





# Taxation Legislation Repeal and Amendment Regulations 2006 (No. 1)

## Select Legislative Instrument 2006 No. 216

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *A New Tax System (Goods and Services Tax Transition) Act 1999*, the *Fringe Benefits Tax Assessment Act 1986*, the *Fuel Sales Grants Act 2000*, the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Pay-roll Tax Assessment Act 1941*, the *Sales Tax Assessment Act (No. 1) 1930*, the *Sales Tax Assessment Act (No. 2) 1930*, the *Sales Tax Assessment Act (No. 3) 1930*, the *Sales Tax Assessment Act (No. 4) 1930*, the *Sales Tax Assessment Act (No. 5) 1930*, the *Sales Tax Assessment Act (No. 6) 1930*, the *Sales Tax Assessment Act (No. 7) 1930*, the *Sales Tax Assessment Act (No. 8) 1930*, the *Sales Tax Assessment Act (No. 9) 1930*, the *Sales Tax Assessment Act (No. 10) 1985*, the *Sales Tax Assessment Act (No. 11) 1985*, the *Sales Tax Assessment Act 1992*, the *Sales Tax Procedure Act 1934*, the *Sales Tax (Exemptions and Classifications) Act 1935*, the *Sales Tax (Exemptions and Classifications) Act 1992*, the *Superannuation Guarantee (Administration) Act 1992*, the *Taxation Administration Act 1953*, the *Taxation (Interest on Overpayments and Early Payments) Act 1983*, the *Tobacco Charges Assessment Act 1955*, the *Wool Tax Act (No. 1)*

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*1964, the Wool Tax Act (No. 2) 1964, the Wool Tax Act (No. 3)  
1964, the Wool Tax Act (No. 4) 1964, the Wool Tax Act (No. 5)  
1964 and the Wool Tax (Administration) Act 1964.*

Dated 10 August 2006

P. M. JEFFERY  
Governor-General

By His Excellency's Command

PETER CRAIG DUTTON  
Minister for Revenue and Assistant Treasurer

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**1 Name of Regulations**

These Regulations are the *Taxation Legislation Repeal and Amendment Regulations 2006 (No. 1)*.

**2 Commencement**

These Regulations commence as follows:

- (a) on the commencement of Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006* — regulations 1 to 10 and Schedules 1 to 7;
- (b) on the commencement of Part 3 of Schedule 1 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* — regulations 11 to 13 and Schedule 8.

**3 Amendment of *Income Tax Regulations 1936***

Schedule 1 amends the *Income Tax Regulations 1936*.

**4 Amendment of *A New Tax System (Goods and Services Tax Transition) Regulations 2000***

Schedule 2 amends the *A New Tax System (Goods and Services Tax Transition) Regulations 2000*.

**5 Amendment of *Fringe Benefits Tax Regulations 1992***

Schedule 3 amends the *Fringe Benefits Tax Regulations 1992*.

**6 Amendment of *Taxation Administration Regulations 1976***

Schedule 4 amends the *Taxation Administration Regulations 1976*.

**7      Amendment of Taxation (Interest on Overpayments and Early Payments) Regulations**

Schedule 5 amends the Taxation (Interest on Overpayments and Early Payments) Regulations.

**8      Amendment of *Superannuation Guarantee (Administration) Regulations 1993***

Schedule 6 amends the *Superannuation Guarantee (Administration) Regulations 1993*.

**9      Amendment of *Income Tax Assessment Regulations 1997***

Schedule 7 amends the *Income Tax Assessment Regulations 1997*.

**10     Repeals**

The following Regulations are repealed:

- (a) the *Sales Tax Assessment Regulations 1992*;
- (b) the Sales Tax Procedure (Old Law) Regulations;
- (c) the Sales Tax (Exemptions and Classifications) Regulations;
- (d) the Sales Tax (Exemptions and Classifications) (Old Law) Regulations;
- (e) the Sales Tax (Old Law) Regulations;
- (f) the *Wool Tax (Administration) Regulations 1964*;
- (g) the *Wool Tax Regulations 1987 (No. 1)*;
- (h) the *Wool Tax Regulations 1987 (No. 2)*;
- (i) the *Wool Tax Regulations 1987 (No. 3)*;
- (j) the *Wool Tax Regulations 1987 (No. 4)*;
- (k) the *Wool Tax Regulations 1987 (No. 5)*;
- (l) the Pay-roll Tax Regulations;
- (m) the *Tobacco Charges Regulations 1958*;
- (n) the Superannuation Guarantee (Administration) (Charge Percentage) Regulations.

**11 Further amendment of *Income Tax Assessment Regulations 1997***

Schedule 8 amends the *Income Tax Assessment Regulations 1997*.

**12 Application of Schedule 8**

The amendments made by Schedule 8 apply in relation to calculations of STS group turnover for the 2006–07 income year and later income years.

**13 Further repeal**

The *Fuel Sales Grants Regulations 2000* are repealed.

