

Fringe Benefits Tax Assessment Act 1986

Act No. 39 of 1986 as amended

This compilation was prepared on 18 December 2008
taking into account amendments up to Act No. 145 of 2008

Volume 2 includes: Table of Contents
Sections 90 – 167
Schedule
Note 1
Table of Acts
Act Notes
Table of Amendments
Table A

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Contents

Part VII—Collection and recovery of tax	1
Division 1—General	1
90 When tax payable	1
93 Unpaid tax	1
100 Person in receipt or control of money of non-resident.....	2
Division 2—Collection by instalments	3
Subdivision A—General	3
101 Interpretation	3
102 Liability to pay instalments of tax	3
103 When instalment of tax payable	3
104 Notice of the amount of an instalment.....	4
105 Credit for instalments payable	4
Subdivision C—Working out the amount of instalments	5
109 Interpretation	5
110 Notional tax amount	6
111 Amount of instalment of tax	8
112 Estimated tax	9
112A Credit in certain cases where amount of instalment is nil.....	10
112B Liability to GIC on shortfall in quarterly instalment worked out on the basis of estimated tax	11
113 Notice of alteration of amount of instalment	12
Part VIII—Penalty tax	13
113A Part to stop applying	13
114 Penalty for failure to furnish return	13
115 Penalty for false or misleading statements.....	13
115A Penalty tax for making unreasonable estimate of business kilometres	15
115B Penalty tax for making unreasonable estimate of income.....	16
116 Penalty tax where arrangement to avoid tax	16
117 Assessment of additional tax	17
Part IX—Tax agents	18
118 Interpretation	18
120 Negligence of registered tax agents	18
121 Preparation of returns etc. on behalf of registered tax agents	18
122 Advertising etc. by persons other than registered tax agents	19

Part X—Statutory evidentiary documents	21
123 Retention of statutory evidentiary documents	21
123A When business use percentage and estimate of business kilometres must be specified	22
123B Substantiation requirements not to apply in special circumstances	23
Part XA—Endorsement of charitable institutions etc.	25
123C Endorsement by Commissioner as public benevolent institution.....	25
123D Endorsement by Commissioner as health promotion charity.....	26
123E Endorsement by Commissioner as charitable institution (other than public benevolent institution or health promotion charity)	26
Part XI—Miscellaneous	28
124 Assessments	28
124A Assessment on assumption	28
125 Judicial notice of signature	29
126 Evidence	29
127 Access to premises etc.....	31
128 Commissioner to obtain information and evidence	31
129 Agents and trustees.....	32
132 Records to be kept and preserved	33
132A Written evidence not available when return lodged.....	35
134 Service on partnerships and associations	35
135 Regulations.....	36
Part XIA—Record keeping exemption	37
Division 1—Overview of Part	37
135A Overview of Part	37
Division 2—Conditions	38
135B Conditions that must be satisfied.....	38
135C What is a base year?	38
Division 3—Consequences if conditions in Division 2 are satisfied	41
135D Consequences	41
135E Exemption from keeping records.....	41
135F Keeping records for 5 years after they are last relied on.....	41
135G Way to work out liability.....	42
135H Exception if employer chooses to use current year aggregate fringe benefits amount.....	42
135J Exception if employer is government body or tax-exempt	42

135K	Exception if aggregate fringe benefits amount increases too much	42
135L	Employer not in business throughout current year	44
Part XIB—Reportable fringe benefits totals		45
135M	Simplified outline of this Part	45
135N	Employee’s <i>reportable fringe benefits total</i>	45
135P	Employee’s <i>reportable fringe benefits amount</i> —general rule	46
135Q	<i>Reportable fringe benefits amount</i> for some employees of certain institutions	47
Part XIC—Application of the Act to nominated State or Territory bodies		49
135R	Application of this Part	49
135S	Nomination of eligible State or Territory bodies	49
135T	Eligible State or Territory bodies	50
135U	Consequences of nomination	51
135V	Working out the notional tax amount where nominations have been made, varied or revoked	53
135W	Notional tax amount where a nominated State or Territory body ceases to exist	54
135X	Application of certain provisions by agreement with the Commissioner	55
Part XII—Interpretation		58
136	Interpretation	58
136AB	What constitutes reasonable belief that a superannuation fund is a complying superannuation fund	117
136A	Reimbursement etc. of tax not to be regarded as consideration in respect of benefit etc.	117
137	Salary or wages	118
138	Double counting of fringe benefits	118
138A	Benefit provided in respect of a year of tax	119
138B	Benefit provided in respect of the employment of an employee	119
138C	Application or use of benefit	120
139	Date on which return furnished	120
140	Eligible urban areas	120
141	Housing loans, prescribed interests in land or stratum units and proprietary rights in respect of dwellings	123
141A	Benefits incidental to acquisition or sale of prescribed interests in land or stratum units and proprietary rights in respect of dwellings	126
142	Remote area housing	127
142A	Benefits relating to transport	135

142B	Employee's new place of employment	136
142C	Eligible shared accommodation in a house, flat or home unit	136
142D	Eligible accommodation in an employees hostel	136
143	Remote area holiday transport	137
143A	Relocation transport.....	142
143B	Overseas employees	143
143C	Overseas employment holiday transport.....	144
143D	Employment interviews and selection tests	149
143E	Work-related medical examinations, work-related medical screening, work-related preventative health care, work-related counselling, migrant language training.....	149
144	Deemed payment.....	150
145	Consideration not in cash	151
146	Amounts to be expressed in Australian currency.....	151
147	Obligation to pay or repay an amount	151
148	Provision of benefits.....	151
149	Provision of benefit during a period	153
149A	What is a <i>GST-creditable benefit</i> ?	153
150	Credit cards	154
151	Employee performing services for person other than employer.....	154
152A	Recurring fringe benefit declaration	155
152B	Employer may elect 50/50 split method for entertainment facility leasing costs	158
153	Residual benefits to include provision of property in certain circumstances	158
154	Creation of property	159
155	Use of property before title passes.....	159
156	Supply of electricity or gas through reticulation system.....	159
157	Christmas Island and Cocos (Keeling) Islands	159
158	Related companies.....	160
159	Associates and relatives.....	161
160	Continuity of employment where business disposed of etc.	161
161	Business journeys in car	163
162	Holding of car.....	163
162B	When car used for the purpose of producing assessable income	164
162C	Holding period of car.....	164
162F	Reasonable estimate of number of business kilometres.....	164
162G	Log book year of tax.....	165
162H	Applicable log book period	166
162K	Replacement cars—car fringe benefits	166
162L	Replacement cars—otherwise deductible provisions.....	167

162N	Registration of motor vehicle	167
163	Application of Act	168
164	Residence	168
165	Partnerships	169
166	Unincorporated companies	169
167	Offences by government bodies	170
Schedule—Statutory interest rates for periods between 1 January 1946 and 2 April 1986		171
Notes		173

Part VII—Collection and recovery of tax

Division 1—General

90 When tax payable

- (1) Subject to this Part, tax assessed in respect of a year of tax becomes due and payable, or shall be deemed to have become due and payable, as the case requires, on 21 May in the next year of tax.
- (2) Subject to this Part, additional tax under Part VIII is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable.

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*.

93 Unpaid tax

- (1) If any of the tax, or the additional tax under Part VIII, which a person is liable to pay remains unpaid after the time by which the tax or the additional tax is due to be paid, the person is liable to pay the 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 tax or the additional tax was due to be paid; 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 tax or the additional tax;
 - (ii) general interest charge on any of the tax or the additional tax.
- (2) The amount of the general interest charge is taken to be **additional tax** payable under this section.

Note: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*.

Section 100

100 Person in receipt or control of money of non-resident

- (1) A person who has authority to receive, control or dispose of money belonging to a non-resident who is liable to an amount of tax shall, when required by the Commissioner by notice in writing served on the person, pay the amount of tax and, by force of this section, is, when so required:
 - (a) authorised and required to retain from time to time any money that comes to the person on behalf of the non-resident or so much of it as is sufficient to pay the amount of tax payable by the non-resident;
 - (b) made personally liable for the amount of tax after it becomes payable to the extent of any amount so retained, or which should have been so retained, under paragraph (a); and
 - (c) indemnified for all payments that the person makes pursuant to this section.
- (2) For the purposes of subsection (1), a person who is liable to pay money to a non-resident shall be deemed to be a person who has the control of money belonging to the non-resident, and all money due by the person to the non-resident shall be deemed to be money that comes to the person on behalf of the non-resident.
- (3) Where the Commonwealth, a State or Territory, or an authority of the Commonwealth, a State or Territory has the receipt, control or disposal of money belonging to a non-resident, this section (other than paragraph (1)(b)) applies to and in relation to the Commonwealth, the State or the Territory, or the authority of the Commonwealth, of the State or of the Territory, as the case may be, in the same manner as it applies to and in relation to any other person.
- (4) In this section, *tax* includes additional tax under section 93 or Part VIII.

Division 2—Collection by instalments

Subdivision A—General

101 Interpretation

- (1) In sections 93, 100 and 129, but not in any other section of this Act, *tax* includes an instalment of tax payable under this Division.
- (2) In sections 100 and 129, but not in any other section of this Act, *tax* includes additional tax payable under subsection 112(4).
- (3) The ascertainment of the notional tax amount, or the amount of any instalment of tax, in accordance with this Division shall not be deemed to be an assessment within the meaning of any of the provisions of this Act.

102 Liability to pay instalments of tax

For the purpose of securing generally the more expeditious collection of tax, an employer is liable to pay, in accordance with this Division, 4 instalments of tax in respect of each year of tax.

103 When instalment of tax payable

- (1) Subject to this Division, the 4 instalments of tax payable in respect of a year of tax are due and payable as follows:

When instalments of tax are due and payable		
Item	This instalment ...	is due and payable on:
1	first instalment	21 July in that year of tax
2	second instalment	21 October in that year of tax
3	third instalment	21 January in that year of tax
4	fourth instalment	21 April in the next year of tax

- (2) Despite subsection (1), and subject to this Division, if an employer is a deferred BAS payer on the day specified as the day on which an instalment is due and payable under subsection (1), that instalment is instead due and payable as specified in the following table:

When instalments of tax are due and payable		
Item	If subsection (2) applies to this instalment:	the instalment is due and payable on:
1	first instalment	28 July in that year of tax
2	second instalment	28 October in that year of tax
3	third instalment	28 February in that year of tax
4	fourth instalment	28 April in the next year of tax

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

104 Notice of the amount of an instalment

An employer must notify the Commissioner, in the approved form, of the amount of an instalment on or before the day on which the instalment is due and payable.

105 Credit for instalments payable

- (1) An employer is entitled to a credit when the Commissioner:
- (a) makes an assessment of the tax payable by the employer for a year of tax; or
 - (b) determines that no tax is payable.

Note: The employer's first return for the year of tax is treated as an assessment: see section 72.

- (2) The credit is equal to:
- the total of each instalment (if any) payable by the employer for the year of tax;
- reduced by:
- the total of any credits the employer has claimed under section 112A because of one or more instalments of tax for the year of tax.

Note: An employer can claim a credit under section 112A in some cases where the amount by reference to which an instalment is worked out reduces during the year of tax.

- (3) The making of the assessment or determination, and the resulting credit entitlement, do not affect the liability to pay an instalment.

Note: How the credit is applied is set out in Division 3 of Part IIB of the *Taxation Administration Act 1953*.

Subdivision C—Working out the amount of instalments

109 Interpretation

In this Subdivision:

employer's estimate, in relation to an employer, in relation to an instalment of tax in relation to a year of tax, means the amount shown in a statement by the employer under subsection 112(1) in relation to the instalment as the employer's estimate of the tax that will be payable by the employer in respect of the year of tax.

estimated tax, in relation to an employer in relation to a year of tax, means the amount determined, or last determined, as the case requires, under subsection 112(2) or (3) as the estimated tax of the employer in respect of the year of tax.

GIC period, in relation to an instalment in relation to a year of tax, has the meaning given by the following table:

GIC period			
Item	For this instalment in that year of tax:	GIC period is this period if this instalment is due and payable under subsection 103(1):	GIC period is this period if this instalment is due and payable under subsection 103(2):
1	first instalment	the period starting at the beginning of 21 July, and finishing at the end of 20 October, in the year of tax	the period starting at the beginning of 28 July, and finishing at the end of 27 October, in the year of tax
2	second instalment	the period starting at the beginning of 21 October, and finishing at the end of 20 January, in the year of tax	the period starting at the beginning of 28 October, and finishing at the end of 27 February, in the year of tax

Part VII Collection and recovery of tax

Division 2 Collection by instalments

Section 110

GIC period			
Item	For this instalment in that year of tax:	GIC period is this period if this instalment is due and payable under subsection 103(1):	GIC period is this period if this instalment is due and payable under subsection 103(2):
3	third instalment	the period starting at the beginning of 21 January in the year of tax and finishing at the end of 20 April in the next year of tax	the period starting at the beginning of 28 February in the year of tax and finishing at the end of 27 April in the next year of tax
4	fourth instalment	the period starting at the beginning of 21 April, and finishing at the end of 20 May, in the next year of tax	the period starting at the beginning of 28 April, and finishing at the end of 20 May, in the next year of tax

relevant fraction, in relation to an instalment, means:

- (a) 0.25 for a first instalment; or
- (b) 0.50 for a second instalment; or
- (c) 0.75 for a third instalment; or
- (d) 1.00 for a fourth instalment.

110 Notional tax amount

- (1) An employer's *notional tax amount* for a year of tax (the *current year*) as at a particular time (the *test time*) is worked out using the table, except as provided in subsections (3), (4) and (5).

Working out an employer's notional tax amount		
Item	In this case:	The notional tax amount is:
1	No other item applies	the amount of the employer's tax for the most recent year of tax (the <i>base year</i>) for which the Commissioner has made an assessment before the test time.

Working out an employer's notional tax amount

Item	In this case:	The <i>notional tax amount</i> is:
2	Before the test time, the Commissioner has determined that no tax is payable by the employer for a year of tax, and there is no later year of tax for which the Commissioner has made an assessment of the employer's tax before the test time	nil
3	There is no year of tax for which the Commissioner has, before the test time, made an assessment of the employer's tax or determined that no tax is payable by the employer	nil
4	The notional tax amount would otherwise be worked out under item 1 and: (a) the rate of tax declared by the Parliament for the current year is different from the rate declared for the base year; and (b) the regulations provide for varying the notional tax amount of employers for the current year	if the test time is before the prescribed day—the notional tax amount worked out under item 1; or if the test time is on and after the prescribed day—that amount as varied in accordance with the regulations.

Note: The employer's first return for the year of tax is treated as an assessment: see section 72.

- (3) The Commissioner may determine that the employer's ***notional tax amount*** for the current year is such amount as the Commissioner estimates will be the tax payable by the employer for that year, if the Commissioner has reason to believe that that tax will exceed:
- (a) if the notional tax amount would otherwise be worked out under item 1 or 4 of the table in subsection (1)—the amount of the employer's tax for the base year; or
 - (b) if the notional tax amount would otherwise be worked out under item 2 or 3 of the table in subsection (1)—nil.

Section 111

- (4) Where the Commissioner makes a determination under subsection (3):
- (a) the Commissioner shall cause a notice in writing to be served on the employer specifying:
 - (i) the notional tax amount determined by the Commissioner; and
 - (ii) the date on which the determination takes effect, being a date not less than 30 days after the date of service of the notice; and
 - (b) subject to subsection (5), the notional tax amount of the employer in respect of the year of tax is, on and after the date specified in the notice, the amount determined by the Commissioner.
- (5) Where, in relation to an instalment of tax in respect of a year of tax, being an instalment that becomes due and payable after the end of a quarter, an employer has estimated pursuant to subsection 112(1) the amount of tax that will be payable in respect of that year of tax and has furnished to the Commissioner a statement in accordance with that subsection, then, on and after the last day of the quarter and until such time as there is a further application of this subsection in relation to a subsequent instalment of tax payable by the employer, the notional tax amount of the employer in respect of the year of tax is, or shall be deemed to have been, as the case requires, an amount equal to the estimated tax.

111 Amount of instalment of tax

- (1) The amount of an instalment of tax of an employer for a year of tax that becomes due and payable after the end of a quarter is the amount worked out using this formula, if the amount is positive:

$$\left[\begin{array}{c} \text{Notional} \\ \text{tax amount} \end{array} \times \begin{array}{c} \text{Relevant} \\ \text{fraction} \end{array} \right] - \left[\begin{array}{c} \text{Previous} \\ \text{instalments} \end{array} - \begin{array}{c} \text{Previous} \\ \text{credits} \end{array} \right]$$

Otherwise, the amount of the instalment is nil.

Note: If the notional tax amount is too small, the instalment may not be payable: see subsection (2).

- (1A) For the purposes of the formula in subsection (1):

notional tax amount means the employer's notional tax amount for the year of tax, as at the end of the last day of that quarter.

previous credits means the total of any credits the employer has claimed under section 112A because of one or more instalments of tax for the same year of tax that became due and payable before that day.

previous instalments means the total of any instalments of tax for the same year of tax that became due and payable by the employer before that day.

- (2) An instalment of tax in respect of a year of tax that would otherwise become due and payable by an employer after the end of a quarter is not payable if:
 - (a) the instalment is calculated by reference to a notional tax amount ascertained under subsection 110(1); and
 - (b) the notional tax amount by reference to which the instalment was calculated is less than:
 - (i) if a determination of an amount is in force under subsection (3) in respect of the year of tax—that amount; or
 - (ii) in any other case—\$1,000; and
 - (c) unless that quarter is the first quarter in the year of tax—because of one or more previous applications of this subsection, the instalment that would otherwise have become due and payable by the employer after the end of the previous quarter is not payable.
- (3) The Commissioner may, by notice in writing in the *Gazette*, determine an amount other than \$1,000 as the amount applicable for the purposes of subsection (2) in respect of a year or years of tax specified in the determination.

112 Estimated tax

- (1) An employer may, not later than the date on which an instalment of tax in respect of a year of tax is due and payable or within such further period as the Commissioner allows:
 - (a) make an estimate of the amount of the tax (if any) that will be payable by the employer in respect of that year of tax; and
 - (b) furnish to the Commissioner a written statement, in the approved form, showing:
 - (i) the amount so estimated; and

Part VII Collection and recovery of tax

Division 2 Collection by instalments

Section 112A

- (ii) the basis on which the estimate has been made;
unless the employer has previously furnished a statement under this subsection in relation to the instalment of tax.
- (2) Where an employer furnishes to the Commissioner, in relation to an instalment of tax, a statement under subsection (1), the estimated tax is, subject to subsection (3), an amount equal to the employer's estimate.
- (3) Where, having regard to information in returns furnished by the employer and any other information in the Commissioner's possession, the Commissioner has reason to believe that the amount of tax that will be payable by the employer in respect of the year of tax is greater than the employer's estimate:
- (a) the Commissioner may estimate the amount that, in the Commissioner's opinion, should have been the amount estimated by the employer pursuant to subsection (1) in respect of that year of tax; and
- (b) the estimated tax is:
- (i) an amount equal to the amount of tax so estimated by the Commissioner; or
- (ii) the amount that would be the notional tax amount of the employer in respect of the year of tax if the employer had not furnished a statement under subsection (1);
whichever is the less.

112A Credit in certain cases where amount of instalment is nil

- (1) If an amount worked out using the formula in subsection 111(1) is negative, the employer is entitled to claim a credit equal to that amount, expressed as a positive amount.

Note: This will happen if the notional tax amount has reduced since the end of an earlier quarter because, for example:

- the employer has made an estimate under section 112 of its tax for the current year; or
- an assessment has been made for a more recent year of tax before the current year.

- (2) A claim for a credit must be made in the approved form after the end of the quarter.

Note: How the credit is applied is set out in Division 3 of Part IIB of the *Taxation Administration Act 1953*.

112B Liability to GIC on shortfall in quarterly instalment worked out on the basis of estimated tax

- (1) An employer is liable to pay the general interest charge under this section if:
- (a) in order to determine the amount of an instalment of tax (the *underpaid instalment*) of the employer for a year of tax, an amount (whether positive, negative or nil) (the *actual amount*) was worked out using the formula in subsection 111(1); and
 - (b) because of subsection 110(5), the notional tax amount used in working out the actual amount was an estimate by the employer under subsection 112(1); and
 - (c) that notional tax amount is less than 90% of the employer's tax assessed for the year of tax; and
 - (d) that assessed tax has become due and payable.

Note: Paragraph (1)(b) is not satisfied if the notional tax amount used in working out the actual amount was estimated tax worked out under subsection 112(3) because the Commissioner disagrees with the employer's estimate.

- (2) The employer is liable to pay the charge, for each day in the GIC period, on the amount (if any) by which the actual amount is *less than* the amount (whether positive, negative or nil) worked out using the formula:

$$\left[\begin{array}{l} \text{Minimum} \\ \text{tax amount} \end{array} \times \begin{array}{l} \text{Relevant} \\ \text{fraction} \end{array} \right] - \left[\begin{array}{l} \text{Previous} \\ \text{instalments} \end{array} - \begin{array}{l} \text{Previous} \\ \text{credits} \end{array} \right]$$

- (3) For the purposes of the formula in subsection (2):

minimum tax amount means the lesser of:

- (a) the amount that, apart from subsection 110(5), would have been the notional tax amount used in working out the actual amount; and
- (b) the employer's tax assessed for the year of tax.

previous credits means the total of any credits the employer has claimed under section 112A because of one or more instalments of tax for the same year of tax that became due and payable before that day.

Section 113

previous instalments means the total of any instalments of tax for the same year of tax that became due and payable by the employer before the day on which the underpaid instalment became due and payable (or would have become due and payable if the actual amount had been positive).

- (4) The amount of the general interest charge is taken to be *additional tax* payable under this section.

113 Notice of alteration of amount of instalment

Where, by reason of the operation of subsection 112(3), the amount payable by an employer as an instalment of tax is greater than the instalment that would have been payable if it had been ascertained by reference to the employer's estimate, the Commissioner shall cause to be served on the employer a notice in writing specifying:

- (a) the amount of the increase in the instalment of tax that became payable by reason of subsection 112(3); and
- (b) a date as the due date for payment of that amount, being a date not less than 14 days after the date of service of the notice;

and the amount of the increase in the instalment of tax so specified is, notwithstanding section 103, due and payable on the date so specified.

Part VIII—Penalty tax

113A Part to stop applying

This Part does not apply to a return or information relating to the year of tax starting on 1 April 2001 or a later year of tax.

Note: See instead Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953*.

114 Penalty for failure to furnish return

- (1) Where an employer other than a government body refuses or fails to furnish, when and as required under or pursuant to this Act to do so, a return, or any information, relating to a year of tax, being a return relevant to or information relevant to ascertaining the employer's liability under this Act, the employer is liable to pay, by way of penalty, additional tax equal to double the amount of tax payable by the employer in respect of the year of tax.
- (2) Where, but for this subsection, an amount of additional tax, being an amount less than \$20, is payable by an employer under this section in respect of an act or omission, then, by force of this subsection, the amount of additional tax shall be taken to be \$20.

115 Penalty for false or misleading statements

- (1) Where:
 - (a) an employer other than a government body:
 - (i) makes a statement to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act, that is false or misleading in a material particular; or
 - (ii) omits from a statement made to a taxation officer, or to a person other than a taxation officer for a purpose in connection with the operation of this Act, any matter or thing without which the statement is misleading in a material particular; and
 - (b) the tax properly payable by the employer exceeds the tax that would have been payable by the employer if it were assessed

Section 115

on the basis that the statement were not false or misleading, as the case may be;

the employer is liable to pay, by way of penalty, additional tax equal to double the amount of the excess.

- (2) Where, but for this subsection, an amount of additional tax, being an amount less than \$20, is payable by an employer under this section in respect of an act or omission, then, by force of this subsection, the amount of the additional tax shall be taken to be \$20.
- (3) A reference in subsection (1) to a statement made to a taxation officer is a reference to a statement made to a taxation officer orally, in writing, in a data processing device or in any other form (including by way of electronic transmission) and, without limiting the generality of the foregoing, includes a statement:
 - (a) made in an application, certificate, notification, declaration, objection, return or other document made, given or furnished, under or pursuant to this Act;
 - (b) made in answer to a question asked of a person under or pursuant to this Act;
 - (c) made in any information furnished, or purporting to be furnished, under or pursuant to this Act; or
 - (d) made in a document furnished to a taxation officer otherwise than under or pursuant to this Act;but does not include a statement made in a document produced pursuant to paragraph 128(1)(c).
- (4) A reference in subsection (1) to a statement made to a person other than a taxation officer for a purpose in connection with the operation of this Act is a reference to such a statement made orally, in writing, in a data processing device or in any other form (including by way of electronic transmission) and, without limiting the generality of the foregoing, includes such a statement:
 - (a) made in an application, certificate, declaration, notification or other document made, given or furnished to the person;
 - (b) made in answer to a question asked by the person; or
 - (c) made in any information furnished to the person.

- (5) In this section:

data processing device means any article or material from which information is capable of being reproduced with or without the aid of any other article or device.

taxation officer means a person exercising powers, or performing functions under, pursuant to or in relation to this Act.

- (6) If a document is given on a data processing device, or by way of electronic transmission, by a registered tax agent on behalf of a taxpayer, then, for the purposes of this Part, each statement in the document is taken to have been made by the taxpayer unless the taxpayer can show that the taxpayer did not authorise the statement.

115A Penalty tax for making unreasonable estimate of business kilometres

If:

- (a) the number of kilometres specified by an employer as the employer's estimate of the number of business kilometres travelled by a car during a period in an FBT year is not a reasonable estimate of the number of business kilometres travelled in that period; and
- (b) the tax that would be payable by the employer if a reasonable estimate of the number of business kilometres was substituted for the employer's estimate exceeds the tax that would be payable if the employer's estimate was used;

then:

- (c) the Commissioner may make a reasonable estimate of the number of business kilometres; and
- (d) the Commissioner's estimate is to be used in calculating the business use percentage applicable to the car for the period; and
- (e) the employer is liable to pay, by way of penalty, additional tax equal to double the amount of the excess referred to in paragraph (b).

Section 115B

115B Penalty tax for making unreasonable estimate of income

If:

- (a) under subsection 58GA(2), an employer makes an estimate of an amount; and
- (b) the amount of the estimate is less than \$10 million; and
- (c) the estimate is not a reasonable estimate;

then:

- (d) the Commissioner may make a reasonable estimate of that amount (taking into account the assumption in paragraph 58GA(2)(e)); and
- (e) if the amount of that reasonable estimate is \$10 million or more—the employer is liable to pay, by way of penalty, additional tax equal to double the amount of the tax payable in respect of the benefit.

116 Penalty tax where arrangement to avoid tax

Where:

- (a) for the purpose of making an assessment or arising out of the consideration of an objection, the Commissioner has calculated the tax that is assessable to an employer in respect of a year of tax;
- (b) in calculating the tax assessable to the employer, a determination or determinations made by the Commissioner under subsection 67(1) was or were taken into account; and
- (c) either of the following subparagraphs applies:
 - (i) no tax would have been assessable to the employer in respect of the year of tax if no determination had been made under subsection 67(1) in relation to the employer in relation to the year of tax;
 - (ii) the amount of tax (in this section referred to as the ***amount of claimed tax***) that would, but for this section, have been assessable to the employer in respect of the year of tax if no determination had been made under subsection 67(1) in relation to the employer in respect of the year of tax is less than the amount of tax referred to in paragraph (a);

the employer is liable to pay, by way of penalty, additional tax equal to:

- (d) in a case to which subparagraph (c)(i) applies—double the amount of the tax referred to in paragraph (a); or
- (e) in a case to which subparagraph (c)(ii) applies—double the amount by which the amount of tax referred to in paragraph (a) exceeds the amount of claimed tax.

117 Assessment of additional tax

- (1) The Commissioner shall make an assessment of the additional tax payable by an employer under a provision of this Part and shall, as soon as practicable after the assessment is made, cause notice in writing of the assessment to be served on the employer.
- (2) Nothing in this Act shall be taken to preclude notice of an assessment made in respect of an employer under subsection (1) from being incorporated in notice of any other assessment made in respect of the employer under this Act.
- (3) The Commissioner may, in the Commissioner's discretion, remit the whole or any part of the additional tax payable by an employer under a provision of this Part, but, for the purposes of the application of subsection 33(1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this subsection, nothing in this Act shall be taken to preclude the exercise of the power at a time before an assessment is made under subsection (1) of the additional tax.

Part IX—Tax agents

118 Interpretation

In this Part, *registered tax agent* means a person or partnership who or which is registered as a tax agent under Part VIIA of the *Income Tax Assessment Act 1936*.

Note: Section 251L of the *Income Tax Assessment Act 1936* prohibits a person from charging a fee for doing things under this Act on behalf of someone else unless the person is a registered tax agent or is excluded by that section.

120 Negligence of registered tax agents

- (1) If, through the negligence of a registered tax agent, an employer becomes liable to pay a fine or other penalty or any additional tax, the registered tax agent is liable to pay to the employer the amount of that fine, penalty or additional tax, and that amount may be sued for and recovered by the employer as a debt in any court of competent jurisdiction.
- (2) Nothing in this section shall exonerate the employer from his or her liability.

121 Preparation of returns etc. on behalf of registered tax agents

- (1) A registered tax agent shall not allow any person, not being his or her employee, a registered tax agent or, in the case of a partnership which is registered as a tax agent, a member of that partnership:
 - (a) to prepare on the registered tax agent's behalf, either directly or indirectly, a fringe benefits tax return or objection; or
 - (b) to conduct on the registered tax agent's behalf, either directly or indirectly, any business relating to any fringe benefits tax return or objection or fringe benefits tax matter.

Penalty: 10 penalty units.

- (2) A partnership or company that is registered as a tax agent shall not allow any person to do anything specified in paragraph (1)(a) or (b).

Penalty: 10 penalty units.

- (2A) Subsection (2) does not apply to the extent that the person does the thing under the supervision and control of a person who is a registered nominee of the partnership or company for the purposes of Part VIIA of the *Income Tax Assessment Act 1936*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2A), see subsection 13.3(3) of the *Criminal Code*.

- (2B) A natural person who is registered as a tax agent must not allow any person to do anything specified in paragraph (1)(a) or (b).

Penalty: 10 penalty units.

- (2C) Subsection (2B) does not apply to the extent that the person does the thing under the supervision and control of:

- (a) the tax agent; or
- (b) a person who is a registered nominee of the tax agent for the purposes of Part VIIA of the *Income Tax Assessment Act 1936*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2C), see subsection 13.3(3) of the *Criminal Code*.

- (3) Nothing in this section shall be construed as prohibiting the employment by a registered tax agent of a solicitor or counsel to act in the course of his or her profession in the preparation of any objection or in any litigation or proceedings before a board, a court or the Tribunal, or in an advisory capacity either in connection with the preparation of any fringe benefits tax return or the conduct of any such business as is referred to in paragraph (1)(b).

122 Advertising etc. by persons other than registered tax agents

- (1) Subject to this section, a person, not being a registered tax agent, shall not, directly or indirectly, advertise in any manner that fringe benefits tax returns will be prepared by the person or that any other matter in connection with fringe benefits tax will be attended to by the person.

Penalty: 10 penalty units.

- (1A) An offence under subsection (1) is an offence of strict liability.

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

Section 122

- (2) Subsection (1) does not apply in relation to advertising that relates to acts or things done or to be done by a solicitor or counsel acting in the course of his or her profession:
- (a) in the preparation of an objection;
 - (b) in litigation or proceedings before a board, the Tribunal or a court; or
 - (c) in an advisory capacity in connection with the preparation of a fringe benefits tax return or objection or with any fringe benefits tax matter.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2), see subsection 13.3(3) of the *Criminal Code*.

Part X—Statutory evidentiary documents

123 Retention of statutory evidentiary documents

- (1) For the purposes of Part III, where an employer fails to retain, for the retention period, a statutory evidentiary document given to or made by the employer, the statutory evidentiary document shall be deemed never to have been given to or made by the employer.
- (2) For the purposes of sections 10A and 10B, where an employer fails to retain, for the retention period, statutory evidentiary documents, being log book records or odometer records maintained by or on behalf of the employer, those documents shall be deemed never to have been maintained.
- (3) For the purposes of subparagraph 24(1)(c)(ia) or (i), where an employer fails to retain, for the retention period, statutory evidentiary documents, being substitute documentary evidence maintained by or on behalf of the employer, those documents shall be deemed never to have been maintained.
- (4) Where:
 - (a) a statutory evidentiary document (in this subsection referred to as the *original document*) in relation to an employer is lost or destroyed; and
 - (b) the employer has a document (the *substitute document*) that:
 - (i) is a copy of the original document; or
 - (ii) properly records all of the matters as set out in the original document and was in existence when the original document was lost or destroyed;the substitute document shall be deemed, for the purposes of this section, to be, and to have been at all times after the original document was lost or destroyed, the original document.
- (5) Where:
 - (a) a statutory evidentiary document in relation to an employer is lost or destroyed; and
 - (b) the Commissioner is satisfied that:

Section 123A

- (i) the employer took all reasonable precautions to prevent loss or destruction of the document; and
 - (iii) subsection (4) does not apply in relation to the document; and
- subsection (1), (2) or (3), as the case requires, does not apply, and shall be deemed not to have applied, at any time after the document was lost or destroyed.
- (6) Where:
- (a) a provision of this Act makes provision for a person to give a statutory evidentiary document (in this subsection referred to as the *original document*) to an employer;
 - (b) the original document is lost or destroyed before it is given to the employer; and
 - (c) the Commissioner is satisfied that:
 - (i) the person took all reasonable precautions to prevent loss or destruction of the document; and
 - (iii) the person does not have a document that:
 - (A) is a copy of the original document; or
 - (B) properly records all of the matters set out in the original document and was in existence when the original document was lost or destroyed;and
- that provision of this Act has effect as if the original document had been given by the person to the employer and had been retained by the employer for the retention period.
- (7) Nothing in section 74 prevents the amendment of an assessment for the purpose of giving effect to this section.

123A When business use percentage and estimate of business kilometres must be specified

If a provision requires a business use percentage or an estimate of the number of business kilometres to be specified, it must be specified in writing on or before the declaration date for the FBT year.

123B Substantiation requirements not to apply in special circumstances

- (1) The substantiation rules do not apply in relation to a benefit if the nature and quality of evidence that a person has satisfies the Commissioner that the taxable value of the benefit is not greater than the amount specified in the taxpayer's return for the FBT year as the taxable value of that benefit.
- (3) The Commissioner may only make a decision under subsection (1):
 - (a) in the course of reviewing on the Commissioner's own motion the affairs of the employer; or
 - (b) in considering an objection against the assessment of the employer of the year of tax; or
 - (c) in considering whether to make an amendment of the assessment of the employer of the year of tax in response to a request made by the employer before the commencement of this section.
- (4) This section does not apply to a declaration made for the purposes of this Act.
- (5) If:
 - (a) an employer makes an application under subsection 82(1) or (2), as in force immediately before the commencement of section 113 of the *Taxation Laws Amendment Act (No. 3) 1991*; and
 - (b) the period mentioned in the subsection concerned ended before the commencement of this section;the following provisions have effect:
 - (c) the Commissioner, the Tribunal or the Federal Court of Australia, as the case requires, when making a decision on the application, must disregard subsection (1) of this section;
 - (d) if the Commissioner, the Tribunal or the Federal Court of Australia, as the case requires, grants the application:
 - (i) the employer's objection has no effect to the extent that it relates to grounds based on subsection (1) of this section; and
 - (ii) the Tribunal or the Federal Court of Australia, when making a decision under:

Section 123B

- (A) paragraph 86A(a) of this Act, as in force immediately before the commencement of section 113 of the *Taxation Laws Amendment Act (No. 3) 1991*; or
 - (B) paragraph 14ZZK(a) or 14ZZO(a) of the *Taxation Administration Act 1953*, as the case requires;
- must disregard subsection (1) of this section.
- (6) This section applies to a benefit provided before, at or after the commencement of this section.

Part XA—Endorsement of charitable institutions etc.

123C Endorsement by Commissioner as public benevolent institution

Endorsement of an entity that is a public benevolent institution

- (1) The Commissioner must endorse an entity as a public benevolent institution if:
 - (a) the entity is entitled to be endorsed as a public benevolent institution (see subsection (2)); and
 - (b) the entity has applied for that endorsement in accordance with Division 426 in Schedule 1 to the *Taxation Administration Act 1953*.
- (2) An entity is entitled to be endorsed as a public benevolent institution if the entity:
 - (a) is a public benevolent institution; and
 - (b) has an ABN; and
 - (c) is not an employer in relation to which step 2 of the method statement in subsection 5B(1E) applies.

Endorsement of an entity for the operation of a public benevolent institution

- (3) The Commissioner must endorse an entity for the operation of a public benevolent institution if:
 - (a) the entity is entitled to be endorsed for the operation of a public benevolent institution (see subsection (4)); and
 - (b) the entity has applied for that endorsement in accordance with Division 426 in Schedule 1 to the *Taxation Administration Act 1953*.
- (4) An entity is entitled to be endorsed for the operation of a public benevolent institution if:
 - (a) the entity:
 - (i) includes the public benevolent institution; and

Section 123D

- (ii) has an ABN; and
 - (b) the public benevolent institution is an employer; and
 - (c) the public benevolent institution is not an employer in relation to which step 2 of the method statement in subsection 5B(1E) applies.
- (5) If an entity is endorsed under subsection (3) for the operation of a public benevolent institution, the public benevolent institution is taken to be endorsed under this subsection as a public benevolent institution.

123D Endorsement by Commissioner as health promotion charity

- (1) The Commissioner must endorse an entity as a health promotion charity if:
- (a) the entity is entitled to be endorsed as a health promotion charity (see subsection (2)); and
 - (b) the entity has applied for that endorsement in accordance with Division 426 in Schedule 1 to the *Taxation Administration Act 1953*.
- (2) An entity is entitled to be endorsed as a health promotion charity if the entity:
- (a) is a health promotion charity; and
 - (b) has an ABN; and
 - (c) is not an employer in relation to which step 2 of the method statement in subsection 5B(1E) applies.

123E Endorsement by Commissioner as charitable institution (other than public benevolent institution or health promotion charity)

- (1) The Commissioner must endorse an entity as a charitable institution covered by paragraph 65J(1)(baa) if:
- (a) the entity is entitled to be endorsed as a charitable institution covered by paragraph 65J(1)(baa) (see subsection (2)); and
 - (b) the entity has applied for that endorsement in accordance with Division 426 in Schedule 1 to the *Taxation Administration Act 1953*.

Section 123E

- (2) An entity is entitled to be endorsed as a charitable institution covered by paragraph 65J(1)(baa) if the entity:
- (a) is a charitable institution; and
 - (b) has an ABN.

Part XI—Miscellaneous

124 Assessments

- (1) Where the Commissioner does not have sufficient information to make an assessment of the fringe benefits taxable amount of an employer of a year of tax, that fringe benefits taxable amount shall be deemed, for the purposes of making an assessment under this Act, to be such amount as, in the opinion of the Commissioner, might reasonably be expected to be that fringe benefits taxable amount.
- (2) In determining whether an assessment is correct, any determination, opinion or judgment of the Commissioner made, held or formed in connection with the consideration of an objection against the assessment shall be deemed to have been made, held or formed when the assessment was made.

