Taxation Laws Amendment Act 1989

No. 11 of 1989

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PART I—PRELIMINARY

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An Act to amend the law relating to taxation

[*Assented to 16 March 1989*]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Taxation Laws Amendment Act 1989*.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

PART II—AMENDMENT OF THE FRINGE BENEFITS TAX ASSESSMENT ACT 1986

Principal Act

3. In this Part, "Principal Act" means the *Fringe Benefits Tax Assessment Act 1986*[1].

Reduction of taxable value—"otherwise deductible" rule

4. Section 19 of the Principal Act is amended:

(**a**) by inserting in subparagraph (1) (b) (i) ", not being a foreign source deduction," before "would, or";

(**b**) by inserting in sub-subparagraph (1) (ba) (ii) (A) "other than a foreign source deduction" after "once-only deduction".

Reduction of taxable value—"otherwise deductible" rule

5. Section 24 of the Principal Act is amended:

(**a**) by inserting in subparagraph (1) (b) (iii) ", not being a foreign source deduction," before "would, or";

(**b**) by inserting in sub-subparagraph (1) (ba) (ii) (A) "other than a foreign source deduction" after "once-only deduction";

(**c**) by omitting from paragraph (1) (c) "expense benefit" (wherever occurring) and substituting "expense payment benefit";

(**d**) by inserting in paragraph (1) (d) "(other than an international aircrew expense payment benefit)" after "extended travel expense payment benefit".

6. After section 58L of the Principal Act the following section is inserted:

Exempt benefits—compassionate travel

"58LA. 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 of an employer, being benefits in relation to the transport of a person (in this section called the 'traveller') who is the employee or a close relative 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 the transport;

(ii) an expense payment benefit where the recipients expenditure is in respect of the provision of:

(A) the transport; or

(B) meals or accommodation for the traveller in connection with the transport;

(iii) a property benefit where the recipients property consists of meals for the traveller in connection with the transport;

(iv) a residual benefit where the recipients benefit consists of the provision of:

(A) the transport; or

(B) accommodation for the traveller in connection with the transport;

(b) the sole reason that the transport is required is:

(i) if the traveller is the employee:

(A) to enable the traveller to attend the funeral of a close relative of the traveller; or

(B) to enable the traveller to visit a close relative of the traveller in connection with a serious illness of the close relative or of the traveller; or

(ii) if the traveller is a close relative of the employee:

(A) to enable the traveller to attend the funeral of the employee;

(B) to enable the traveller to visit the employee in connection with a serious illness of the employee or of the traveller;

(C) to enable the traveller to attend the funeral of another close relative of the employee; or

(D) to enable the traveller to visit another close relative of the employee in connection with a serious illness of the other close relative or of the traveller;

(c) the travel to which the transport relates commences during a period in respect of which any of the following conditions is satisfied (or, in a case to which sub-subparagraph (b) (ii) (A) applies, would have been satisfied but for the employee's death):

(i) during that period, the employee is undertaking travel in the course of performing the duties of that employment;

(ii) in a case to which subparagraph (i) does not apply—the employee is required, during that period, to live away from his or her usual place of residence in order to perform the duties of that employment;

(iii) in a case to which neither subparagraph (i) nor (ii) applies—during that period, the usual place of residence of the employee is at, or the employee is performing duties of that employment at, a place that:

(A) is in a State or internal Territory; and

(B) is not at a location in, or adjacent to, an eligible urban area;

(d) in a case to which sub-subparagraph (b) (ii) (C) or (D) applies—the travel to which the transport relates commences during a period during which the traveller ordinarily resides with the employee; and

(e) if subparagraph (a) (ii) applies and the recipients expenditure is incurred after 25 May 1988—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;

the benefit is an exempt benefit in relation to the year of tax.".

Reduction of taxable value—remote area holiday transport fringe benefits subject to ceiling

7. Section 60A of the Principal Act is amended:

(**a**) by inserting in paragraph (4) (b) "following" before "rates";

(**b**) by omitting subparagraph (4) (b) (i) and substituting the following subparagraph:

"(i) the basic car rate;";

(**c**) by omitting from subparagraph (4) (b) (ii) "prescribed for the purposes of this subparagraph" and substituting "the supplementary car rate";

(**d**) by adding at the end the following subsection:

"(5) Where:

(a) a remote area holiday transport fringe benefit in relation to an employee consists of the provision of an allowance to the spouse or a child of the employee; and

(b) the whole or a part of the allowance has been expended by the recipient in obtaining the transport, meals or accommodation in respect of which the allowance was paid;

this section applies in relation to the fringe benefit as follows:

(c) the fringe benefit shall be treated as if it were an expense payment fringe benefit;

(d) the amount expended as mentioned in paragraph (b) shall be treated as if it were the recipients expenditure;

(e) so much of the allowance as does not exceed the recipients expenditure shall be treated as if it were a reimbursement of the recipients expenditure.".