## **Schedule 1 Amendments of *Income Tax Regulations 1936***

(regulation 3)

**[1] Regulations 4, 5, 10, 11 and 14**

*omit*

**[2] Part 3B**

*omit*

**[3] Part 5**

*omit*

**[4] Subparagraph 56 (4) (g) (i)**

*omit*

**[5] Subparagraph 56 (4) (h) (iii)**

*substitute*

- (iii) the total of any amount withheld under Subdivision 12-F of Schedule 1 to the *Taxation Administration Act 1953* and any payment made under Division 14 of that Schedule because of the operation of Subdivision 12-F; and

**[6] Subparagraph 56 (4A) (g) (i)**

*omit*

**[7] Paragraph 56 (5B) (a)**

*omit*

to deduct under subsection 221YHZC (1A) of the Act, or to withhold under section 12-140 or 12-145 of Schedule 1 to the *Taxation Administration Act 1953*,

*insert*

to withhold under section 12-140 or 12-145 of Schedule 1 to the *Taxation Administration Act 1953*

**[8] Part 7, Division 1**

*omit*

**[9] Part 7, Division 2, heading**

*substitute*

**Division 2 Eligible termination payments**

**[10] Part 7, Division 8**

*omit*

**[11] Part 7, Division 12, heading**

*substitute*

**Division 12 Prompt recovery, through estimates and payment agreements, of certain amounts not remitted**



**Schedule 2**      **Amendments of A New Tax  
System (Goods and Services  
Tax Transition) Regulations  
2000**

(regulation 4)

**[1]      Part 2**

*omit*

**[2]      Regulation 6**

*omit*

**Schedule 3      Amendment of *Fringe Benefits  
Tax Regulations 1992***  
(regulation 5)

**[1]      Regulation 3C**  
*omit*

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## Schedule 4      **Amendments of *Taxation Administration Regulations 1976***

(regulation 6)

### [1]      **Regulation 2, definition of *prescribed non-resident***

*substitute*

*prescribed foreign resident*, for a period in an income year, means a person who:

- (a) is a foreign resident at all times in that period; and
- (b) is not, at any time in that year, a person to whom a pension, allowance or benefit in respect of which he or she is liable to be assessed and to pay income tax in Australia is, or was, payable under:
  - (i) the *Veterans' Entitlements Act 1986*; or
  - (ii) subsection 4 (6) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*; or
  - (iii) a provision (except Part 2.11, 2.12, 2.14 or 2.15) of the *Social Security Act 1991*.

### [2]      **Regulation 4**

*omit*

**[3] Regulation 17**

*substitute*

**17 Prescribed provisions (Act s 16)**

For the purposes of sub-subparagraph 16 (2) (a) (i) (B) of the Act, each of the following provisions is prescribed:

- (a) subsection 264 (3) of the *Income Tax Assessment Act 1936*;
- (b) subsection 14I (3) of the *Taxation Administration Act 1953*;
- (c) subregulation 168 (4) of the *Income Tax Regulations 1936*.

**[4] Paragraph 26 (2) (a)**

*substitute*

- (a) whether the individual wishes to reduce the amount withheld to correspond with the lower of the amounts specified in item 1 of the table in Part I of Schedule 7 to the *Income Tax Rates Act 1986* (the tax-free threshold);

**[5] Subregulation 30 (6), Note 2**

*substitute*

*Note 2* Division 298 of Schedule 1 to the Act contains machinery provisions relating to civil penalties.

**[6] Subregulation 31 (2), Note 2**

*substitute*

*Note 2* Division 298 of Schedule 1 to the Act contains machinery provisions relating to civil penalties.

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**[7] Paragraph 32 (1) (e)**

*substitute*

- (e) if the entity is an Australian government agency (within the meaning of the *Income Tax Assessment Act 1997*) — by an officer appointed or authorised for the purpose.

**[8] Subregulation 34 (1)**

*omit*

46.5% of the amount of the payment.

*insert*

the product of the top rate and the amount of the payment.

**[9] Paragraph 34 (2) (a)**

*omit*

dividend that has been franked in accordance with section 160AQF of the *Income Tax Assessment Act 1936*; and

*insert*

franked distribution; and

**[10] Subregulations 34 (3) and (4)**

*substitute*

- (3) The amount to be withheld from the payment is the amount worked out using the formula:

Unfranked part of the distribution × top rate .

- (4) In this regulation:

***franked distribution*** has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

***franking percentage*** has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

**Part VA investment** has the meaning given in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

**top rate** means the sum of:

- (a) the highest rate specified in the table in Part I of Schedule 7 to the *Income Tax Rates Act 1986*; and
- (b) the rate of levy specified in subsection 6 (1) of the *Medicare Levy Act 1986*.

**unfranked part of the distribution** has the meaning given by subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.

**[11] Paragraphs 36 (2) (a) and (b)**

*omit*

prescribed non-resident

*insert*

prescribed foreign resident

**[12] Paragraphs 37 (2) (a) and (b)**

*omit*

prescribed non-resident

*insert*

prescribed foreign resident

## **Schedule 5      Amendments of Taxation (Interest on Overpayments and Early Payments) Regulations**

(regulation 7)

### **[1]      Regulation 1**

*substitute*

#### **1      Name of Regulations**

These Regulations are the *Taxation (Interest on Overpayments  
and Early Payments) Regulations 1992*.

### **[2]      Regulation 4**

*omit*

**Schedule 6**      **Amendment of  
Superannuation Guarantee  
(Administration) Regulations  
1993**

(regulation 8)

**[1]      Regulations 6A, 7AA and 7AB**

*omit*

**Schedule 7**      **Amendments of *Income Tax Assessment Regulations 1997* commencing on commencement of Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006***  
(regulation 9)

**[1]      Regulations 50-55.01 and 50-70.01**

*omit*

**[2]      Schedule 3, items 4, 32, 33, 39, 59, 63, 96, 98, 110 and 140**

*omit*

**Schedule 8**      **Amendments of *Income Tax Assessment Regulations 1997* commencing on commencement of Part 3 of Schedule 1 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006***

(regulation 11)

[1]      **Subregulation 328-375.01 (2), except the notes**  
*omit*

[2]      **Regulation 328-375.01, after the notes**  
*insert*

(2) In this regulation:

***retail fuel*** means taxable fuel, within the meaning given by the *Fuel Tax Act 2006*, that is sold by retail.

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