124A Assessment on assumption

- (1) Subject to subsection (4), where:
 - (a) an employee of an employer has derived eligible foreign remuneration or foreign earnings during a year of tax; and
 - (b) at the time of making an assessment of the fringe benefits taxable amount of the employer of the year of tax, it is reasonable to assume that, at a later time, circumstances will exist because of which that eligible foreign remuneration or foreign earnings, as the case may be, will be exempt income by virtue of section 23AF or 23AG of the *Income Tax Assessment Act 1936*;this Act applies as if those circumstances existed at the time of making that assessment.
- (2) Subject to subsection (4), where, at the time of making an assessment of the fringe benefits taxable amount of an employer of a year of tax, it is reasonable to assume that, at a later time, circumstances will exist because of which a benefit provided in respect of the employment of an employee of the employer in, or in respect of, the year of tax will be an exempt benefit by virtue of

section 58B, 58C or 58D, this Act applies as if those circumstances existed at the time of making that assessment.

- (3) Subject to subsection (4), where:
- (a) a fringe benefit (in this subsection called the *temporary accommodation fringe benefit*) of a kind referred to in paragraph 61C(1)(a) is provided in, or in respect of, a year of tax in respect of the employment of an employee of an employer; and
 - (b) at the time of making an assessment of the fringe benefits taxable amount of the employer of the year of tax, it is reasonable to assume that, at a later time, circumstances will exist because of which section 61C will apply to reduce the taxable value of the temporary accommodation fringe benefit in relation to the year of tax by a particular amount;
- this Act applies as if those circumstances existed at the time of making that assessment.
- (4) Where this Act has, by virtue of subsection (1), (2) or (3), applied on the basis that a circumstance that did not exist at the time of making an assessment would exist at a later time and the Commissioner, after making the assessment, becomes satisfied that that circumstance will not exist, then, notwithstanding section 74, the Commissioner may amend the assessment at any time for the purposes of ensuring that this Act shall be taken always to have applied on the basis that that circumstance did not exist.

125 Judicial notice of signature

All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive and examine evidence, shall take judicial notice of the signature of a person who holds or has held the office of Commissioner, Second Commissioner of Taxation or Deputy Commissioner attached or appended to any official document in connection with this Act.

126 Evidence

- (1) The mere production of:
- (a) a notice of assessment; or

Section 126

- (b) a document under the hand of the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of a notice of assessment;
is conclusive evidence of the due making of the assessment and, except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment, that the amounts and all of the particulars of the assessment are correct.
- (2) The mere production of a document under the hand of the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of a document issued or given by the Commissioner, a Second Commissioner or a Deputy Commissioner is *prima facie* evidence that the second-mentioned document was so issued or given.
- (3) The mere production of a document under the hand of the Commissioner, a Second Commissioner or a Deputy Commissioner purporting to be a copy of, or an extract from, a return or a notice of assessment is evidence of the matter set out in the document to the same extent as the original return or notice, as the case may be, would be if it were produced.
- (3A) To avoid doubt, subsection (3) applies to a copy or an extract of a document that was given to the Commissioner on a data processing device or by way of electronic transmission unless the taxpayer can show that the taxpayer did not authorise the document.
- (4) The mere production of a certificate in writing signed by the Commissioner, a Second Commissioner or a Deputy Commissioner certifying that a sum specified in the certificate was, at the date of the certificate, due and payable by a person in respect of an amount of tax or an amount payable by way of an instalment of tax under Division 2 of Part VII or by way of penalty under section 93 or 112 or Part VIII, is *prima facie* evidence of the matters stated in the certificate.
- (5) The mere production of a *Gazette* containing a notice purporting to be issued by the Commissioner is *prima facie* evidence that the notice was so issued.
- (6) A return under this Act purporting to be made or signed by or on behalf of a person is *prima facie* evidence that the return was made by the person or with the authority of the person.
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127 Access to premises etc.

- (1) For the purposes of this Act, an officer authorised in writing by the Commissioner to exercise powers under this section:
 - (a) may, at all reasonable times, enter and remain on any land or premises;
 - (b) is entitled to full and free access at all reasonable times to all documents; and
 - (c) may inspect, examine, make copies of, or take extracts from, any documents.
- (2) An officer is not entitled to enter or remain on any land or premises under this section if, on being requested by the occupier of the land or premises for proof of authority, the officer does not produce an authority in writing signed by the Commissioner stating that the officer is authorised to exercise powers under this section.
- (3) The occupier of land or premises entered or proposed to be entered by an officer under subsection (1) shall provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.

Penalty: 30 penalty units.

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

128 Commissioner to obtain information and evidence

- (1) The Commissioner may, for the purposes of this Act, by notice in writing, require a person (including a person employed in or in connection with a Department of the Government of the Commonwealth, of a State or of a Territory or by any public authority, and whether or not the person is liable to pay an amount of tax):
 - (a) to furnish the Commissioner with such information as the Commissioner requires;
 - (b) to attend before the Commissioner, or before an officer authorised by the Commissioner for the purpose, at a time and place specified in the notice, and then and there answer questions; and
 - (c) to produce to the Commissioner any documents in the custody or under the control of the person.

Section 129

- (2) The Commissioner may require the information or answers to questions to be verified or given, as the case may be, on oath or affirmation, and either orally or in writing, and for that purpose the Commissioner, or an officer authorised by the Commissioner in writing for the purpose, may administer an oath or affirmation.
- (3) The oath to be taken or affirmation to be made by a person for the purposes of this section is an oath or affirmation that the information or answers the person will give will be true.
- (4) The regulations may prescribe scales of expenses to be allowed to persons required to attend under this section.

129 Agents and trustees

- (1) The following provisions of this section apply in relation to a person (in this section referred to as the *representative*) being:
 - (a) a person who, as agent for an employer, provides or arranges for the provision of benefits that are fringe benefits in relation to the employer;
 - (b) an employer in the capacity of a trustee, being an employer in relation to whom fringe benefits are provided; or
 - (c) a trustee in respect of the affairs of an employer where the trustee, as trustee, provides or arranges for the provision of benefits that are fringe benefits in relation to the employer.
- (2) The representative:
 - (a) shall furnish returns in relation to the fringe benefits; and
 - (b) is liable to any tax payable in respect of the provision of the fringe benefits;but only in the capacity of agent or trustee, as the case requires, and each such return shall be separate and distinct from any other return furnished or lodged by the representative.
- (3) The representative is, by force of this section:
 - (a) authorised and required to retain from time to time any money that comes to the representative in the capacity as agent for the other person or trustee of the trust estate, or so much of it as is sufficient to pay the amount of tax;
 - (b) made personally liable for the amount of tax after it becomes payable to the extent of any amount that the representative is required to retain under paragraph (a); and

- (c) indemnified for all payments that the representative makes pursuant to this section.
- (4) For the purposes of ensuring payment of the amount of tax, the Commissioner has the same remedies against attachable property of any kind vested in, under the control or management of, or in the possession of, the representative as the Commissioner would have against the property of any other person in respect of an amount of tax payable by the other person.
- (5) In this section, unless the contrary intention appears, *tax* includes additional tax under section 93 or Part VIII.

132 Records to be kept and preserved

- (1) An employer shall:
 - (a) keep records that record and explain all transactions and other acts engaged in by the employer or any other person that are relevant for the purpose of ascertaining the employer's liability under this Act; and
 - (b) retain those records, and any records given to the employer under paragraph (2)(b), for a period of 5 years after the completion of the transactions or acts to which they relate.

Note: There is an exemption from the requirements of this subsection in certain cases: see Part XIA (Record keeping exemption).
- (2) Where an associate of an employer provides, or arranges for the provision of, fringe benefits to, or to associates of, employees of the employer, the associate shall:
 - (a) keep records that record and explain all transactions and other acts engaged in by the associate or any other person in respect of the provision of those fringe benefits, being transactions or acts that are relevant for the purpose of ascertaining the employer's liability under this Act;
 - (b) give to the employer a copy of the records, so far as they relate to a year of tax, not later than 21 days after the end of that year of tax; and
 - (c) retain those records for a period of 5 years after the completion of the transactions or acts to which they relate.

Section 132

- (3) A person who is required by this section to keep records shall keep the records:
- (a) in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language; and
 - (b) so as to enable the employer's liability under this Act to be readily ascertained.
- (4) Nothing in this section shall be taken to require a person (in this subsection referred to as the *record keeper*) to keep a record of information relating to a transaction or act engaged in by another person if:
- (a) where the transaction or act was entered into or done under an arrangement to which the record keeper was a party:
 - (i) the record keeper made all reasonable efforts:
 - (A) to ascertain whether the transaction had been entered into or the act had been done; and
 - (B) to obtain the information; and
 - (ii) did not know, and could not reasonably be expected to have known, the information; or
 - (b) in any other case—the record keeper did not know, and could not reasonably be expected to have known, the information.
- (5) Nothing in this section shall be taken to require a person to retain records where:
- (a) the Commissioner has notified the person that retention of the records is not required; or
 - (b) the person is a company that has gone into liquidation and been finally dissolved.

Penalty: 30 penalty units.

Note 1: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

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

132A Written evidence not available when return lodged

- (1) This section applies if:
- (a) a provision of this Act requires documentary evidence of an expense to be given to, or obtained by, an employer before the declaration date for an employer for an FBT year; and
 - (b) at the date of lodgment of the employer's return of the fringe benefits taxable amount for the FBT year:
 - (i) the employer has not been given, or has not obtained, the documentary evidence;but:
 - (ii) the employer has good reason to expect that he or she will be given, or will obtain, that evidence within a reasonable time.
- (2) If this section applies:
- (a) the employer may complete his or her return as if the documentary evidence had been given to, or obtained by, him or her by the date of lodgment; and
 - (b) if the evidence is given to, or obtained by, the employer within a reasonable time—this Act applies as if the documentary evidence had been given to, or obtained by, the employer before the declaration date; and
 - (c) if the evidence is not given to, or obtained by, the employer within a reasonable time—the employer must notify the Commissioner in writing that the evidence has not been obtained.

134 Service on partnerships and associations

Service, whether by post or otherwise, of a notice or document on a member of a partnership or on a member of the committee of management of an unincorporated association or other body of persons shall be deemed, for the purposes of this Act, to constitute service of the notice or other document on each member of the partnership or each member of the association or other body of persons, as the case may be.

Section 135

135 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations prescribing penalties not exceeding a fine of 5 penalty units for offences against the regulations.

Part XIA—Record keeping exemption

Division 1—Overview of Part

135A Overview of Part

- (1) Basically, this Part provides that, if certain conditions are satisfied, an employer need not keep or retain most of the records otherwise required to be kept and retained under subsection 132(1).
- (2) If the conditions are satisfied, the employer's FBT liability is generally worked out using the aggregate fringe benefits amount from a previous FBT year (the *base year*) instead of the current FBT year.

Division 2—Conditions

135B Conditions that must be satisfied

- (1) This section has 2 conditions that must be satisfied for Division 3 to apply to an employer for an FBT year (the *current year*).

First condition: base year established

- (2) Either of the following must be true:
- (a) the FBT year immediately before the current year was a base year (see section 135C) of the employer; or
 - (b) some other FBT year before the current year was a base year of the employer and section 135G applied to the employer for every FBT year after that base year but before the current year.

Second condition: no Commissioner's notice in previous year

- (3) The employer must not have been given a paragraph 135E(2)(c) notice by the Commissioner during the FBT year immediately before the current year.

135C What is a base year?

- (1) An FBT year is a *base year* of an employer if:
- (a) the employer carries on business operations throughout the FBT year; and
 - (b) the employer lodges an FBT return for the FBT year within the time allowed for doing so under section 68; and
 - (c) as at the declaration date for the FBT year, the employer has kept and retained all the records that are (ignoring section 135E) required to be kept and retained under subsection 132(1) in relation to the employer's liability under this Act for the FBT year; and
 - (d) the employer's aggregate fringe benefits amount for the FBT year does not exceed the exemption threshold (see subsections (2) and (3)) for the year; and
 - (e) section 135G does not apply to the employer for the FBT year (that section allows employers to work out their liability

to pay tax using their aggregate fringe benefits amount from a previous base year, instead of the current FBT year).

Exemption threshold for 1996-97 FBT year

- (2) The **exemption threshold** for the FBT year beginning on 1 April 1996 is \$5,000.

Exemption threshold for later FBT years

- (3) The **exemption threshold** for a later FBT year is the amount worked out using the formula:

Exemption threshold × Indexation factor

where:

exemption threshold is the exemption threshold for the previous FBT year.

indexation factor is the number worked out, to 3 decimal places (rounding up if the fourth decimal place is 5 or more), under subsection (4) for the later FBT year.

Indexation factor

- (4) The indexation factor for an FBT year is the greater of:
- (a) 1; and
 - (b) the number worked out using the formula:

$$\frac{\text{Sum of index numbers for quarters in most recent December year}}{\text{Sum of index numbers for quarters in earlier December year}}$$

- (5) In subsection (4):

earlier December year means the period of 12 months immediately before the most recent December year.

index number, for a quarter, means the All Groups Consumer Price Index number for the quarter (being the weighted average of the 8 capital cities) first published by the Australian Statistician for the quarter.

Section 135C

most recent December year means the period of 12 months ending on 31 December immediately before the FBT year for which the threshold is being worked out.

Disregard new publications

- (6) If the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published for that quarter, disregard the later publication.

Changed reference base

- (7) However, if the Australian Statistician changes the reference base for the Consumer Price Index, take into account only the index numbers published in terms of the new reference base.

Rounding down to whole dollar amount

- (8) Round the subsection (3) result down to the nearest whole dollar (if the result is not already a number of whole dollars).

Division 3—Consequences if conditions in Division 2 are satisfied

135D Consequences

This Division has the consequences that apply if both conditions in section 135B are satisfied in relation to an employer for an FBT year (the *current year*).

135E Exemption from keeping records

- (1) Subsection 132(1) (which requires certain records to be kept and retained) does not apply to the employer in relation to the employer's liability under this Act for the current year.

Records the employer must still keep

- (2) However, subsection 132(1) still applies in relation to the employer's liability under this Act for the current year so far as it relates to the following:
 - (a) copies of records that an associate of the employer gives the employer under paragraph 132(2)(b);
 - (b) benefits provided at a time when the employer was:
 - (i) a government body (see subsection 136(1)); or
 - (ii) a person all of whose income is exempt from income tax;
 - (c) benefits provided after the Commissioner has given the employer a written notice under this paragraph, during the current year, requiring the employer to resume keeping records.

135F Keeping records for 5 years after they are last relied on

The period in paragraph 132(1)(b) for retaining records relating to the employer's liability under this Act in respect of the employer's most recent base year is extended (or further extended) to 5 years after the end of the current year (if the period is not already that long).

Section 135G

135G Way to work out liability

The employer's liability to pay tax under section 66 is worked out using the employer's aggregate fringe benefits amount for the employer's most recent base year, instead of for the current year.

135H Exception if employer chooses to use current year aggregate fringe benefits amount

Section 135G does not apply if the employer chooses to work out his or her liability using the employer's aggregate fringe benefits amount for the current year.

135J Exception if employer is government body or tax-exempt

Section 135G does not apply if the employer is:

- (a) a government body (see subsection 136(1)); or
- (b) a person all of whose income is exempt from income tax; at any time during the current year.

135K Exception if aggregate fringe benefits amount increases too much

- (1) Section 135G does not apply if the employer's aggregate fringe benefits amount for the current year is more than 20% greater than it was for the employer's most recent base year (unless the difference is \$100 or less).

Example: The aggregate fringe benefits amount was \$100 for the most recent base year and \$180 for the current year. This is 80% greater—well over the 20% limit. But section 135G can still apply because the difference is only \$80.

Special rules for applying this test

- (2) In working out, for the purposes of subsection (1), the employer's aggregate fringe benefits amount for the current year, apply the following rules.

Section 123 disregarded

- (3) Disregard the effect of section 123 (which deals with failing to retain statutory evidentiary documents).

Special rule for car fringe benefits—statutory formula method used in earlier year

- (4) If:
- (a) for the employer's first car benefit year (if any—see subsection (6)), the employer used the method in section 9 (statutory formula) to determine the taxable value of one or more car fringe benefits relating to a particular car; and
 - (b) the employer uses the same method for that car, or for a car provided as a replacement of that car, for the current year; and
 - (c) the annualised number of kilometres the car (or its replacement) travelled in the current year is at least 80% of the annualised number of kilometres the car travelled in the first car benefit year;

the employer may, in using that same method, use the statutory fraction for the car from the first car benefit year, instead of from the current year.

Special rule for car fringe benefits—cost basis method used in earlier year

- (5) If:
- (a) for the employer's first car benefit year (if any—see subsection (6)), the employer used the method in section 10 (cost basis) to determine the taxable value of one or more car fringe benefits relating to a particular car; and
 - (b) the employer uses the same method for that car, or for a car provided as a replacement of that car, for the current year; and
 - (c) the business use percentage (see subsection 136(1)) for the current year is not lower than the business use percentage for the first car benefit year by more than 20 percentage points;

the employer may, in using that same method, use the business use percentage for the car from the first car benefit year, instead of from the current year.

Meaning of first car benefit year

- (6) In subsections (4) and (5), the employer's **first car benefit year** is the first FBT year (if any) in the period:
- (a) beginning with the employer's most recent base year; and

Part XIA Record keeping exemption

Division 3 Consequences if conditions in Division 2 are satisfied

Section 135L

- (b) ending with the FBT year immediately before the current year;
during which one or more car fringe benefits were provided in relation to the employer.

135L Employer not in business throughout current year

- (1) This section applies if the employer does not carry on business operations throughout the current year.

Pro-rata reduction of base year aggregate fringe benefits amount

- (2) For the purposes of sections 135G and 135K, the employer's aggregate fringe benefits amount for the employer's most recent base year is replaced by the amount worked out using the following formula:

$$\text{Aggregate fringe benefits amount} \times \frac{\text{Number of days in the current year during which the employer carried on business operations}}{\text{Number of days in the current year}}$$

Part XIB—Reportable fringe benefits totals

135M Simplified outline of this Part

The following is a simplified outline of this Part:

An employee's reportable fringe benefits total for a year of income is the sum of each of the employee's reportable fringe benefits amounts for the year of income (see section 135N). (The total is taken into account under other Acts; for example in working out some income tax rebates, Medicare levy surcharge and superannuation surcharge and whether the employee must make a repayment of a debt under the *Higher Education Funding Act 1988* or the *Higher Education Support Act 2003*.)

An employee's reportable fringe benefits amount from an employer is generally the grossed-up value of the employee's individual fringe benefits amount from that employer (see section 135P).

Special rules apply for working out the employee's reportable fringe benefits amount in respect of the employee's employment if the benefits provided in respect of the employment include exempt benefits under section 57A or 58 (about employment with public benevolent institutions, certain hospitals, public ambulance services, health promotion charities and bodies providing care for sick, elderly or disadvantaged persons) (see section 135Q).

135N Employee's reportable fringe benefits total

An employee's ***reportable fringe benefits total*** for a year of income is the sum of each of the employee's reportable fringe benefits amounts for the year of income in respect of the employee's employment by an employer.

Example: Sylvia employs Angela, who has a reportable fringe benefits amount of \$3,000 for the 1999-2000 year of income from her employment by Sylvia.

Section 135P

Angela is also an employee of Geoff, and has a reportable fringe benefits amount of \$4,000 for that year of income from her employment by Geoff.

Angela's reportable fringe benefits total for the 1999-2000 year of income is \$7,000.

135P Employee's reportable fringe benefits amount—general rule

Does an employee have a reportable fringe benefits amount?

- (1) An employee has a **reportable fringe benefits amount** for a year of income in respect of the employee's employment by an employer if the employee's individual fringe benefits amount for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer is more than \$2,000.

Example 1: On 31 May 2007, Sylvia waives a debt of \$2,545 that her employee Angela owes her, thus providing Angela with a debt waiver fringe benefit with a taxable value of \$2,545 for the year of tax ending on 31 March 2008. Angela has a reportable fringe benefits amount for the year of income ending on 30 June 2008 in respect of her employment by Sylvia.

Example 2: On 1 March 2008, Angela's employer Neil waives a debt of \$1,900 Angela owes him, providing Angela with a debt waiver fringe benefit with a taxable value of \$1,900 for the year of tax ending on 31 March 2008. However, he does not provide any other fringe benefits for that year of tax in respect of her employment, so Angela does not have a reportable fringe benefits amount for the year of income ending on 30 June 2008 in respect of her employment by Neil.

Size of the reportable fringe benefits amount

- (2) The **reportable fringe benefits amount** is the amount worked out using the formula:

$$\text{Individual fringe benefits amount} \times \frac{1}{1 - \text{Rate of tax for the year of tax}}$$

where:

individual fringe benefits amount is the employee's individual fringe benefits amount for the year of tax in respect of the employee's employment by the employer.

135Q Reportable fringe benefits amount for some employees of certain institutions*Overview*

- (1) This section explains how to work out whether an employee has a reportable fringe benefits amount for a year of income in respect of the employee's employment by an employer described in section 57A or 58, and the size of that amount, if:
- (a) a benefit is provided in respect of the employee's employment by the employer; and
 - (b) the benefit is an exempt benefit because of one of those sections; and
 - (c) apart from those sections, the benefit would be a fringe benefit relating to the employee, the employer and the year of tax ending on 31 March in the employee's year of income.

Note: Section 57A deals with public benevolent institutions, certain charitable institutions, employers of employees connected with certain hospitals and employers of employees connected with public ambulance services. Section 58 deals with persons employed by government bodies, religious institutions and non-profit companies to care for the elderly or disadvantaged.

Does an employee have a reportable fringe benefits amount?

- (2) The employee has a **reportable fringe benefits amount** (worked out under subsection (4)) for the year of income in respect of the employee's employment by the employer if the sum of the following is more than \$2,000:
- (a) the employee's individual fringe benefits amount (if any) for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer;
 - (b) the employee's individual quasi-fringe benefits amount for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer.

Note: An employee of an employer described in section 57A will not have an individual fringe benefits amount from that employer, because all benefits provided in respect of employment by that employer are exempt benefits.

Section 135Q

What is the employee's individual quasi-fringe benefits amount?

- (3) The employee's **individual quasi-fringe benefits amount** is the amount that would be the employee's individual fringe benefits amount for the year of tax in respect of the employee's employment by the employer if:
- (a) each benefit described in subsection (1) in relation to the employee, employer and year of tax were a fringe benefit; and
 - (b) there were no other fringe benefits relating to the employee, the employer and the year of tax.

Note: Section 5E explains how to work out the employee's individual fringe benefits amount for the year of tax.

Size of the reportable fringe benefits amount

- (4) The **reportable fringe benefits amount** is the amount worked out using the formula:

$$\left[\begin{array}{l} \text{Individual fringe} \\ \text{benefits amount} \end{array} + \begin{array}{l} \text{Individual} \\ \text{quasi-fringe} \\ \text{benefits amount} \end{array} \right] \times \frac{1}{1 - \text{Rate of tax}}$$

where:

individual fringe benefits amount is the employee's individual fringe benefits amount (if any) for the year of tax in respect of the employee's employment by the employer.

individual quasi-fringe benefits amount is the employee's individual quasi-fringe benefits amount for the year of tax in respect of the employee's employment by the employer.

rate of tax is the rate of tax for the year of tax.

Relationship with section 135P

- (5) This section has effect despite section 135P.

Part XIC—Application of the Act to nominated State or Territory bodies

135R Application of this Part

This Part applies in relation to the year of tax starting on 1 April 2001 and later years of tax.

135S Nomination of eligible State or Territory bodies

- (1) The following:
 - (a) a State; or
 - (b) the Australian Capital Territory; or
 - (c) the Northern Territory;may nominate an eligible State or Territory body for the purposes of this Part.

Form and content etc. of nomination

- (2) The nomination:
 - (a) must be in the approved form; and
 - (b) must specify the first year of tax in relation to which the nomination is to have effect; and
 - (c) may specify that a class or classes of employees are to be taken to have a sufficient connection with the body for the purposes of subsection 135U(3); and
 - (d) must be given to the Commissioner on or before 21 May in the year of tax specified under paragraph (b).

When nomination has effect

- (3) Subject to subsection (5), the nomination has effect in relation to the body in relation to the first year of tax as specified in the nomination and in relation to all later years of tax.

Section 135T

Avoidance of doubt

- (4) To avoid doubt:
- (a) the State or Territory may nominate more than one eligible State or Territory body; and
 - (b) the State or Territory may make nominations at different times (including in different years of tax); and
 - (c) if the State or Territory nominates more than one eligible State or Territory body, it need not specify the same first year of tax for them.

Variation or revocation of nomination

- (5) The nomination may be varied or revoked, but a variation or revocation:
- (a) must be in the approved form; and
 - (b) must specify the first year of tax in relation to which the variation or revocation is to have effect; and
 - (c) must be given to the Commissioner on or before 21 May in that first year of tax.

Nominated State or Territory bodies

- (6) For each year of tax during which the nomination has effect in relation to an eligible State or Territory body, the body is a ***nominated State or Territory body***.

135T Eligible State or Territory bodies

- (1) Each of the following is an ***eligible State or Territory body***:
- (a) a ***department*** within the meaning of section 6 of the *Public Sector Employment and Management Act 2002* of New South Wales;
 - (b) an ***agency*** within the meaning of section 4 of the **Public Sector Management and Employment Act 1998** of Victoria;
 - (c) an ***office*** referred to in subsection 16(1) of the **Public Sector Management and Employment Act 1998** of Victoria;
 - (d) a ***department*** within the meaning of section 7 of the *Public Service Act 1996* of Queensland;

- (e) a **department** within the meaning of section 3 of the *Public Sector Management Act 1994* of Western Australia, as extended by subsection 3(2) of the *Financial Administration and Audit Act 1985* of Western Australia;
 - (f) a **subsidiary body** as defined in paragraphs (aa) and (b) of the definition of that term in subsection 3(1) of the *Financial Administration and Audit Act 1985* of Western Australia;
 - (g) an **administrative unit** within the meaning of section 3 of the *Public Sector Management Act 1995* of South Australia;
 - (h) a **government department** within the meaning of subsection 3(1) of the *State Service Act 2000* of Tasmania;
 - (i) a **department** within the meaning of section 3 of the *Financial Management Act 1996* of the Australian Capital Territory;
 - (j) an **agency** within the meaning of section 3 of the *Financial Management Act 1995* of the Northern Territory;
 - (k) a **government business division** within the meaning of section 3 of the *Financial Management Act 1995* of the Northern Territory;
 - (l) a **department** of a Parliament of a State;
 - (m) a **department** of a Legislative Assembly of a Territory.
- (2) However, a government body that pays, or is liable to pay, salary or wages is not an **eligible State or Territory body**.
- (3) The regulations may make modifications to subsection (1).
- (4) In subsection (3), **modifications** includes additions, omissions and substitutions.

135U Consequences of nomination

Change in employer

- (1) Subject to subsection (4), a nominated State or Territory body, instead of the governing body otherwise applicable, is taken, for the purposes of the Act, to be the employer of each employee of the State or Territory that has a sufficient connection with the body.

Section 135U

Meaning of sufficient connection

- (2) An employee of the State or Territory has a **sufficient connection** with the body if the employee performs his or her duties of employment wholly or principally in the body.
- (3) An employee of the State or Territory is taken to have a **sufficient connection** with the body if:
 - (a) the employee does not perform his or her duties of employment wholly or principally in any other nominated State or Territory body; and
 - (b) the employee is of a class of employees that the State or Territory has specified under paragraph 135S(2)(c) is to be taken to have a sufficient connection with the body.

Obligations etc. still fall on State or Territory

- (4) Any right that would be conferred, or obligation that would be imposed, on the nominated State or Territory body as a consequence of subsection (1) is instead conferred or imposed on the State or the Territory.

Other consequences

- (5) Also, for the purposes of this Act:
 - (a) the nominated State or Territory body is taken to be a company; and
 - (b) the following are taken to be companies related to the nominated State or Territory body:
 - (i) each other nominated State or Territory body of the State or Territory concerned; and
 - (ii) the State or Territory concerned; and
 - (iii) each authority of the State or Territory that is not a related company of the nominated State or Territory body under subparagraph (i) or (ii); and
 - (c) the nominated State or Territory body is taken to be a government body.

Where nominated State or Territory body ceases to exist

- (6) If the nominated State or Territory body ceases to exist during a year of tax:

- (a) the State or Territory is taken, from the time the body ceases to exist, to be the employer of all employees who had a sufficient connection with the body immediately before it ceased to exist; and
- (b) the State or Territory is taken to have revoked the nomination of the body, with effect from the start of the next year of tax.

135V Working out the notional tax amount where nominations have been made, varied or revoked

When section applies

- (1) This section applies if a State or Territory does any one or more of the following under section 135S:
 - (a) makes one or more nominations;
 - (b) varies one or more nominations;
 - (c) revokes one or more nominations;with effect from the start of the same year of tax (the ***year of the change***).

State or Territory to apportion prior year's assessed tax for instalment purposes

- (2) If this section applies, the State or Territory must, in accordance with this section, specify the amounts of the tax that are to be taken for the purposes of subsection 110(1) to be assessed in respect of the following in respect of the year of tax (the ***prior year of tax***) immediately preceding the year of the change:
 - (a) each body that is a nominated State or Territory body of the State or Territory for the year of the change (even if that year is not the first year of tax for that body);
 - (b) the State or Territory.
- (3) The sum of the amounts specified under subsection (2) must equal the sum of the tax that was assessed in respect of the following in respect of the prior year of tax:
 - (a) the State or Territory;
 - (b) if there were nominated State or Territory bodies of the State or Territory for the prior year of tax—those bodies.

Section 135W

Form etc. of apportionment

- (4) The State or Territory must:
- (a) specify the amounts after it makes the last of the nominations, variations or revocations; and
 - (b) do so in the approved form; and
 - (c) give the approved form to the Commissioner on or before 21 May in the year of the change.

Effect of apportionment

- (5) For the purposes of subsection 110(1), the amounts specified in the approved form have effect to replace the amounts that would otherwise be the tax assessed for the prior year of tax in respect of the nominated State or Territory bodies and the State or Territory.

Consequences of failure to apportion

- (6) If the requirements of this section are not complied with:
- (a) any making, variation or revocation of a nomination to which this section applies has no effect in relation to any year of tax; and
 - (b) all existing nominations of the State or Territory under section 135S cease to have effect at the start of the year of the change; and
 - (c) the amount of the tax that is taken for the purposes of subsection 110(1) to have been assessed in respect of the State or Territory in respect of the prior year of tax is equal to the sum of the amounts of tax assessed in respect of that year of tax in respect of the following:
 - (i) the State or Territory;
 - (ii) if there were nominated State or Territory bodies for that year of tax—those bodies.

135W Notional tax amount where a nominated State or Territory body ceases to exist

If a nominated State or Territory body ceases to exist during a year of tax (other than because of subsection 135V(6)), then, for the purposes of subsection 110(1), the amount of the tax that was assessed, in respect of the immediately preceding year of tax in

respect of the State or Territory that nominated the body, is taken to be an amount worked out using the following formula:

$$\text{Amount actually assessed} + \text{Notional tax amount of the State or Territory body} - \text{Previous instalments by the State or Territory body} - \text{Previous credits of the State or Territory body}$$

where:

amount actually assessed means the amount of the tax assessed in respect of the State or Territory in respect of the immediately preceding year of tax.

notional tax amount of the State or Territory body means the notional tax amount of the nominated State or Territory body in respect of the year of tax, as at the end of the last day of the last quarter before the body ceased to exist.

previous credits of the State or Territory body means the total of any credits claimed under section 112A in relation to one or more instalments of tax of the nominated State or Territory body for that year of tax.

previous instalments by the State or Territory body means the total of any instalments of tax of the nominated State or Territory body for that year of tax that became due and payable before it ceased to exist.

135X Application of certain provisions by agreement with the Commissioner

Object

- (1) The object of this section is:
 - (a) to ensure that the calculation of the taxable value of certain fringe benefits is not affected where continuity in the fulfilment of certain record-keeping provisions is broken solely because of a transitional event; and
 - (b) to preserve the character of certain benefits where that character would otherwise be lost solely because of a transitional event.

Section 135X

Meaning of transitional event

- (2) A **transitional event** occurs if:
- (a) a State or Territory makes a nomination under section 135S;
or
 - (b) a State or Territory varies a nomination under section 135S;
or
 - (c) a State or Territory revokes a nomination under section 135S;
or
 - (d) a nominated State or Territory body ceases to exist.

Agreement about consequences of transitional events

- (3) The Commissioner may enter into a written agreement with a State or Territory about what is to happen in respect of the following when a transitional event occurs:
- (a) whether a register kept by the State or Territory, or a nominated State or Territory body, is to be treated as a valid register for the purposes of Subdivision D of Division 10A of Part III of the Act (which deals with the 12 week record keeping method for car parking fringe benefits) and the employees and FBT years in relation to which the register is to be treated as valid;
 - (b) whether a benefit that would otherwise lose its character as an exempt benefit under section 58B, 58C, 58D or 58S is to be treated as an exempt benefit;
 - (c) whether a benefit that would otherwise lose its character as an amortised fringe benefit under section 65CA is to be treated as an amortised fringe benefit;
 - (d) whether a benefit that would not otherwise be covered by a recurring fringe benefit declaration under section 152A is to be treated as being covered by the declaration;
 - (e) whether a year of tax is to be treated as a log book year of tax of the State or Territory, or a nominated State or Territory body, for the purposes of the application of section 10 in relation to a car fringe benefit in relation to that State or Territory, or that nominated State or Territory body, in relation to a particular car or class of cars (however described);

- (f) whether a year of tax that is a base year of tax for the purposes of section 26 is to continue to be treated as a base year of tax.
- (4) So far as the agreement is inconsistent with this Act, the agreement prevails.

Part XII—Interpretation

136 Interpretation

- (1) In this Act, unless the contrary intention appears:

ABN has the meaning given by the *A New Tax System (Australian Business Number) Act 1999*.

academic period, in relation to an educational institution, means:

- (a) if the academic years of the educational institution are divided into terms but not semesters—a term of the academic year;
- (b) if the academic years of the educational institution are divided into semesters (whether or not they are also divided into terms)—a semester of the academic year; or
- (c) if the academic years of the educational institution are not divided into terms or semesters—an academic year of the institution.

agent includes:

- (a) a person who, for and on behalf of a person out of Australia, has the management or control in Australia of the whole or a part of a business of the second-mentioned person; and
- (b) a person declared by the Commissioner, by notice in writing served on the person, to be an agent or the sole agent of a person for the purposes of this Act.

agent's certificate means a certificate under subsection 71(1).

aggregate fringe benefits amount has the meaning given by section 5C.

aggregate non-exempt amount has the meaning given by subsection 5B(1E).

aggregate non-rebatable amount has the meaning given by subsection 65J(2B).

airline operator, in relation to transport in a passenger aircraft provided in respect of the employment of an employee, means a

person who, at or about the time when that transport commenced to be provided, carried on a business of providing transport on passenger aircraft principally to outsiders.

airline transport benefit means a benefit referred to in section 32.

airline transport fringe benefit means a fringe benefit that is an airline transport benefit.

all-day parking, in relation to a particular day, means parking of a single car for a continuous period of 6 hours or more during a daylight period on that day.

amortised fringe benefit has the meaning given by section 65CA.

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

approved worker entitlement fund has the meaning given by subsections 58PB(1) and (2).

arm's length loan means a loan where the parties to the loan are dealing with each other at arm's length in relation to the loan.

arm's length transaction means a transaction where the parties to the transaction are dealing with each other at arm's length in relation to the transaction.

arrangement means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

assessable income has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

assessment means:

- (a) the ascertainment of the fringe benefits taxable amount of an employer of a year of tax and of the tax payable on that amount; or
- (b) the ascertainment of the additional tax payable under a provision of Part VIII.

Section 136

associate has the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

Note: Section 159 of this Act affects the above definition.

associated premises, in relation to a person, means premises, or a part of premises:

- (a) owned by the person; or
- (b) leased by the person; or
- (c) otherwise under the control of the person;

but does not include:

- (d) business premises of the person; or
- (e) premises, or a part of premises, used as a place of residence of an employee of the person or an employee of an associate of the person.

Australia, when used in a geographical sense, includes the external Territories.

Australian workers' compensation law means a workers' compensation law that is a law of the Commonwealth or of a State or Territory.

basic car rate, in relation to a year of tax ending on 31 March in a year, means the rate prescribed for the purposes of section 28-25 of the *Income Tax Assessment Act 1997* in relation to the year of income ending on 30 June in that year.

benchmark interest rate:

- (a) in relation to a year of tax, means the rate of interest, known as the large bank housing lenders variable interest rate on loans for housing for owner occupation, last published by the Reserve Bank of Australia before the commencement of the year of tax; and
- (b) in relation to a time after 2 April 1986 and before 1 July 1986, means a rate of interest offered anywhere in Australia at that time in respect of a Commonwealth Bank housing loan.

benefit includes any right (including a right in relation to, and an interest in, real or personal property), privilege, service or facility and, without limiting the generality of the foregoing, includes a

right, benefit, privilege, service or facility that is, or is to be, provided under:

- (a) an arrangement for or in relation to:
 - (i) the performance of work (including work of a professional nature), whether with or without the provision of property;
 - (ii) the provision of, or of the use of facilities for, entertainment, recreation or instruction; or
 - (iii) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;
- (b) a contract of insurance; or
- (c) an arrangement for or in relation to the lending of money.

board benefit means a benefit referred to in section 35.

board fringe benefit means a fringe benefit that is a board benefit.

board meal means a meal provided, in respect of the employment of an employee of an employer, to a person (in this definition referred to as the *recipient*), being the employee or an associate of the employee, where:

- (a) the meal is provided on a meal entitlement day;
- (b) the meal is provided by the employer or, if the employer is a company, by the employer or by a company that is related to the employer;
- (c) either of the following subparagraphs applies:
 - (i) the meal is cooked or otherwise prepared on eligible premises of the employer and is provided to the recipient on eligible premises of the employer (not being a dining facility that, at any time, is open to the public);
 - (ii) the following conditions are satisfied:
 - (A) the duties of employment of the employee consist principally of duties to be performed in, or in connection with, an eligible dining facility of the employer or a facility for the provision of accommodation, recreation or travel of which the eligible dining facility forms part;
 - (B) the meal is cooked or otherwise prepared in the cooking facility of the eligible dining facility;

Section 136

- (C) the meal is provided to the recipient in the eligible dining facility;
- (d) the facility in which the meal is cooked or otherwise prepared is not for use wholly or principally for the cooking or other preparation of meals solely for the employee or associates of the employee or for the employee and associates of the employee; and
- (e) the meal is not provided at a party, reception or other social function.

business day means a day other than a Saturday, a Sunday or a public holiday in the place concerned.

business journey means:

- (a) for the purposes of the application of Division 2 of Part III in relation to a car fringe benefit in relation to an employer in relation to a car—a journey undertaken in a car otherwise than in the application of the car to a private use, being an application that results in the provision of a fringe benefit in relation to the employer; or
- (b) for the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, an expense payment fringe benefit, a property fringe benefit or a residual fringe benefit, as the case requires, in relation to an employee in relation to a car—a journey undertaken in the car in the course of producing assessable income of the employee.

business kilometre, in relation to a car, means a kilometre travelled by the car in the course of a business journey.

business operations, in relation to a government body or a non-profit company, includes any operations or activities carried out by that body or company.

business premises, in relation to a person, means premises, or a part of premises, of the person used, in whole or in part, for the purposes of business operations of the person, but does not include:

- (a) premises, or a part of premises, used as a place of residence of an employee of the person or an employee of an associate of the person; or
- (b) a corporate box; or

- (c) boats or planes used primarily for the purpose of providing entertainment unless the boat or plane is used in the person's business of providing entertainment; or
- (d) other premises used primarily for the purpose of providing entertainment unless the premises are used in the person's business of providing entertainment.

business use percentage, for a car held by a person during a period (the *holding period*) in an FBT year, means the percentage worked out using the formula:

$$\frac{\text{Number of business kilometres travelled by the car during the holding period}}{\text{Total number of kilometres travelled by the car during the holding period}} \times 100\%$$

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

car benefit means a benefit referred to in subsection 7(1).

car expense, in relation to a car, means an expense incurred in respect of:

- (a) the registration of, or insurance in respect of, the car;
- (b) repairs to or maintenance of the car; or
- (c) fuel for the car.

car expense payment benefit means an expense payment fringe benefit where the recipients expenditure is a Division 28 car expense.

car fringe benefit means a fringe benefit that is a car benefit.

car loan benefit means a loan fringe benefit where the loan was used by the recipient to:

- (a) purchase a car; or
- (b) pay a Division 28 car expense.

car parking benefit means a benefit referred to in section 39A.

car parking fringe benefit means a fringe benefit that is a car parking benefit.