Reduction of taxable value—remote area holiday transport fringe benefits not subject to ceiling

8. Section 61 of the Principal Act is amended:

(**a**) by inserting in paragraph (1) (f) "following" before "rates";

(**b**) by omitting subparagraph (1) (f) (i) and substituting the following subparagraph:

"(i) the basic car rate;";

(**c**) by omitting from subparagraph (1) (f) (ii) "prescribed for the purposes of this subparagraph" and substituting "the supplementary car rate";

(**d**) by adding at the end the following subsection:

"(3) Where:

(a) a remote area holiday transport fringe benefit in relation to an employee consists of the provision of an allowance to the spouse or a child of the employee; and

(b) the whole or a part of the allowance has been expended by the recipient in obtaining the transport, meals or accommodation in respect of which the allowance was paid;

this section applies in relation to the fringe benefit as follows:

(c) the fringe benefit shall be treated as if it were an expense payment fringe benefit;

(d) the amount expended as mentioned in paragraph (b) shall be treated as if it were the recipients expenditure;

(e) so much of the allowance as does not exceed the recipients expenditure shall be treated as if it were a reimbursement of the recipients expenditure.".

Reduction of taxable value—overseas employment holiday transport

9. Section 61A of the Principal Act is amended:

(a) by inserting in paragraph (5) (b) "following" before "rates";

(b) by omitting subparagraph (5) (b) (i) and substituting the following subparagraph:

"(i) the basic car rate;";

(c) by omitting from subparagraph (5) (b) (ii) "prescribed for the purposes of this subparagraph" and substituting "the supplementary car rate".

Reduction of taxable value of certain expense payment fringe benefits in respect of relocation transport

10. Section 61B of the Principal Act is amended:

(a) by inserting "following" before "rates";

(b) by omitting paragraph (d) and substituting the following paragraph:

"(d) the basic car rate;";

(c) by omitting from paragraph (e) "prescribed for the purposes of this paragraph" and substituting "the supplementary car rate".

Reduction of taxable value of certain expense payment fringe benefits in respect of employment interviews or selection tests

11. Section 61E of the Principal Act is amended by omitting "the rate prescribed for the purposes of paragraph 82KX (1) (a) of the *Income Tax Assessment Act 1936*" and substituting "the basic car rate".

Reduction of taxable value of certain expense payment fringe benefits associated with work-related medical examinations, work-related medical screenings, work-related preventative health care, work-related counselling or migrant language training

12. Section 61F of the Principal Act is amended:

(a) by inserting "following" before "rates";

(b) by omitting paragraph (d) and substituting the following paragraph:

"(d) the basic car rate;";

(c) by omitting from paragraph (e) "prescribed for the purposes of this paragraph" and substituting "the supplementary car rate".

Heading to Part X

13. The heading to Part X of the Principal Act is amended by omitting "RETENTION OF".

14. After section 123 of the Principal Act the following section is inserted:

Car records to be completed before declaration date

"123A. (1) For the purposes of this Act (other than section 115A), a matter shall not be taken to have been specified or nominated in car records of an employer for a year of tax unless the matter was included in those records before the declaration date.

"(2) Subsection (1) is subject to any other provision of this Act that requires a particular matter to be treated as if it had been specified or nominated in car records of an employer.".

Interpretation

15. Section 136 of the Principal Act is amended:

(a) by inserting after paragraph (a) of the definition of "statutory evidentiary document" in subsection (1) the following paragraph:

"(aa) car records 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;";

(b) by omitting from subsection (1) the definition of "eligible incidental travel expense payment benefit" and substituting the following definition:

" '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

(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;";

(c) by inserting in subsection (1) the following definitions:

" '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 paragraph 82KX (1) (a) of the *Income Tax Assessment Act 1936* in relation to the year of income ending on 30 June in that year;

'car records', in relation to an employer in relation to a year of tax, means records that are maintained by the employer in relation to the year of tax for the purposes of the provisions of this Act that refer to car records and that:

(a) in the case of the year of tax commencing on 1 April 1988 or an earlier year of tax—are in writing in the English language or are in a form that enables them to be readily accessible and convertible into writing in the English language; or

(b) in the case of a later year of tax—are maintained in a form approved by the Commissioner;

'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;

'foreign source deduction' means:

(a) a deduction that relates exclusively to income derived from a foreign source or foreign sources within the

meaning of section 160AFD of the *Income Tax Assessment Act 1936*; or

(b) so much of a deduction as, in the opinion of the Commissioner, may appropriately be related to income derived from a foreign source or foreign sources within the meaning of that section;

'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;

'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;".

16. After section 136 of the Principal Act the following section is inserted:

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

"136A. 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

(b) any other matter.".

