—the extended application date.

Note: If an application is refused it will be for a reason other than the amendments made by this Schedule. This is because this subitem disapplies the amendments to the Commissioner's determination of eligibility for endorsement.

## **16 Extended application dates**

### *Determining extended application dates*

- (1) The Commissioner may, by notice in writing, determine that a fund, authority or institution has an extended application date that is the day that occurs 3 years after the transitional application date.

- (2) A determination under subitem (1) is not a legislative instrument.

***Applications for extended application dates***

- (3) The Commissioner may make a determination under subitem (1) only if the fund, authority or institution, or an entity that operates it, applies to the Commissioner to have an extended application date.
- (4) An application is not valid unless it is in the approved form and made before the transitional application date.
- (5) If the transitional application date passes before an application under subitem (3) is determined, the fund, authority or institution has, subject to subitem (1), an extended application date of the day on which the application is determined.

***Mandatory considerations for the Commissioner in determining an extended application date***

- (6) The Commissioner may make a determination under subitem (1) only if:
- (a) the Commissioner considers that the prescribed criteria, if any, in relation to the application are satisfied; and
  - (b) the Commissioner has regard to the prescribed matters, if any, in relation to the application.
- (7) The Minister may, by legislative instrument, prescribe for subitem (6) criteria that an application must satisfy and matters to which the Commissioner is to have regard.

***Objections***

- (8) An applicant may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a decision of the Commissioner under subitem (1).

## **Schedule 2—Offshore banking units**

### **Part 1—OBU income etc.**

#### *Income Tax Assessment Act 1936*

##### **1 Section 121A**

Repeal the section.

##### **2 Paragraph 121B(3)(a) and (b)**

Repeal the paragraphs.

##### **3 Paragraph 121EAA(5)(e)**

Omit “whole);”, substitute “whole).”.

##### **4 Paragraph 121EAA(5)(f)**

Repeal the paragraph.

##### **5 Subsection 121EAA(6)**

Omit “paragraphs (5)(a) to (f)”, substitute “paragraphs (5)(a) to (e)”.

##### **6 Section 121EG**

Repeal the section.

##### **7 Section 121EH**

Repeal the section.

#### *Income Tax Assessment Act 1997*

##### **8 Section 10-5 (table item headed “banking”)**

Omit:

offshore banking activities, income from ..... 121EG(1)

##### **9 Section 11-55 (table item headed “offshore banking units”)**

Repeal the item.

**10 Section 12-5 (table item headed “offshore banking units”)**

Repeal the item, substitute:

**offshore banking units**

generally ..... **121B to 121EL**

**11 Subsection 118-20(4) (note)**

Repeal the note.

**12 Subsection 770-10(1) (note 3)**

Repeal the note.

**13 Application**

The amendments made by this Part apply in relation to assessments for the 2023-24 year of income and later years of income.

## Part 2—Ministerial declarations and determinations

### *Income Tax Assessment Act 1936*

#### **14 After subsection 128AE(1)**

Insert:

- (1A) The Minister must not make a declaration under subsection (2), or a determination under subsection (2AA), after the day on which the *Treasury Laws Amendment (2021 Measures No. 2) Act 2021* received the Royal Assent.

#### **15 After subsection 128GB(1)**

Insert:

- (1A) However, this section does not apply to:
- (a) interest paid on or after 1 January 2024; and
  - (b) interest consisting of gold paid on or after 1 January 2024.

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## **Schedule 3—Disclosure of information**

### ***Corporations Act 2001***

#### **1 At the end of Part 2M.3**

Add:

### **Division 9—Disclosure by listed entities of information about jobkeeper payments**

#### **323DB Requirement to notify market operator about jobkeeper payments**

- (1) A listed entity must give each relevant market operator a notice, for release to the market, in accordance with this section for a financial year if the listed entity, or a subsidiary of the listed entity, received a jobkeeper payment (within the meaning of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*) in the financial year.
- (2) The notice must set out the following information for the financial year:
  - (a) the listed entity's name and ABN;
  - (b) the number of individuals for whom the listed entity or a subsidiary of the listed entity received a jobkeeper payment for a jobkeeper fortnight (within the meaning of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*) that ended in the financial year;
  - (c) the sum of all jobkeeper payments the listed entity and each subsidiary of the listed entity received in a jobkeeper fortnight that ended in the financial year;
  - (d) whether or not the listed entity or a subsidiary of the listed entity has made one or more voluntary payments (whether or not in the financial year) to the Commonwealth by way of a repayment of jobkeeper payments received by the listed entity or a subsidiary of the listed entity in the financial year;

- (e) if the listed entity or a subsidiary of the listed entity has made such a voluntary payment or payments—the sum of those payments.
- (3) The notice must be given:
  - (a) if the listed entity has lodged a report for the financial year under Division 1 with ASIC on or before the day on which Schedule 3 of the *Treasury Laws Amendment (2021 Measures No. 2) Act 2021* commenced—within 60 days after that day; or
  - (b) otherwise—within 60 days after the listed entity lodges a report for the financial year under Division 1 with ASIC.
- (4) If the listed entity becomes aware that a notice given in accordance with this section for a financial year has become out of date or is otherwise not correct, the listed entity must give each relevant market operator, for release to the market, an updated notice within 60 days of becoming so aware.
- (5) An offence based on subsection (1) or (4) is an offence of strict liability.

### **323DC ASIC must publish report**

- (1) ASIC must publish on its website a consolidated report of all notices given to relevant market regulators under section 323DB and released to the market.
- (2) ASIC must publish the consolidated report as soon as practicable after a notice or notices under that section are released to the market.
- (3) ASIC must ensure the consolidated report is regularly updated.

## **2 In the appropriate position in Schedule 3**

Insert:

Subsection 323DB(1)	60 penalty units
Subsection 323DB(4)	60 penalty units

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*Minister's second reading speech made in—  
House of Representatives on 17 March 2021  
Senate on 11 August 2021]*

(32/21)