Section 136

car property benefit means a property fringe benefit where, if the recipient had incurred expenditure in respect of the provision of the recipients property, that expenditure would have been a Division 28 car expense.

car residual benefit means a residual fringe benefit where, if the recipient had incurred expenditure in respect of the provision of the recipients benefit, that expenditure would have been a Division 28 car expense.

car substantiation declaration, in relation to a car held by a person during a period (in this definition called the **holding period**) in a year of tax, means a declaration, in a form approved by the Commissioner, for the purposes of paragraphs 19(1)(ca), 24(1)(ea), 44(1)(da) and 52(1)(da), in relation to the car in relation to the holding period.

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

child care facility means a facility at which a person receives, or is ready to receive, 2 or more children under the age of 6, not being associates of the person, for the purpose of minding, caring for or educating them for a day or part of a day without provision for residential care but does not include a facility at the place of residence of any of those children.

close relative, in relation to a person, means:

- (a) the spouse of the person;
- (b) a child or parent of the person; or
- (c) a parent of the person's spouse.

commercial parking station, in relation to a particular day, means a permanent commercial car parking facility where any or all of the car parking spaces are available in the ordinary course of business to members of the public for all-day parking on that day on payment of a fee, but does not include a parking facility on a public street, road, lane, thoroughfare or footpath paid for by inserting money in a meter or by obtaining a voucher.

Commissioner means the Commissioner of Taxation.

Commonwealth Bank housing loan means an arm's length loan by the Commonwealth Bank of Australia made in the ordinary course of business to a member of the public, being a loan:

- (a) for housing purposes; and
- (b) the terms of which provide for:
 - (i) interest to be calculated on the daily balance of the loan; and
 - (ii) that interest to be added to the balance of the loan at monthly intervals.

company includes any body or association, corporate or unincorporate, but does not include a partnership.

comparison time means:

- (a) in relation to a residual fringe benefit:
 - (i) where the fringe benefit is constituted by a benefit to which subsection 46(2) applies—the commencement of the billing period referred to in that subsection in relation to the benefit; or
 - (ii) in any other case:
 - (A) where the fringe benefit is a period residual fringe benefit—the time when the recipients overall benefit commenced to be provided; or
 - (B) in any other case—the time when the benefit is provided; and
- (b) in relation to an air transport fringe benefit—the time when the benefit is provided.

compensable work-related trauma means work-related trauma suffered by an employee where:

- (a) if there is no Australian workers' compensation law that applies to the employment of the employee—if any Australian workers' compensation law had applied to the employment of the employee, that law would have provided for compensation or other benefits for or in respect of the trauma; or
- (b) in all cases—there is a workers' compensation law that:
 - (i) applies to the employment of the employee; and
 - (ii) provides for compensation or other benefits for or in respect of the trauma.

Section 136

contract of investment insurance means a contract of life assurance insuring payment of money in the event that the life insured is alive on a specified date, whether or not the contract also insures the payment of money in any other event.

cost price:

(a) in relation to a car owned by a person, means:

- (i) where the car was manufactured by the person—the amount for which the car could reasonably have been expected to have been sold by the person by wholesale under an arm's length transaction at or about the time when the car was applied to the person's own use; or
- (ii) where neither subparagraph (i) nor (iii) applies, an amount equal to the sum of:
 - (A) the expenditure incurred by the person (other than expenditure in respect of registration or in respect of a tax on, or on a transfer of, registration) that is directly attributable to the acquisition or delivery of the car or, if subsection 7(6) applies in relation to the car, the leased car value of the car when the person first took the car on hire; and
 - (B) the amount of any additional expenditure incurred by the person for or in relation to the fitting of non-business accessories to the car at or about the time when the car was acquired by the person, reduced by the amount of any reimbursement of the whole or a part of that expenditure paid, at or about the time when the expenditure was incurred, by a recipient of a car benefit in relation to the car; or
- (iii) where subparagraph (i) does not apply and the person was entitled to privileges or exemptions in relation to customs duty in respect of a transaction by which the person acquired the car or by which the person arranged for the fitting of non-business accessories to the car at or about the time when the car was acquired by the person, the amount that could reasonably have been expected to have been applicable under subparagraph (ii) if the person had not been entitled to those privileges to exemptions;

-
- (b) in relation to a non-business accessory fitted to a car, means:
- (i) where the accessory was manufactured by the person who held the car at the time of the fitting—the amount for which the accessory could reasonably have been expected to have been sold under an arm’s length transaction by the person by wholesale at or about the time when the accessory was applied to the person’s own use; and
 - (ii) where neither subparagraph (i) nor (iii) applies—the expenditure incurred, by a person other than a recipient of a car benefit in relation to the car, for or in relation to the fitting of the accessory, reduced by the amount of any reimbursement of the whole or a part of that expenditure paid at or about that time by a recipient of a car benefit in relation to the car; and
 - (iii) where subparagraph (i) does not apply and a person was entitled to privileges or exemptions in relation to customs duty in respect of a transaction by which the person acquired the accessory—the amount that could reasonably have been expected to have been applicable under subparagraph (ii) if the person had not been entitled to those privileges or exemptions; and
- (c) in relation to the recipients property in relation to a property fringe benefit—means the expenditure incurred by the provider that is directly attributable to purchasing or obtaining delivery of the property.

counselling includes the giving of advice or information in a seminar.

current employee means a person who receives, or is entitled to receive, salary or wages.

current employer means a person (including a government body) who pays, or is liable to pay, salary or wages, and includes:

- (a) in the case of a partnership—each partner; and
- (b) in the case of any other unincorporated association or body of persons—its manager or other principal officer.

current identical benefit, in relation to an identical overall benefit in relation to a year of tax, means that identical overall benefit insofar as it was provided during the year of tax.

Section 136

customs duty means customs duty imposed under a law of the Commonwealth or of a Territory.

daily balance, in relation to a loan, means the balance of the loan at the end of a day.

daylight period, in relation to a day, means so much of a period on that day as occurs:

- (a) after 7 a.m. on that day; and
- (b) before 7 p.m. on that day.

debt waiver benefit means a benefit referred to in section 14.

debt waiver fringe benefit means a fringe benefit that is a debt waiver benefit.

December quarter means a quarter ending on 31 December.

declaration date, in relation to an employer in relation to a year of tax, means the date of lodgment of the return of the fringe benefits taxable amount of the employer of the year of tax, or such later date as the Commissioner allows.

deductible expenses, in relation to an allowance paid to an employee, means expenses incurred by the employee in respect of which a deduction is allowable to the employee under section 8-1 of the *Income Tax Assessment Act 1997* (ignoring Divisions 28, 32 and 900 of that Act).

deferred BAS payer has the same meaning as in subsection 995-1(1) in the *Income Tax Assessment Act 1997*.

Deputy Commissioner means a Deputy Commissioner of Taxation.

disadvantaged person means:

- (a) a person who is intellectually, psychiatrically or physically handicapped; or
- (b) a person who is in necessitous circumstances.

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

Division 28 car expense means a car expense as defined in section 28-13 of the *Income Tax Assessment Act 1997*, but does not include a car expense covered by section 28-165 of that Act.

documentary evidence, in relation to an expense incurred by a person, means a document that would constitute written evidence of the expense obtained in a way described in Subdivision 900-E of the *Income Tax Assessment Act 1997* if the expense were a work expense, and Division 900 of that Act applied to the person.

domestic route means a route where the port of embarkation and the port of disembarkation are both within Australia.

domestic services includes:

- (a) child care;
- (b) gardening;
- (c) home renovations, repairs or maintenance;
- (d) house cleaning;
- (e) nursing care; and
- (f) preparation of meals.

dwelling means a unit of accommodation constituted by, or contained in a building, being a unit that consists, in whole or in substantial part, of residential accommodation.

economy air fare, in relation to a person being carried on a scheduled passenger air service operated by a carrier over a route, means:

- (a) in a case where paragraph (b) does not apply—the standard air fare (other than a preferential air fare) charged by the carrier in respect of the scheduled air service; or
- (b) in a case where the carrier charges children, students or blind persons a concessional air fare in respect of the air fare to which paragraph (a) applies and the person is eligible for such a concessional air fare—the concessional air fare concerned;

being, in either case, an air fare in relation to which no special booking conditions are attached.

educational institution means a school, college or university.

elderly person means a person who has attained the age of 60 years.

electronic signature has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

Section 136

eligible car parking expense payment benefit means an expense payment benefit where:

- (a) the recipient is an employee or an associate of an employee; and
- (b) the recipients expenditure is in respect of the provision of car parking facilities for a car on one or more days; and
- (c) the following conditions are satisfied in relation to any of those days:
 - (i) on that day, the employee has a primary place of employment;
 - (ii) on that day, the car was parked for one or more daylight periods exceeding 4 hours in total at, or in the vicinity of, that primary place of employment;
 - (iii) the whole or a part of the recipients expenditure is in respect of the provision of the parking facilities to which that parking relates;
 - (iv) on that day, the car was used in connection with travel by the employee between the place of residence of the employee and that primary place of employment;
 - (v) the provision of parking facilities for the car during the period or periods is not taken, under the regulations, to be excluded from this definition;
 - (vi) the day is on or after 1 July 1993.

eligible dining facility, in relation to an employer, means:

- (a) a canteen, dining room or similar facility; or
- (b) a café, restaurant or similar facility;

that is located on premises of the employer or, if the employer is a company, of the employer or of a company that is related to the employer.

eligible family member means:

- (a) in relation to an employee who is required to live away from his or her usual place of residence during a period in order to perform the duties of his or her employment:
 - (i) the employee; or
 - (ii) the spouse of the employee, or a child of the employee, being a spouse or child, as the case may be:
 - (A) who lived with the employee during that period; and

- (B) whose usual place of residence during that period was the same as the usual place of residence of the employee; and
- (b) in relation to a living-away-from-home allowance fringe benefit in relation to an employee, means:
 - (i) the employee; or
 - (ii) the spouse of the employee, or a child of the employee, being a spouse or child, as the case may be:
 - (A) in respect of whom the recipients allowance is paid;
 - (B) who lived with the employee during the recipients allowance period; and
 - (C) whose usual place of residence during that period was the same as the usual place of residence of the employee.

eligible foreign remuneration has the same meaning as in section 23AF of the *Income Tax Assessment Act 1936*.

eligible incidental travel expense payment benefit means an expense payment fringe benefit where:

- (a) either:
 - (i) the recipients expenditure:
 - (A) is in respect of travel by the recipient away from the recipient's usual place of residence undertaken in the course of performing the duties of his or her employment, being expenditure in respect of accommodation, the purchase of food or drink or otherwise incidental to the travel; and
 - (B) relates solely to travel by the recipient in Australia; or
 - (ii) the recipients expenditure:
 - (A) is in respect of travel by the recipient away from the recipient's usual place of residence undertaken in the course of performing the duties of his or her employment, being expenditure in respect of the purchase of food or drink or otherwise incidental to the travel (except in respect of accommodation); and

Section 136

- (B) relates solely or principally to travel by the recipient outside Australia; and
- (b) the payment or reimbursement, as the case may be, that constitutes the fringe benefit is in the nature of compensation to the recipient for the expenses that the recipient might reasonably be expected to have incurred in respect of the matters specified in sub-subparagraph (a)(i)(A) or (a)(ii)(A), as the case requires.

eligible overtime meal expense payment benefit means an expense payment fringe benefit where:

- (a) the recipient's expenditure is incurred in respect of the purchase of food or drink in connection with overtime worked by the recipient; and
- (b) the payment or reimbursement, as the case may be, that constitutes the fringe benefit is in the nature of compensation to the recipient for the expenses that the recipient might reasonably be expected to have incurred in respect of the purchase of food or drink in connection with that overtime.

eligible pre-commencement loan means a loan made before 1 July 1986 at a rate of interest that:

- (a) is specified in a document in existence at the time when the loan was made; and
- (b) cannot be varied.

eligible premises, in relation to entertainment, a meal, or food or drink, provided in respect of the employment of an employee of an employer, means:

- (a) if the employer is a company—premises of the employer or of a company that is related to the employer; or
- (b) in any other case—premises of the employer;
- and includes, in either case, a location at or adjacent to a site at which the employee performs duties of that employment.

emergency means an emergency involving any of the following matters:

- (a) a natural disaster;
- (b) a conflict involving an armed force;
- (c) a civil disturbance;
- (d) an accident;

- (e) a serious illness;
- (f) any similar matter.

emergency assistance, in relation to a person, means assistance granted to the person where:

- (a) the person is, or is at immediate risk of becoming, the victim of an emergency;
- (b) the assistance is granted to the person solely in order to provide immediate relief;
- (c) the assistance is in respect of all or any of the following matters:
 - (i) first aid or other emergency health care;
 - (ii) emergency meals or food supplies;
 - (iii) emergency clothing;
 - (iv) emergency transport;
 - (v) emergency accommodation;
 - (vi) emergency use of household goods;
 - (vii) temporary repairs;
 - (viii) any similar matter.

employee means:

- (a) a current employee;
- (b) a future employee; or
- (c) a former employee.

employee credit loan benefit, in relation to a year of tax, means a loan fringe benefit in relation to an employee in relation to the year of tax where:

- (a) the loan consists of the provision of credit to the employee in respect of:
 - (i) property sold; or
 - (ii) other benefits provided;to the employee by the provider of the fringe benefit; and
- (b) if the employee had, on the last day of the period during the year of tax when the employee was under an obligation to repay the whole or any part of the loan, incurred interest in respect of the loan in respect of that period, that interest would have been exclusively incurred in gaining or producing salary or wages of the employee in respect of the employment to which the fringe benefit relates.

Section 136

employee share loan benefit, in relation to a year of tax, means a loan fringe benefit in relation to an employee in relation to an employer in relation to the year of tax where:

- (a) the sole purpose of the making of the loan is to enable the employee to acquire shares, or rights to acquire shares, in a company, being:
 - (i) the employer; or
 - (ii) an associate of the employer; and
- (b) the shares or rights were beneficially owned by the employee at all times during the period during the year of tax when the employee was under an obligation to repay the whole or any part of the loan.

employee's share of the taxable value of a fringe benefit has the meaning given by section 5F.

employer means:

- (a) a current employer;
- (b) a future employer; or
- (c) a former employer;

but does not include:

- (d) the Commonwealth; or
- (e) an authority of the Commonwealth that cannot, by a law of the Commonwealth, be made liable to taxation by the Commonwealth.

employment, in relation to a person, means the holding of any office or appointment, the performance of any functions or duties, the engaging in of any work, or the doing of any acts or things that results, will result or has resulted in the person being treated as an employee.

entertainment has the meaning given by section 32-10 of the *Income Tax Assessment Act 1997*.

entertainment facility leasing expenses, for a person, means expenses incurred by the person in hiring or leasing:

- (a) a corporate box; or
- (b) boats, or planes, for the purpose of the provision of entertainment; or

(c) other premises, or facilities, for the purpose of the provision of entertainment;

but does not include so much of any of such expenses that:

(d) is attributable to the provision of food or drink; or

(e) is attributable to advertising and is an allowable deduction for the person under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

entity has the meaning given by section 960-100 of the *Income Tax Assessment Act 1997*.

excluded fringe benefit, in relation to an employee, employer and year of tax, has the meaning given by subsection 5E(3).

exclusive employee airline transport benefit means an airline transport fringe benefit where, if the recipient had incurred expenditure in respect of the provision of the recipients transport, that expenditure would have been exclusively incurred in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates.

exclusive employee expense payment benefit means an expense payment fringe benefit where the recipients expenditure is exclusively incurred in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates and is not expenditure in respect of interest.

exclusive employee property benefit means a property fringe benefit where, if the recipient had incurred expenditure in respect of the provision of the recipients property, that expenditure would have been exclusively incurred in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates.

exclusive employee residual benefit means a residual fringe benefit where, if the recipient had incurred expenditure in respect of the provision of the recipients benefit, that expenditure would have been exclusively incurred in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates.

exempt accommodation component, in relation to a living-away-from-home allowance fringe benefit in relation to an employee of an employer, in relation to a year of tax, means:

Section 136

- (a) where the employee gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out particulars of:
 - (i) the employee's usual place of residence during the recipients allowance period; and
 - (ii) the place at which the employee actually resided during the recipients allowance period;so much (if any) of the recipients allowance as it would be concluded is in the nature of compensation to the employee for additional expenses that might reasonably be expected to be incurred by the employee in respect of the subsistence during the recipients allowance period of a lease or licence in respect of a unit of accommodation for the accommodation of eligible family members; or
- (b) in any other case—nil.

exempt food component, in relation to a living-away-from-home allowance fringe benefit in relation to an employee of an employer, in relation to a year of tax, means:

- (a) where the employee gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out particulars of:
 - (i) the employee's usual place of residence during the recipients allowance period; and
 - (ii) the place at which the employee actually resided during the recipients allowance period;whichever of the following is applicable:
 - (iii) where the food component of the recipients allowance has been determined by allowing for the whole or a part of the amount (which whole or part is in this definition referred to as the **deducted home consumption expenditure**) of the expenditure that might reasonably be expected to have been incurred by the employee, in respect of the recipients allowance period, in respect of food or drink for eligible family members if the eligible family members had resided at their usual place of residence during the recipients allowance period:
 - (A) if the deducted home consumption expenditure is not less than the sum of the statutory food amounts in respect of eligible family members in respect of the recipients allowance period—

the food component of the recipients allowance;
or

- (B) in any other case—the amount ascertained in accordance with the formula:

$$A - [B - C]$$

where:

A is the food component of the recipients allowance;

B is the sum of the statutory food amounts in respect of eligible family members in respect of the recipients allowance period; and

C is the deducted home consumption expenditure;

- (iv) where subparagraph (iii) does not apply—the food component of the recipients allowance reduced by the sum of the statutory food amounts in respect of eligible family members in respect of the recipients allowance period; or

- (b) in any other case—nil.

expense payment benefit means a benefit referred to in section 20.

expense payment fringe benefit means a fringe benefit that is an expense payment benefit.

extended travel airline transport benefit means an airline transport fringe benefit where:

- (a) the recipients transport is over an international route and involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights; or
- (b) the following conditions are satisfied:
- (i) the recipients transport is in respect of travel by the recipient within Australia that involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights;

Section 136

- (ii) the travel was not undertaken exclusively in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates.

extended travel expense payment benefit means an expense payment fringe benefit where:

- (a) the recipient's expenditure is in respect of travel outside Australia and involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights; or
- (b) the following conditions are satisfied:
 - (i) the recipient's expenditure is in respect of travel by the recipient within Australia that involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights;
 - (ii) the travel was not undertaken exclusively in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates;

but does not include a car expense payment benefit.

extended travel property benefit means a property fringe benefit where:

- (a) the recipient's property is in respect of travel outside Australia and involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights; or
- (b) the following conditions are satisfied:
 - (i) the recipient's property is provided in respect of travel by the recipient within Australia that involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights;
 - (ii) the travel was not undertaken exclusively in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates;

but does not include a car property benefit.

extended travel residual benefit means a residual fringe benefit where:

- (a) the recipient's benefit is in respect of travel outside Australia and involves the recipient being away from the recipient's

usual place of residence for a continuous period including more than 5 nights; or

(b) the following conditions are satisfied:

- (i) the recipients benefit consists of, or is in respect of, travel by the recipient within Australia that involves the recipient being away from the recipient's usual place of residence for a continuous period including more than 5 nights;
- (ii) the travel was not undertaken exclusively in gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates;

but does not include a car residual benefit.

external administrator has the same meaning as in the *Payment Systems and Netting Act 1998*.

external expense payment fringe benefit means an expense payment fringe benefit other than an in-house expense payment fringe benefit.

external non-period residual fringe benefit means a non-period residual fringe benefit other than an in-house residual fringe benefit.

external period residual fringe benefit means a period residual fringe benefit other than an in-house residual fringe benefit.

external property fringe benefit, in relation to an employer, means a property fringe benefit in relation to the employer other than an in-house property fringe benefit.

family member, in relation to a benefit provided to an employee, or to an associate of an employee, in respect of the employment of the employee, means:

- (a) the employee;
- (b) the spouse of the employee; or
- (c) a child of the employee.

FBT year means a year beginning on 1 April.

fitting, in relation to a non-business accessory, includes the acquisition of the accessory.

Section 136

food component, in relation to the recipients allowance in relation to a living-away-from-home allowance fringe benefit in relation to an employee of an employer, means so much (if any) of the recipients allowance as it would be concluded is in the nature of compensation for expenses that the employee might reasonably be expected to incur, in respect of the recipients allowance period, in respect of food or drink for eligible family members.

foreign earnings has the same meaning as in section 23AG of the *Income Tax Assessment Act 1936*.

former employee means a person who has been a current employee.

former employer means a person who has been a current employer.

fringe benefit, in relation to an employee, in relation to the employer of the employee, in relation to a year of tax, means a benefit:

- (a) provided at any time during the year of tax; or
- (b) provided in respect of the year of tax;

being a benefit provided to the employee or to an associate of the employee by:

- (c) the employer; or
- (d) an associate of the employer; or
- (e) a person (in this paragraph referred to as the **arranger**) other than the employer or an associate of the employer under an arrangement covered by paragraph (a) of the definition of **arrangement** between:
 - (i) the employer or an associate of the employer; and
 - (ii) the arranger or another person; or

(ea) a person other than the employer or an associate of the employer, if the employer or an associate of the employer:

- (i) participates in or facilitates the provision or receipt of the benefit; or
- (ii) participates in, facilitates or promotes a scheme or plan involving the provision of the benefit;

and the employer or associate knows, or ought reasonably to know, that the employer or associate is doing so;

in respect of the employment of the employee, but does not include:

-
- (f) a payment of salary or wages or a payment that would be salary or wages if salary or wages included exempt income for the purposes of the *Income Tax Assessment Act 1936*; or
 - (g) a benefit that is an exempt benefit in relation to the year of tax; or
 - (h) a benefit constituted by the acquisition by the employee, or by a relative of the employee, of a share in a company, or of a right to acquire a share in a company, under a scheme for the acquisition of shares by employees, where section 26AAC of the *Income Tax Assessment Act 1936* applies in relation to the acquisition; or

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining who a person's relatives are for the purposes of paragraph (h).

- (ha) a benefit constituted by the acquisition by a person of a share or right to acquire a share under an employee share scheme (within the meaning of Division 13A of Part III of the *Income Tax Assessment Act 1936*); or
- (haa) a benefit constituted by the acquisition by a person under an employee share scheme (within the meaning of that Division) of a stapled security or right to acquire a stapled security that is treated as a qualifying share or qualifying right for the purposes of that Division because of Subdivision DB of that Division; or
- (hb) a benefit constituted by the acquisition by a trust of money or other property where the sole activities of the trust are obtaining shares, or rights to acquire shares, in a company, or a holding company (within the meaning of the *Corporations Act 2001*) of the first-mentioned company, and providing those shares or rights:
 - (i) to employees, or associates of employees, of the first-mentioned company; or
 - (ii) to persons who are engaged in foreign service (within the meaning of section 139GBA of the *Income Tax Assessment Act 1936*) for the first-mentioned company, or associates of those persons; or
- (hc) a benefit constituted by the acquisition by a trust of money or other property where the sole activities of the trust are obtaining stapled securities or rights to acquire stapled securities that are treated as qualifying shares or qualifying rights for the purposes of Division 13A of Part III of the

Section 136

Income Tax Assessment Act 1936 because of Subdivision DB of that Division, and providing those stapled securities or rights:

- (i) to employees of a stapled entity (within the meaning of that Division) for the stapled securities, or to associates of those employees; or
 - (ii) to persons who are engaged in foreign service (within the meaning of section 139GBA of the *Income Tax Assessment Act 1936*) for a stapled entity for the stapled securities, or associates of those persons; or
 - (iii) for a case where, if all the stapled entities for any of the stapled securities were part of one company, that company would be a holding company (within the meaning of the *Corporations Act 2001*) of another company—to employees, or associates of employees of that other company; or
 - (iv) for a case where, if all the stapled entities for any of the stapled securities were part of one company, that company would be a holding company (within the meaning of the *Corporations Act 2001*) of another company—to persons who are engaged in foreign service (within the meaning of section 139GBA of the *Income Tax Assessment Act 1936*) for that other company, or associates of those persons; or
- (hd) a benefit:
- (i) constituted by the making of a contribution to an FHSA (within the meaning of the *First Home Saver Accounts Act 2008*); or
 - (ii) that is an expense payment benefit in relation to a contribution to an FHSA (within the meaning of the *First Home Saver Accounts Act 2008*); or
- (j) a benefit constituted by:
- (i) the making of a contribution to a superannuation fund (as defined by the *Income Tax Assessment Act 1997*) that the person making the contribution had reasonable grounds for believing was a complying superannuation fund (as defined by that Act) for the purpose of making provision for superannuation benefits for the employee (whether or not the benefits are payable to a dependant of the employee if the employee dies before or after becoming entitled to receive the benefits); or
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- (ii) the making of a contribution to a foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*) where:
 - (A) the contribution is for the purpose of making provision for superannuation benefits for the employee (whether or not the benefits are payable to a dependant of the employee if the employee dies before or after becoming entitled to receive the benefits); and
 - (B) the employee is a temporary resident (within the meaning of the *Income Tax Assessment Act 1997*) when the contribution is made; or
 - (iii) the making of a payment of money to an RSA (within the meaning of the *Retirement Savings Accounts Act 1997*) that is held by the employee; or
 - (k) a superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*); or
 - (l) a payment covered by section 26AF or 26AFA of the *Income Tax Assessment Act 1936*; or
 - (la) an early retirement scheme payment (within the meaning of the *Income Tax Assessment Act 1997*); or
 - (lb) a genuine redundancy payment (within the meaning of the *Income Tax Assessment Act 1997*); or
 - (lc) an employment termination payment (within the meaning of the *Income Tax Assessment Act 1997*); or
 - (ld) a payment that would be an employment termination payment (within the meaning of the *Income Tax Assessment Act 1997*) apart from paragraph 82-130(1)(b) of that Act; or
 - (le) any of the following payments, if they would be employment termination payments (within the meaning of the *Income Tax Assessment Act 1997*) apart from paragraph 82-130(1)(b) and section 82-135 of that Act:
 - (i) an unused annual leave payment (within the meaning of that Act);
 - (ii) an unused long service leave payment (within the meaning of that Act);
 - (iii) a payment covered by Subdivision 83-D (Foreign termination payments) of that Act;
 - (iv) a payment covered by paragraph 82-135(g) of that Act;
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Section 136

- (v) a payment of an annuity, or a supplement, covered by section 27H of the *Income Tax Assessment Act 1936*; or
- (m) consideration of a capital nature for, or in respect of:
 - (i) a legally enforceable contract in restraint of trade by a person; or
 - (ii) personal injury to a person; or
- (ma) a payment, within the meaning of subsection 104-255(7) of the *Income Tax Assessment Act 1997*, of a carried interest of a kind referred to in subsection 104-255(1) of that Act; or
- (mb) a grant or acquisition of such a carried interest, or of an entitlement to such a payment; or
- (n) a payment of an amount that, under any provision of the *Income Tax Assessment Act 1936*, is deemed to be a dividend paid to the recipient; or
- (p) a payment made, or liability incurred, to a person to the extent that the payment or liability is, by virtue of subsection 65(1A) of the *Income Tax Assessment Act 1936*, deemed not to be income of the person for the purposes of that Act; or
- (q) a benefit constituted by the conferral of a present entitlement to, or a distribution of, income or capital to the extent that subsection 271-105(1) of Schedule 2F to the *Income Tax Assessment Act 1936* would prevent the inclusion of the amount or value of the income or capital in assessable income, assuming that it would otherwise be so included; or
- (r) anything done in relation to a shareholder in a private company (as those terms are defined in section 6 of the *Income Tax Assessment Act 1936*), or an associate of such a shareholder, that causes (or will cause) the private company to be taken under Division 7A of Part III of that Act to pay the shareholder or associate a dividend; or
- (s) a loan (within the meaning of section 109D of the *Income Tax Assessment Act 1936*), if:
 - (i) a dividend is not taken to be paid under that section in relation to the loan, but would be if section 109N of that Act were disregarded; or
 - (ii) an amount is not included, as if it were a dividend, in the assessable income of an entity under section 109XB of that Act in relation to the loan, but would be if section 109N of that Act were disregarded.

fringe benefits tax or **tax** means tax imposed by the *Fringe Benefits Tax Act 1986*.

fringe benefits taxable amount has the meaning given by section 5B.

future employee means a person who will become a current employee.

future employer means a person who will become a current employer.

general interest charge means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

government body means the Commonwealth, a State, a Territory or an authority of the Commonwealth or of a State or Territory.

GST-creditable benefit has the meaning given by section 149A.

health care means any examination, test or form of care (whether therapeutic, preventative or rehabilitative) that is related to the physiological or psychological health of a person and, without limiting the generality of the foregoing, includes:

- (a) the supply, maintenance or repair of:
 - (i) an artificial limb or other artificial substitute; or
 - (ii) a medical, surgical or similar aid or appliance used by a person; and
- (b) the supply of drugs or other property in connection with such an examination, test or form of care.

health promotion charity means a charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings.

housing benefit means a benefit referred to in section 25.

housing fringe benefit means a fringe benefit that is a housing benefit.

housing right, in relation to a person, means a lease or licence granted to the person to occupy or use a unit of accommodation, insofar as that lease or licence subsists at a time when the unit of accommodation is the person's usual place of residence.

Section 136

identical benefit, in relation to the recipients benefit in relation to a residual fringe benefit, means another benefit that is the same in all respects, except for differences (if any) that are minimal or insignificant and do not affect the value of the other benefit.

identical overall benefit, in relation to the recipients overall benefit in relation to a period residual fringe benefit, means a benefit that is the same in all respects as the recipients overall benefit (except for any differences that are minimal or insignificant and do not affect the value of the benefit).

identical property, in relation to the recipients property in relation to a property fringe benefit, means other property that is the same in all respects, including physical characteristics, quality and reputation, except for differences (if any) that are minimal or insignificant and do not affect the value of the property.

incorporated company means a company being a body corporate.

individual fringe benefits amount for a year of tax in respect of the employment of an employee by an employer has the meaning given by section 5E.

individual quasi-fringe benefits amount for a year of tax in respect of the employment of an employee by an employer has the meaning given by subsection 135Q(3).

industrial instrument means a law of the Commonwealth or of a State or Territory or an award, order, determination or industrial agreement in force under any such law.

in-house expense payment fringe benefit means:

- (a) an in-house property expense payment fringe benefit; or
- (b) an in-house residual expense payment fringe benefit.

in-house fringe benefit means:

- (a) an in-house expense payment fringe benefit;
- (b) an in-house property fringe benefit; or
- (c) an in-house residual fringe benefit.

in-house health care facility, in relation to an employer, means a clinic, surgery, first-aid station or similar facility that is:

- (a) operated wholly or principally for providing health care in respect of compensable work-related trauma suffered:

- (i) in any case—by employees of the employer; or
 - (ii) if the employer is a company—by employees of the employer or by employees of a company that is related to the employer; and
- (b) located:
- (i) on premises of the employer or, if the employer is a company, of the employer or of a company that is related to the employer; or
 - (ii) at or adjacent to a place where employees of the employer or, if the employer is a company, of the employer or of a company that is related to the employer (other than members of the staff of the facility) perform the duties of their employment.

in-house non-period residual fringe benefit means an in-house residual fringe benefit that is not provided during a period.

in-house period residual fringe benefit means an in-house residual fringe benefit that is provided during a period.

in-house property expense payment fringe benefit, in relation to an employer, means an expense payment fringe benefit in relation to the employer where:

- (a) the recipients expenditure was incurred in respect of the provision of tangible property by a person (in this definition called the ***property provider***);
- (b) the provision of the property is a property benefit;
- (c) if the property provider is the employer or an associate of the employer—at or about the provision time, the property provider carried on a business that consisted of or included the provision of identical or similar property principally to outsiders;
- (d) if the property provider is not the employer or an associate of the employer:
 - (i) the property was acquired by the property provider from the employer or an associate of the employer (which employer or associate is in this definition called the ***seller***); and
 - (ii) at or about the provision time, both the property provider and the seller carried on a business that

Section 136

consisted of or included the provision of identical or similar property principally to outsiders; and

- (e) documentary evidence of the recipients expenditure is obtained by the recipient and that documentary evidence, or a copy, is given to the employer before the declaration date.

in-house property fringe benefit, in relation to an employer, means a property fringe benefit in relation to the employer in respect of tangible property:

- (a) where both of the following conditions are satisfied:
 - (i) the provider is the employer or an associate of the employer; and
 - (ii) at or about the provision time, the provider carried on a business that consisted of or included the provision of identical or similar property principally to outsiders; or
- (b) where all of the following conditions are satisfied:
 - (i) the provider is not the employer or an associate of the employer;
 - (ii) the property was acquired by the provider from the employer or an associate of the employer (which employer or associate is in this definition called the ***seller***); and
 - (iii) at or about the provision time, both the provider and the seller carried on a business that consisted of or included the provision of identical or similar property principally to outsiders.

in-house residual expense payment fringe benefit, in relation to an employer, means an expense payment fringe benefit in relation to the employer where:

- (a) the recipients expenditure was incurred in respect of the provision of a residual benefit (other than a benefit provided under a contract of investment insurance) by a person (in this definition called the ***residual benefit provider***);
- (b) if the residual benefit provider is the employer or an associate of the employer—at or about the time that, if the residual benefit had been a residual fringe benefit, would have been the comparison time, the residual benefit provider carried on a business that consisted of or included the provision of identical or similar benefits principally to outsiders;

- (c) if the residual benefit provider is not the employer or an associate of the employer:
 - (i) the residual benefit provider purchased the benefit from the employer or an associate of the employer (which employer or associate is in this definition called the *seller*); and
 - (ii) at or about the time that, if the residual benefit had been a residual fringe benefit, would have been the comparison time, both the residual benefit provider and the seller carried on a business that consisted of or included the provision of identical or similar benefits principally to outsiders; and
- (d) documentary evidence of the recipients expenditure is obtained by the recipient and that documentary evidence, or a copy, is given to the employer before the declaration date.

in-house residual fringe benefit, in relation to an employer, means a residual fringe benefit in relation to the employer:

- (a) where both of the following conditions are satisfied:
 - (i) the provider is the employer or an associate of the employer;
 - (ii) at or about the comparison time, the provider carried on a business that consisted of or included the provision of identical or similar benefits principally to outsiders; or
- (b) where all of the following conditions are satisfied:
 - (i) the provider is not the employer or an associate of the employer;
 - (ii) the provider purchased the benefit from the employer or an associate of the employer (which employer or associate is in this definition called the *seller*);
 - (iii) at or about the comparison time, both the provider and the seller carried on a business that consisted of or included the provision of identical or similar property principally to outsiders;

but does not include a benefit provided under a contract of investment insurance.

injury means any physical or mental injury.

Section 136

in respect of, in relation to the employment of an employee, includes by reason of, by virtue of, or for or in relation directly or indirectly to, that employment.

intangible property means:

- (a) real property;
- (b) a chose in action; and
- (c) any other kind of property other than tangible property;

but does not include:

- (d) a right arising under a contract of insurance; or
- (e) a lease or licence in respect of real property or tangible property.

interest, in relation to a loan, includes a payment in the nature of interest.

international aircrew expense payment benefit means an expense payment fringe benefit where the recipients expenditure:

- (a) is in respect of travel by the recipient in the course of performing the duties of the recipient's employment as the pilot, flight engineer, flight attendant, or other member of the crew, of an aircraft, being expenditure in respect of accommodation, the purchase of food or drink or otherwise incidental to the travel; and
- (b) relates to travel by the recipient outside Australia.

international aircrew property benefit means a property fringe benefit where the recipients property:

- (a) is in respect of travel by the recipient in the course of performing the duties of the recipient's employment as the pilot, flight engineer, flight attendant or other member of the crew, of an aircraft, being property that is:
 - (i) food or drink;
 - (ii) in respect of accommodation; or
 - (iii) otherwise incidental to the travel; and
- (b) relates to travel by the recipient outside Australia.

international aircrew residual benefit means a residual fringe benefit where the recipients benefit:

- (a) is in respect of travel by the recipient in the course of performing the duties of the recipient's employment as the

pilot, flight engineer, flight attendant or other member of the crew of an aircraft, being a benefit that is in respect of accommodation or a benefit that is otherwise incidental to the travel; and

(b) relates to travel by the recipient outside Australia.

international route means a route that is not a domestic route.

law, in relation to a foreign country, means a law of that country, or of any part of, or place in, that country.

lease includes sub-lease.

leased means let on hire (including a letting on hire that is described in the relevant agreement as a lease) under an agreement other than a hire-purchase agreement.

leased car value, in relation to a car held but not owned by a person at a particular time, means:

- (a) in a case to which paragraph (b) does not apply—the amount that the person could reasonably be expected to have been required to pay to purchase the car from the owner at that time under an arm's length transaction; or
- (b) if the person commenced to lease the car at that time from a lessor who purchased the car at or about that time—the cost price of the car to the lessor.

liability to the Commonwealth means a liability to the Commonwealth arising under, or by virtue of, an Act of which the Commissioner has the general administration.

liquidator, in relation to a company, means a person who, whether or not appointed as liquidator, is required by law to carry out the winding up of the company.

living-away-from-home allowance benefit means a benefit referred to in section 30.

living-away-from-home allowance fringe benefit means a fringe benefit that is living-away-from-home allowance benefit.

living-away-from-home food fringe benefit means:

- (a) an expense payment fringe benefit provided in respect of the employment of an employee where:

Section 136

- (i) the recipients expenditure was incurred in respect of food or drink;
 - (ii) the food or drink was not for consumption while the employee was undertaking travel in the course of performing the duties of that employment; and
 - (iii) the food or drink was for consumption by eligible family members at a time when the employee was required to live away from his or her usual place of residence in order to perform the duties of that employment; or
- (b) a property fringe benefit provided in respect of the employment of an employee where:
- (i) the recipients property is food or drink;
 - (ii) the food or drink was not for consumption while the employee was undertaking travel in the course of performing the duties of that employment; and
 - (iii) the food or drink was for consumption by eligible family members at a time when the employee was required to live away from his or her usual place of residence in order to perform the duties of that employment.

loan includes:

- (a) an advance of money;
- (b) the provision of credit or any other form of financial accommodation;
- (c) the payment of an amount for, on account of, on behalf of or at the request of a person where there is an obligation (whether expressed or implied) to repay the amount; and
- (d) a transaction (whatever its terms or form) which in substance effects a loan of money.

loan benefit means a benefit referred to in subsection 16(1).

loan fringe benefit means a fringe benefit that is a loan benefit.

log book records, in relation to a car held by a person (in this definition called the **holder**), in relation to a period, means a daily log book or similar document in which, in respect of each business journey:

- (a) that is undertaken in the car during the period; and

- (b) that the holder, or a person acting on behalf of the holder, chooses to record in the document for the purpose of demonstrating the pattern of use of the car during the period;

an entry setting out particulars of:

- (c) the date on which the journey began and the date on which it ended; and
- (d) the respective odometer readings of the car at the beginning and end of the journey; and
- (e) the number of kilometres travelled by the car in the course of the journey; and
- (f) the purpose or purposes of the journey;

is made in the English language at, or as soon as reasonably practicable after, the end of the journey.

long service award benefit, in relation to an employee of an employer, means a benefit provided to the employee, in respect of the employment of the employee, in, or in respect of, a year of tax solely by way of an award in recognition of the existence of a recognised long service period in relation to the employee that is not less than 15 years, but does not include:

- (a) a payment of salary or wages or a payment that would be salary or wages if salary or wages included exempt income for the purposes of the *Income Tax Assessment Act 1936*;
- (b) a benefit provided under a non-arm's length arrangement; or
- (c) a benefit provided under an arrangement where, having regard to:
- (i) the form and substance of the arrangement;
- (ii) the matters taken into account in determining the period of recognised long service leave recognised by the award; and
- (iii) the eligibility of other employees of the employer to be awarded benefits in recognition of the existence of recognised long service periods;

it would be concluded that the arrangement, or any part of the arrangement, was entered into by any of the parties to the arrangement for the sole or dominant purpose of enabling the employer to obtain the benefit of the application of section 58Q.

long service leave means:

Section 136

- (a) long service leave;
- (b) long leave;
- (c) furlough;
- (d) extended leave; or
- (e) leave of a similar kind (however described).

meal entertainment benefit means a benefit that is a meal entertainment benefit because of section 37AC.

meal entertainment fringe benefit means a fringe benefit that is a meal entertainment benefit.

meal entitlement day, in relation to a meal provided in a year of tax, in respect of the employment of an employee, to a person (in this definition referred to as the **recipient**) being the employee or an associate of the employee, means a day in respect of which:

- (a) in respect of the employment of the employee, the recipient was entitled to be provided (whether without charge or otherwise) with residential accommodation; and
- (b) either of the following subparagraphs applies:
 - (i) the recipient was entitled, pursuant to the provisions of an industrial instrument in respect of the employment of the employee, to be provided (whether without charge or otherwise) with not fewer than 2 meals on that day;
 - (ii) the following conditions are satisfied:
 - (A) under an arrangement that was in force during the whole or a part of the year of tax (which whole or part is in this subparagraph referred to as the **arrangement period**) in respect of the employment of the employee, the recipient was entitled to be provided (whether without charge or otherwise) with not fewer than 2 meals on that day;
 - (B) during the arrangement period, the recipient was also entitled under the arrangement to be provided (whether without charge or otherwise) with not fewer than 2 meals on each day during the arrangement period that was a working day in relation to the employee;
 - (C) pursuant to the arrangement, the recipient was ordinarily provided (whether without charge or

otherwise) with not fewer than 2 meals on the days referred to in sub-subparagraph (B).

migrant language training, in relation to a person, means a course attended by the person where:

- (a) at the time of attending the course, the person is, or intends to become, an immigrant to Australia; and
 - (b) the course is designed to:
 - (i) teach the English language; or
 - (ii) impart an understanding of the rights and duties of an Australian citizen and of the way of living of the Australian people;
- to persons whose first language is not English.

motor vehicle has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

natural person does not include a natural person in the capacity of trustee.

non-arm's length arrangement means an arrangement other than an arm's length arrangement.

non-business accessory, in relation to a car, means an accessory fitted to the car, whether at the factory where the car was assembled or at some other place, other than an accessory required to meet the special needs of any business operations in relation to which the car is used.

non-deductible entertainment expenditure means a loss or outgoing to the extent to which:

- (a) section 32-5 of the *Income Tax Assessment Act 1997* applies to it, or would apply if it were incurred in producing assessable income; and
- (b) apart from that section, it would be deductible under section 8-1 of that Act, or would be if it were incurred in producing assessable income;

(on the assumption that section 32-20 of the *Income Tax Assessment Act 1997* had not been enacted).

non-deductible exempt entertainment expenditure means non-deductible entertainment expenditure to the extent to which it is not incurred in producing assessable income.

Section 136

non-profit company means a company that is not carried on for the purposes of profit or gain to its individual members and is, by the terms of the company's constituent document, prohibited from making any distribution, whether in money, property or otherwise, to its members.

notional amount of interest, in relation to a loan in relation to a year of tax, means the amount of interest that would have accrued on the loan in respect of the year of tax if the interest were calculated on the daily balance of the loan at:

- (a) where the loan is an eligible pre-commencement loan:
 - (i) the statutory interest rate in relation to the time when the loan was made; or
 - (ii) the statutory interest rate in relation to the year of tax; whichever is the less;
- (b) where the loan is not an eligible pre-commencement loan, was made before 3 April 1986 and is a housing loan relating to a dwelling:
 - (i) the statutory interest rate in relation to the year of tax; or
 - (ii) 13.5% per annum; whichever is the less; or
- (c) in any other case—the statutory interest rate in relation to the year of tax.

notional taxable value, in relation to a benefit provided in, or in respect of, a year of tax in respect of the employment of an employee of an employer, means the amount that, if it were assumed that:

- (a) in the case of a car benefit—the car benefit was a residual benefit; and
- (b) in all cases—the benefit was a fringe benefit in relation to the employer in relation to the year of tax;

would be the taxable value of the fringe benefit in relation to the year of tax.

notional tax amount has the meaning given by section 110.

notional value, in relation to the provision of property or another benefit to a person, means the amount that the person could reasonably be expected to have been required to pay to obtain the

property or other benefit from the provider under an arm's length transaction.

obligation, in relation to the payment or repayment of an amount, includes an obligation that is not enforceable by legal proceedings.

odometer records, in relation to a car, in relation to a period, means a document in which particulars of:

- (a) the odometer reading of the car at the commencement of the period; and
- (b) the odometer reading of the car at the end of the period; and
- (c) if paragraph 162K(2)(b) or 162L(2)(b) applies with effect from a particular date—the odometer readings of both the replacement car and of the original car referred to in that paragraph, as at that date;

are entered in the English language, at, or as soon as reasonably practicable after, the respective times to which those odometer readings relate.

offence against this Act includes an offence against:

- (a) the *Crimes Act 1914*; or
- (b) the *Taxation Administration Act 1953*;

relating to this Act.

officer means a person appointed or engaged under the *Public Service Act 1999*.

once-only deduction, in relation to expenditure, means a deduction in a year of income in respect of a percentage of the expenditure where no deduction is allowable in respect of a percentage of the expenditure in any other year of income.

original assessment date means:

- (a) in relation to an assessment other than an amended assessment—the day on which the assessment was made; and
- (b) in relation to an assessment being the first or a subsequent amendment of an assessment to which paragraph (a) applies—the day on which the original assessment was made.

outsider, in relation to the employment of an employee of an employer, means a person not being:

- (a) an employee of the employer;

Section 136

- (b) an employee of an associate of the employer;
- (c) an employee of a person (in this definition referred to as the *provider*) other than the employer or an associate of the employer who provides benefits to, or to associates of, employees of the employer or an associate of the employer under an arrangement between:
 - (i) the employer or an associate of the employer; and
 - (ii) the provider or another person; or
- (d) an associate of an employee to whom any of the preceding paragraphs apply.

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

period residual fringe benefit means a residual fringe benefit that is provided during a period.

person includes:

- (a) a body politic;
- (b) a body corporate;
- (c) a partnership;
- (d) any other unincorporated association or body of persons; and
- (e) a person in the capacity of trustee.

personal services includes services as a personal secretary or chauffeur.

place of residence, in relation to a person, means:

- (a) a place at which the person resides; or
- (b) a place at which the person has sleeping accommodation;

whether on a permanent or temporary basis and whether or not on a shared basis.

preferential air fare means an air fare charged by a person in respect of travel over a route, being an air fare the payment of which entitles the person travelling to benefits to which some of the other passengers on the same flight are not entitled.

primary place of employment, in relation to an employee in relation to a day, means business premises, or associated premises, of the employer of the employee, or of an associate of the employer, where:

- (a) if the employee performed duties of his or her employment on that day—on that day; or
- (b) in any other case—on the most recent day before that day on which the employee performed duties of his or her employment;

those premises are or were:

- (c) the sole or primary place of employment of the employee; or
- (d) otherwise the sole or primary place from which or at which the employee performs duties of his or her employment.

private use, in relation to a motor vehicle, in relation to an employee or an associate of an employee, means any use of the motor vehicle by the employee or associate, as the case may be, that is not exclusively in the course of producing assessable income of the employee.

producing assessable income includes:

- (a) gaining assessable income; or
- (b) carrying on a business for the purpose of gaining or producing assessable income.

property means:

- (a) intangible property; and
- (b) tangible property.

property benefit means a benefit referred to in section 40, but does not include a benefit that is a benefit by virtue of a provision of Subdivision A of Divisions 2 to 10 (inclusive) of Part III.

property fringe benefit means a fringe benefit that is a property benefit.

provide:

- (a) in relation to a benefit—includes allow, confer, give, grant or perform; and
- (b) in relation to property—means dispose of (whether by sale, gift, declaration of trust or otherwise):
 - (i) if the property is a beneficial interest in property but does not include legal ownership—the beneficial interest; or
 - (ii) in any other case—the legal ownership of the property.

Section 136

provider, in relation to a benefit, means the person who provides the benefit.

providers portion, in relation to an expense payment fringe benefit, means whichever of the following amounts is applicable:

- (a) the amount of the payment referred to in paragraph 20(a) reduced by the amount of the recipients contribution;
- (b) the amount of the reimbursement referred to in paragraph 20(b).

providers published air fare, in relation to an airline transport fringe benefit provided over a route in a year of tax, means:

- (a) where paragraph (b) does not apply:
 - (i) a qualifying air fare charged by the provider in respect of transport over that route; or
 - (ii) one half of a qualifying air fare charged by the provider in respect of return transport over that route;during the period of 12 months ending at the end of the year of tax; or
- (b) in a case where the provider charges children, students or blind persons a concessional air fare in respect of an air fare to which paragraph (a) applies and the recipient is eligible for such a concessional air fare—the concessional air fare concerned.

provision time, in relation to the provision of property, means the time when the property is provided.

qualifying air fare means an air fare charged by the provider of an airline transport fringe benefit in respect of transport over a route, being:

- (a) where the provider has premises in Australia at which air tickets issued by the provider are sold—an air fare that was:
 - (i) offered as being available to all members of the public by the provider at those premises; and
 - (ii) specified in a publication authorised by the provider and available at those premises; or
- (b) where the provider does not have premises as mentioned in paragraph (a) but an agent of the provider has premises in Australia at which air tickets issued by the provider are sold—an air fare that was:

- (i) offered as being available to all members of the public by the agent at those premises; and
- (ii) specified in a tariff manual authorised by the provider and available at those premises;

and being, in either case, an air fare that was not subject to special conditions requiring a booking to be made in respect of more than 1 person.

quarter means a period of 3 calendar months commencing on 1 January, 1 April, 1 July or 1 October.

recipient, in relation to a benefit, means the person to whom the benefit is provided.

recipients allowance, in relation to a living-away-from-home allowance fringe benefit, means the allowance, or the part of the allowance, the payment of which constitutes the fringe benefit.

recipients allowance period, in relation to a living-away-from-home allowance fringe benefit, means the period to which the recipients allowance relates.

recipients benefit, in relation to a residual benefit, means the benefit to which the residual benefit relates.

recipients contribution:

- (a) in relation to an airline transport fringe benefit, a car parking fringe benefit, a property fringe benefit, a residual fringe benefit or a board fringe benefit, being a fringe benefit provided in respect of the employment of an employee of an employer, means the amount of any consideration paid to the provider or to the employer by the recipient or by the employee in respect of the provision of the recipients transport, the recipients parking, the recipients property, the recipients benefit or the recipients meal, as the case may be, reduced by the amount of any reimbursement paid to the recipient in respect of that consideration; and
- (b) in relation to an expense payment fringe benefit provided in respect of the employment of an employee of an employer, being a fringe benefit to which paragraph 20(a) applies—the amount paid to the provider or to the employer by the recipient or by the employee in respect of the provision of the fringe benefit.

Section 136

recipients current benefit, in relation to a period residual fringe benefit in relation to a year of tax, means the benefit to which the fringe benefit relates, insofar as that benefit was provided during the year of tax.

recipients current housing right, in relation to a housing fringe benefit in relation to a year of tax, means the housing right to which the fringe benefit relates, insofar as that housing right subsisted during the year of tax.

recipients expenditure, in relation to an expense payment benefit, means the expenditure incurred by the recipient as mentioned in paragraph 20(a) or (b), as the case requires.

recipients meal, in relation to a board fringe benefit, means the meal to which the fringe benefit relates.

recipients overall benefit, in relation to a period residual fringe benefit in relation to a year of tax, means the benefit to which the fringe benefit relates, including that benefit as it was or will be provided at any time outside the year of tax.

recipients overall housing right, in relation to a housing fringe benefit in relation to a year of tax, means the housing right to which the fringe benefit relates, including that housing right as it subsisted, or will subsist, outside the year of tax.

recipients parking, in relation to a car parking fringe benefit, means the provision of the parking facilities to which the benefit relates.

recipients portion, in relation to an expense payment fringe benefit, means the recipients expenditure reduced by whichever of the following amounts is applicable:

- (a) the amount of the payment referred to in paragraph 20(a) reduced by the amount of the recipients contribution;
- (b) the amount of the reimbursement referred to in paragraph 20(b).

recipients property, in relation to a property benefit, means the property to which the benefit relates.

recipients rent, in relation to a housing fringe benefit in relation to an employee of an employer in relation to a year of tax, means the

amount of any rent or other consideration paid to the provider or to the employer by the recipient or the employee in respect of the subsistence, during the year of tax, of the recipients housing right reduced by the amount of any reimbursement paid to the recipient in respect of that consideration.

recipients transport, in relation to an airline transport fringe benefit, means the transport and incidental services to which the benefit relates.

recipients unit of accommodation, in relation to a housing fringe benefit, means the unit of accommodation to which the fringe benefit relates.

recognised long service period, in relation to an employee of an employer, means:

- (a) if the employee has an entitlement to long service leave under:
 - (i) a law of the Commonwealth, a State, a Territory or a foreign country;
 - (ii) an award, order, determination or industrial agreement in force under any such law;
 - (iii) a scheme or arrangement by reason of the existence and nature of which the employer has secured an exemption from obligations to comply with any such law relating to long service leave;
 - (iv) a contract of employment; or
 - (v) the terms of appointment to an office;the period by reference to which that long service leave is determined;
- (b) if:
 - (i) long service leave may be made available to the employee as a privilege; and
 - (ii) the availability of that leave is determined by reference to matters similar to matters by reference to which an entitlement of the kind referred to in paragraph (a) is ordinarily determined;the period by reference to which that long service leave is determined; or
- (c) in any other case:

Section 136

- (i) the period for which the employee has been employed by the employer; or
- (ii) such longer period of employment (whether with that employer or any other employer) as might reasonably be expected to be taken into account in determining long service leave if the employee had an entitlement to long service leave.

recreation includes:

- (a) amusement;
- (b) sport or similar leisure-time pursuits; and
- (c) recreation or amusement provided on, or by means of, a vehicle, ship, vessel or aircraft.

recreational facility means a facility for recreation, but does not include a facility for accommodation or a facility for drinking or dining.

reducible fringe benefit has the meaning given by section 65CC.

registered tax agent has the meaning given by section 251A of the *Income Tax Assessment Act 1936*.

reimburse includes any act having the effect or result, direct or indirect, of a reimbursement.

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

religious practitioner has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

remote area housing benefit has the meaning given by subsection 58ZC(2).

rent index number

- (a) in relation to a quarter in relation to a State or Territory—means the index number for the rent sub-group of the Consumer Price Index published by the Australian Statistician in respect of that quarter for the capital city of that State or Territory; or
- (b) in relation to a quarter in relation to Australia—means the index number for the rent sub-group of the Consumer Price Index, being the weighted average of the 8 capital cities,

published by the Australian Statistician in respect of that quarter.

reportable fringe benefits amount for a year of income in respect of the employment of an employee by an employer has the meaning given by section 135P or 135Q (as appropriate).

reportable fringe benefits total of an employee for a year of income has the meaning given by section 135N.

residential fuel means any form of fuel (including electricity) for use for domestic purposes.

residual benefit means a benefit that is a residual benefit by virtue of section 45.

residual fringe benefit means a fringe benefit that is a residual benefit.

retention period, in relation to a statutory evidentiary document in relation to an employer in relation to a year of tax, means the period that:

- (a) commences on:
 - (i) where the statutory evidentiary document is maintained by or on behalf of the employer—the day on which the document commences to be maintained; or
 - (ii) in any other case—the day on which the statutory evidentiary document is given to the employer; and
- (b) ends:
 - (i) in a case to which subparagraph (ii) does not apply—at the end of the period of 5 years commencing on the original assessment date in relation to an assessment of the fringe benefits taxable amount of the employer of the year of tax; or
 - (ii) if, at the end of that period of 5 years, an objection, or a request for amendment of an assessment (not being an objection) relating to a matter, or matters including a matter, to which the statutory evidentiary document is relevant, or a review or appeal arising out of such an objection, has not been determined or otherwise finally disposed of—on the day on which the objection (and any review or appeal arising out of it), the request, or review or appeal (and any appeal or further appeal

Section 136

arising out of it), as the case may be, is determined or so disposed of.

safety award benefit, in relation to an employee of an employer, means a benefit provided to the employee, in respect of the employment of the employee, solely by way of an award in recognition of the special achievements of the employee, or of the employee and another person or persons, in occupational health matters, or in occupational safety matters, relating to the employment of the employee, or of the employee and that other person or persons, but does not include:

- (a) a payment of salary or wages or a payment that would be salary or wages if salary or wages included exempt income for the purposes of the *Income Tax Assessment Act 1936*;
- (b) a benefit provided under a non-arm's length arrangement; or
- (c) a benefit provided under an arrangement where, having regard to:
 - (i) the form and substance of the arrangement;
 - (ii) the achievements recognised by the award; and
 - (iii) the eligibility of other employees of the employer to be awarded benefits in recognition of their special achievements in occupational health matters or in occupational safety matters;

it would be concluded that the arrangement, or any part of the arrangement, was entered into by any of the parties to the arrangement for the sole or dominant purpose of enabling the employer to obtain the benefit of the application of section 58R.

salary or wages means:

- (a) a payment from which an amount must be withheld (even if the amount is not withheld) under a provision in Schedule 1 to the *Taxation Administration Act 1953* listed in the table, to the extent that the payment is assessable income; and
- (b) a payment from which an amount must be withheld (even if the amount is not withheld) under section 12-47 in Schedule 1 to the *Taxation Administration Act 1953* where:
 - (i) the payment is made to a religious practitioner by a religious institution; and

- (ii) the activity, or series of activities, for which the payment is made is done by the religious practitioner as a member of the religious institution.

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 12-115	Commonwealth education or training payment
5	Section 12-120	Compensation, sickness or accident payment

Second Commissioner means a Second Commissioner of Taxation.

small expense payment fringe benefit means an expense payment fringe benefit where the recipients expenditure does not exceed \$10.

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

stand-by value, in relation to the recipients transport, in relation to an airline transport fringe benefit, means:

- (a) if the recipients transport is over a domestic route:
- (i) if the recipients transport is on a scheduled passenger air service—37.5% of the lowest publicly advertised economy air fare charged by the provider at or about the comparison time in respect of transport over that route; and
 - (ii) if:
 - (A) the recipients transport is not on a scheduled passenger air service; and
 - (B) a carrier operates a scheduled passenger air service over that route at or about the comparison time;

Section 136

37.5% of the lowest publicly advertised economy air fare charged by a carrier at or about the comparison time in respect of transport over that route; and

(iii) if:

- (A) the recipients transport is not on a scheduled passenger air service; and
- (B) no carrier operates a scheduled passenger air service over that route at or about the comparison time; and
- (C) a combination of scheduled passenger air services operated by a carrier or carriers at or about the comparison time would enable a person to travel between the ports of embarkation and disembarkation;

37.5% of the lowest combination of publicly advertised economy air fares charged by carriers at or about the comparison time in respect of transport between the ports of embarkation and disembarkation; and

(iv) in any other case—75% of the notional value at the comparison time of the recipients transport; and

(b) where the recipients transport is over an international route:

- (i) if the recipients transport is on a scheduled passenger air service and there is, at or about the comparison time, a providers published air fare in respect of the route—37.5% of the lowest providers published air fare in respect of that route;
- (ii) if subparagraph (i) does not apply and a carrier operates a scheduled passenger air service over that route at or about the comparison time—37.5% of the lowest economy air fare charged by a carrier at or about the comparison time in respect of transport over that route;
- (iii) if neither subparagraph (i) nor (ii) applies and a combination of scheduled passenger air services operated by a carrier or carriers at or about the comparison time would enable a person to travel between the ports of embarkation and disembarkation—37.5% of the lowest combination of economy air fares charged by carriers at or about the comparison time in respect of transport between the ports of embarkation and disembarkation; and

- (iv) in any other case—75% of the notional value at the comparison time of the recipients transport.

statutory evidentiary document, in relation to an employer in relation to a year of tax (in this definition called the *current year of tax*), means:

- (a) a declaration or other document that is:
 - (i) given to the employer pursuant to a provision of Part III or of a definition in this subsection that is relevant to that Part; and
 - (ii) relevant for the purposes of determining:
 - (A) the taxable value of a fringe benefit provided in, or in respect of, the current year of tax in respect of the employment of an employee of the employer;
 - (AA) the notional taxable value of a benefit provided in, or in respect of, the current year of tax in respect of the employment of an employee of the employer; or
 - (B) whether a benefit provided in, or in respect of, the current year of tax in respect of the employment of an employee of the employer is an exempt benefit; and
- (aa) records of a nomination under section 162K or 162L that:
 - (i) are maintained by the employer in relation to the current year of tax; or
 - (ii) were maintained by the employer in relation to an earlier year of tax but are relevant to the employer's liability under this Act in respect of the current year of tax;
- (ab) a record of the business use percentage specified by the employer for the current year of tax; and
- (b) a document maintained by the employer in relation to the current year of tax as mentioned in section 10A or paragraph 10B(a) or sub-subparagraph 24(1)(c)(ia)(A) or 24(1)(c)(i)(B); and
- (c) log book records or odometer records maintained in relation to a particular car where any of the following subparagraphs apply:
 - (i) both of the following conditions are satisfied:

Section 136

- (A) the current year of tax is not a log book year of tax of the employer in relation to the car;
 - (B) section 10A required the records to be maintained by or on behalf of the provider of a car fringe benefit in relation to the employer as a condition of the employer being entitled, in respect of the year of tax that was the last log book year of tax of the employer in relation to the car before the current year of tax, to a reduction in the operating cost of the car on account of business journeys undertaken in the car during that last log book year of tax;
- (ii) both of the following conditions are satisfied:
- (A) the current year of tax is not a log book year of tax of the recipient of a loan fringe benefit, an expense payment fringe benefit, a property fringe benefit or a residual fringe benefit in relation to the car while it was held by the recipient during a period in the current year of tax;
 - (B) section 65E required the records to be maintained by or on behalf of the recipient as a condition of the employer being entitled, in relation to the year of tax that was the last log book year of tax of the recipient before the current year of tax, to a reduction of the taxable value of a fringe benefit on account of business journeys undertaken in the car in that last log book year of tax; and
- (d) a no-private-use declaration or a recurring fringe benefit declaration that covers benefits provided in the current year of tax.

statutory food amount, in relation to a person, in relation to a period in relation to a year of tax, means the amount calculated in respect of that period:

- (a) in a case where the person had attained the age of 12 years before the beginning of the year of tax—at the rate of \$42 per week; and
- (b) in any other case—at the rate of \$21 per week.

statutory interest rate:

- (a) in relation to a year of tax, means the benchmark interest rate in relation to the year of tax; or
- (b) in relation to a time (in this paragraph referred to as the **loan time**) before 1 July 1986, means:
 - (i) if the loan time occurred after 2 April 1986:
 - (A) if there is only 1 benchmark interest rate in relation to the loan time—that rate;
 - (B) if there are 2 or more benchmark interest rates in relation to the loan time—the lower or lowest of those rates; or
 - (C) if there is no benchmark interest rate in relation to the loan time—such rate as is prescribed;
 - (ii) if the loan time occurred during a period specified in the Schedule—the rate specified in the Schedule in relation to that period; and
 - (iii) if the loan time occurred before 1 January 1946—3.875% per annum.

stratum unit, in relation to a dwelling, means a unit on a unit plan registered under a law of a State or Territory that provides for the registration of titles of a kind known as unit titles or strata titles, being a unit that comprises:

- (a) a part of a building containing the dwelling, being a part consisting of a flat or home unit; or
- (b) a part of a parcel of land, being a part on which the building containing the dwelling is constructed.

supplementary car rate, in relation to a year of tax, means the rate prescribed for the purposes of this definition in relation to the year of tax.

tangible property means goods and includes:

- (a) animals, including fish; and
- (b) gas and electricity.

tax-exempt body entertainment benefit means a benefit referred to in section 38.

tax-exempt body entertainment fringe benefit means a fringe benefit that is a tax-exempt body entertainment benefit.

Section 136

taxi means a motor vehicle that is licensed to operate as a taxi.

tenancy period, in relation to a housing benefit in relation to a year of tax, means the period during the year of tax when the housing right to which the benefit relates subsisted.

this Act includes:

- (a) the regulations; and
- (b) Part IVC of the *Taxation Administration Act 1953*, insofar as that Part relates to this Act.

travel agent, in relation to transport provided in respect of the employment of an employee, means a person who, at or about the time when that transport commenced to be provided, carried on a business that consisted of or included the sale principally to outsiders of airline tickets issued by airline operators.

travel diary, in relation to particular travel undertaken by the recipient of an expense payment fringe benefit, an airline transport fringe benefit, a property fringe benefit or a residual fringe benefit, means a diary or similar document, in the English language, in which, in relation to each activity engaged in by the recipient:

- (a) while undertaking that travel; and
 - (b) in the course of producing assessable income of the recipient; the recipient has made, before, at the time of, or as soon as reasonably practicable after, the conclusion of the activity, an entry setting out particulars of:
 - (d) the place where the activity was undertaken;
 - (e) the date and approximate time when the activity commenced;
 - (f) the duration of the activity; and
 - (g) the nature of the activity;
- and includes a copy of such a diary or document.

Tribunal means the Administrative Appeals Tribunal.

trustee includes:

- (a) a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law; or
- (b) an executor, administrator or other personal representative of a deceased person; or
- (c) a guardian or committee; or

- (d) a receiver or receiver and manager; or
- (e) a liquidator of a company; or
- (ea) an administrator, within the meaning of the *Corporations Act 2001*, of a company; or
- (eb) an administrator of a deed of company arrangement executed by a company under Part 5.3A of that Act; or
- (f) a person:
 - (i) having or taking upon himself or herself the administration or control of any real or personal property affected by any express or implied trust;
 - (ii) acting in any fiduciary capacity; or
 - (iii) having the possession, control or management of any real or personal property of a person under any legal or other disability.

unincorporated company means a company being an unincorporated association or other unincorporated body of persons.

unit of accommodation includes:

- (a) a house, flat or home unit;
- (aa) accommodation in a house, flat or home unit;
- (b) accommodation in a hotel, hostel, motel or guesthouse;
- (c) accommodation in a bunkhouse or any living quarters;
- (d) accommodation in a ship, vessel or floating structure; and
- (e) a caravan or other mobile home.

unreimbursed expenditure means expenditure no part of which has been reimbursed.

unreimbursed interest means interest no part of which has been reimbursed.

waive includes release.

workers' compensation law means a law of the Commonwealth, a State, a Territory or a foreign country that provides for compensation or other benefits for or in respect of work-related trauma suffered by employees without requiring proof of any breach by, or by persons associated with, employers.

Section 136

work-related counselling:

- (a) in relation to an employee of an employer, means counselling attended by the employee; and
 - (b) in relation to an associate of an employee of an employer, means counselling attended by the associate where the associate is accompanied by the employee;
- where all of the following conditions are satisfied:
- (c) the attendance of:
 - (i) if paragraph (a) applies—the employee; and
 - (ii) if paragraph (b) applies—both the employee and the associate;at the counselling gives effect to an objective, purpose, plan or policy devised, adopted or required to be followed, by the employer to:
 - (iii) improve or maintain the quality of the performance of employees' duties; or
 - (iv) prepare employees for retirement;
 - (d) the counselling relates to any of the following matters:
 - (i) safety;
 - (ii) health;
 - (iii) fitness;
 - (iv) stress management;
 - (v) personal relationships;
 - (vi) retirement problems;
 - (vii) drug or alcohol abuse;
 - (viii) rehabilitation or prevention of work-related trauma or of other disease or injury;
 - (ix) first aid;
 - (x) any similar matter;
 - (e) there is no benefit that:
 - (i) is provided in respect of the employment of the employee;
 - (ii) consists of the provision of, or relates to, the counselling; and
 - (iii) is provided wholly or principally as a reward for services rendered or to be rendered by the employee.

work-related medical examination, in relation to a benefit provided in respect of the employment of an employee, means an examination or test carried out by, or on behalf of, an audiometrist or a legally qualified medical practitioner, nurse, dentist or optometrist wholly or principally in order to ascertain the physiological or psychological condition of the employee for any or all of the following purposes:

- (a) the commencement of the employment of the employee;
- (b) the confirmation of probationary employment of the employee;
- (c) a change in the duties or location of the employment of the employee;
- (d) the employee becoming a member of a superannuation fund.

work-related medical screening, in relation to an employee of an employer, means an examination or test carried out by, or on behalf of, an audiometrist or a legally qualified medical practitioner, nurse, dentist or optometrist wholly or principally in order to ascertain whether the employee has suffered, is suffering or is at risk of suffering, from work-related trauma, but does not include an examination or test that is not made available generally to all employees of the employer:

- (a) who are likely to have suffered, be suffering or be at risk of suffering, from similar work-related trauma;
- (b) who perform the duties of their employment at or near the place where the employee performs the duties of his or her employment; and
- (c) whose duties of employment are similar to those of the employee.

work-related preventative health care, in relation to an employee of an employer, means any form of care provided by, or on behalf of, a legally qualified medical practitioner, nurse, dentist or optometrist wholly or principally in order to prevent the employee suffering from work-related trauma, but does not include a form of care that is not made available generally to all employees of the employer:

- (a) who are likely to be at risk of suffering from similar work-related trauma;

Section 136

- (b) who perform the duties of their employment at or near the place where the employee performs the duties of his or her employment; and
- (c) whose duties of employment are similar to those of the employee.

work-related trauma, in relation to an employee, means:

- (a) the injury of the employee (including the aggravation, acceleration or recurrence of an injury of the employee);
- (b) the contraction, aggravation, acceleration or recurrence of a disease of the employee;
- (c) the loss or destruction of, or damage to:
 - (i) an artificial limb or other artificial substitute;
 - (ii) a medical, surgical or similar aid or appliance used by the employee; or
 - (iii) clothing worn by the employee; or
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other physiological or psychological condition in relation to the employee that is or may be harmful or disadvantageous to, or result in harm or disadvantage to, the employee;

that is related to any employment of the employee.

work-related travel, in relation to an employee, means:

- (a) travel by the employee between:
 - (i) the place of residence of the employee; and
 - (ii) the place of employment of the employee or any other place from which or at which the employee performs duties of his or her employment; or
- (b) travel by the employee that is incidental to travel in the course of performing the duties of his or her employment.

year of income means an income year (within the meaning of the *Income Tax Assessment Act 1997*).

year of tax means the year starting on 1 April 1987, and each later year starting on 1 April.

- (2) In the definition of **business premises** in subsection (1), **premises** includes a ship, vessel, floating structure, aircraft or train.

136AB What constitutes reasonable belief that a superannuation fund is a complying superannuation fund

- (1) Subject to subsection (2), if a person makes a payment to a superannuation fund, the person is taken, for the purposes of paragraph (j) of the definition of *fringe benefit* in subsection 136(1), to have reasonable grounds for believing that the fund is a complying superannuation fund (as defined by the *Income Tax Assessment Act 1997*) if, at or before the time when the payment is made, the person has obtained a written statement, provided by or on behalf of the trustee of the fund, that the fund:
 - (a) is a resident regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; and
 - (b) is not subject to a direction under section 63 of that Act.
- (2) A person who makes a payment to a superannuation fund is taken not to have reasonable grounds for believing that the fund is a complying superannuation fund if, when the payment is made:
 - (a) the person:
 - (i) is the trustee or the manager of the fund; or
 - (ii) is an associate of the trustee or the manager of the fund; and
 - (b) the person has reasonable grounds for believing that the fund is not a resident regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* or is operating in contravention of a regulatory provision, as defined in section 38A of that Act.
- (3) Section 39 of the *Superannuation Industry (Supervision) Act 1993* applies for the purposes of subsection (2) of this section in a corresponding way to the way in which it applies for the purposes of Division 2 of Part 5 of that Act.

136A Reimbursement etc. of tax not to be regarded as consideration in respect of benefit etc.

For the purposes of this Act, an amount paid (including an amount deemed by section 145 to have been paid) in respect of fringe benefits tax shall not be regarded as also being consideration for or in respect of:

- (a) the provision of a benefit; or

Section 137

- (b) any other matter.

137 Salary or wages

- (1) For the purpose only of ascertaining whether a person is an employee or an employer within the meaning of this Act, where:
 - (a) a benefit is provided by a person (in this subsection referred to as the *first person*) to, or to an associate of, another person (in this subsection referred to as the *second person*);
 - (b) but for this subsection, the benefit would not be regarded as having been provided in respect of the employment of the second person; and
 - (c) either of the following conditions is satisfied:
 - (i) if the benefit were provided by the first person by way of a cash payment to the second person, the payment would constitute salary or wages paid by the first person to the second person;
 - (ii) all of the following conditions are satisfied:
 - (A) subparagraph (i) does not apply in relation to the benefit;
 - (B) the first person is an associate of a third person or the benefit is provided under an arrangement between the first person and a third person;
 - (C) if the benefit were provided by the third person by way of a cash payment to the second person, the payment would constitute salary or wages paid by the third person to the second person;
- a definition in subsection 136(1) applies as if the benefit were salary or wages paid to the second person by:
- (d) in a case to which subparagraph (c)(i) applies—the first person; or
 - (e) in a case to which subparagraph (c)(ii) applies—the third person.

138 Double counting of fringe benefits

- (1) Where:
 - (a) a person (in this subsection referred to as the *employee*) is both:

- (i) an employee of an employer (in this section referred to as the *first employer*); and
 - (ii) an employee of one or more associates of the first employer;
 - (b) a benefit is provided to, or to an associate of, the employee by the first employer; and
 - (c) the benefit is a fringe benefit in relation to the first employer; the benefit is not a fringe benefit in relation to an employer who is an associate of the first employer.
- (2) For the purposes of this Act, where, in a case to which subsection (1) does not apply, a benefit provided to, or to an associate of, an employee would, but for this subsection, be a fringe benefit in relation to 2 or more employers, the benefit shall be taken to be a fringe benefit in relation to such one of those employers as the Commissioner determines and not in relation to any other of those employers.
- (3) For the purposes of this Act, where a benefit in respect of the employment of an employee is provided jointly to the employee and one or more associates of the employee, the benefit shall be deemed to have been provided to the employee only.
- (4) For the purposes of this Act, where a benefit in respect of the employment of an employee is provided jointly to 2 or more associates of the employee but not to the employee, the benefit shall be taken to have been provided to such one of those associates as the Commissioner determines and not to any other of those associates.

138A Benefit provided in respect of a year of tax

A reference in this Act to a benefit provided in respect of a year of tax is a reference to a benefit that is deemed to be provided in respect of the year of tax.

138B Benefit provided in respect of the employment of an employee

A reference in this Act to a benefit provided in respect of the employment of an employee is a reference to a benefit provided, or originally provided, as the case may be, in respect of that employment.

Section 138C

138C Application or use of benefit

A reference in this Act to the application or use of a benefit is a reference to the application or use of:

- (a) in the case of an airline transport benefit—the recipients transport;
- (b) in the case of a board benefit—the recipients meal;
- (c) in the case of a loan benefit—the loan to which the benefit relates;
- (d) in the case of a property benefit—the recipients property; or
- (e) in the case of a residual benefit—the recipients benefit.

139 Date on which return furnished

Where an employer furnishes, on different dates, 2 or more returns to the Commissioner under this Act relating to a year of tax, a reference in this Act to the day on which the return relating to that year was furnished is a reference to the earliest of those dates.

140 Eligible urban areas

- (1) In this Act:
 - (a) a reference to an eligible urban area is a reference to:
 - (i) an area that:
 - (A) is situated in an area described in Schedule 2 to the *Income Tax Assessment Act 1936*; and
 - (B) is an urban centre with a census population of not less than 28,000; and
 - (ii) an area that:
 - (A) is not situated in an area described in Schedule 2 to the *Income Tax Assessment Act 1936*; and
 - (B) is an urban centre with a census population of not less than 14,000; and
 - (b) a reference to a location that is adjacent to an eligible urban area is a reference to a location that, as at the date of commencement of this section:
 - (i) was situated less than 40 kilometres, by the shortest practicable surface route, from the centre point of an

eligible urban area with a census population of less than 130,000; or

- (ii) was situated less than 100 kilometres, by the shortest practicable surface route, from the centre point of an eligible urban area with a census population of not less than 130,000.

(1A) However, this Act operates in relation to a housing benefit provided in respect of the employment of an employee of an employer described in subsection (1B) or in respect of the employment of an employee described in subsection (1C), (1CA) or (1D) as if:

- (a) a reference in this Act (except in paragraph (1)(a), this paragraph and subsection 140(4)) to an eligible urban area were a reference to an eligible urban area that is an urban centre with a census population of not less than 130,000; and
- (b) subparagraph (1)(b)(i) were omitted.

(1B) Subsection (1A) applies in relation to each of the following employers:

- (a) a public hospital;
- (c) a hospital carried on by:
 - (i) a society that is a non-profit society for the purposes of section 65J; or
 - (ii) an association that is a non-profit association for the purposes of section 65J;
- (d) an employer that is a charitable institution.

(1C) Subsection (1A) also applies in relation to an employee:

- (a) whose employer is a government body; and
- (b) whose duties of employment are exclusively performed in, or in connection with:
 - (i) a public hospital; or
 - (iii) a hospital carried on by a society that is a non-profit society for the purposes of section 65J or by an association that is a non-profit association for the purposes of section 65J.

(1CA) Subsection (1A) also applies in relation to an employee:

- (a) whose employer provides public ambulance services or services that support those services; and

Section 140

- (b) who is predominantly involved in connection with the provision of those services.
- (1D) Subsection (1A) also applies in relation to an employee:
- (a) whose employer is a government body; and
 - (b) whose duties of employment are performed in a police service.
- (2) For the purposes of this section, the distance, by the shortest practicable surface route, between a location (in this subsection referred to as the *tested location*) and the centre point of an eligible urban area is:
- (a) where there is only one location within the eligible urban area from which distances between the eligible urban area and other places are usually measured—the distance, by the shortest practicable surface route, between the tested location and that location; and
 - (b) where there are 2 or more locations within the eligible urban area from which distances between parts of the eligible urban area and other places are usually measured—the distance, by the shortest practicable surface route, between the tested location and the one of those locations that is in the principal one of those parts.
- (2A) In applying subsection (2), if the shortest practicable surface route between the tested location and the location mentioned in that subsection includes a route by water, the distance between those locations is taken to be the amount worked out using the following formula:

$$\left(\begin{array}{l} \text{Total kilometres} \\ \text{of the surface route} \\ \text{that are by water} \end{array} \times 2 \right) + \begin{array}{l} \text{Total kilometres} \\ \text{of the surface route} \\ \text{that are by land} \end{array}$$

- (3) In this section:

census population, in relation to an urban centre, means the census count on an actual location basis of the population of that urban centre specified in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1981, being the results published by the Australian Statistician in the document entitled “Persons and Dwellings in Local Government Areas and Urban Centres”.

surface route means a route other than an air route.

urban centre means an area that is described as an urban centre or bounded locality in the results of the Census of Population and Housing taken by the Australian Statistician on 30 June 1981, being the results published by the Australian Statistician in the document entitled “Persons and Dwellings in Local Government Areas and Urban Centres”.

- (4) If, but for this subsection, the whole or any part of a provision of this Act or of the *Fringe Benefits Tax Act 1986* would be invalid by reason of the enactment of paragraph (1)(a) of this section, this Act has effect as if that paragraph were omitted and the following paragraph were substituted:
- “(a) a reference to an eligible urban area is a reference to an area that is an urban centre with a census population of not less than 14,000; and”.

141 Housing loans, prescribed interests in land or stratum units and proprietary rights in respect of dwellings

- (1) For the purposes of this Act, where:
- (a) a loan is made to, and used by, a person (whether in his or her own right or jointly with his or her spouse) wholly:
 - (i) to enable the person to acquire a prescribed interest in land on which a building constituting or containing a dwelling was subsequently to be constructed or to acquire a prescribed interest in land and construct, or complete the construction of, such a building on the land;
 - (ii) to enable the person to construct, or complete the construction of, a building constituting or containing a dwelling on land in which the taxpayer held a prescribed interest;
 - (iii) to enable the person to acquire a prescribed interest in land on which there was a building constituting or containing a dwelling;
 - (iv) to enable the person to acquire a prescribed interest in a stratum unit in relation to a dwelling;
 - (v) to enable the person to extend a building constituting or containing a dwelling, being a building constructed on

Section 141

land in which the taxpayer held a prescribed interest, by adding a room or part of a room to the building or the part of the building containing the dwelling, as the case may be;

- (vi) in a case where the person held a prescribed interest in a stratum unit in relation to a dwelling—to enable the person to extend the dwelling by adding a room or part of a room to the dwelling;
 - (vii) to enable the person to acquire a proprietary right in respect of a dwelling, being a flat or a home unit; or
 - (viii) to enable the person to repay a loan that was made to, and used by, the person wholly for a purpose mentioned in a preceding subparagraph of this paragraph; and
- (b) at the time the loan was made, the dwelling was used or proposed to be used as the person's usual place of residence; the loan shall be taken to be a housing loan relating to the dwelling.

(2) For the purposes of this Act:

(a) where:

- (i) a person acquires, holds or held an estate in fee simple in land or in a stratum unit or 2 or more persons acquire, hold or held such an estate in land or in a stratum unit as joint tenants or tenants in common;
- (ii) a person acquires, holds or held an interest in land or in a stratum unit as lessee or licensee, or 2 or more persons acquire, hold or held jointly an interest in land or in a stratum unit as lessees or licensees, under a lease or licence, and the Commissioner is satisfied that the lease or licence gives or gave reasonable security of tenure to the lessee or licensee, or to the lessees or licensees, for a period of, or for periods aggregating, not less than 10 years;
- (iii) a person acquires, holds or held an interest in land or in a stratum unit as purchaser of an estate in fee simple in the land or in the stratum unit, or 2 or more persons acquired, hold or held an interest in land or in a stratum unit as purchasers of such an estate in the land or in the stratum unit as joint tenants or tenants in common, under an agreement that provides or provided for payment of the purchase price, or a part of the purchase price, to be made at a future time or by instalments; or

(iv) a person acquires, holds or held an interest in land or in a stratum unit as purchaser, or 2 or more persons acquire, hold or held jointly an interest in land or in a stratum unit as purchasers, of the right to be granted a lease of the land or of the stratum unit under an agreement that provides or provided for payment of the purchase price, or a part of the purchase price, for the lease to be made at a future time or by instalments and the Commissioner is satisfied that the lease will give or gave reasonable security of tenure, to the lessee or lessees for a period of, or for periods aggregating, not less than 10 years;

that person or those persons shall be taken to acquire or hold, or to have held, as the case may be, a prescribed interest in that land or in that stratum unit, as the case requires; and

(b) where a person acquires, holds or held, or 2 or more persons acquire, hold or held jointly, a right of occupancy of a dwelling, being a flat or a home unit, arising by virtue of the acquiring or holding of shares, or by virtue of a contract to purchase shares, in a company that owns or owned the building that contains the flat or home unit, that person, or those persons, as the case requires, shall be taken to acquire or hold, or to have held, as the case may be, a proprietary right in respect of the dwelling;

(c) where:

(i) a loan that but for this paragraph would be a housing loan relating to a dwelling is made by a person (in this paragraph referred to as *the lender*) to another person (in this paragraph referred to as *the borrower*);

(ii) the lender does not maintain an account in relation to the loan that is separate and apart:

(A) from any account kept by the lender in relation to any moneys deposited with the lender or applied by the lender on behalf of the borrower otherwise than for the purpose of repaying the loan, in whole or in part, or of paying, in whole or in part, interest that has accrued or will accrue in respect of the loan; and

(B) from any account kept by the lender in relation to any other loan made by the lender to the borrower;

Section 141A

the loan referred to in subparagraph (i) is not a housing loan relating to a dwelling.

- (3) For the purposes of this Act, a loan shall not be taken to be a housing loan relating to a dwelling except as provided in this section.

141A Benefits incidental to acquisition or sale of prescribed interests in land or stratum units and proprietary rights in respect of dwellings

- (1) For the purposes of this Act, recipients expenditure shall be taken to be incidental to the acquisition or sale of a prescribed interest in land or a stratum unit or of a proprietary right in respect of a dwelling if, and only if:

- (a) in the case of an acquisition of a prescribed interest in land on which the employee or associate concerned proposes to construct, or complete the construction of, a building constituting or containing a dwelling—the recipients expenditure is in respect of any of the following matters:

- (i) stamp duty;
- (ii) legal services;
- (iii) agent's services;
- (iv) discharge of a mortgage;
- (v) expenses of borrowing;
- (vi) any similar matter;

being a matter of a capital nature that is incidental to the construction, or the completion of the construction, of that building;

- (b) in all cases—the recipients expenditure is in respect of any of the following matters:

- (i) stamp duty;
- (ii) advertising;
- (iii) legal services;
- (iv) agent's services;
- (v) discharge of a mortgage;
- (vi) expenses of borrowing;
- (vii) any similar matter;

being a matter of a capital nature that is incidental to the acquisition or sale of the interest or right; and

- (c) in all cases—the recipients expenditure is not in respect of:
- (i) interest;
 - (ii) repayments of principal;
 - (iii) loan service fees;
 - (iv) the discharge of a mortgage, or expenses of borrowing, where the money borrowed was not applied wholly in respect of the land, stratum unit or proprietary right or in respect of a building on the land;
 - (v) insurance; or
 - (vi) rates.
- (2) For the purposes of this Act, a recipients benefit shall be taken to be incidental to the acquisition or sale of a prescribed interest in land or a stratum unit or of a proprietary right in respect of a dwelling if, and only if:
- (a) the recipients benefit consists of any of the following matters:
- (i) advertising;
 - (ii) legal services;
 - (iii) agent's services;
 - (iv) services related to borrowing;
 - (v) any similar matter;
- being a matter of a capital nature that is incidental to the acquisition or sale of the interest or right; and
- (b) the recipients benefit does not consist of or relate to:
- (i) insurance; or
 - (ii) services related to borrowing where the money borrowed was not applied wholly in respect of the land, stratum unit or proprietary right or in respect of a building on the land.

142 Remote area housing

- (1) In this Act, a reference, in relation to a year of tax in relation to an employee of an employer, to a remote area housing loan connected with a dwelling is a reference to a housing loan relating to the dwelling where:

Section 142

- (a) during the whole of the period (in this subsection referred to as the ***occupation period***) in the year of tax when the employee occupied or used the dwelling as his or her usual place of residence:
 - (i) the dwelling was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and
 - (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
 - (b) the common conditions set out in subsection (2E) are satisfied in relation to the occupation period; and
 - (d) the loan was not made to the employee pursuant to:
 - (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60.
- (1A) In this Act, a reference, in relation to a year of tax in relation to an employee of an employer, to remote area housing rent connected with a unit of accommodation is a reference to rent or other consideration payable in respect of the subsistence of a lease or licence in respect of the unit of accommodation where:
- (a) during the whole of the period (in this subsection referred to as the ***occupation period***) in the year of tax when the employee occupied or used the unit of accommodation as his or her usual place of residence:
 - (i) the unit of accommodation was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and
 - (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
 - (b) the common conditions set out in subsection (2E) are satisfied in relation to the occupation period; and
 - (d) the lease or licence was not granted under:

- (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60.
 - (2) In this Act, a reference, in relation to a property fringe benefit in relation to a year of tax in relation to an employee of an employer, to remote area residential property is a reference to property that consists of an estate or interest in land:
 - (aa) on which is situated a dwelling occupied or used by the employee immediately after the provision time as his or her usual place of residence; or
 - (ab) on which the employee proposes, as at the provision time, to construct, or complete the construction of, a dwelling to be occupied or used by the employee as his or her usual place of residence;
- where:
- (ac) if paragraph (ab) applies—the Commissioner is satisfied that the employee has pursued sustained reasonable efforts to:
 - (i) commence the construction, or commence the completion of the construction, of the dwelling within 6 months after the provision time; and
 - (ii) occupy or use the dwelling as his or her usual place of residence within 18 months after the provision time;
 - (a) at the provision time:
 - (i) the land was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and
 - (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
 - (b) the common conditions set out in subsection (2E) are satisfied in relation to the provision time; and
 - (d) the property was not provided to the employee pursuant to:
 - (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for

Section 142

purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60 or Division 14A of Part III.

- (2A) In this Act, a reference, in relation to a property fringe benefit in relation to a year of tax in relation to an employee of an employer, to a remote area residential property option fee is a reference to property that consists of a fee paid to the employee by way of consideration in respect of the grant of an option to purchase an estate or interest in land:
- (a) held by the employee; and
 - (b) on which:
 - (i) there is a dwelling occupied or used by the employee immediately after the provision time as his or her usual place of residence; or
 - (ii) the employee proposes, as at the provision time, to construct, or complete the construction of, a dwelling to be occupied or used by the employee as his or her usual place of residence;

where:

- (c) if subparagraph (b)(ii) applies—the Commissioner is satisfied that the employee has pursued sustained reasonable efforts to:
 - (i) commence the construction, or commence the completion of the construction, of the dwelling within 6 months after the provision time; and
 - (ii) occupy or use the dwelling as his or her usual place of residence within 18 months after the provision time;
- (d) at the provision time:
 - (i) the land was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and
 - (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
- (e) the option was granted at or before the time the employee acquired the estate or interest and constituted a recognised remote area housing obligation restricting the disposal of the estate or interest concerned;

- (f) the common conditions set out in subsection (2E) are satisfied in relation to the provision time; and
 - (g) the property was not provided to the employee under:
 - (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60 or Division 14A of Part III.
- (2B) In this Act, a reference, in relation to a property fringe benefit in relation to a year of tax in relation to an employee of an employer, to remote area residential property repurchase consideration is a reference to property that consists of an amount paid to the employee by way of consideration for the purchase of an estate or interest in land:
- (a) held by the employee; and
 - (b) on which:
 - (i) there is a dwelling occupied or used by the employee immediately before the provision time as his or her usual place of residence; or
 - (ii) the employee proposed, as at the time the employee acquired the estate or interest, to construct, or complete the construction of, a dwelling to be occupied or used by the employee as his or her usual place of residence;
- where:
- (c) if subparagraph (b)(ii) applies—the Commissioner is satisfied that the employee has pursued sustained reasonable efforts to:
 - (i) commence the construction, or commence the completion of the construction, of the dwelling within 6 months after the time the employee acquired the estate or interest; and
 - (ii) occupy or use the dwelling as his or her usual place of residence within 18 months after the time the employee acquired the estate or interest;
 - (d) at the provision time:
 - (i) the land was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and

Section 142

- (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
 - (e) at or before the time the employee acquired the estate or interest, the employee entered into a recognised remote area housing obligation restricting the disposal of the estate or interest concerned;
 - (f) the purchase by the provider of the fringe benefit of the estate or interest is in accordance with that obligation;
 - (g) the common conditions set out in subsection (2E) are satisfied in relation to the provision time; and
 - (h) the property was not provided to the employee under:
 - (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60 or Division 14B of Part III.
- (2C) In this Act, a reference, in relation to an expense payment fringe benefit in relation to a year of tax in relation to an employee of an employer, to recipients expenditure in respect of remote area residential property is a reference to recipients expenditure that is incurred wholly:
- (a) to enable the employee to acquire an estate or interest in land on which a dwelling was subsequently to be constructed or to acquire an estate or interest in land and construct, or complete the construction of, a dwelling on the land;
 - (b) to enable the employee to construct, or complete the construction of, a dwelling on land in which the employee holds an estate or interest;
 - (c) to enable the employee to acquire an estate or interest in land on which there is a dwelling; or
 - (d) to enable the employee to extend a dwelling, being a dwelling constructed on land in which the employee holds an estate or interest, by adding a room or part of a room to the dwelling, as the case may be;
- where:
- (e) if paragraph (a) or (b) applies:

- (i) at the time the recipients expenditure was incurred, the employee proposed to occupy or use the dwelling as his or her usual place of residence; and
 - (ii) the Commissioner is satisfied that the employee has pursued sustained reasonable efforts to:
 - (A) commence the construction, or commence the completion of the construction, of the building constituting or containing the dwelling within 6 months after the time the recipients expenditure was incurred; and
 - (B) occupy or use the dwelling concerned as his or her usual place of residence within 18 months after the time the recipients expenditure was incurred;
 - (f) if paragraph (c) or (d) applies—as soon as reasonably practicable after the time the recipients expenditure was incurred, the dwelling concerned was occupied or used by the employee as his or her usual place of residence;
 - (g) at the time the recipients expenditure was incurred:
 - (i) the land was situated in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and
 - (ii) the employee was a current employee of the employer and the usual place of employment of the employee was not at a location in, or adjacent to, an eligible urban area;
 - (h) the common conditions set out in subsection (2E) are satisfied in relation to the time the recipients expenditure was incurred; and
 - (j) the fringe benefit was not provided to the employee under:
 - (i) a non-arm's length arrangement; or
 - (ii) an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of section 60 or Division 14A of Part III.
- (2D) In this Act, a reference, in relation to a property fringe benefit or an expense payment fringe benefit in relation to a year of tax in relation to an employee of an employer, to a recognised remote area housing obligation restricting the disposal of an estate or

Section 142

interest in land is a reference to a contractual obligation entered into by the employee with the employer or an associate of the employer not to dispose of the estate or interest concerned except:

- (a) to the employer or an associate of the employer; and
- (b) for a price specified in, or ascertained in accordance with, the contract concerned;

at any time during a period specified in the contract concerned, being a period that ends not earlier than 5 years after:

- (c) in the case of a property fringe benefit where the recipients property is remote area residential property repurchase consideration—the time the employee acquired the estate or interest concerned;
- (d) in the case of any other property fringe benefit—the provision time; or
- (e) in the case of an expense payment fringe benefit—the time the recipients expenditure was incurred.

(2E) For the purposes of the application of this section to a fringe benefit in relation to a year of tax in relation to an employee of an employer, the common conditions in relation to a particular period or in relation to a particular time are as follows:

- (a) it is customary for employers in the industry in which the employee was employed during that period or at that time, as the case may be, to provide housing assistance for their employees;
- (b) it would be concluded that it was necessary for the employer, during the year of tax, to provide or arrange for the provision of housing assistance for employees of the employer because:
 - (i) the nature of the employer's business was such that employees of the employer were liable to be frequently required to change their places of residence;
 - (ii) there was not, at or near the place or places at which the employees of the employer were employed, sufficient suitable residential accommodation for those employees (other than residential accommodation provided by or on behalf of the employer); or
 - (iii) it is customary for employers in the industry in which the employee was employed during that period or at that time, as the case may be, to provide housing assistance for their employees.

- (3) A reference in this section to housing assistance is a reference to:
- (a) the provision of residential accommodation without charge or for a rent or other consideration that is less than the market value of the right to occupy or use the accommodation concerned;
 - (aa) the making of payments in discharge or reimbursement of rent or other consideration incurred by a person in respect of the subsistence of a lease or licence in respect of a unit of accommodation;
 - (b) the making of a housing loan relating to a dwelling, being a loan in respect of which the rate of interest payable is less than the market rate of interest in respect of the loan concerned;
 - (c) the making of payments in discharge or reimbursement of expenditure incurred by a person in respect of interest incurred in respect of a housing loan relating to a dwelling;
 - (d) the provision of residential property without charge or for consideration that is less than the market value of the property at the provision time;
 - (e) the making of payments in discharge or reimbursement of expenditure incurred by a person in acquiring or constructing residential property; or
 - (f) the provision of a residential property ownership scheme involving:
 - (i) the granting by employees of options to purchase employees' residential property; or
 - (ii) the purchase of employees' residential property.
- (4) Nothing in section 74 prevents the amendment of an assessment at any time for the purpose of giving effect to paragraph (2)(ac), (2A)(c), (2B)(c) or (2C)(e).

142A Benefits relating to transport

- (1) For the purposes of this Act, recipients expenditure that is in respect of, or a recipients benefit that consists of:
- (a) accident insurance, airport or departure tax, passenger movement charge, a passport, a visa or a vaccination; or
 - (b) any similar matter or thing;

Section 142B

in connection with transport shall be taken to be in respect of the provision of, or to consist of, transport.

- (2) For the purposes of this Act, where:
- (a) transport is between a particular place and another place;
 - (b) the transport is provided in consecutive stages; and
 - (c) apart from this subsection, a particular matter or thing would be in respect of only one, or only some, of those stages;
- the matter or thing shall be taken to be in respect of the provision of that transport.

142B Employee's new place of employment

Where a provision of this Act refers to an employee who is required to change his or her usual place of residence in order to perform the duties of his or her employment, a reference in the provision to the employee's new place of employment shall not be taken as implying that the employee was employed when he or she resided at his or her former usual place of residence.

142C Eligible shared accommodation in a house, flat or home unit

For the purposes of this Act, where:

- (a) the recipients unit of accommodation (in this section called the *shared unit of accommodation*) in relation to a housing fringe benefit in relation to an employee in relation to a year of tax consists of accommodation in a house, flat or home unit; and
- (b) throughout the tenancy period, there ordinarily subsisted 3 or more other housing fringe benefits, where each of those other housing fringe benefits was a housing fringe benefit:
 - (i) where the recipients unit of accommodation consisted of accommodation in the house, flat or home unit; and
 - (ii) in relation to a different employee;

the shared unit of accommodation shall be taken to be eligible shared accommodation in the house, flat or home unit in relation to the year of tax.

142D Eligible accommodation in an employees hostel

For the purposes of this Act, where:

- (a) the recipients unit of accommodation in relation to a housing fringe benefit in relation to an employee in relation to an employer in relation to a year of tax consists of accommodation in a hostel or a similar building that is operated wholly or principally for the purpose of providing accommodation for employees of:
 - (i) the employer; or
 - (ii) if the employer is a company—the employer or a company that is related to the employer; and
 - (b) the recipient is not entitled to exclusive use of:
 - (i) cooking facilities in the hostel or building; or
 - (ii) more than one bedroom in the hostel or building;
- the recipients unit of accommodation shall be taken to be eligible accommodation in an employees hostel in relation to the year of tax.

143 Remote area holiday transport

- (1) For the purposes of this Act:
 - (a) the recipients expenditure in relation to an expense payment fringe benefit;
 - (aa) the recipients property in relation to a property fringe benefit; or
 - (b) the recipients benefit in relation to a residual fringe benefit; in relation to an employer, in relation to an employee, in relation to a year of tax shall be taken to be in respect of remote area holiday transport if:
 - (c) in the case of an expense payment fringe benefit—the recipients expenditure is in respect of the provision of transport, or meals or accommodation in connection with transport;
 - (ca) in the case of a property benefit—the recipients property consists of meals in connection with transport;
 - (d) in the case of a residual fringe benefit—the recipients benefit consists of:
 - (i) the provision of transport or accommodation in connection with transport; or
 - (ii) the receipt of an allowance in respect of the cost of obtaining transport, or of obtaining meals or accommodation in connection with transport;

Section 143

- (e) the transport, accommodation or meals is for a family member;
- (f) apart from temporary absences, the employee performs the duties of his or her employment at a place in a State or internal Territory but not at a location in, or adjacent to, an eligible urban area;
- (g) the transport is provided wholly or principally to enable the family member to have a holiday for a period of not less than 3 days;
- (h) if the transport is for the employee:
 - (i) the transport is provided while the employee is on recreation leave, being recreation leave of not less than 3 working days; and
 - (ii) at the completion of that recreation leave, the employee resumes the duties of that employment at the place referred to in paragraph (f);
- (j) either of the following subparagraphs applies:
 - (i) the transport is between:
 - (A) a place at or near the place referred to in paragraph (f); and
 - (B) another place;
 - (ii) the transport is for the spouse, or a child, of the employee, being a spouse or a child of the employee who does not live with the employee at or near the place referred to in paragraph (f), and the transport is between:
 - (A) a place where the spouse or child, as the case may be, meets the employee; and
 - (B) another place;
- (ja) if the transport is for the spouse, or a child, of the employee—the transport is not provided to enable the spouse or child to accompany the employee:
 - (i) while the employee is undertaking travel in the course of performing the duties of his or her employment; and
 - (ii) where the circumstances referred to in subsection 26-30(2) of the *Income Tax Assessment Act 1997* do not apply; and
- (k) either of the following conditions is satisfied:

- (i) the benefit is provided pursuant to the provisions of an industrial instrument relating to the employment of the employee;
 - (ii) it is customary for employers in the industry in which the employee is employed to provide benefits of the same kind as the benefit provided to the recipient and to provide such benefits in similar circumstances to those that applied in relation to the provision of the benefit to the recipient.
- (2) For the purposes of this Act, where:
- (a) the recipients expenditure in relation to an expense payment fringe benefit;
 - (b) the recipients property in relation to a property fringe benefit; or
 - (c) the recipients benefit in relation to a residual fringe benefit; is in respect of remote area holiday transport, the fringe benefit shall be taken to be a remote area holiday transport fringe benefit.
- (3) Where:
- (a) one or more remote area holiday transport fringe benefits in relation to a particular employee in relation to a year of tax relate to a holiday for a particular family member; and
 - (b) the transport to which that fringe benefit or those fringe benefits relates does not consist wholly of transport, by the most direct practicable route, between:
 - (i) a place at or near the place referred to in paragraph (1)(f); and
 - (ii) a place in a State or internal Territory, being:
 - (A) a place at or near the place that was the employee's usual place of residence immediately before the employee began employment at the place referred to in paragraph (1)(f); or
 - (B) the capital city of the State or Territory in which the place referred to in paragraph (1)(f) is located;
- the benchmark travel amount in relation to that fringe benefit or those fringe benefits in relation to that holiday for that family member is:

Section 143

(c) if either of the following subparagraphs apply:

- (i) the employee was entitled to be provided with capital city holiday transport assistance pursuant to the provisions of an industrial instrument relating to the employment of the employee;
- (ii) there was a custom in the industry in which the employee was employed such that the employee could have been provided with capital city holiday transport assistance by the employer;

the sum of:

- (iii) the return economy air fare in respect of the air service, or the total of the return economy air fares in respect of the air services, to which that capital city holiday transport assistance relates; and
- (iv) the expenses that could reasonably be expected to have been incurred in respect of the family member (whether by way of airport transfer, meals, accommodation, accident insurance, airport or departure tax, passenger movement charge, or any similar matter or thing) in accordance with the entitlement or custom to which that capital city holiday transport assistance relates and in connection with travelling on that return service or those return services;

(d) if paragraph (c) does not apply but the following conditions are satisfied in respect of one or more return scheduled passenger air services:

- (A) the service was operated, at or about the time the holiday commenced, between eligible places;
- (B) the nature of the service is such that it would not be unreasonable for the family member to travel on the service;

the lowest of the return economy air fares for those services;

(e) if neither paragraph (c) nor (d) applies but the following conditions are satisfied in respect of one or more combinations of return scheduled passenger air services:

- (A) the combination was operated at or about the time the holiday commenced and would have enabled a person to travel between eligible places;

- (B) the nature of the combination, and of the services in the combination, is such that it would not be unreasonable for the family member to travel on the services;
 - the total of the return economy air fares for the combination that has the lowest total of economy return air fares; or
 - (f) in any other case—an amount equal to the lowest return fare, or combination of return fares, in respect of travel services in respect of which the following conditions are satisfied:
 - (A) the service, or combination of services, was operated at or about the time the holiday commenced and would have enabled a person to travel between eligible places;
 - (B) the nature of the service, or the nature of the combination and of the services included in the combination, is such that it would not be unreasonable for the family member to travel on the service or services.
- (4) For the purposes of the application of this section in relation to a benefit provided in respect of the employment of an employee:
 - (a) a reference in this section to travel, or to the operation of a service or services, between eligible places is a reference to travel, or the operation of a service or services, between:
 - (i) a place at or near the place referred to in paragraph (1)(f); and
 - (ii) the capital city of the State or Territory in which the place referred to in paragraph (1)(f) is located;
 - (b) a reference in this section to the provision of capital city holiday transport assistance to the employee is a reference to:
 - (i) the making of payments in discharge or reimbursement of expenditure incurred by a person in respect of a return scheduled passenger air service or combination of return scheduled passenger air services operated by a carrier or carriers between eligible places; or
 - (ii) the provision of transport on such a service or services;
 - (c) Adelaide shall be treated as the capital city of the Northern Territory; and

Section 143A

- (d) Perth shall be treated as the capital city of the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

143A Relocation transport

For the purposes of this Act, where:

- (a) any of the following benefits is provided in, or in respect of, a year of tax to an employee, or to an associate of the employee, in respect of the employment of the employee:
 - (i) a car benefit relating to a particular car where the application or availability of the car is in respect of the provision of transport;
 - (ii) an expense payment benefit where the recipients expenditure is in respect of the provision of transport, or meals or accommodation in connection with transport;
 - (iii) a property benefit where the recipients property consists of meals in connection with transport;
 - (iv) a residual benefit where the recipients benefit consists of the provision of transport or accommodation in connection with transport;
- (b) the transport, meals or accommodation is for a family member;
- (c) the transport is required solely because:
 - (i) the employee is required to live away from his or her usual place of residence in order to perform the duties of that employment;
 - (ii) the employee, having lived away from his or her usual place of residence in order to perform the duties of that employment, is required to return to his or her usual place of residence:
 - (A) in order to perform those duties; or
 - (B) because the employee has ceased to perform those duties; or
 - (iii) the employee is required to change his or her usual place of residence in order to perform the duties of that employment;
- (d) the transport is provided to enable a family member to:
 - (i) if subparagraph (c)(i) applies—take up residence at or near the place where the employee performs the duties

- of that employment while living away from his or her usual place of residence;
- (ii) if subparagraph (c)(ii) applies—take up residence at the employee’s usual place of residence; or
 - (iii) if subparagraph (c)(iii) applies—take up residence at the employee’s new usual place of residence;
- (e) if the transport is for the spouse, or a child, of the employee—the transport is not provided to enable the spouse or child to accompany the employee:
- (i) while the employee is undertaking travel in the course of performing the duties of that employment; and
 - (ii) where the circumstances referred to in subsection 26-30(2) of the *Income Tax Assessment Act 1997* do not apply; and
- (f) if the transport is for the employee—the transport is not provided while the employee is undertaking travel in the course of performing the duties of that employment; and
- (g) if subparagraph (c)(iii) applies—the benefit is not provided under a non-arm’s length arrangement;
- the benefit shall be taken to be in respect of relocation transport.

143B Overseas employees

For the purposes of this Act, where:

- (a) an employee’s usual place of residence is in a particular country (in this section called the *home country*);
- (b) apart from temporary absences, the employee performs the duties of his or her employment at:
 - (i) a place outside the home country; or
 - (ii) 2 or more places outside the home country; and
- (c) the employee is required to live outside the home country in order to perform the duties of his or her employment at the place or places referred to in paragraph (b);

the following provisions have effect:

- (d) the period commencing when the employee commences to perform the duties of his or her employment at:
 - (i) if subparagraph (b)(i) applies—the place referred to in that subparagraph; or

Section 143C

- (ii) if subparagraph (b)(ii) applies—the first place referred to in that subparagraph at which the employee performs those duties;
and ending when the employee ceases, apart from any temporary absences, to perform those duties at:
- (iii) if subparagraph (b)(i) applies—the place referred to in that subparagraph; or
- (iv) if subparagraph (b)(ii) applies—the last place referred to in that subparagraph at which the employee performs those duties;
shall be taken to be the overseas posting period of the employee;
- (e) the employee shall be taken to be an overseas employee during the overseas posting period;
- (f) the place, or each of the places, referred to in paragraph (b) shall be taken to be an overseas employment place.

143C Overseas employment holiday transport

- (1) For the purposes of this Act, where:
 - (a) any of the following fringe benefits is provided in, or in respect of, a year of tax in respect of the employment of an employee of an employer:
 - (i) an expense payment fringe benefit where the recipients expenditure is in respect of the provision of transport, or meals or accommodation in connection with transport;
 - (ii) a property fringe benefit where the recipients property consists of meals in connection with transport;
 - (iii) a residual fringe benefit where the recipients benefit consists of the provision of transport or accommodation in connection with transport;
 - (b) the transport, accommodation or meals is for a family member;
 - (c) the transport is provided wholly or principally to enable the family member to have a holiday for a period of not less than 3 days;
 - (d) at the time (in this section called the *outbound travel time*) immediately before the commencement of travel undertaken by the family member in connection with that holiday:
 - (i) the employee was an overseas employee; and

- (ii) disregarding days of recreation leave, the employee's overseas posting period was a period of not less than 28 days;
- (e) if the transport is for the employee:
 - (i) the transport is provided while the employee is on recreation leave, being recreation leave of not less than 3 working days; and
 - (ii) at the completion of that recreation leave, the employee resumes the duties of that employment at the place that was the employee's overseas employment place at the outbound travel time;
- (f) either of the following subparagraphs applies:
 - (i) the transport is between:
 - (A) a place at or near the place that was the employee's overseas employment place at the outbound travel time; and
 - (B) another place;
 - (ii) the transport is for the spouse, or a child, of the employee, being a spouse or a child of the employee who does not live with the employee at the place that was the employee's overseas employment place at the outbound travel time, and the transport is between:
 - (A) a place where the spouse or child, as the case may be, meets the employee; and
 - (B) another place;
- (g) in the case of an expense payment fringe benefit—the recipients expenditure is not in respect of remote area holiday transport;
- (h) in the case of a property fringe benefit—the recipients property is not in respect of remote area holiday transport;
- (j) in the case of a residual fringe benefit—the recipients benefit is not in respect of remote area holiday transport;
- (k) if the transport is for the spouse, or a child, of the employee—the transport is not provided to enable the spouse or child to accompany the employee:
 - (i) while the employee is undertaking travel in the course of performing the duties of his or her employment; and

Section 143C

- (ii) where the circumstances referred to in subsection 26-30(2) of the *Income Tax Assessment Act 1997* do not apply; and
- (m) either of the following conditions is satisfied:
 - (i) the benefit is provided pursuant to the provisions of an industrial instrument relating to the employment of the employee;
 - (ii) it is customary for employers in the industry in which the employee is employed to provide benefits of the same kind as the benefit provided to the recipient and to provide such benefits in similar circumstances to those that applied in relation to the provision of the benefit to the recipient;

the following provisions have effect:

- (n) the fringe benefit shall be taken to be in respect of overseas employment holiday transport;
- (p) the benchmark travel amount in relation to the family member in relation to the fringe benefit is:
 - (i) if either of the following sub-subparagraphs apply:
 - (A) the employee was entitled to be provided with home country holiday transport assistance pursuant to the provisions of an industrial instrument relating to the employment of the employee;
 - (B) there was a custom in the industry in which the employee was employed such that the employee could have been provided with home country holiday transport assistance by the employer;

the sum of:

- (C) the return economy air fare in respect of the air service, or the total of the return economy air fares in respect of the air services, to which that home country holiday transport assistance relates; and
- (D) the expenses that could reasonably be expected to have been incurred in respect of the family member (whether by way of airport transfer, meals, accommodation, accident insurance, airport or departure tax, passenger movement

charge, or any similar matter or thing) in accordance with the entitlement or custom to which that home country holiday transport assistance relates and in connection with travelling on that return service or those return services;

- (ii) if subparagraph (i) does not apply but the following conditions are satisfied in respect of one or more return scheduled passenger air services:

- (A) the service was operated, at or about the outbound travel time, between eligible places;
- (B) the nature of the service is such that it would not be unreasonable for the family member to travel on the service;

the lowest of the return economy air fares for those services;

- (iii) if neither subparagraph (i) nor (ii) applies but the following conditions are satisfied in respect of one or more combinations of return scheduled passenger air services:

- (A) the combination was operated at or about the outbound travel time and would have enabled a person to travel between eligible places;
- (B) the nature of the combination, and of the services in the combination, is such that it would not be unreasonable for the family member to travel on the services;

the total of the economy return air fares for the combination that has the lowest total of economy return air fares; or

- (iv) in any other case—an amount equal to the lowest return fare, or combination of return fares, in respect of travel services in respect of which the following conditions are satisfied:

- (A) the service, or combination of services, was operated at or about the outbound travel time and would have enabled a person to travel between eligible places;
- (B) the nature of the service, or the nature of the combination and of the services included in the

Section 143C

combination, is such that it would not be unreasonable for the family member to travel on the service or services;

- (q) if the transport for a particular family member consists wholly of transport:
 - (i) in respect of a holiday taken by the family member; and
 - (ii) by the most direct practicable route between:
 - (A) a place at or near the place that was the employee's overseas employment place at the outbound travel time; and
 - (B) a place in the country in which the employee's usual place of residence during the overseas posting period was located;

the fringe benefit shall be taken to be a home country fringe benefit in relation to the holiday for the family member.

- (2) For the purposes of the application of this section in relation to a benefit provided in respect of the employment of an employee:
 - (a) a reference in this section to travel, or to the operation of a service or services, between eligible places is a reference to travel, or the operation of a service or services, between:
 - (i) a place at or near the place that was the employee's overseas employment place at the outbound travel time; and
 - (ii) a place at or near the usual place of residence of the employee during the overseas posting period; and
 - (b) a reference in this section to the provision of home country holiday transport assistance to the employee is a reference to:
 - (i) the making of payments in discharge or reimbursement of expenditure incurred by a person in respect of a return scheduled passenger air service, or combination of return scheduled passenger air services, operated by a carrier or carriers between eligible places; or
 - (ii) the provision of transport on such a service or services.

143D Employment interviews and selection tests

For the purposes of this Act, where:

- (a) any of the following benefits is provided in, or in respect of, a year of tax to an employee of an employer in respect of his or her employment:
 - (i) a car benefit relating to a particular car where the application or availability of the car is in respect of the provision of transport;
 - (ii) an expense payment benefit where the recipients expenditure is in respect of the provision of transport, or meals or accommodation in connection with transport;
 - (iii) a property benefit where the recipients property consists of meals in connection with transport;
 - (iv) a residual benefit where the recipients benefit consists of the provision of transport or accommodation in connection with transport;
- (b) the transport, meals or accommodation is for the employee;
- (c) the transport is required solely because the employee is required to attend an interview or selection test in connection with an application by the employee for:
 - (i) employment;
 - (ii) promotion; or
 - (iii) job transfer; and
- (d) the benefit is not provided under a non-arm's length arrangement;

the benefit shall be taken to be in respect of an employment interview or selection test.

143E Work-related medical examinations, work-related medical screening, work-related preventative health care, work-related counselling, migrant language training

For the purposes of this Act, where:

- (a) any of the following benefits is provided in, or in respect of, a year of tax in respect of the employment of an employee:
 - (i) a car benefit relating to a particular car where the application or availability of the car is in respect of the provision of transport;

Section 144

- (ii) an expense payment benefit where the recipients expenditure is in respect of the provision of transport, or meals or accommodation in connection with transport;
 - (iii) a property benefit where the recipients property consists of meals in connection with transport;
 - (iv) a residual benefit where the recipients benefit consists of the provision of transport or accommodation in connection with transport;
- (b) the transport is required solely because:
- (i) the employee attends:
 - (A) a work-related medical examination of the employee;
 - (B) work-related medical screening of the employee;
 - (C) work-related preventative health care of the employee;
 - (D) work-related counselling of the employee; or
 - (E) migrant language training of the employee; or
 - (ii) an associate of the employee attends:
 - (A) work-related counselling of the associate; or
 - (B) migrant language training of the associate;
- (c) if subparagraph (b)(i) applies—the transport, meals or accommodation is for the employee; and
- (d) if subparagraph (b)(ii) applies—the transport, meals or accommodation is for the associate of the employee;
- the benefit shall be taken to be associated with:
- (e) a work-related medical examination of the employee;
 - (f) work-related medical screening of the employee;
 - (g) work-related preventative health care of the employee;
 - (h) work-related counselling of the employee or of the associate of the employee; or
 - (j) migrant language training of the employee or of the associate of the employee;
- as the case requires.

144 Deemed payment

For the purposes of Part III, any conduct by a person that effects or results in a discharge or extinction of an obligation of another

person to pay an amount to a third person shall be taken to constitute the payment of the amount by the first-mentioned person.

145 Consideration not in cash

- (1) For the purposes of this Act, where, upon any transaction, any consideration is given by way of the provision of property (other than money), the money value of that consideration shall be deemed to have been paid or given.
- (2) Subsection (1) does not apply for the purpose of determining whether an act or thing constitutes the provision of a benefit to which a particular provision of this Act applies.

146 Amounts to be expressed in Australian currency

For the purposes of this Act, all amounts and values shall be expressed in terms of Australian currency.

147 Obligation to pay or repay an amount

For the purposes of this Act, a person shall be deemed to be under an obligation to pay or repay an amount notwithstanding that the amount is not due for payment or repayment.

148 Provision of benefits

- (1) A reference in this Act to the provision of a benefit to a person in respect of the employment of an employee is a reference to the provision of such a benefit:
 - (a) whether or not the benefit is also provided in respect of, by reason of, by virtue of, or for or in relation directly or indirectly to, any other matter or thing;
 - (b) whether the employment will occur, is occurring, or has occurred;
 - (c) whether or not the benefit is surplus to the needs or wants of the recipient;
 - (d) whether or not the benefit is also provided to another person;
 - (e) whether or not the benefit is, to any extent, offset by any inconvenience or disadvantage;

Section 148

- (f) whether or not the benefit is provided or used, or required to be provided or used, in connection with that employment;
 - (g) whether or not the provision of the benefit is, or is in the nature of, income; and
 - (h) whether or not the benefit is provided as a reward for services rendered, or to be rendered, by the employee.
- (2) Where, in respect of the employment of an employee, a benefit is provided by a person (in this subsection referred to as the *provider*) to a person other than:
- (a) the employee; or
 - (b) a person who, but for this subsection, is an associate of the employee;
- under an arrangement between:
- (c) the provider, the employer or an associate of the employer; and
 - (d) the employee or a person who, but for this subsection, is an associate of the employee;
- the recipient of the benefit shall be deemed to be an associate of the employee for the purposes of the application of this Act in relation to the provision of that benefit.
- (3) Where:
- (a) but for the prohibition on the doing of an act or thing, the doing of the act or thing would result in the provision of a benefit in respect of the employment of a person by another person (in this subsection referred to as the *provider*); and
 - (b) the prohibition is not consistently enforced;
- the provider shall be deemed, for the purposes of this Act, to have provided that benefit in respect of that employment.
- (4) For the purposes of this Act, a benefit that is received or obtained by an employee, or by an associate of an employee, in respect of the employment of the employee shall be deemed to have been provided by the provider in respect of that employment.
- (5) A provision of this Act that deems a benefit to have been provided in particular circumstances shall not, by implication, limit the meaning of the expression *provide* when used in relation to the provision of a benefit in other circumstances.

149 Provision of benefit during a period

- (1) For the purposes of this Act, a benefit shall be taken to be provided during a period if, and only if, the benefit:
 - (a) is provided, or subsists, during a period of more than 1 day; and
 - (b) is not deemed by a provision of this Act to be provided at a particular time or on a particular day.
- (2) For the purposes of subsection (1), but without limiting the generality of that subsection, a benefit constituted by the subsistence of a lease or licence in respect of property, or a benefit in respect of a loan, shall be taken to be provided during the period when the lease or licence subsists or while a person is under an obligation to repay the whole or any part of the loan, as the case may be.

149A What is a *GST-creditable benefit*?

- (1) A benefit provided in respect of the employment of an employee is a ***GST-creditable benefit*** if either of the following is or was entitled to an input tax credit under Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999* because of the provision of the benefit:
 - (a) the person who provided the benefit;
 - (b) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.
- (2) A benefit provided in respect of the employment of an employee is also a ***GST-creditable benefit*** if:
 - (a) the benefit consists of:
 - (i) a thing (as defined in the *A New Tax System (Goods and Services Tax) Act 1999*); or
 - (ii) an interest in such a thing; or
 - (iii) a right over such a thing; or
 - (iv) a personal right to call for or be granted any interest in or right over such a thing; or
 - (v) a licence to use such a thing; or
 - (vi) any other contractual right exercisable over or in relation to such a thing; and

Section 150

- (b) the thing was acquired (within the meaning of that Act) or imported (within the meaning of that Act) and either of the following is or was entitled to an input tax credit under that Act because of the acquisition or importation:
 - (i) the person who provided the benefit;
 - (ii) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.

150 Credit cards

For the purposes of this Act, where, in respect of the employment of an employee of an employer, the employee or an associate of the employee uses a credit card issued by a third person to, or to an associate of, the employer to obtain the provision of a benefit on credit from a fourth person, the following provisions have effect:

- (a) the fourth person shall be taken to have provided the benefit, in respect of that employment, under an arrangement between:
 - (i) the employer or the associate of the employer, as the case requires; and
 - (ii) the fourth person;
- (b) where the employer or the associate of the employer, as the case may be, incurred expenditure to the third person under an arm's length transaction in respect of the provision of the benefit—the employer or the associate of the employer, as the case requires, shall be taken to have incurred that expenditure to the fourth person under an arm's length transaction.

151 Employee performing services for person other than employer

Where the employer of an employee contracts with another person (in this section referred to as the *purchaser*) for the employee to perform services for the purchaser, the following provisions have effect for the purposes of the application of section 54 and the definition of *board meal* in subsection 136(1) in relation to the provision of a meal, or food or drink, to the employee in respect of, by reason of, by virtue of, or for or in relation directly or indirectly to, the performance of those services:

- (a) premises of the purchaser shall be taken to be eligible premises of the employer;
- (b) a meal, or food or drink, provided by the purchaser to the employee shall be taken to have been provided by the employer.

152A Recurring fringe benefit declaration

Recipient may make recurring fringe benefit declaration

- (1) If a person is provided with a benefit (the **declaration benefit**), the person may make a **recurring fringe benefit declaration** in relation to the declaration benefit.

Expense payment fringe benefits covered by declaration

- (2) If the recurring fringe benefit declaration covers another benefit (the **later benefit**) that is an expense payment fringe benefit:
 - (a) the recurring fringe benefit declaration is taken to have been made under paragraph 24(1)(e) in respect of the recipients expenditure for that benefit; and
 - (b) the **gross deduction** in paragraph 24(1)(b) in relation to the later benefit is taken to be the amount worked out using the formula:

$$\text{Gross expenditure} \times \text{Deductible proportion of} \\ \left[\text{later benefit} \right] \quad \times \quad \text{declaration benefit}$$

where:

Gross expenditure (later benefit) is the gross expenditure mentioned in paragraph 24(1)(b) in relation to the later benefit.

Deductible proportion of declaration benefit is the deductible proportion of the declaration benefit as worked out under subsection (9).

Note: The **gross deduction** is used as component GD in the formula in paragraph 24(1)(ba).

Property fringe benefits covered by declaration

- (3) If the recurring fringe benefit declaration covers another benefit (the **later benefit**) that is a property fringe benefit:

Section 152A

- (a) the recurring fringe benefit declaration is taken to have been made under paragraph 44(1)(c) in respect of the recipients property for that benefit; and
- (b) the **gross deduction** in paragraph 44(1)(b) in relation to the later benefit is taken to be the amount worked out using the formula:

$$\text{Gross expenditure [later benefit]} \times \text{Deductible proportion of declaration benefit}$$

where:

Gross expenditure (later benefit) is the gross expenditure mentioned in paragraph 44(1)(b) in relation to the later benefit.

Deductible proportion of declaration benefit is the deductible proportion of the declaration as worked out under subsection (9).

Note: The **gross deduction** is used as component GD in the formula in paragraph 44(1)(ba).

Residual fringe benefits covered by declaration

- (4) If the recurring fringe benefit declaration covers another benefit (the **later benefit**) that is a residual fringe benefit:
 - (a) the recurring fringe benefit declaration is taken to have been made under paragraph 52(1)(c) in respect of the recipients benefit for that benefit; and
 - (b) the **gross deduction** in paragraph 52(1)(b) in relation to the later benefit is taken to be the amount worked out using the formula:

$$\text{Gross expenditure [later benefit]} \times \text{Deductible proportion of declaration benefit}$$

where:

Gross expenditure (later benefit) is the gross expenditure mentioned in paragraph 52(1)(b) in relation to the later benefit.

Deductible proportion of declaration benefit is the deductible proportion of the declaration benefit as worked out under subsection (9).

Note: The **gross deduction** is used as component GD in the formula in paragraph 52(1)(ba).

- (5) The declaration must be in a form approved in writing by the Commissioner and be made, and given to the employer, by the declaration date for the employer for the FBT year in which the declaration benefit is provided.

What benefit declaration covers

- (6) The declaration covers all benefits that are identical to the declaration benefit received by the person before the earlier of:
- (a) the time when the person revokes the declaration; and
 - (b) the end of 5 years starting when the declaration is made.
- (7) The declaration does not cover a benefit if the deductible proportion of the benefit is more than 10 percentage points less than the deductible proportion of the declaration benefit.
- (8) If a taxpayer makes a declaration for a benefit that is an identical benefit to a benefit covered by an earlier declaration, the earlier declaration is revoked.

Meaning of deductible proportion

- (9) The **deductible proportion** of a benefit is the percentage worked out using the formula:

$$\frac{\text{Gross deduction}}{\text{Gross expenditure}} \times 100\%$$

where:

gross deduction means the gross deduction mentioned in whichever of paragraph 24(1)(b), 44(1)(b) or 52(1)(b) applied to the benefit.

gross expenditure means the gross expenditure mentioned in whichever of paragraph 24(1)(b), 44(1)(b) or 52(1)(b) applied to the benefit.

Meaning of identical

- (10) A benefit is **identical** to another benefit if the benefits are the same in all respects except for any differences:
- (a) that are minimal or insignificant; or
 - (b) that relate to the value of the benefits; or

Section 152B

- (c) in the deductible proportion of the benefits.

152B Employer may elect 50/50 split method for entertainment facility leasing costs

If:

- (a) the taxable value of one or more fringe benefits of an employer for an FBT year is attributable, in whole or in part, to entertainment facility leasing expenses incurred by the employer in the FBT year; and
- (b) the employer elects that this section applies for the FBT year;

then:

- (c) the aggregate fringe benefit amount for the employer for the FBT year is to be reduced by so much of the total taxable value of all fringe benefits as is attributable to entertainment facility leasing expenses; and
- (d) the aggregate fringe benefit amount for the employer for the FBT year is to then be increased by 50% of the total of entertainment facility leasing expenses incurred by the employer in the FBT year (including expenses not taken into account under paragraph (a)).

Note: The effect of this is that the employer's *aggregate fringe benefits amount* (see section 5C) for the FBT year will include 50% of the entertainment facility leasing expenses incurred by the employer for the FBT year.

153 Residual benefits to include provision of property in certain circumstances

For the purposes of this Act, where:

- (a) a person carries on a business that consists of, or includes, the entering into of contracts for the provision of property together with the provision of residual benefits;
- (b) the person provides property (other than food or drink) and residual benefits to another person;
- (c) but for this section, the provision would constitute a property benefit and a residual benefit; and
- (d) the provision is made in the same, or substantially the same, circumstances as a provision of the kind mentioned in paragraph (a);

the provision of the residual benefit shall be taken to include the provision of the property and the provision of the property shall not be taken to constitute a property benefit.

154 Creation of property

For the purposes of this Act, where a person does anything that results in the creation of property in another person, the first-mentioned person shall be deemed to have provided that property to the other person at the time when the property comes into existence.

155 Use of property before title passes

- (1) Subject to subsection (2), where, under a transaction, the use of property is obtained by a person for a period at the end of which the title to the property will or may pass to the person, the property shall be deemed, for the purposes of this Act, to have been provided to the person at the time when the use of the property was obtained by the person.
- (2) Property shall not be taken to have been provided to a person by virtue of subsection (1) if the period for which the person has the use of the property terminates without the title to the property passing to the person, and nothing in section 74 prevents the amendment of an assessment for the purpose of giving effect to this subsection.

156 Supply of electricity or gas through reticulation system

For the purposes of this Act, the supply of electricity or gas through a reticulation system shall be deemed not to constitute the provision of property.

157 Christmas Island and Cocos (Keeling) Islands

- (1) A reference in this Act to an internal Territory includes a reference to the Territory of Christmas Island and to the Territory of Cocos (Keeling) Islands.
- (2) For the purposes of this Act, a location in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands shall be taken not to be situated in, or adjacent to, an eligible urban area.

158 Related companies

- (1) For the purposes of this Act, a company shall be taken to be related to another company if:
 - (a) one of the companies is a subsidiary of the other company; or
 - (b) each of the companies is a subsidiary of the same company.
- (2) For the purposes of this section, a company (in this subsection referred to as the *subsidiary company*) shall be taken to be the subsidiary of another company (in this subsection referred to as the *holding company*) if:
 - (a) all the shares in the subsidiary company are beneficially owned by:
 - (i) the holding company;
 - (ii) a company that is, or 2 or more companies each of which is, a subsidiary of the holding company; or
 - (iii) the holding company and a company that is, or 2 or more companies each of which is, a subsidiary of the holding company; and
 - (b) there is no agreement in force by virtue of which any person is in a position to affect rights of the holding company or of a subsidiary of the holding company in relation to the subsidiary company.
- (3) For the purposes of this section, where a company is a subsidiary of another company (including a company that is such a subsidiary by virtue of another application or other applications of this subsection), every company that is a subsidiary of the first-mentioned company shall be taken to be a subsidiary of that other company.
- (4) For the purposes of subsection (2), a person shall be taken to be in a position to affect any rights of a company in relation to another company if that person has a right, power or option (whether by virtue of any provision in the constituent document of either of those companies or by virtue of any agreement or instrument or otherwise) to acquire those rights or do an act or thing that would prevent the first-mentioned company from exercising those rights for its own benefit or receiving any benefits accruing by reason of those rights.

159 Associates and relatives

- (2) For the purposes of this Act, but without limiting the generality of the expression *associate*:
- (a) a company that is related to another company shall be deemed to be an associate of that other company;
 - (b) the Commonwealth shall be deemed to be an associate of each authority of the Commonwealth;
 - (c) an authority of the Commonwealth shall be deemed an associate of each other authority of the Commonwealth;
 - (d) a State shall be deemed to be an associate of each authority of the State;
 - (e) an authority of a State shall be deemed to be an associate of each other authority of the State;
 - (f) a Territory shall be deemed to be an associate of each authority of the Territory; and
 - (g) an authority of a Territory shall be deemed to be an associate of each other authority of the Territory.
- (3) Where a person is an associate of another person by virtue of paragraph (2)(b), (c), (d), (e), (f) or (g), Part III has effect as if those persons were companies and were related to each other.
- (4) For the purposes of this Act, section 318 of the *Income Tax Assessment Act 1936* has effect as if “a partnership in which the primary entity is a partner” were omitted from paragraphs (1)(b) and (2)(a) of that section and “a partnership in which the primary entity is or was a partner (whether or not the partnership still exists)” were substituted.

160 Continuity of employment where business disposed of etc.

- (1) Where:
- (a) a person (in this subsection referred to as the *former employer*) disposes of the whole or a part of a business or undertaking to another person (in this subsection referred to as the *new employer*); and
 - (b) an arrangement relating to the disposal provides for the new employer or an associate of the new employer to provide or to continue to provide, or to arrange for the provision or continued provision of, benefits in respect of the employment

Section 160

of a person (in this subsection referred to as the *former employee*) by the former employer;

the following provisions have effect:

- (c) this Act applies, in relation to any benefit so provided or continued to be provided, as if the employment of the former employee by the former employer were, instead, employment by the new employer;
- (d) where the arrangement provides for the new employer or an associate of the new employer to assume, or arrange for the assumption of, the rights of:
 - (i) a lender under a loan;
 - (ii) a lessor under a lease; or
 - (iii) a licensor under a licence;

being a loan, lease or licence, as the case may be, granted in respect of the employment of the former employee by the former employer, this Act has effect, after the assumption of those rights, as if the employment of the former employee by the former employer were, instead, employment by the new employer and the loan, lease or licence had been granted in respect of that employment by the person who assumed the rights.

(2) Where, for any reason, including:

- (a) the formation or dissolution of a partnership; or
- (b) a variation in the constitution of a partnership, or in the interests of the partners;

a change has occurred in the ownership of, or in the interests of persons in, property constituting the whole or a part of the assets of a business and the person, or one or more of the persons, who owned the property before the change has or have an interest in the property after the change, this Act has effect as if the persons who owned the property before the change had, on the day on which the change occurred:

- (c) disposed of the whole of that business to the person, or all of the persons, by whom the property is owned after the change; and
- (d) disposed of the whole of the property to the person, or all of the persons, by whom the property is owned after the change for an amount equal to the notional value of the property.

- (3) For the purposes of this Act, the trustee or trustees from time to time of a trust, being an employer or employers, shall be deemed to be one employer.

161 Business journeys in car

- (1) For the purposes of this Act, where:
- (a) during a particular period during a day, 2 or more journeys are undertaken in a car; and
 - (b) each of the journeys in the car during that period is a business journey;
- the journeys referred to in paragraph (b) shall be deemed to constitute a single journey.

162 Holding of car

- (1) In this Act, unless the contrary intention appears, a reference to a car held by a person is a reference to:
- (a) a car owned by the person;
 - (b) a car leased to the person; or
 - (c) a car otherwise made available to the person by another person.
- (2) For the purposes of the application of section 10 in relation to car fringe benefits in relation to an employer in relation to a particular car, the car shall be taken to be held by a particular person if, and only if, the car is held by the person for use in providing those fringe benefits (whether or not the car was used for any other purpose while it was so held).
- (3) For the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, expense payment fringe benefit, property fringe benefit or residual fringe benefit, as the case requires, a car shall be taken to be held by the recipient of the fringe benefit if, and only if, the car is owned or leased by the recipient for use in the course of producing assessable income of the recipient (whether or not the car was used for any other purpose while it was so owned or leased).
- (4) A reference in this Act to a period during which a car was held by a person is a reference to a period during which the car was continuously held by the person.

Section 162B

162B When car used for the purpose of producing assessable income

For the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, expense payment fringe benefit, property fringe benefit or residual fringe benefit, as the case requires, the question whether a car is used by a person for the purposes of producing assessable income shall be determined in the same manner as the question whether property is used by a taxpayer for the purpose of producing assessable income is determined under the *Income Tax Assessment Act 1997*.

162C Holding period of car

Unless the contrary intention appears, a reference in this Act to a period in a year of tax during which a person held a car is a reference to the period that:

- (a) commences on whichever of the following times is applicable:
 - (i) if the person held the car at the time of commencement of the year of tax—that time;
 - (ii) in any other case—the time in the year of tax when the person commenced to hold the car; and
- (b) ends at whichever of the following times is applicable:
 - (i) if the person continued to hold the car until the time of the end of the year of tax—that time;
 - (ii) in any other case—the time in the year of tax when the person ceased to hold the car.

162F Reasonable estimate of number of business kilometres

For the purposes of this Act, the number of kilometres that represents a reasonable estimate of the number of business kilometres applicable to a car held by a person during a period in a year of tax shall be determined having regard to all relevant matters including, but without limiting the generality of the foregoing:

- (a) any log book records, odometer records or other records maintained by or on behalf of the person; and
- (b) any variations in the pattern of use of the car.

162G Log book year of tax

- (1) For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a particular car while it was held by a particular person (in this subsection called the *provider*) during a particular period (in this subsection called the *holding period*) in a year of tax (in this subsection called the *current year of tax*), the current year of tax is a log book year of tax of the employer in relation to the car if, and only if:
- (a) none of the previous 4 years was a log book year of tax of the employer in relation to the car;
- Note: This paragraph will apply if it is the first year that the employer uses the cost basis method.
- (b) the employer elects that the current year of tax be treated as a log book year of tax of the employer in relation to the car; or
 - (h) the Commissioner causes a notice in writing to be served on the employer before the commencement of the current year of tax requiring the employer to treat the current year of tax as a log book year of tax of the employer in relation to the car.
- (2) For the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, expense payment fringe benefit, property fringe benefit or residual fringe benefit, as the case requires, in relation to an employer in relation to a particular car held by the recipient of the fringe benefit during a particular period (in this subsection called the *holding period*) in a year of tax (in this subsection called the *current year of tax*), the current year of tax is a log book year of tax of the recipient in relation to the car if, and only if:
- (a) none of the previous 4 years was a log book year of tax of the employer in relation to the car;
 - (b) the employer elects that the current year of tax be treated as a log book year of tax of the recipient in relation to the car; or
 - (h) the Commissioner causes a notice in writing to be served on the employer before the commencement of the current year of tax requiring the employer to treat the current year of tax as a log book year of tax of the recipient in relation to the car.
- (3) An election under this section is to be in writing.

162H Applicable log book period

- (1) For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a car while it was held by a particular person during a particular period (in this subsection called the *holding period*) starting or ending in a year of tax, a reference to the applicable log book period is a reference to:
 - (a) if the holding period is a period of less than 12 weeks—the holding period; or
 - (b) in any other case—a continuous period of not less than 12 weeks that begins and ends during the holding period.
- (2) For the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, expense payment fringe benefit, property fringe benefit or residual fringe benefit, as the case requires, in relation to an employer in relation to a car held by the recipient of the fringe benefit during a particular period (in this subsection called the *holding period*) starting or ending in a year of tax, a reference to the applicable log book period is a reference to:
 - (a) if the holding period is a period of less than 12 weeks—the holding period; or
 - (b) in any other case—a continuous period of not less than 12 weeks that begins and ends during the holding period.
- (3) The applicable log book period must be specified in the log book records for the period at, or as soon as possible after, the end of the period.

162K Replacement cars—car fringe benefits

- (1) This section has effect for the purposes of the application of section 10 in relation to car fringe benefits in relation to an employer in relation to a year of tax (in this section called the *current year of tax*) or a subsequent year of tax.
- (2) Where the employer nominates a particular car (in this section called the *replacement car*) as having replaced another car (in this section called the *original car*) with effect from a specified date in the current year of tax:
 - (a) the original car shall be treated, with effect from that date, as a different car; and

- (b) the replacement car shall be treated, with effect from that date, as the same car as the original car.
- (2A) A nomination shall be made in writing on or before the declaration date for the current year of tax.
- (3) A nomination shall specify the make, model and registration number (if any) of the original car and of the replacement car.
- (4) This section does not apply for the purposes of the application of subsection 10(5) or section 11 or 12.

162L Replacement cars—otherwise deductible provisions

- (1) This section has effect for the purposes of the application of sections 19, 24, 44 and 52 in relation to a loan fringe benefit, expense payment fringe benefit, property fringe benefit or residual fringe benefit, in relation to an employer in relation to a year of tax (in this section called the *current year of tax*) or a subsequent year of tax.
- (2) Where the employer nominates a particular car (in this section called the *replacement car*) as having replaced another car (in this section called the *original car*) with effect from a specified date in the current year of tax:
 - (a) the original car shall be treated, with effect from that date, as a different car; and
 - (b) the replacement car shall be treated, with effect from that date, as the same car as the original car.
- (2A) A nomination shall be made in writing on or before the declaration date for the current year of tax.
- (3) A nomination shall specify the make, model and registration number (if any) of the original car and of the replacement car.

162N Registration of motor vehicle

For the purposes of this Act, a motor vehicle shall be taken to be registered in a particular place if it may be driven on a public road in that place without contravening the law in force in that place.

163 Application of Act

- (1) This Act extends to every external Territory and, except so far as the contrary intention appears, to acts, omissions, matters and things outside Australia, whether or not in a foreign country.
- (2) Except where otherwise expressly provided, this Act extends to matters and things whether occurring before or after the commencement of this Act.
- (3) This Act binds the Crown in right of each of the States, of the Northern Territory and of Norfolk Island.
- (4) In subsection (1), a reference to this Act includes a reference to the *Taxation Administration Act 1953* to the extent to which that Act relates to this Act.

164 Residence

- (1) For the purposes of this Act, a person shall be taken to have been a non-resident at a particular time if the person was not a resident of Australia at that time.
- (2) For the purposes of this Act, a person shall be taken to have been a resident of Australia at a particular time if:
 - (a) in the case of a natural person:
 - (i) the person resided in Australia at that time; or
 - (ii) except in the case where the Commissioner is satisfied that that person's permanent place of residence at that time was outside Australia—the person was domiciled in Australia at that time;
 - (b) in the case of an incorporated company:
 - (i) the company was incorporated in Australia at that time; or
 - (ii) at that time the company carried on business in Australia and:
 - (A) had its central management and control in Australia; or
 - (B) had its voting power controlled by shareholders who were residents of Australia; or

- (c) in the case of a partnership or an unincorporated company—
any member of the partnership or company was a resident of
Australia at that time by virtue of paragraph (a) or (b).

165 Partnerships

- (1) Subject to this section, this Act applies to a partnership as if the partnership were a person.
- (2) Where, but for this subsection, an obligation would be imposed on a partnership by virtue of the operation of subsection (1), the obligation is imposed on each partner, but may be discharged by any of the partners.
- (3) Where, by virtue of the operation of subsection (1), an amount is payable under this Act by a partnership, the partners are jointly and severally liable to pay that amount.
- (4) Where, by virtue of the operation of subsection (1), an offence against this Act is deemed to have been committed by a partnership, that offence shall be deemed to have been committed by each of the partners.
- (5) In a prosecution of a person for an offence by virtue of this section, it is a defence if the person proves that the person:
 - (a) did not aid, abet, counsel or procure the act or omission by virtue of which the offence is deemed 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 by virtue of which the offence is deemed to have been committed.
- (6) A reference in this section to this Act includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act.

166 Unincorporated companies

- (1) Subject to this section, this Act applies to an unincorporated company as if the company were a person.
 - (2) Where, but for this subsection, an obligation would be imposed on an unincorporated company by virtue of the operation of
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Section 167

subsection (1), the obligation is imposed on each member of the committee of management of the company, but may be discharged by any of those members.

- (3) Where, by virtue of the operation of subsection (1), an offence against this Act is deemed to have been committed by an unincorporated company, that offence shall be deemed to have been committed by each member of the committee of management of the association.
- (4) In a prosecution of a person for an offence by virtue of this section, it is a defence if the person proves that the person:
 - (a) did not aid, abet, counsel or procure the act or omission by virtue of which the offence is deemed 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 by virtue of which the offence is deemed to have been committed.
- (5) A reference in this section to this Act includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act.

167 Offences by government bodies

Notwithstanding anything in this Act or any other Act, a government body shall not be taken to be guilty of an offence against this Act.

**Schedule—Statutory interest rates for periods
between 1 January 1946 and 2 April
1986**

Subsection 136(1)

Period		
Date on which period commenced	Date on which period ended	Interest rate (% per annum)
1 January 1946	1 August 1952	3.875
2 August 1952	31 March 1956	4.5
1 April 1956	28 February 1961	5.0
1 March 1961	10 April 1963	5.25
11 April 1963	31 March 1965	4.75
1 April 1965	31 July 1968	5.0
1 August 1968	31 March 1970	5.5
1 April 1970	30 September 1973	6.25
1 October 1973	13 September 1974	7.25
14 September 1974	28 February 1978	9.25
1 March 1978	31 March 1980	8.75
1 April 1980	31 July 1980	9.25
1 August 1980	31 December 1980	9.75
1 January 1981	31 August 1981	10.75
1 September 1981	31 March 1982	11.75
1 April 1982	31 January 1983	12.75
1 February 1983	30 September 1983	12.50
1 October 1983	30 November 1983	12.00
1 December 1983	15 April 1985	11.50
16 April 1985	14 July 1985	12.00
15 July 1985	30 September 1985	12.50
1 October 1985	2 April 1986	13.50

Notes to the *Fringe Benefits Tax Assessment Act 1986*

Note 1

The *Fringe Benefits Tax Assessment Act 1986* as shown in this compilation comprises Act No. 39, 1986 amended as indicated in the Tables below.

The *Fringe Benefits Tax Assessment Act 1986* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendment is incorporated in this compilation.

The *Fringe Benefits Tax Assessment Act 1986* was modified by the Bankruptcy Rules (1968 No. 2 as amended). The modifications are not incorporated in this compilation.

The *Fringe Benefits Tax Assessment Act 1986* was modified by the *Banking (State Bank of South Australia and Other Matters) Act 1994*. The modifications are not incorporated in this compilation.

The *Fringe Benefits Tax Assessment Act 1986* was modified by the Bankruptcy Regulations (1996 No. 263 as amended). The modifications are not incorporated in this compilation.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 18 December 1996 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Fringe Benefits Tax Assessment Act 1986</i>	39, 1986	24 June 1986	24 June 1986	
<i>Taxation Boards of Review (Transfer of Jurisdiction) Act 1986</i>	48, 1986	24 June 1986	S. 31 and Parts VII, VIII (ss. 45–56): (a) Remainder: 1 July 1986	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 1986</i>	112, 1986	4 Nov 1986	4 Nov 1986	S. 46
<i>Jurisdiction of Courts (Miscellaneous Amendments) Act 1987</i>	23, 1987	26 May 1987	S. 3: 1 Sept 1987 (see <i>Gazette</i> 1987, No. S217) (b)	S. 4
<i>Taxation Laws Amendment (Fringe Benefits and Substantiation) Act 1987</i>	139, 1987	18 Dec 1987	18 Dec 1987	Ss. 61 and 62
as amended by				
<i>Taxation Laws Amendment Act 1988</i>	11, 1988	26 Apr 1988	Part IX (ss. 49, 50): 18 Dec 1987 (c)	—
<i>Taxation Laws Amendment Act (No. 2) 1988</i>	78, 1988	24 June 1988	(see 78, 1988 below)	—
<i>Petroleum Resource Rent Tax (Miscellaneous Provisions) Act 1987</i>	145, 1987	18 Dec 1987	15 Jan 1988 (see s. 2)	—
<i>Australian Airlines (Conversion to Public Company) Act 1988</i>	6, 1988	9 Mar 1988	S. 69(1): Royal Assent (d)	—
<i>Taxation Laws Amendment Act (No. 2) 1988</i>	78, 1988	24 June 1988	Part II (ss. 3–6), Ss. 37, 39–53 and 55(15)–(25): 1 Nov 1988 (see <i>Gazette</i> 1988, No. S331) S. 14(2): 1 July 1988 S. 15: 22 Dec 1986 Part VI (ss. 62–64): 22 July 1986 Part VII (ss. 65, 66): 18 Dec 1987 Remainder: Royal Assent	—
<i>Taxation Laws Amendment Act (No. 4) 1988</i>	95, 1988	24 Nov 1988	Ss. 44(a) and 54(11): (e) Remainder: Royal Assent	S. 2 (am. by 107, 1989, s. 30) Ss. 9 and 10
as amended by				
<i>Taxation Laws Amendment Act (No. 3) 1989</i>	107, 1989	30 June 1989	(see 107, 1989 below)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment (Tax File Numbers) Act 1988</i>	97, 1988	25 Nov 1988	S. 12: 1 July 1989 (see <i>Gazette</i> 1989, No. S159) Remainder: 1 Jan 1989 (see s. 2(1) and <i>Gazette</i> 1988, No. S399)	—
<i>Taxation Laws Amendment Act (No. 5) 1988</i>	153, 1988	26 Dec 1988	Div. 6 of Part III (s. 43): 1 Jan 1989 Remainder: Royal Assent	S. 7
<i>Higher Education Funding Act 1988</i>	2, 1989	6 Jan 1989	Ss. 86 and 87: Royal Assent (f)	—
<i>Taxation Laws Amendment Act 1989</i>	11, 1989	16 Mar 1989	16 Mar 1989	Ss. 19 and 20
<i>Taxation Laws Amendment Act (No. 2) 1989</i>	97, 1989	30 June 1989	30 June 1989	S. 17
<i>Taxation Laws Amendment Act (No. 3) 1989</i>	107, 1989	30 June 1989	Part 6 (ss. 29, 30): (g) Remainder: Royal Assent	S. 7
<i>Petroleum (Australia-Indonesia Zone of Cooperation) (Consequential Provisions) Act 1990</i>	37, 1990	7 June 1990	18 Feb 1991 (see s. 2 and <i>Gazette</i> 1991, No. S47)	—
<i>Taxation Laws Amendment Act (No. 3) 1990</i>	58, 1990	16 June 1990	S. 11: 16 June 1990 (see s. 2(2)) S. 23: 4 Dec 1989 Part 5 (ss. 36–38): 11 May 1989 Remainder: Royal Assent	Ss. 7 and 8
<i>Training Guarantee (Administration) Act 1990</i>	60, 1990	16 June 1990	S. 43 and Part 10 (ss. 88–95): 31 Oct 1990 (see <i>Gazette</i> 1990, No. S272) Remainder: 1 July 1990	—
<i>Taxation Laws Amendment Act (No. 5) 1990</i>	135, 1990	28 Dec 1990	Part 2 (ss. 3–5): Royal Assent (h)	S. 5
<i>Taxation Laws Amendment Act 1991</i>	48, 1991	24 Apr 1991	Part 2 (ss. 3–7): Royal Assent (i)	S. 7
<i>Taxation Laws Amendment Act (No. 2) 1991</i>	100, 1991	27 June 1991	Ss. 3, 5, 7, 10, 12 and 13: Royal Assent (j) Ss. 4, 6, 8, 9 and 11: 28 June 1991 (j)	Ss. 12 and 13

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 1991</i>	216, 1991	24 Dec 1991	Ss. 5–8, 88, 123 and 124: Royal Assent (<i>k</i>) Ss. 113 and 114: 1 Mar 1992 (see <i>Gazette</i> 1992, No. GN7) (<i>k</i>)	Ss. 8, 114 and 124
<i>Taxation Laws Amendment Act 1992</i>	35, 1992	25 May 1992	25 May 1992	S. 5
<i>Superannuation Guarantee (Consequential Amendments) Act 1992</i>	92, 1992	30 June 1992	1 July 1992	—
<i>Taxation Laws Amendment (Self Assessment) Act 1992</i>	101, 1992	30 June 1992	30 June 1992	—
<i>Sales Tax Amendment (Transitional) Act 1992</i>	118, 1992	30 Sept 1992	28 Oct 1992	—
<i>Taxation Laws Amendment Act (No. 4) 1992</i>	191, 1992	21 Dec 1992	21 Dec 1992	—
<i>Corporate Law Reform Act 1992</i>	210, 1992	24 Dec 1992	Part 1 (ss. 1–3): Royal Assent Ss. 26(2) and 28(1): 1 Feb 1994 Ss. 29–173 and 177: 23 June 1993 (see <i>Gazette</i> 1993, No. S186) Remainder: 1 Feb 1993 (see <i>Gazette</i> 1993, No. S25)	—
<i>Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992</i>	223, 1992	24 Dec 1992	1 Apr 1994	S. 4
<i>Taxation Laws Amendment (Car Parking) Act 1992</i>	237, 1992	24 Dec 1992	24 Dec 1992	S. 7
<i>Taxation Laws Amendment Act 1993</i>	17, 1993	9 June 1993	Ss. 3–6: Royal Assent (<i>l</i>)	S. 5
<i>Taxation Laws Amendment Act (No. 2) 1993</i>	18, 1993	9 June 1993	Ss. 3–6: Royal Assent (<i>m</i>)	Ss. 5 and 6
<i>Taxation (Deficit Reduction) Act (No. 1) 1993</i>	57, 1993	27 Oct 1993	27 Oct 1993	Ss. 4, 7, 8 and 11
<i>Taxation Laws Amendment Act (No. 3) 1993</i>	118, 1993	24 Dec 1993	Ss. 7–12 and 176: Royal Assent (<i>n</i>) Div. 3 of Part 14 (ss. 180–182): (<i>n</i>)	Ss. 8, 10, 11, 176 and 182
<i>Taxation Laws Amendment Act 1994</i>	56, 1994	7 Apr 1994	Ss. 3–12: Royal Assent (<i>o</i>)	Ss. 4, 6, 7, 9, 10 and 12
<i>Taxation Laws Amendment Act (No. 2) 1994</i>	82, 1994	23 June 1994	Ss. 3–6 and 128–131: Royal Assent (<i>p</i>)	Ss. 4, 6, 128 and 131

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Departure Tax Collection Amendment Act 1994</i>	159, 1994	16 Dec 1994	16 Dec 1994	Ss. 3 and 18–20
<i>Taxation Laws Amendment Act (No. 4) 1994</i>	181, 1994	19 Dec 1994	Schedule 1 (items 22–85): 13 Oct 1994 Remainder: Royal Assent	Sch. 3 (items 1, 5) and Sch. 5 (items 1, 46(10))
<i>Income Tax (International Agreements) Amendment Act 1995</i>	22, 1995	29 Mar 1995	29 Mar 1995	—
<i>Tax Law Improvement (Substantiation) Act 1995</i>	30, 1995	7 Apr 1995	7 Apr 1995	—
<i>Superannuation Laws Amendment (Small Accounts and Other Measures) Act 1995</i>	53, 1995	23 June 1995	1 July 1995	—
<i>Taxation Laws Amendment Act (No. 1) 1995</i>	120, 1995	25 Oct 1995	Schedule 2 (item 5): Royal Assent (<i>q</i>)	—
<i>Taxation Laws Amendment (FBT Cost of Compliance) Act 1995</i>	145, 1995	12 Dec 1995	12 Dec 1995	Sch. 1 (item 5), Sch. 2 (items 10, 11), Sch. 3 (item 4), Sch. 4 (item 8) and Sch. 5 (item 74)
<i>Taxation Laws Amendment Act (No. 2) 1995</i>	169, 1995	16 Dec 1995	Schedule 2 (item 9): Royal Assent (<i>r</i>)	Sch. 2 (items 11–15)
<i>Law and Justice Legislation Amendment Act (No. 1) 1995</i>	175, 1995	16 Dec 1995	16 Dec 1995	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 2 (items 58, 59): (<i>s</i>)	—
<i>Taxation Laws Amendment Act (No. 2) 1996</i>	76, 1996	18 Dec 1996	Schedule 5: Royal Assent (<i>t</i>)	Sch. 5 (item 2) [see Table A]
<i>Income Tax (Consequential Amendments) Act 1997</i>	39, 1997	17 Apr 1997	1 July 1997	—
<i>Retirement Savings Accounts (Consequential Amendments) Act 1997</i>	62, 1997	28 May 1997	2 June 1997 (see s. 2 and <i>Gazette</i> 1997, No. S202)	—
<i>Tax Law Improvement Act 1997</i>	121, 1997	8 July 1997	S. 4: Royal Assent (<i>u</i>) Schedule 4: (items 139, 140): (<i>u</i>) Schedule 10: (items 16–23): (<i>u</i>)	S. 4, Sch. 4 (item 140) and Sch. 10 (item 23) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 1997</i>	147, 1997	14 Oct 1997	Schedule 7: Royal Assent (v)	Sch. 7 (item 3) [see Table A]
<i>Foreign Affairs and Trade Legislation Amendment Act 1997</i>	150, 1997	17 Oct 1997	Schedule 2: (item 2): Royal Assent (w)	—
<i>Taxation Laws Amendment Act (No. 4) 1997</i>	174, 1997	21 Nov 1997	Schedule 7: (items 19–32): Royal Assent (x)	Sch. 7 (item 32(2)) [see Table A]
<i>Child Care Payments (Consequential Amendments and Transitional Provisions) Act 1997</i>	196, 1997	8 Dec 1997	Schedule 1: (item 11): 8 Dec 1997 (y)	—
<i>Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998</i>	17, 1998	16 Apr 1998	16 Apr 1998	Sch. 1 (item 32) [see Table A]
<i>Taxation Laws (Technical Amendments) Act 1998</i>	41, 1998	4 June 1998	Schedule 5 (items 1–15, 20): Royal Assent	Sch. 5 (item 20) [see Table A]
<i>Taxation Laws Amendment Act (No. 3) 1998</i>	47, 1998	23 June 1998	Schedule 8 (items 11, 12): Royal Assent (z)	Sch. 8 (item 12) [see Table A]
<i>Taxation Laws Amendment Act (No. 3) 1999</i>	11, 1999	31 Mar 1999	Schedule 1 (items 1–11, 398, 399, 404, 405): 1 July 1999	Sch. 1 (items 398, 399, 404, 405) [see Table A]
<i>Taxation Laws Amendment Act (No. 1) 1999</i>	16, 1999	9 Apr 1999	Schedule 2, Schedule 3 (items 1–7, 12) and Schedule 12: Royal Assent (za)	Sch. 2 (item 2), Sch. 3 (item 12) and Sch. 12 (items 4, 5) [see Table A]
<i>A New Tax System (Fringe Benefits Reporting) Act 1999</i>	17, 1999	19 Apr 1999	Schedule 1 (items 1–16): Royal Assent (zb)	Sch. 1 (item 16) [see Table A]
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 50–52): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) (zc) Schedule 8: Royal Assent	S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4]) Sch. 8 (items 22, 23) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
as amended by				
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—
<i>A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999</i>	83, 1999	8 July 1999	Schedule 10 (items 1–6, 68(1)): 1 July 2000 (zd)	S. 2(2) (am. by 172, 1999, Sch. 2 [item1]) Sch. 10 (item 68(1)) [see Table A]
as amended by				
<i>Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999</i>	172, 1999	10 Dec 1999	Schedule 2 (item 1): (zda)	—
<i>Taxation Laws Amendment (CPI Indexation) Act 1999</i>	102, 1999	16 July 1999	Schedule 1 (items 1, 2, 5): Royal Assent (ze) Schedule 1 (items 3, 4): 12 Dec 1995 (ze)	Sch. 1 (items 2, 5) [see Table A]
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 495): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (zf)	—
<i>A New Tax System (Pay As You Go) Act 1999</i>	178, 1999	22 Dec 1999	Schedule 1 (items 6, 8, 70–78): 1 July 2000 Remainder: Royal Assent	S. 2(1A) (ad. by 179, 1999, Sch. 10 [item 19]) Sch. 1 (item 84) and Sch. 2 (item 140): [see Table A]
as amended by				
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 10 (item 19): 22 Dec 1999 (zg)	—
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 2 (items 9–19, 130–136): (zh)	Sch. 2 (items 130–136) [see Table A]
<i>Timor Gap Treaty (Transitional Arrangements) Act 2000</i>	25, 2000	3 Apr 2000	Ss. 4–6 and Schedule 2 (item 33): (zi)	Ss. 4–6 [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>A New Tax System (Tax Administration) Act (No. 1) 2000</i>	44, 2000	3 May 2000	Schedule 2 (items 1, 3, 4, 6–8, 11(1)): 1 Apr 2000 (zj) Schedule 2 (items 2, 5, 9, 10, 11(2)): 1 Apr 2001 (zj) Schedule 3 (items 7–10): (zj)	Sch. 2 (item 11) and Sch. 3 (item 9) [see Table A]
<i>A New Tax System (Fringe Benefits) Act 2000</i>	52, 2000	30 May 2000	30 May 2000	Sch. 1 (item 30) [see Table A]
<i>New Business Tax System (Alienation of Personal Services Income) Act 2000</i>	86, 2000	30 June 2000	Schedule 1 (item 61): Royal Assent (zk)	—
<i>A New Tax System (Tax Administration) Act (No. 2) 2000</i>	91, 2000	30 June 2000	Schedule 2 (items 8, 8A, 9–12): (zl) Schedule 2 (items 148–157): 1 Apr 2001 (zl)	Sch. 1 (item 157) [see Table A]
as amended by				
<i>Taxation Laws Amendment Act (No. 2) 2002</i>	57, 2002	3 July 2002	Schedule 12 (item 71): Royal Assent	—
<i>Taxation Laws Amendment Act (No. 3) 2003</i>	101, 2003	14 Oct 2003	Schedule 6 (item 4): (zm)	—
<i>Family and Community Services (2000 Budget and Related Measures) Act 2000</i>	138, 2000	24 Nov 2000	Schedule 2 (items 11, 12): 1 Jan 2001 (zn)	—
<i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 207–209): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (zo)	Ss. 4–14 [see Note 1]
<i>Taxation Laws Amendment Act (No. 3) 2001</i>	73, 2001	30 June 2001	Schedule 1 (items 69–78): 23 May 2001 Schedule 2 (items 48–52): 1 Jan 2001 Schedule 3 (items 34–36): 1 Apr 2001 Remainder: Royal Assent	Sch. 3 (item 8) [see Table A]
<i>Taxation Laws Amendment (Superannuation Contributions) Act 2001</i>	89, 2001	18 July 2001	18 July 2001	Sch. 1 (item 11(2)) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Financial Services Reform (Consequential Provisions) Act 2001</i>	123, 2001	27 Sept 2001	Schedule 1 (item 237): 11 Mar 2002 (see <i>Gazette</i> 2001, No. GN42) (zp)	—
<i>Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001</i>	146, 2001	1 Oct 2001	S. 4 and Schedule 4 (items 33–40): 15 Dec 2001 (zq)	S. 4 [see Table A]
<i>Taxation Laws Amendment Act (No. 2) 2001</i>	167, 2001	1 Oct 2001	Schedule 1 and Schedule 4 (items 1–4): Royal Assent (zr)	Sch. 1 (item 2) and Sch. 4 (item 4) [see Table A]
<i>Taxation Laws Amendment Act (No. 5) 2001</i>	168, 2001	1 Oct 2001	Schedule 2: 1 July 2000 Remainder: Royal Assent	Sch. 1 (items 8, 9) and Sch. 5 (item 3) [see Table A]
<i>Taxation Laws Amendment Act (No. 2) 2002</i>	57, 2002	3 July 2002	Schedule 12 (items 2, 3): (zs)	—
<i>Taxation Laws Amendment (Venture Capital) Act 2002</i>	136, 2002	19 Dec 2002	Schedule 3 (item 1): Royal Assent	—
<i>Petroleum (Timor Sea Treaty) (Consequential Amendments) Act 2003</i>	10, 2003	2 Apr 2003	Schedule 1 (items 1–52, 54–75, 78–82): 20 May 2002 Remainder: Royal Assent	—
<i>Taxation Laws Amendment Act (No. 4) 2003</i>	66, 2003	30 June 2003	Schedule 7 (items 1–5): Royal Assent	Sch. 7 (item 5) [see Table A]
<i>Taxation Laws Amendment Act (No. 6) 2003</i>	67, 2003	30 June 2003	Schedule 9 (items 5, 18, 19): 1 Sept 2003	Sch. 9 (items 18, 19) [see Table A]
<i>Taxation Laws Amendment Act (No. 3) 2003</i>	101, 2003	14 Oct 2003	Schedule 2 (items 17, 18): Royal Assent	Sch. 2 (item 18) [see Table A]
<i>Taxation Laws Amendment Act (No. 8) 2003</i>	107, 2003	21 Oct 2003	Schedule 4: Royal Assent	Sch. 4 (item 3) [see Table A]
<i>Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003</i>	122, 2003	5 Dec 2003	Schedule 2 (items 14, 15): Royal Assent	Sch. 2 (item 15) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 5) 2003</i>	142, 2003	17 Dec 2003	Schedule 5: Royal Assent	Sch. 5 (item 8) [see Table A]
<i>Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003</i>	150, 2003	19 Dec 2003	Schedule 2 (item 103): (zt)	—
<i>Taxation Laws Amendment Act (No. 2) 2004</i>	20, 2004	23 Mar 2004	Schedule 6: 1 July 2000 Remainder: Royal Assent	Sch. 3 (item 5) [see Table A]
<i>Tax Laws Amendment (2004 Measures No. 2) Act 2004</i>	83, 2004	25 June 2004	Schedule 4 and Schedule 8 (items 1–3, 5–8): Royal Assent Schedule 8 (item 4): (zu)	S. 2(1) (am. by 58, 2006, Sch. 7 [item 212]) Sch. 4 (item 2) and Sch. 8 (item 8) [see Table A]
as amended by				
<i>Tax Laws Amendment (2006 Measures No. 2) Act 2006</i>	58, 2006	22 June 2006	Schedule 7 (item 212): (zua)	—
<i>Tax Laws Amendment (2004 Measures No. 1) Act 2004</i>	95, 2004	29 June 2004	Schedule 10 (items 18–27, 43, 44(3)): 1 July 2005	Sch. 10 (items 43, 44(3)) [see Table A]
<i>Tax Laws Amendment (2004 Measures No. 3) Act 2004</i>	105, 2004	30 June 2004	Schedule 2: 1 Apr 2004	Sch. 2 (item 4) [see Table A]
<i>Tax Laws Amendment (2004 Measures No. 6) Act 2005</i>	23, 2005	21 Mar 2005	Schedule 7: Royal Assent	Sch. 7 (item 6) [see Table A]
<i>Tax Laws Amendment (2004 Measures No. 7) Act 2005</i>	41, 2005	1 Apr 2005	Schedule 4 and Schedule 10 (items 16–18): Royal Assent Schedule 10 (item 246): 1 Apr 2001	Sch. 4 (item 3) and Sch. 10 (item 18) [see Table A]
<i>Tax Laws Amendment (2005 Measures No. 3) Act 2005</i>	63, 2005	26 June 2005	Schedule 4: (zv) Remainder: Royal Assent	Sch. 4 (item 3) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>New International Tax Arrangements (Foreign-owned Branches and Other Measures) Act 2005</i>	64, 2005	26 June 2005	Schedule 4 (items 1, 37): Royal Assent	Sch. 4 (item 37) [see Table A]
<i>Tax Laws Amendment (2005 Measures No. 1) Act 2005</i>	77, 2005	29 June 2005	29 June 2005	Sch. 1 (item 5) [see Table A]
<i>Tax Laws Amendment (2005 Measures No. 2) Act 2005</i>	78, 2005	29 June 2005	29 June 2005	Sch. 8 (item 3) [see Table A]
<i>Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005</i>	161, 2005	19 Dec 2005	Schedule 2 (items 2, 32): Royal Assent	Sch. 2 (item 32) [see Table A]
<i>Tax Laws Amendment (2006 Measures No. 1) Act 2006</i>	32, 2006	6 Apr 2006	6 Apr 2006	—
<i>Tax Laws Amendment (2006 Measures No. 2) Act 2006</i>	58, 2006	22 June 2006	Schedule 7 (items 32–34, 239, 240): Royal Assent	—
<i>Tax Laws Amendment (2006 Measures No. 3) Act 2006</i>	80, 2006	30 June 2006	Schedule 8 (items 1–3): Royal Assent	Sch. 8 (item 3) [see Table A]
<i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>	101, 2006	14 Sept 2006	Schedule 1 (items 1, 4), Schedule 2 (items 81–112, 1017, 1020, 1021), Schedule 5 (items 119–123) and Schedule 6 (items 1, 5–11): Royal Assent	Sch. 6 (items 1, 5–11) [see Table A]
<i>Tax Laws Amendment (2006 Measures No. 5) Act 2006</i>	110, 2006	23 Oct 2006	Schedule 1: 1 Apr 2007 Remainder: Royal Assent	Sch. 1 (item 7) [see Table A]
<i>Statute Law Revision Act 2007</i>	8, 2007	15 Mar 2007	Schedule 1 (item 14): (zw) Schedule 4 (item 16): Royal Assent	—
<i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i>	9, 2007	15 Mar 2007	Schedule 5 (items 1–5, 36): Royal Assent	Sch. 5 (item 36) [see Table A]
<i>Superannuation Legislation Amendment (Simplification) Act 2007</i>	15, 2007	15 Mar 2007	Schedule 1 (items 17–21, 406(1)–(3)): (zx)	Sch. 1 (item 406(1)–(3)) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Tax Laws Amendment (2007 Measures No. 1) Act 2007</i>	56, 2007	12 Apr 2007	12 Apr 2007	Sch. 3 (item 39) [see Table A]
<i>Tax Laws Amendment (2007 Measures No. 3) Act 2007</i>	79, 2007	21 June 2007	Schedule 1 (items 30–32, 43(1)–(3)): Royal Assent	Sch. 1 (item 43(1)–(3)) [see Table A]
<i>Tax Laws Amendment (Small Business) Act 2007</i>	80, 2007	21 June 2007	21 June 2007	Sch. 5 (items 6, 7) [see Table A]
<i>Tax Laws Amendment (2007 Measures No. 4) Act 2007</i>	143, 2007	24 Sept 2007	Schedule 1 (items 9–17, 222, 225, 226) and Schedule 7 (items 7, 8, 104(1)): Royal Assent	Sch. 1 (items 222, 225, 226) and Sch. 7 (item 8) [see Table A]
<i>Tax Laws Amendment (Budget Measures) Act 2008</i>	59, 2008	30 June 2008	Schedule 1 (items 1–5): Royal Assent	Sch. 1 (items 3, 5) [see Table A]
<i>First Home Saver Accounts (Further Provisions) Amendment Act 2008</i>	92, 2008	30 Sept 2008	Schedule 1 (items 4, 26): 1 Oct 2008	Sch. 1 (item 26) [see Table A]
<i>Tax Laws Amendment (2008 Measures No. 4) Act 2008</i>	97, 2008	3 Oct 2008	Schedule 3 (items 2–4): Royal Assent	Sch. 3 (item 4) [see Table A]
<i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008</i>	144, 2008	9 Dec 2008	Schedule 14 (items 3–6): 10 Dec 2008	Sch. 14 (item 6) [see Table A]
<i>Tax Laws Amendment (2008 Measures No. 5) Act 2008</i>	145, 2008	9 Dec 2008	Schedule 4 (items 1–75): Royal Assent	Sch. 4 (items 9, 23, 32, 41) [see Table A]

Act Notes

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- (a) Subsection 2(2) of the *Taxation Boards of Review (Transfer of Jurisdiction) Act 1986* provides as follows:
- (2) Section 31 and Parts VII and VIII (sections 45–56) shall come into operation, or shall be deemed to have come into operation, immediately after the *Fringe Benefits Tax Assessment Act 1986* comes into operation.
- The *Fringe Benefits Tax Assessment Act 1986* came into operation on 24 June 1986.
- (b) The *Fringe Benefits Tax Assessment Act 1986* was amended by section 3 only of the *Jurisdiction of Courts (Miscellaneous Amendments) Act 1987*, subsection 2(2) of which provides as follows:
- (2) The amendments made by this Act to an Act specified in the Schedule shall come into operation on such day as is fixed by Proclamation in relation to those amendments.
- (c) The *Taxation Laws Amendment (Fringe Benefits and Substantiation) Act 1987* was amended by Part IX (sections 49 and 50) only of the *Taxation Laws Amendment Act 1988*, subsection 2(6) of which provides as follows:
- (6) Part IX shall be deemed to have come into operation on the commencement of the *Taxation Laws Amendment (Fringe Benefits and Substantiation) Act 1987*.
- (d) The *Fringe Benefits Tax Assessment Act 1986* was amended by subsection 69(1) only of the *Australian Airlines (Conversion to Public Company) Act 1988*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (e) Subsection 2(2) of the *Taxation Laws Amendment Act (No. 4) 1988* provides as follows:
- (2) Paragraph 44(a) and subsection 54(11) commence immediately after the commencement of the *Taxation Laws Amendment Act 1989*.
- The *Taxation Laws Amendment Act 1989* came into operation on 16 March 1989.
- (f) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 86 and 87 only of the *Higher Education Funding Act 1988*, subsection 2(1) of which provides as follows:
- (1) Chapters 1, 2, 3, 4, 6 and 7 commence on the day on which this Act receives the Royal Assent.
- (g) Subsection 2(2) of the *Taxation Laws Amendment Act (No. 3) 1989* provides as follows:
- (2) Part 6 shall be taken to have commenced immediately after the *Taxation Laws Amendment Act (No. 4) 1988* received the Royal Assent.
- The *Taxation Laws Amendment Act (No. 4) 1988* received the Royal Assent on 24 November 1988.
- (h) The *Fringe Benefits Tax Assessment Act 1986* was amended by Part 2 (sections 3–5) only of the *Taxation Laws Amendment Act (No. 5) 1990*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (i) The *Fringe Benefits Tax Assessment Act 1986* was amended by Part 2 (sections 3–7) only of the *Taxation Laws Amendment Act 1991*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (j) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 3–13 only of the *Taxation Laws Amendment Act (No. 2) 1991*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Sections 4, 6, 8, 9 and 11 commence on the day after the day on which this Act receives the Royal Assent.
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Act Notes

- (k) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 5–8, 88, 113, 123 and 124 only of the *Taxation Laws Amendment Act (No. 3) 1991*, subsections 2(1) and (10) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (10) Subject to subsection (11), sections 112 to 117 (inclusive) commence on a day to be fixed by Proclamation.
- (l) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 3–6 only of the *Taxation Laws Amendment Act 1993*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (m) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 3–6 only of the *Taxation Laws Amendment Act (No. 2) 1993*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (n) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 7–12, 176 and Division 3 of Part 14 (sections 180–182) only of the *Taxation Laws Amendment Act (No. 3) 1993*, subsections 2(1) and (5) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (5) Division 3 of Part 14 commences immediately after the commencement of the *Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992*.
The *Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992* came into operation on 1 April 1994.
- (o) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 3–12 only of the *Taxation Laws Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (p) The *Fringe Benefits Tax Assessment Act 1986* was amended by sections 3–6 and 128–131 only of the *Taxation Laws Amendment Act (No. 2) 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (q) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (item 5) only of the *Taxation Laws Amendment Act (No. 1) 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (r) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (item 9) only of the *Taxation Laws Amendment Act (No. 2) 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (s) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 58 and 59) only of the *Statute Law Revision Act 1996*, subsection 2(2) of which provides as follows:
- (2) Each item in Schedule 2 commences or is taken to have commenced (as the case requires) at the time specified in the note at the end of the item.
Item 58 is taken to have commenced immediately after the commencement of the *Taxation Laws Amendment (Fringe Benefits and Substantiation) Act 1987*.
The *Taxation Laws Amendment (Fringe Benefits and Substantiation) Act 1987* came into operation on 18 December 1987.
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Act Notes

Item 59 is taken to have commenced immediately after the commencement of the *Fringe Benefits Tax Assessment Act 1986*.

The *Fringe Benefits Tax Assessment Act 1986* came into operation on 24 June 1986.

- (t) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 5 only of the *Taxation Laws Amendment Act (No. 2) 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (u) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 4 (item 139) and Schedule 10 (items 16–22) only of the *Tax Law Improvement Act 1997*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Schedule 1 commences on 1 July 1997 immediately after the commencement of the *Income Tax Assessment Act 1997*.
 - (3) Each of the other Schedules (except Schedule 12) commences immediately after the commencement of the immediately preceding Schedule.
- (v) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 7 only of the *Taxation Laws Amendment Act (No. 3) 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (w) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (item 2) only of the *Foreign Affairs and Trade Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (x) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 7 (items 19–32) only of the *Taxation Laws Amendment Act (No. 4) 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (y) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 (item 11) only of the *Child Care Payments (Consequential Amendments and Transitional Provisions) Act 1997*, subsection 2(5) of which provides as follows:
- (5) Items 11, 17, 18, 19, 20, 21 and 41 of Schedule 1 commence on the commencement of the *Child Care Payments Act 1997*.
- (z) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 8 (items 11 and 12) only of the *Taxation Laws Amendment Act (No. 3) 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (za) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2, Schedule 3 (items 1–7) and Schedule 12 only of the *Taxation Laws Amendment Act (No. 1) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (zb) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 1 and 2) only of the *A New Tax System (Fringe Benefits Reporting) Act 1999*, subsection 2(1) of which provides as follows:
- (1) This Act commences on the day on which it receives the Royal Assent.

Act Notes

- (zc) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 7 (items 50–52) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(2)(e) and (16) of which provide as follows:
- (2) The following provisions commence on the transfer date:
 - (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
 - (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- (zd) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 10 (items 1–6) only of the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (Parts 1 to 5), Schedules 3 to 6, Schedule 7 (other than item 14), Schedules 8 and 9, Schedule 10 (other than items 22, 63, 66 and 67) and Schedule 11 (items 3 and 4 only) commence, or are taken to have commenced, on the commencement of Schedule 1 to the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999*.
Schedule 1 to the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999* commenced on 1 July 2000.
- (ze) The *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*, was amended by Schedule 2 (item 1) only of the *Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999*, subsection 2(4) of which provides as follows:
- (4) Schedule 2 commences, or is taken to have commenced, immediately after the commencement of section 2 of the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*.
Section 2 commenced on 8 July 1999.
- (zf) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 (items 1, 3 and 4) only of the *Taxation Laws Amendment (CPI Indexation) Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Items 3 and 4 of Schedule 1 are taken to have commenced on the day on which the *Taxation Laws Amendment (FBT Cost of Compliance) Act 1995* received the Royal Assent.
- (zg) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 (item 495) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (zh) The *A New Tax System (Pay As You Go) Act 1999* was amended by Schedule 10 (item 19) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(11) of which provides as follows:
- (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.
- (zi) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 9–19) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(1) of which provides as follows:
- (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*.

Act Notes

Section 1 commenced on 22 December 1999.

- (zi) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (item 33) only of the *Timor Gap Treaty (Transitional Arrangements) Act 2000*, subsection 2(2) of which provides as follows:
- (2) Sections 3 to 7 and Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) are taken to have commenced at the transition time. [see Table A]
- (zj) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 1–10) and Schedule 3 (items 7, 8 and 10) only of the *A New Tax System (Tax Administration) Act (No. 1) 2000*, subsections 2(1)–(3) of which provide as follows:
- (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 (Tax Administration) Act 1999*.
 - (2) Schedule 2 (except items 2, 5, 9 and 10 and subitem 11(2)) commences on 1 April 2000.
 - (3) Items 2, 5, 9 and 10, and subitem 11(2), of Schedule 2 commence on 1 April 2001.
- Section 1 commenced on 22 December 1999.
- (zk) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 (item 61) only of the *New Business Tax System (Alienation of Personal Services Income) Act 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (zl) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 8, 8A, 9–12 and 148–156) only of the *A New Tax System (Tax Administration) Act (No. 2) 2000*, subsections 3(1) and (3) of which provide as follows:
- (1) Subject to this section, this Act commences, or is taken to have commenced, immediately after the commencement of section 1-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.
 - (3) Part 4 of Schedule 2 commences, or is taken to have commenced, on 1 April 2001.
- Section 1-1 of the *A New Tax System (Goods and Services Tax) Act 1999* commenced on 1 July 2000.
- (zm) Subsection 2(1) (item 11) of the *Taxation Laws Amendment Act (No. 3) 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
11. Schedule 6, item 4	Immediately after the time specified in the <i>A New Tax System (Tax Administration) Act (No. 2) 2000</i> for the commencement of item 8A of Schedule 2 to that Act	1 July 2000

- (zn) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 2 (items 11 and 12) only of the *Family and Community Services (2000 Budget and Related Measures) Act 2000*, subsection 2(2)(b) of which provides as follows:
- (2) The following provisions:
 - (b) Schedules 2 and 3; commence on 1 January 2001.

Act Notes

- (zo) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 3 (items 207–209) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (zp) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 (item 237) only of the *Financial Services Reform (Consequential Provisions) Act 2001*, subsections 2(1) and (6) of which provide as follows:
- (1) In this section:
FSR commencement means the commencement of item 1 of Schedule 1 to the *Financial Services Reform Act 2001*.
- (6) Subject to subsections (7) to (17), the other items of Schedule 1 commence on the FSR commencement.
- (zq) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 4 (items 33–40) only of the *Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day mentioned in subsection 2.2(2) of the *Criminal Code*.
- (zr) The *Fringe Benefits Tax Assessment Act 1986* was amended by Schedule 1 and Schedule 4 (items 1–3) only of the *Taxation Laws Amendment Act (No. 2) 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (zs) Subsection 2(1) (item 20) of the *Taxation Laws Amendment Act (No. 2) 2002* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Provision(s)	Commencement	Date/Details
20. Schedule 12, items 2 and 3	Immediately after item 11 of Schedule 8 to the <i>Taxation Laws Amendment Act (No. 3) 1998</i> commenced	23 June 1998

- (zt) Subsection 2(1) (item 8) of the *Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003* provides as follows:
- (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.

Provision(s)	Commencement	Date/Details
8. Schedule 2, items 95 to 103	The later of: (a) 1 January 2004; and (b) immediately after the commencement of sections 1-10 to 238-15 of the <i>Higher Education Support Act 2003</i> .	1 January 2004

Act Notes

(zu) Subsection 2(1) (item 19) of the *Tax Laws Amendment (2004 Measures No. 2) Act 2004* as amended by the *Tax Laws Amendment (2006 Measures No. 2) Act 2006* provides as follows:

- (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.

Provision(s)	Commencement	Date/Details
19. Schedule 8, item 4	Immediately after the commencement of Schedule 10 to the <i>Tax Laws Amendment (2004 Measures No. 1) Act 2004</i> .	1 July 2005

(zua) Subsection 2(1) (item 23) of the *Tax Laws Amendment (2006 Measures No. 2) Act 2006* provides as follows:

- (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.

Provision(s)	Commencement	Date/Details
23. Schedule 7, items 211 and 212	Immediately after the commencement of Schedule 10 to the <i>Tax Laws Amendment (2004 Measures No. 1) Act 2004</i> .	1 July 2005

(zv) Subsection 2(1) (item 3) of the *Tax Laws Amendment (2005 Measures No. 3) Act 2005* provides as follows:

- (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.

Provision(s)	Commencement	Date/Details
3. Schedule 4	Immediately after the commencement of Schedule 10 to the <i>Tax Laws Amendment (2004 Measures No. 1) Act 2004</i> .	1 July 2005

(zw) Subsection 2(1) (item 11) of the *Statute Law Revision Act 2007* provides as follows:

- (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.

Provision(s)	Commencement	Date/Details
11. Schedule 1, item 14	Immediately after the commencement of item 1 of Schedule 7 to the <i>Taxation Laws Amendment Act (No. 4) 2003</i> .	30 June 2003

Act Notes

(zx) Subsection 2(1) (item 2) of the *Superannuation Legislation Amendment (Simplification) Act 2007* provides as follows:

- (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.

Provision(s)	Commencement	Date/Details
2. Schedule 1	Immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> .	15 March 2007

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 2A	ad. No. 146, 2001
Part II	
S. 5	am. No. 48, 1986; No. 97, 1988; No. 146, 2001; No. 122, 2003
Part IIA	
Part IIA	ad. No. 17, 1999
Division 1	
S. 5A	ad. No. 17, 1999
Subhead. to s. 5B(1)	ad. No. 52, 2000
Subhead. to s. 5B(2)	ad. No. 52, 2000
S. 5B	ad. No. 17, 1999 am. No. 52, 2000; No. 142, 2003; No. 83, 2004
Division 2	
S. 5C	ad. No. 17, 1999 am. No. 52, 2000
Note to s. 5C	rep. No. 52, 2000
Division 3	
S. 5D	ad. No. 17, 1999
S. 5E	ad. No. 17, 1999 am. No. 52, 2000; No. 80, 2006
S. 5F	ad. No. 17, 1999
Part III	
Division 2	
Subdivision A	
S. 7	am. No. 17, 1999
S. 8	am. No. 139, 1987; No. 145, 1995; No. 86, 2000
Subdivision B	
S. 9	am. No. 139, 1987; No. 145, 1995; No. 178, 1999
S. 10	am. No. 139, 1987 (as am. by No. 78, 1988); No. 11, 1989; No. 145, 1995; No. 41, 1998
S. 10A	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995; No. 41, 1998
S. 10B	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995
S. 10C	ad. No. 139, 1987 am. No. 11, 1989 rep. No. 145, 1995
S. 11	am. No. 139, 1987; No. 178, 1999; No. 107, 2003; No. 143, 2007
S. 12	rs. No. 178, 1999

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 3	
Subdivision B	
S. 15	am. No. 139, 1987
Division 4	
Subdivision A	
Note to s. 16(1)	ad. No. 79, 2007
S. 17	am. No. 139, 1987
Subdivision B	
S. 18	am. No. 139, 1987
S. 19	am. No. 139, 1987; No. 11, 1989; No. 48, 1991; Nos. 30 and 145, 1995; No. 39, 1997; No. 178, 1999; No. 101, 2006; No. 143, 2007; No. 145, 2008
Division 5	
Subdivision A	
S. 20A	ad. No. 145, 1995
S. 21	am. No. 139, 1987
S. 22	am. No. 139, 1987; No. 30, 1995; No. 39, 1997
Subdivision B	
S. 22A	ad. No. 139, 1987
S. 23	am. No. 139, 1987
S. 24	am. No. 139, 1987; No. 11, 1989; No. 48, 1991; Nos. 30 and 145, 1995; No. 39, 1997; No. 41, 1998; No. 178, 1999; No. 101, 2006; No. 143, 2007; No. 145, 2008
Division 6	
Subdivision B	
S. 26	am. No. 139, 1987; No. 178, 1999; No. 52, 2000
S. 28	am. No. 139, 1987; No. 100, 1991
S. 29	am. No. 139, 1987; No. 178, 1999 rep. No. 52, 2000
S. 29A	ad. No. 139, 1987 am. No. 43, 1996 rep. No. 52, 2000
Division 7	
Subdivision A	
S. 30	am. No. 139, 1987; No. 216, 1991
Subdivision B	
S. 31	am. No. 139, 1987; No. 216, 1991
Division 8	
Subdivision B	
S. 34	am. No. 139, 1987; No. 30, 1995; No. 39, 1997; No. 101, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
Division 9	
Subdivision B	
S. 37	am. No. 139, 1987; No. 17, 1993; No. 30, 1995; No. 39, 1997; No. 101, 2006
Division 9A	
Div. 9A of Part III	ad. No. 145, 1995
Subdivision A	
Ss. 37A, 37AA–37AG.....	ad. No. 145, 1995
Subdivision B	
S. 37B	ad. No. 145, 1995
S. 37BA	ad. No. 145, 1995 am. No. 41, 1998
Note to s. 37BA	am. No. 17, 1999
Subdivision C	
Ss. 37C, 37CA	ad. No. 145, 1995
S. 37CB.....	ad. No. 145, 1995
Note to s. 37CB(1)	am. No. 17, 1999
Ss. 37CC, 37CD.....	ad. No. 145, 1995
S. 37CE	ad. No. 145, 1995 am. No. 121, 1997; No. 41, 1998
Heading to s. 37CF	am. No. 41, 1998
S. 37CF	ad. No. 145, 1995
Division 10	
Subdivision B	
S. 39	am. No. 139, 1987
Division 10A	
Div. 10A of Part III	ad. No. 237, 1992
Subdivision A	
S. 39A	ad. No. 237, 1992 am. No. 145, 1995; No. 102, 1999
S. 39AA	ad. No. 145, 1995 am. No. 102, 1999
S. 39AB.....	ad. No. 145, 1995
S. 39B	ad. No. 237, 1992
Subdivision B	
Ss. 39C, 39D	ad. No. 237, 1992 am. No. 145, 1995
S. 39DA	ad. No. 145, 1995 am. No. 102, 1999
S. 39E	ad. No. 237, 1992 am. No. 145, 1995

Table of Amendments

Provision affected	How affected
ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Subdivision C	
Subdiv. C of Div. 10A of Part III	ad. No. 145, 1995
Ss. 39F, 39FA–39FE	ad. No. 145, 1995
Subdivision D	
Subdiv. D of Div. 10A of Part III	ad. No. 145, 1995
Ss. 39G, 39GA–39GH	ad. No. 145, 1995
Division 11	
Subdivision A	
S. 41	am. No. 59, 2008
Subdivision B	
S. 44	am. No. 139, 1987; No. 153, 1988; No. 48, 1991; Nos. 30 and 145, 1995; No. 39, 1997; No. 41, 1998; No. 178, 1999; No. 101, 2006; No. 143, 2007; No. 145, 2008
Division 12	
Subdivision A	
S. 47	am. No. 139, 1987; No. 135, 1990; No. 18, 1993; No. 196, 1997; Nos. 83 and 178, 1999; No. 138, 2000; No. 167, 2001
S. 47A	ad. No. 145, 1995
Subdivision B	
S. 52	am. No. 139, 1987; No. 153, 1988; No. 48, 1991; Nos. 30 and 145, 1995; No. 39, 1997; No. 41, 1998; No. 178, 1999; No. 101, 2006; No. 143, 2007; No. 145, 2008
Division 13	
Heading to Div. 13 of Part III	am. No. 139, 1987
S. 55	am. No. 150, 1997
S. 57	am. No. 139, 1987
Heading to s. 57A	am. No. 52, 2000; Nos. 83 and 95, 2004
S. 57A	rs. No. 139, 1987 am. No. 52, 2000; No. 167, 2001; No. 142, 2003; Nos. 83 and 95, 2004
S. 58	am. No. 139, 1987
S. 58A	ad. No. 139, 1987 am. No. 30, 1995; No. 39, 1997
S. 58AA	ad. No. 77, 2005
S. 58B	ad. No. 139, 1987
S. 58C	ad. No. 139, 1987 am. No. 23, 2005
Ss. 58D, 58E	ad. No. 139, 1987
S. 58F	ad. No. 139, 1987 am. No. 30, 1995; No. 39, 1997
S. 58G	ad. No. 139, 1987 am. No. 237, 1992; No. 145, 1995

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 58GA.....	ad. No. 16, 1999 am. No. 80, 2007		
Ss. 58H, 58J, 58K	ad. No. 139, 1987		
S. 58L	ad. No. 139, 1987 am. No. 56, 1994		
S. 58LA	ad. No. 11, 1989		
S. 58M	ad. No. 139, 1987 am. No. 30, 1995; No. 39, 1997		
S. 58N	ad. No. 139, 1987		
S. 58P	ad. No. 139, 1987 am. No. 76, 1996; No. 110, 2006		
S. 58PA	ad. No. 66, 2003 am. No. 78, 2005		
S. 58PB	ad. No. 66, 2003 am. No. 58, 2006; Nos. 8 and 15, 2007		
S. 58PC.....	ad. No. 66, 2003 am. No. 105, 2004; No. 78, 2005		
S. 58Q	ad. No. 139, 1987 am. No. 41, 2005		
Ss. 58R–58U	ad. No. 139, 1987		
S. 58V	ad. No. 139, 1987 am. No. 144, 2008		
S. 58W	ad. No. 53, 1995		
S. 58X	ad. No. 145, 1995 am. No. 77, 2005; No. 59, 2008		
S. 58Y	ad. No. 145, 1995		
S. 58Z.....	ad. No. 145, 1995 am. No. 16, 1999		
S. 58ZA	ad. No. 147, 1997 rep. No. 52, 2000		
S. 58ZB	ad. No. 16, 1999		
S. 58ZC.....	ad. No. 52, 2000 am. Nos. 41 and 77, 2005		
S. 58ZD.....	ad. No. 52, 2000		
Division 14			
Heading to Div. 14 of	ad. No. 139, 1987		
Part III			
S. 59	am. No. 139, 1987 (as am. by No. 11, 1988); No. 147, 1997; No. 52, 2000		
S. 60	am. No. 139, 1987; No. 95, 1988		
S. 60AA	ad. No. 95, 1988		
S. 60A	ad. No. 139, 1987 am. No. 11, 1989; No. 30, 1995; No. 39, 1997		
S. 61	am. No. 139, 1987; No. 11, 1989; No. 30, 1995; No. 39, 1997		
Ss. 61A, 61B	ad. No. 139, 1987 am. No. 11, 1989; No. 100, 1991; No. 57, 1993; No. 30, 1995; No. 39, 1997		

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 61C	ad. No. 139, 1987 am. No. 100, 1991; No. 57, 1993; No. 178, 1999		
S. 61D	ad. No. 139, 1987 am. No. 100, 1991; No. 57, 1993		
Ss. 61E, 61F	ad. No. 139, 1987 am. No. 11, 1989; No. 100, 1991; No. 57, 1993; No. 30, 1995; No. 39, 1997		
S. 61G	ad. No. 20, 2004		
S. 62	am. No. 139, 1987; No. 178, 1999; No. 110, 2006		
S. 63	am. No. 139, 1987; No. 100, 1991; No. 57, 1993		
S. 63A	ad. No. 82, 1994 am. No. 121, 1997		
S. 64	rep. No. 57, 1993		
S. 64A	ad. No. 2, 1989 rep. No. 57, 1993		
S. 65	rep. No. 57, 1993		
S. 65A	ad. No. 139, 1987 am. No. 100, 1991; No. 57, 1993		
Ss. 65B, 65C	ad. No. 139, 1987 rep. No. 100, 1991		
S. 65CAA	ad. No. 100, 1991 rep. No. 57, 1993		
Division 14A			
Div. 14A of Part III	ad. No. 95, 1988		
S. 65CA	ad. No. 95, 1988 am. No. 58, 1990		
S. 65CB	ad. No. 95, 1988		
Division 14B			
Div. 14B of Part III	ad. No. 95, 1988		
S. 65CC	ad. No. 95, 1988		
Division 15			
Div. 15 of Part III	ad. No. 139, 1987		
S. 65D	ad. No. 139, 1987		
S. 65E	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995; No. 41, 1998		
S. 65F	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995		
Ss. 65G, 65H	ad. No. 139, 1987 am. No. 11, 1989 rep. No. 145, 1995		
Part IIIA			
Part IIIA	ad. No. 223, 1992		
S. 65J	ad. No. 223, 1992 am. No. 118, 1993; No. 56, 1994; No. 145, 1995; No. 52, 2000; Nos. 167 and 168, 2001; No. 95, 2004; No. 63, 2005; SLI 2006 No. 50		

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
Part IV	
S. 67	am. No. 48, 1986; No. 37, 1990; No. 216, 1991; No. 223, 1992; No. 22, 1995; No. 25, 2000; No. 10, 2003
Part V	
Division 1	
S. 68.....	am. No. 178, 1999
S. 70.....	am. No. 174, 1997 rs. No. 91, 2000
Ss. 70A, 70B	ad. No. 174, 1997 rep. No. 91, 2000
S. 70D	ad. No. 174, 1997 am. No. 146, 2001
S. 71	am. No. 78, 1988; No. 118, 1993; No. 174, 1997 rep. No. 91, 2000
Division 2	
S. 74.....	am. No. 174, 1997; No. 91, 2000
Ss. 74A–74F	ad. No. 101, 1992 rep. No. 161, 2005
S. 78A	ad. No. 216, 1991
Part VI	rs. No. 48, 1986 rep. No. 216, 1991
S. 79	rs. No. 48, 1986; No. 23, 1987 rep. No. 216, 1991
S. 79A	ad. No. 48, 1986 rep. No. 23, 1987
S. 80	rs. No. 48, 1986 rep. No. 216, 1991
S. 81	rs. No. 48, 1986 am. No. 23, 1987 rep. No. 216, 1991
Ss. 82, 83	rs. No. 48, 1986 rep. No. 216, 1991
S. 84	rs. No. 48, 1986 am. No. 112, 1986; No. 23, 1987 rep. No. 216, 1991
S. 85	rs. No. 48, 1986 am. No. 23, 1987 rep. No. 216, 1991
S. 86	rs. No. 48, 1986 rep. No. 216, 1991
S. 86A	ad. No. 48, 1986 am. No. 112, 1986 rep. No. 216, 1991
S. 86B	ad. No. 48, 1986 rep. No. 23, 1987
S. 86C	ad. No. 48, 1986 am. No. 23, 1987 rep. No. 216, 1991

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 86D	ad. No. 48, 1986	rep. No. 23, 1987	
S. 86E	ad. No. 48, 1986	am. No. 23, 1987	rep. No. 216, 1991
S. 87	rs. No. 48, 1986	rep. No. 23, 1987	
S. 88	rs. No. 48, 1986	rep. No. 216, 1991	
S. 89	rep. No. 48, 1986		
Part VII			
Division 1			
S. 90.....	am. No. 178, 1999		
Note to s. 90(2)	ad. No. 179, 1999		
Ss. 91, 92	rep. No. 179, 1999		
S. 93	am. No. 191, 1992; No. 181, 1994; No. 120, 1995; No. 11, 1999		
Note to s. 93(2)	am. No. 101, 2006		
Ss. 94, 95.....	am. No. 11, 1999	rep. No. 179, 1999	
S. 96	am. No. 145, 1987; No. 60, 1990; Nos. 92 and 118, 1992	rep. No. 179, 1999	
S. 97	rep. No. 179, 1999		
S. 98	am. No. 48, 1986; No. 216, 1991	rep. No. 179, 1999	
S. 99	am. No. 216, 1991; No. 44, 1999	rep. No. 179, 1999	
Division 2			
Subdivision A			
S. 101.....	am. Nos. 44 and 91, 2000		
S. 102.....	am. No. 178, 1999		
S. 103.....	rs. No. 178, 1999	am. No. 73, 2001	
Note to s. 103.....	ad. No. 44, 2000		
S. 104	am. No. 139, 1987; No. 11, 1999	rs. No. 178, 1999	
S. 105.....	rs. No. 178, 1999; No. 44, 2000		
Subdiv. B of Div. 2 of..... Part VII	rep. No. 178, 1999		
S. 106	am. No. 139, 1987; No. 11, 1989	rep. No. 178, 1999	
Ss. 107, 108.....	rep. No. 178, 1999		
Subdivision C			
Heading to Subdiv. C	rs. No. 178, 1999		
of Div. 2 of Part VII			
S. 109.....	am. No. 11, 1999; No. 178, 1999; No. 73, 2001		

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 110	am. No. 223, 1992; No. 178, 1999; No. 44, 2000; No. 73, 2001		
S. 111	am. No. 178, 1999; No. 44, 2000; No. 73, 2001		
S. 112	am. No. 191, 1992; No. 11, 1999; No. 178, 1999; No. 44, 2000		
S. 112A	ad. No. 44, 2000 am. No. 73, 2001		
Note to s. 112A(1)	rs. No. 44, 2000		
S. 112B	ad. No. 44, 2000		
Part VIII			
S. 113A	ad. No. 91, 2000		
S. 115	am. No. 174, 1997		
S. 115A	ad. No. 139, 1987 am. No. 11, 1989 rs. No. 145, 1995		
S. 115B	ad. No. 16, 1999		
Part IX			
S. 119	am. No. 48, 1986 rep. No. 91, 2000		
Note	ad. No. 91, 2000		
S. 121	am. No. 48, 1986; No. 78, 1988; No. 146, 2001; No. 143, 2007		
S. 122	am. No. 78, 1988; No. 146, 2001; No. 143, 2007		
Note to s. 122(2)	ad. No. 146, 2001		
Part X			
Heading to Part X	am. No. 11, 1989		
S. 123	am. No. 139, 1987; No. 145, 1995; No. 41, 1998		
S. 123A	ad. No. 11, 1989 rs. No. 145, 1995		
S. 123B	ad. No. 35, 1992 am. No. 145, 1995		
Part XA			
Part XA	ad. No. 95, 2004		
Ss. 123C, 123D	ad. No. 95, 2004		
S. 123E	ad. No. 95, 2004 am. No. 63, 2005		
Part XI			
S. 124A	ad. No. 139, 1987 am. No. 100, 1991		
Ss. 124B, 124C	ad. No. 174, 1997 rep. No. 91, 2000		
S. 126	am. No. 48, 1986; No. 216, 1991; No. 174, 1997		
S. 127	am. No. 91, 2000		
Note to s. 127	ad. No. 91, 2000		
Ss. 130, 131	rep. No. 179, 1999		

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 132	am. No. 145, 1995; No. 91, 2000		
Note to s. 132(1)	ad. No. 16, 1999		
Note 1 to s. 132.....	ad. No. 91, 2000		
Note 2 to s. 132.....	ad. No. 91, 2000		
S. 132A	ad. No. 145, 1995		
S. 133	am. No. 48, 1986; No. 175, 1995 rep. No. 67, 2003		
S. 135	am. No. 143, 2007		
Part XIA			
Part XIA	ad. No. 16, 1999		
Division 1			
S. 135A	ad. No. 16, 1999		
Division 2			
Ss. 135B, 135C	ad. No. 16, 1999		
Division 3			
Ss. 135D–135H, 135J–135L	ad. No. 16, 1999		
Part XIB			
Part XIB	ad. No. 17, 1999		
S. 135M.....	ad. No. 17, 1999 am. No. 150, 2003; Nos. 83 and 95, 2004		
S. 135N	ad. No. 17, 1999		
Ss. 135P, 135Q.....	ad. No. 17, 1999 am. No. 110, 2006		
Note to s. 135Q(1).....	am. No. 52, 2000; No. 167, 2001; No. 83, 2004		
Part XIC			
Part XIC	ad. No. 167, 2001		
Ss. 135R, 135S	ad. No. 167, 2001		
S. 135T.....	ad. No. 167, 2001 am. No. 97, 2008		
Ss. 135U–135W	ad. No. 167, 2001		
S. 135X	ad. No. 167, 2001 am. No. 83, 2004		
Part XII			
S. 136	am. No. 48, 1986; No. 139, 1987; Nos. 6, 95 and 153, 1988; Nos. 11 and 97, 1989; Nos. 48 and 216, 1991; Nos. 210, 223 and 237, 1992; Nos. 17, 57 and 118, 1993; Nos. 56, 82 and 181, 1994; Nos. 30, 145 and 169, 1995; No. 43, 1996; Nos. 39, 62, 121 and 174, 1997; Nos. 17, 41 and 47, 1998; ; Nos. 11, 16, 17, 146 and 178, 1999; Nos. 44, 52, and 91, 2000; Nos. 55, 73, 89 and 168, 2001; Nos. 57 and 136, 2002; Nos. 66 and 101, 2003; No. 95, 2004; Nos. 41 and 64, 2005; Nos. 32, 58 and 101, 2006; Nos. 8, 9, 15, 56, 79 and 143, 2007; Nos. 92 and 144, 2008		

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
S. 136AA	ad. No. 223, 1992 am. No. 16, 1999 rep. No. 17, 1999		
S. 136AB	ad. No. 181, 1994 am. No. 123, 2001; No. 15, 2007		
S. 136A	ad. No. 11, 1989		
S. 137	am. No. 178, 1999		
Ss. 138A–138C	ad. No. 139, 1987		
S. 140	am. No. 52, 2000; No. 142, 2003; No. 83, 2004; No. 110, 2006		
S. 141	am. No. 139, 1987		
S. 141A	ad. No. 139, 1987		
S. 142	am. No. 139, 1987; No. 95, 1988; No. 107, 1989		
S. 142A	ad. No. 139, 1987 am. No. 159, 1994		
Ss. 142B–142D	ad. No. 139, 1987		
S. 143	am. No. 139, 1987; No. 11, 1989; No. 100, 1991; No. 159, 1994; No. 121, 1997		
S. 143A	ad. No. 139, 1987 am. No. 121, 1997		
S. 143B	ad. No. 139, 1987		
S. 143C	ad. No. 139, 1987 am. No. 159, 1994; No. 121, 1997		
Ss. 143D, 143E	ad. No. 139, 1987		
S. 149A	ad. No. 52, 2000		
S. 152	rep. No. 121, 1997		
S. 152A	ad. No. 145, 1995 am. No. 145, 2008		
S. 152B	ad. No. 145, 1995		
Note to s. 152B	am. No. 17, 1999		
S. 153	am. No. 139, 1987		
S. 157	am. No. 100, 1991		
S. 159	am. No. 139, 1987; No. 101, 2006		
Ss. 161, 162	am. No. 139, 1987		
S. 162B	ad. No. 139, 1987 am. No. 58, 2006		
S. 162C	ad. No. 139, 1987		
S. 162D	ad. No. 139, 1987 rs. No. 11, 1989 rep. No. 145, 1995		
S. 162E	ad. No. 139, 1987 rep. No. 145, 1995		
Heading to s. 162F	am. No. 145, 1995		
S. 162F	ad. No. 139, 1987 am. No. 145, 1995		

Table of Amendments

ad. = added or inserted	am. = amended	rep. = repealed	rs. = repealed and substituted
Provision affected	How affected		
Ss. 162G, 162H	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995		
S. 162J	ad. No. 139, 1987 rep. No. 145, 1995		
Ss. 162K, 162L	ad. No. 139, 1987 am. No. 11, 1989; No. 145, 1995		
S. 162M	ad. No. 139, 1987 rep. No. 145, 1995		
S. 162N	ad. No. 139, 1987		

Table A

Application, saving or transitional provisions

Taxation Laws Amendment Act (No. 2) 1996 (No. 76, 1996)

Schedule 5

2 Application

The amendment made by this Schedule applies to a benefit provided after the commencement of the Schedule.

Tax Law Improvement Act 1997 (No. 121, 1997)

4 Application of amendments

An amendment made by an item in a Schedule (except Schedule 1) applies to assessments for the 1997-98 income year and later income years, unless otherwise indicated in that Schedule.

Schedule 4

140 Application of amendment

The amendment made by item 139 applies to travel on or after 1 July 1997.

Schedule 10

23 Application

The amendments made by items 16 to 22 apply to the providing of entertainment on or after 1 July 1997.

Table A

Taxation Laws Amendment Act (No. 3) 1997 (No. 147, 1997)

Schedule 7

3 Application

The amendments made by this Schedule apply to assessments for the FBT year beginning on 1 April 1997 and for all later FBT years.

Taxation Laws Amendment Act (No. 4) 1997 (No. 174, 1997)

Schedule 7

32 Application of amendments

Fringe Benefits Tax

- (2) The amendments made by this Schedule apply in relation to:
- (a) returns, applications for amendments or other documents given to the Commissioner for the purposes of the *Fringe Benefits Tax Assessment Act 1986* on or after 1 April 1998; and
 - (b) statements made for the purposes of the *Fringe Benefits Tax Assessment Act 1986* on or after 1 April 1998; and
 - (c) payments made under the *Fringe Benefits Tax Assessment Act 1986* on or after 1 April 1998.

Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998
(No. 17, 1998)

Schedule 1

32 Application

The amendment made by this Part applies to benefits conferred either before or after the commencement of this Part.

Table A

Taxation Laws (Technical Amendments) Act 1998 (No. 41, 1998)

Schedule 5

20 Application

- (1) The amendments made by items 1 to 14 apply to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1998 and later FBT years.
- (2) The amendment made by item 15 applies to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1995 and later FBT years.

Taxation Laws Amendment Act (No. 3) 1998 (No. 47, 1998)

Schedule 8

12 Application

The amendment made by item 11 applies for the year of tax containing 4 December 1997, and later years of tax.

Taxation Laws Amendment Act (No. 3) 1999 (No. 11, 1999)

Schedule 1

398 Application

- (1) This item applies to amendments made by items 1 to 3, 11, 12, 14, 18 to 27, 29, 37 to 42, 69 to 75, 77 to 80, 88 to 101, 107, 111, 113, 118, 120, 121, 127, 128, 130, 140, 148, 149, 153, 156, 158, 161 to 169, 175, 178, 179, 185, 187 to 189, 191, 192, 195, 200 to 204, 212, 214 to 217, 221, 223, 225, 226 to 228, 234, 236 to 242, 245, 252, 254 to 278, 280, 281, 296 to 298, 301, 304, 306, 309, 310, 314, 315 to 320, 322 to 328, 331, 332 to 335, 337 to 341, 344, 345, 346, 348, 352, 355 to 360, 373, 375 to 377, 379 to 385, 387 to 394, 396 and 397.

Table A

- (2) The amendments apply in relation to amounts that are due to be paid on or after 1 July 1999.
- (3) The amendments, other than the amendments referred to in subitem (5), also apply in relation to amounts that are due to be paid before 1 July 1999 if:
 - (a) some or all of the amount remains unpaid on 1 July 1999; and
 - (b) the amendments would have applied to the unpaid amount if the day by which the amount is due to be paid had been on or after 1 July 1999.
- (4) In applying the amendments in that case:
 - (a) the unpaid amount is taken to be the sum of the unpaid amount and any unpaid penalty or interest that had accrued before 1 July 1999; and
 - (b) the day by which the unpaid amount is due to be paid is taken to be 1 July 1999; and
 - (c) the unpaid amount and the unpaid penalty or interest that had accrued before 1 July 1999 continues to be payable.
- (5) In addition to applying in relation to amounts that are due to be paid on or after 1 July 1999, the amendments made by items 101, 107, 111, 118, 140, 185, 195, 201, 214, 225, 226, 238, 240, 255, 301, 304, 306 and 355 to 359 also apply in relation to amounts that are due to be paid before 1 July 1999, if some or all of the amount remains unpaid on that day, from the day by which the amount is due to be paid.

399 Application

- (1) This item applies to amendments made by items 6, 7, 8 to 10, 43 to 51, 53 to 68, 102, 103, 114, 115, 119, 131 to 139, 141, 151, 152, 170 to 174, 186, 196, 247 to 251, 282 to 295, 305, 311 to 313, 329, 330, 354, 361 to 363, 369 and 378.
- (2) The amendments apply where the period for which the person is liable to pay the general interest charge starts on or after 1 July 1999.

404 Application

- (1) This item applies to amendments made by items 4, 5, 28, 30, 31, 32, 33, 34, 35, 36, 52, 76, 116, 122, 123, 124, 125, 126, 129, 144, 145, 146, 147, 150, 155, 157, 159, 160, 176, 177, 181, 182, 183, 184, 190, 205, 206, 207, 208, 209, 210, 218, 219, 220, 229, 230, 231, 243, 244, 253,

Table A

279, 299, 300, 302, 321, 336, 342, 343, 365, 367, 370, 374, 386 and 395.

- (2) The amendments apply in relation to credits and payments to which section 8AAZL of the *Taxation Administration Act 1953* applies.

405 Application of new Part IIB of the Taxation Administration Act

- (1) Part IIB of the *Taxation Administration Act 1953*, so far as that Part relates to the establishment, operation and effect of RBAs, applies as follows:
- (a) tax debts owing at or after the commencing time may be allocated to an RBA after the commencing time, regardless of when the debts arose;
 - (b) in all other respects, the amendments apply from the commencing time.
- (2) Section 8AAZL of the *Taxation Administration Act 1953* applies as follows:
- (a) payments received by the Commissioner either before or after the commencing time (and not already applied before the commencing time) must be applied in accordance with that section after the commencing time;
 - (b) credits arising either before or after the commencing time (and not already applied before the commencing time) may be applied in accordance with that section after the commencing time.
- (3) Section 8AAZM of the *Taxation Administration Act 1953* applies to payments received after the commencing time.
- (4) Section 8AAZN of the *Taxation Administration Act 1953* applies to overpayments made by the Commissioner after the commencing time.
- (5) In this item:
- commencing time*** means the beginning of 1 July 1999.

Table A

Taxation Laws Amendment Act (No. 1) 1999 (No. 16, 1999)

Schedule 2

2 Application

The amendment made by this Schedule applies to the year of tax commencing on 1 April 1996 and all later years of tax.

Schedule 3

12 Application

- (1) The amendments made by items 1, 2 and 3 apply to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1997 and of all later years.
- (2) The amendments made by items 4, 5 and 6 apply to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1998 and of all later years.
- (3) The repeals made by items 9, 10 and 11 apply in relation to expenditure to the extent to which it is incurred in respect of the provision of car parking facilities for a car on a day on or after 1 July 1997.

Schedule 12

4 Application of amendments

- (1) The amendments made by this Schedule apply in relation to benefits provided in the FBT year beginning on 1 April 1998 and later FBT years.
- (2) However, section 135E of the *Fringe Benefits Tax Assessment Act 1986* (as inserted by this Schedule) does not apply in relation to benefits provided before the commencement of this Schedule.

5 Transitional—first base year

- (1) For the purposes of Part XIA of the *Fringe Benefits Tax Assessment Act 1986* (as inserted by this Schedule), an employer may use the FBT year beginning on 1 April 1996, or any later FBT year, as the employer's first base year.

Table A

- (2) If the employer uses the FBT year beginning on 1 April 1996 as the first base year, then, in determining whether the conditions in Division 2 of that Part are satisfied for any later FBT year:
- (a) section 135B of that Act is taken to require that the employer's aggregate fringe benefits amount for the FBT year beginning on 1 April 1997 was no more than 20% greater than it was for that base year (unless the difference is \$100 or less); and
 - (b) that section is taken not to require anything else to be true of the FBT year beginning on 1 April 1997; and
 - (c) the test in paragraph (a) of this subitem is to be applied using the rules in subsections 135K(3) to (6) of that Act.

A New Tax System (Fringe Benefits Reporting) Act 1999 (No. 17, 1999)

Schedule 1

16 Application of amendments

The amendments made by this Schedule apply in relation to the year of tax starting on 1 April 1999 and later years of tax.

Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 (No. 44, 1999)

Schedule 8

22 Regulations may deal with transitional, saving or application matters

- (1) The regulations may deal with matters of a transitional, saving or application nature relating to:
- (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector*

Table A

- (Shareholdings) Act 1998 or the Australian Prudential Regulation Authority Act 1998; or
- (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the application of provisions of any of the Acts referred to in paragraph (a); or
 - (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
- (a) by applying (with or without modifications) to the matter:
 - (i) provisions of a law of the Commonwealth, or of a State or Territory; or
 - (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or
 - (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;
 - (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
- (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
- (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:
- (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;

Table A

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- (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
 - (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
- (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
- (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
 - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
- (6) In this item, a reference to a *law*, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
- (7) In this item:
- replaced legislation* means:
- (a) the AFIC Codes; and
 - (b) the Financial Institutions Codes; and
 - (c) the Friendly Societies Codes; and
 - (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
 - (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and
 - (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
 - (g) the *Friendly Societies (Western Australia) Act 1999*; and
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Table A

- (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

23 Power to make regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999 (No. 83, 1999)

Schedule 10

68 Application

- (1) Subject to this item, the amendments made by this Schedule apply to assessments in relation to the 2000-2001 year of income and later years of income.

Taxation Laws Amendment (CPI Indexation) Act 1999 (No. 102, 1999)

Schedule 1

2 Application

The amendment of section 39A of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule applies in relation to each FBT year starting on or after 1 April 1998.

5 Application

The amendments of sections 39AA and 39DA of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to each FBT year starting on or after 1 April 1995.

Table A

A New Tax System (Pay As You Go) Act 1999 (No. 178, 1999)

Schedule 1**84 Application**

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Part apply to a payment made, or a benefit provided, on or after 1 July 2000.

Schedule 2**140 Application of amendments**

The amendments made by this Part apply in relation to the year of tax starting on 1 April 2000 and all later years of tax.

A New Tax System (Tax Administration) Act 1999 (No. 179, 1999)

Schedule 2**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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 94
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 86
	<i>Sales Tax Assessment Act 1992</i>	section 69
	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>	section 26 or 27
	<i>Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997</i>	section 22 or 23
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 50

Table A

Tax-related liability that became due and payable before 1 July 2000		
Item	Act	Provision
	<i>Termination Payments Tax (Assessment and Collection) Act 1997</i>	section 17 or 18
	<i>Taxation Administration Act 1953</i>	subsection 8AAV(1) or (2)
	<i>Tobacco Charges Assessment Act 1955</i>	section 21
	<i>Wool Tax (Administration) Act 1964</i>	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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 91 or 92
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 83 or 84
	<i>Sales Tax Assessment Act 1992</i>	section 65 or 66
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 48
	<i>Taxation Administration Act 1953</i>	section 45-85 in Schedule 1
	<i>Tobacco Charges Assessment Act 1955</i>	subsection 17(2) or (3) or section 23
	<i>Wool Tax (Administration) Act 1964</i>	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.

Table A

Collecting amounts from third parties		
Item	Act	Provision
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 99
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 91
	<i>Sales Tax Assessment Act 1992</i>	section 74
	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>	section 40A
	<i>Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997</i>	section 35
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 56
	<i>Termination Payments Tax (Assessment and Collection) Act 1997</i>	section 28A
	<i>Wool Tax (Administration) Act 1964</i>	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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 96
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 88
	<i>Sales Tax Assessment Act 1992</i>	section 123 or 124
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 53
	<i>Tobacco Charges Assessment Act 1955</i>	section 27
	<i>Wool Tax (Administration) Act 1964</i>	section 47 or 48

Table A**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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 97 or 98
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 89 or 90
	<i>Sales Tax Assessment Act 1992</i>	section 72 or 73
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 54 or 55
	<i>Tobacco Charges Assessment Act 1955</i>	section 28
	<i>Wool Tax (Administration) Act 1964</i>	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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 130
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 110
	<i>Sales Tax Assessment Act 1992</i>	section 70
	<i>Wool Tax (Administration) Act 1964</i>	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
	<i>Fringe Benefits Tax Assessment Act 1986</i>	section 131
	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>	section 111
	<i>Sales Tax Assessment Act 1992</i>	section 71
	<i>Superannuation Guarantee (Administration) Act 1992</i>	section 78

Table A

Tax-related liability that became due and payable before 1 July 2000		
Item	Act	Provision
	<i>Wool Tax (Administration) Act 1964</i>	section 53

Timor Gap Treaty (Transitional Arrangements) Act 2000 (No. 25, 2000)

4 The transition time

In this Act:

transition time means 1.23 am Australian Central Standard Time on 26 October 1999.

Note: This time corresponds to the time in New York when the United Nations Security Council adopted Resolution 1272 (1999), which established UNTAET and gave it responsibility for the administration of East Timor. In 2000 the text of the Resolution was available in the Library of the Department of Foreign Affairs and Trade and accessible on the Internet through the Department's or the United Nations' world-wide web site.

5 Validity of things done by the Ministerial Council and the Joint Authority

- (1) Any thing done by the Ministerial Council or the Joint Authority, during the period commencing on the transition time and ending on 5.55 pm Australian Central Standard Time on 10 February 2000, is not invalid:
- (a) merely because the Republic of Indonesia ceased to be a party to the Treaty, and UNTAET became a party to the Treaty, at the transition time; or
 - (b) merely because of an invalidity in the membership of the Ministerial Council or the Joint Authority.

- (2) In this section:

Joint Authority and **Ministerial Council** have the meanings given them by subsection 5(1) of the *Petroleum (Timor Gap Zone of Cooperation) Act 1990*.

Table A

Treaty has the meaning given by subsection 5(1) of the *Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990* (as in force immediately before the transition time).

UNTAET means the United Nations Transitional Administration in East Timor.

6 Protection against retrospective criminal liability

A person does not commit an offence if the person would not have committed the offence had the amendments made by the items in Schedules 1 and 2 (other than items 18 to 25 of Schedule 2) commenced on the day on which this Act received the Royal Assent (rather than commencing at the transition time).

A New Tax System (Tax Administration) Act (No. 1) 2000 (No. 44, 2000)

Schedule 2

11 Application of amendments

- (1) The amendments made by this Schedule (except items 2, 5, 9 and 10) apply in relation to instalments of tax for the year of tax starting on 1 April 2000 and all later years of tax.
- (2) The amendments made by items 2, 5, 9 and 10 apply in relation to instalments of tax for the year of tax starting on 1 April 2001 and all later years of tax.

Schedule 3

9 Saving

A reference to section 92, 94, 130 or 131 of the *Fringe Benefits Tax Assessment Act 1986* (the *FBTA Act*) in an item in Part 3 of Schedule 2 to the *A New Tax System (Tax Administration) Act 1999* includes a reference to that section as it had effect, before its repeal, because of section 101 of the *FBTA Act*.

Table A

A New Tax System (Fringe Benefits) Act 2000 (No. 52, 2000)

Schedule 1

30 Application

The amendments made by this Schedule apply in respect of the FBT year beginning on 1 April 2000 and in respect of all later FBT years.

A New Tax System (Tax Administration) Act (No. 2) 2000 (No. 91, 2000)

Schedule 2

157 Application of amendments

The amendments made by this Part apply to returns for the year of tax starting on 1 April 2001 and later years.

Taxation Laws Amendment Act (No. 3) 2001 (No. 73, 2001)

Schedule 2

8 Application

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Part apply, and are taken to have applied, in respect of instalments of fringe benefits tax that are due and payable on or after 1 April 2001.

Taxation Laws Amendment (Superannuation Contributions) Act 2001
(No. 89, 2001)

Schedule 1

11 Application of amendments

- (2) The amendments made by Part 3 of this Schedule apply to contributions made after 7 September 2000.

Table A

Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001 (No. 146, 2001)

4 Application of amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Taxation Laws Amendment Act (No. 2) 2001 (No. 167, 2001)

Schedule 1

2 Application

The amendment made by item 1 applies in relation to the year of tax starting on 1 April 2000 and later years of tax.

Schedule 4

4 Application

- (1) The amendment of the *Fringe Benefits Tax Assessment Act 1986* made by item 1 of this Schedule applies in respect of the FBT year beginning on 1 April 1998 and in respect of all later FBT years.
 - (2) The amendment of the *Fringe Benefits Tax Assessment Act 1986* made by item 2 of this Schedule applies in respect of the FBT year beginning on 1 April 2000 and in respect of all later FBT years.
 - (3) The amendment of the *Fringe Benefits Tax Assessment Act 1986* made by item 3 of this Schedule applies in respect of the FBT year beginning on 1 April 1999 and in respect of all later FBT years.
-

Table A

Taxation Laws Amendment Act (No. 5) 2001 (No. 168, 2001)

Schedule 1

8 Application

The amendment of the *Fringe Benefits Tax Assessment Act 1986* made by item 7 of this Schedule applies to payments made on or after 1 July 2002.

9 Transitional treatment of payments to religious practitioners

- (1) This item applies to payments made to religious practitioners during the period (the *transitional period*) from the start of 1 July 2000 until the end of 30 June 2002.
- (2) For the purposes of the *Fringe Benefits Tax Assessment Act 1986*, a payment to a religious practitioner during the transitional period is taken to be a payment of *salary or wages* if it would have been a payment of salary or wages had it been made immediately after the end of the transitional period.
- (3) In this item, *religious practitioner* has the meaning given by subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986*.

Schedule 5

3 Application

- (1) The amendment made by item 1 applies to benefits provided on or after 1 April 2000.
 - (2) The amendment made by item 2 applies to benefits provided on or after 1 April 1999.
-

Table A

Taxation Laws Amendment Act (No. 4) 2003 (No. 66, 2003)

Schedule 7

5 Application

The amendments made by items 1 to 4 of this Schedule apply to benefits provided in a year of tax that begins on or after 1 April 2003.

Taxation Laws Amendment Act (No. 6) 2003 (No. 67, 2003)

Schedule 9

18 Transitional provision

- (1) This item applies to an application made under:
 - (a) section 133 of the *Fringe Benefits Tax Assessment Act 1986* before its repeal by item 5 of this Schedule; or
 - (b) section 265 of the *Income Tax Assessment Act 1936* before its repeal by item 15 of this Schedule.
- (2) If the application has not been finally determined before the commencement of this Schedule, Division 340 in Schedule 1 to the *Taxation Administration Act 1953* applies as if the application had been made under section 340-5 in Schedule 1 to that Act.

19 Application provision

A person may be released, under Division 340 in Schedule 1 to the *Taxation Administration Act 1953*, from a liability that the person has incurred even if the liability was incurred before the commencement of this Schedule.

Table A

Taxation Laws Amendment Act (No. 3) 2003 (No. 101, 2003)

Schedule 2

18 Application

The amendment made by this Part applies in respect of the FBT year beginning on 1 April 1995 and in respect of all later FBT years.

Taxation Laws Amendment Act (No. 8) 2003 (No. 107, 2003)

Schedule 4

3 Application

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to a person and a car if the person becomes the owner of the car after 30 June 2002 (whether or not anyone else owned the car before the person becomes the owner of it).

Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003 (No. 122, 2003)

Schedule 2

15 Application

The amendment of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule applies to information acquired before, on or after the commencement of this Schedule by the Commissioner, a Deputy Commissioner or a person authorised by the Commissioner or a Deputy Commissioner.

Table A

Taxation Laws Amendment Act (No. 5) 2003 (No. 142, 2003)

Schedule 5

8 Application of amendments

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to benefits provided on or after 1 April 2003.

Taxation Laws Amendment Act (No. 2) 2004 (No. 20, 2004)

Schedule 3

5 Application of amendment in item 1

The amendment made by item 1 of this Schedule applies to fringe benefits provided after 30 June 2000.

Tax Laws Amendment (2004 Measures No. 2) Act 2004 (No. 83, 2004)

Schedule 4

2 Application

The amendment made by this Schedule applies in respect of the FBT year beginning on 1 April 2001 and in respect of all later FBT years.

Schedule 8

8 Application

The amendments made by items 1 to 7 apply in respect of the FBT year beginning on 1 April 2004 and in respect of all later FBT years.

Table A

Tax Laws Amendment (2004 Measures No. 1) Act 2004 (No. 95, 2004)

Schedule 10

43 Application of FBT amendments

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to benefits provided on or after 1 July 2005.

44 Transitional—GST and FBT endorsements

- (3) The entity is taken to have made an application to the Commissioner under section 426-15 in Schedule 1 to the *Taxation Administration Act 1953* for whichever of these kinds of endorsement is most appropriate for the entity:
- (a) endorsement as a public benevolent institution under subsection 123C(1) of the *Fringe Benefits Tax Assessment Act 1986*;
 - (b) endorsement for the operation of a public benevolent institution under subsection 123C(3) of the *Fringe Benefits Tax Assessment Act 1986*;
 - (c) endorsement as a health promotion charity under subsection 123D(1) of the *Fringe Benefits Tax Assessment Act 1986*;
 - (d) endorsement under subsection 123E(1) of the *Fringe Benefits Tax Assessment Act 1986* as a charitable institution covered by paragraph 65J(1)(baa) of that Act.

Tax Laws Amendment (2004 Measures No. 3) Act 2004 (No. 105, 2004)

Schedule 2

4 Application

The amendments made by this Schedule apply in respect of the FBT year beginning on 1 April 2004 and in respect of all later FBT years.

Table A

Tax Laws Amendment (2004 Measures No. 6) Act 2005 (No. 23, 2005)

Schedule 7

6 Application

The amendments made by this Schedule apply to benefits provided in a year of tax that begins on or after 1 April 2004.

Tax Laws Amendment (2004 Measures No. 7) Act 2005 (No. 41, 2005)

Schedule 4

3 Application

The amendments made by this Schedule apply to FBT years beginning on or after 1 April 2005.

Schedule 10

18 Application

The amendments made by items 16 and 17 apply in respect of the FBT year beginning on 1 April 2000 and in respect of all later FBT years.

Tax Laws Amendment (2005 Measures No. 3) Act 2005 (No. 63, 2005)

Schedule 4

3 Application

The amendments made by this Schedule apply to benefits provided on or after 1 July 2005.

Table A

New International Tax Arrangements (Foreign-owned Branches and Other Measures) Act 2005 (No. 64, 2005)

Schedule 4

37 Application—amendment of the *Fringe Benefits Tax Assessment Act 1986*

The amendment made by item 1 of this Schedule applies in respect of the FBT year in which this Act receives the Royal Assent and in respect of all later FBT years.

Tax Laws Amendment (2005 Measures No. 1) Act 2005 (No. 77, 2005)

Schedule 1

5 Application

The amendments made by this Schedule apply in respect of the FBT year following the FBT year in which this Act receives the Royal Assent and in respect of all later FBT years.

Tax Laws Amendment (2005 Measures No. 2) Act 2005 (No. 78, 2005)

Schedule 8

3 Application

The amendments made by items 1 and 2 of this Schedule apply in respect of the FBT year beginning on 1 April 2005 and in respect of all later FBT years.

Table A

Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005
(No. 161, 2005)

Schedule 2

32 Application

The amendments made by this Schedule apply to things done on or after the later of:

- (a) the day on which this Act receives the Royal Assent; and
- (b) 1 January 2006.

Tax Laws Amendment (2006 Measures No. 3) Act 2006 (No. 80, 2006)

Schedule 8

3 Application

The amendments made by this Schedule apply to the FBT year starting on 1 April 2004 and to all later FBT years.

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006
(No. 101, 2006)

Schedule 6

1 Application of Schedule 1 and 2 amendments

Except as mentioned in items 2 and 3, the repeals and amendments made by Schedules 1 and 2 apply:

- (a) so far as they affect assessments—to assessments for the 2006-07 income year and all later income years; and
- (b) otherwise—to acts done or omitted to be done, or states of affairs existing, after the commencement of the repeals and amendments.

5 Application of Schedule 5 amendments

The repeals and amendments made by Schedule 5 apply to acts done or omitted to be done, or states of affairs existing, after the commencement of the amendments.

6 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

7 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the

Table A

Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

8 Saving of provisions about effect of assessments

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
 - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
 - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

10 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

11 Schedule does not limit operation of section 8 of the Acts Interpretation Act 1901

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

Table A

Tax Laws Amendment (2006 Measures No. 5) Act 2006 (No. 110, 2006)

Schedule 1

7 Application

The amendments made by this Schedule apply in relation to the FBT year starting on 1 April 2007 and later FBT years.

Tax Laws Amendment (Simplified Superannuation) Act 2007 (No. 9, 2007)

Schedule 5

36 Application

- (1) The amendments made by this Schedule apply to the 2007-2008 income year and later years.
- (2) Despite subitem (1), items 1, 2, 3, 4, 5, 34 and 35 of this Schedule apply on and after 1 July 2007.

Superannuation Legislation Amendment (Simplification) Act 2007
(No. 15, 2007)

Schedule 1

406 Application

- (1) The amendments made by this Schedule apply to the 2007-2008 income year and later years.
- (2) Despite subitem (1), those amendments apply to the 2007-2008 financial year and later years, to the extent that they relate to Division 292 of the *Income Tax Assessment Act 1997*.
- (3) Despite subitem (1), those amendments apply on and after 1 July 2007, to the extent that they relate to any of the following:
 - (a) Divisions 82 and 83 of the *Income Tax Assessment Act 1997*;
 - (b) Divisions 301 to 307 of that Act.

Table A

Tax Laws Amendment (2007 Measures No. 1) Act 2007 (No. 56, 2007)

Schedule 3

39 Application

- (1) The amendments made by this Schedule apply to acquisitions of stapled securities, and of rights to acquire stapled securities, on or after 1 July 2006.
- (2) In this item:
acquisition has the same meaning as in Division 13A of Part III of the *Income Tax Assessment Act 1936*.

Tax Laws Amendment (2007 Measures No. 3) Act 2007 (No. 79, 2007)

Schedule 1

43 Application

- (1) The amendments made by this Schedule apply to assessments for the income year in which 1 July 2006 occurred and later income years.
- (2) Despite subitem (1), the amendments made by this Schedule to the *Fringe Benefits Tax Assessment Act 1986* apply to benefits provided in a year of tax that begins on or after 1 April 2007.
- (3) If:
 - (a) a loan was made in a year of tax that began before 1 April 2007; and
 - (b) the loan is covered under paragraph (s) of the definition of *fringe benefit* in the *Fringe Benefits Tax Assessment Act 1986* (as added by this Schedule); and
 - (c) because of the loan, a loan benefit is taken under subsection 16(1) of the *Fringe Benefits Tax Assessment Act 1986* to be provided in respect of a year of tax that begins on or after 1 April 2007;treat the loan benefit as not being a fringe benefit for the purposes of that Act.

Table A

Tax Laws Amendment (Small Business) Act 2007 (No. 80, 2007)

Schedule 5

6 Application

The amendments made by this Schedule apply in relation to the FBT year starting on 1 April 2007 and later FBT years.

7 Transitional—being a small business entity for the 2005-06 or 2006-07 income year

For the purposes of subparagraph 58GA(1)(d)(ii) of the *Fringe Benefits Tax Assessment Act 1986*, an employer is taken to be a small business entity for the 2005-06 income year or the 2006-07 income year (each a *relevant income year*) if the employer would have been a small business entity for the relevant income year had the amendments made by Schedule 1 to the *Tax Laws Amendment (Small Business) Act 2007* been in force in relation to that year.

Tax Laws Amendment (2007 Measures No. 4) Act 2007 (No. 143, 2007)

Schedule 1

222 Application

Subject to items 223 and 224, the amendments made by this Schedule apply in relation to income years, statutory accounting periods and notional accounting periods starting on or after the first 1 July that occurs after the day on which this Act receives the Royal Assent.

225 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

226 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example: For the 2006-07 income year, Smart Investor Pty Ltd, an Australian resident private investment company, has assessable foreign income in the passive income class on which it has paid foreign tax for which it wishes to claim a foreign tax credit. The company also has a tax loss for the year from its Australian investments. When it lodges its tax return for the year it does not elect to claim a deduction for any of the tax loss under section 79DA of the ITAA 1936, because the Australian tax payable on its passive foreign income equals the foreign tax it has paid.

In 2009 the amount of foreign tax payable in respect of some foreign rental income it had included in its return for the 2006-07 year is reduced and Smart Investor receives a refund of the difference in foreign tax. Smart Investor Pty Ltd then applies to be able to make an election under section 79DA, that is, after the *Tax Laws Amendment (2007 Measures No. 4) Act 2007* (which repeals section 79DA) receives Royal Assent. The Commissioner allows Smart Investor to submit an election to claim a deduction for so much of its 2006-07 tax loss as to reduce the amount of Australian tax payable on its 2006-07 assessable foreign income to the revised foreign tax paid, by the end of 2009.

Despite the repeal of section 79DA, item 226 allows the Commissioner to permit an election to be lodged after the return for 2006-07 has been lodged, and to amend Smart Investor's assessment for that year, because these actions relate to a thing done, and periods ending, before the repeal of section 79DA applies.

Table A

Schedule 7

8 Application

The amendment made by item 7 applies to the FBT year starting on 1 April 2008 and to all later FBT years.

Tax Laws Amendment (Budget Measures) Act 2008 (No. 59, 2008)

Schedule 1

3 Application

- (1) The amendment made by item 2 applies to food and drink provided after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008.
- (2) However, that amendment does not apply to an agreement made by an employee before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 to the extent that:
 - (a) a reduction in salary or wages has already occurred by that time; and
 - (b) the food or drink is provided before 1 April 2009.

5 Application

- (1) The amendments made by item 4 apply to items acquired after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008, other than items acquired under a contract entered into at or before that time.
- (2) To avoid doubt, subsections 58X(3) and (4) of the *Fringe Benefits Tax Assessment Act 1986* as amended by this Act apply where both the later item and the other item referred to in those subsections are acquired after that time.

Table A

First Home Saver Accounts (Further Provisions) Amendment Act 2008
(No. 92, 2008)

Schedule 1

26 Application

The amendments made by this Schedule apply from 1 October 2008.

Tax Laws Amendment (2008 Measures No. 4) Act 2008 (No. 97, 2008)

Schedule 3

4 Application

The amendments made by items 2 and 3 of this Schedule apply to the first year of tax starting after the day on which this Act receives the Royal Assent and later years.

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008 (No. 144, 2008)

Schedule 14

6 Application of amendments of the *Fringe Benefits Tax Assessment Act 1986*

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to the FBT year starting on 1 April 2009 and later FBT years.

Table A

Tax Laws Amendment (2008 Measures No. 5) Act 2008 (No. 145, 2008)

Schedule 4

9 Application

- (1) The amendments made by items 1 to 8 apply to a loan benefit that is provided after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the *commencing time*).
- (2) However, those amendments do not apply to a loan benefit that is provided after the commencing time and before 1 April 2009 if the loan was entered into before the commencing time.

23 Application

- (1) The amendments made by items 10 to 22 apply to an expense payment benefit that is provided after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the *commencing time*).
- (2) However, those amendments do not apply to an expense payment benefit that is provided to an employee after the commencing time and before 1 April 2009 if:
 - (a) the benefit is provided:
 - (i) because the employee agreed to receive the benefit in return for a reduction in the employee's salary or wages that would not have happened apart from the agreement; or
 - (ii) as part of the employee's remuneration package, in circumstances where it is reasonable to conclude that the employee's salary or wages would be greater if the benefit were not made part of that package; and
 - (b) the agreement was made, or the remuneration package was agreed to, before the commencing time.

32 Application

- (1) The amendments made by items 24 to 31 apply to a property benefit that is provided after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the *commencing time*).

Table A

- (2) However, those amendments do not apply to a property benefit that is provided to an employee after the commencing time and before 1 April 2009 if:
- (a) the benefit is provided:
 - (i) because the employee agreed to receive the benefit in return for a reduction in the employee's salary or wages that would not have happened apart from the agreement; or
 - (ii) as part of the employee's remuneration package, in circumstances where it is reasonable to conclude that the employee's salary or wages would be greater if the benefit were not made part of that package; and
 - (b) the agreement was made, or the remuneration package was agreed to, before the commencing time.

41 Application

- (1) The amendments made by items 33 to 40 apply to a benefit that is provided after 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the *commencing time*).
- (2) However, those amendments do not apply to a benefit that is provided to an employee after the commencing time and before 1 April 2009 if:
- (a) the benefit is provided:
 - (i) because the employee agreed to receive the benefit in return for a reduction in the employee's salary or wages that would not have happened apart from the agreement; or
 - (ii) as part of the employee's remuneration package, in circumstances where it is reasonable to conclude that the employee's salary or wages would be greater if the benefit were not made part of that package; and
 - (b) the agreement was made, or the remuneration package was agreed to, before the commencing time.