Remote area holiday transport

17. Section 143 of the Principal Act is amended by omitting paragraph (1) (d) and substituting the following paragraph:

"(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;".

Amendments relating to car records

18. The Principal Act is amended as set out in the Schedule.

Application of amendments

19. (1) In this section:

"amended Act" means the Principal Act as amended by this Part.

(2) Subject to this section, the amendments made by this Part apply to:

(a) assessments of the fringe benefits taxable amount of an employer of the transitional year of tax and of each subsequent year of tax; and

(b) instalments of tax in respect of the transitional year of tax.

(3) The amendments made by section 4 and paragraphs 5 (a) and (b) apply where the loan concerned was made, or the recipients expenditure incurred, as the case requires, after 25 May 1988.

(4) In applying section 60A or 61 of the amended Act to a fringe benefit to which subsection 60A (5) or 61 (3) of the amended Act applies, the condition specified in paragraph 60A (2) (b) or 61 (1) (d), as the case requires, of the amended Act shall be taken to be satisfied if the fringe benefit was provided on or before 25 May 1988.

(5) The amendment made by section 16 applies to amounts paid after 25 May 1988.

(6) Subject to this section, section 115A of the Principal Act shall be taken never to have applied in relation to percentages specified, or purporting to be specified, in returns.

(7) Section 115A of the amended Act applies to the specification, or purported specification, of a percentage in car records of an employer only if:

(a) the specification, or purported specification, occurs after the commencement of this section (whether or not the specification is deemed by subsection (8) of this section to have occurred before the commencement of this section);

(b) the percentage is deemed by subsection (9) of this section to have been specified in the car records; or

(c) because of the application of section 162D of the amended Act in relation to a document lodged after the commencement of this section, the percentage is deemed to have been specified in the car records.

(8) Where, not later than one month after the commencement of this section, an employer specifies or nominates a particular in car records of the employer for a year of tax ending before the commencement of this section, that particular shall be deemed to have been specified or nominated in those car records before the declaration date in relation to that year of tax.

(9) Where, in a return for a year of tax lodged before the commencement of this section, an employer specified, or purported to specify, (including a specification that is treated as having occurred because of section 162D of

the Principal Act) a percentage as mentioned in paragraph 115A (1) (a) or (2) (a) of the Principal Act, that percentage shall be deemed, for the purposes of section 115A of the amended Act, to have been specified in car records of the employer for that year of tax.

Amendment of assessments

20. Nothing in section 74 of the Principal Act prevents the amendment of an assessment made before the commencement of this section for the purpose of giving effect to the amendments made by this Act.

PART III—AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936

Principal Act

21. In this Part, "Principal Act" means the *Income Tax Assessment Act 1936*[2].

22. After section 23L of the Principal Act the following section is inserted:

Reimbursement etc. in respect of fringe benefits tax not assessable income

"23M. The assessable income of a taxpayer shall not include an amount derived by the taxpayer if subsection 51 (4A) applies to the incurring of the amount by another person (whether or not a deduction would, apart from that subsection, be allowable to the other person in respect of the amount).".

Deductions not allowable for entertainment expenses

23. Section 51AE of the Principal Act is amended by inserting in paragraph (5A) (d) ", 58LA" after "58L".

Interpretation

24. Section 82KT of the Principal Act is amended:

(a) by omitting "(other than rental log book cars)" from sub-subparagraph (b) (iii) (A) of the definition of "applicable log book period" in subsection (1);

(b) by omitting "(including a vehicle known as a four wheel drive vehicle)" from the definition of "car" in subsection (1);

(c) by omitting "but does not include a motor cycle or similar vehicle;" from the definition of "car" in subsection (1) and substituting the following:

"but does not include:

(c) a motor cycle or similar vehicle;

(d) a taxi taken on hire; or

(e) a car taken on hire under an agreement of a kind ordinarily entered into by persons taking cars on hire intermittently as occasion requires on an hourly, daily, weekly or other

short-term basis unless the car has been or may reasonably be expected to be taken on hire under successive agreements of a kind that result in substantial continuity of the taking of the car on hire;";

(d) by omitting "a car" from the definition of "odometer records" in subsection (1) and substituting "a motor vehicle";

(e) by omitting "the car" (wherever occurring) from the definition of "odometer records" in subsection (1) and substituting "the motor vehicle";

(f) by omitting subparagraph (a) (i) of the definition of "retention period" in subsection (1) and substituting the following subparagraph:

"(i) in the case of an expense:

(A) that is in respect of fuel or oil and that was incurred in respect of a motor vehicle when owned or leased by the taxpayer at a time during the year of income; and

(B) where documentary evidence of the expense was not obtained by or on behalf of the taxpayer;

whichever of the following times is applicable:

(C) if the taxpayer elects that subsection 82KW (2) apply in relation to the motor vehicle in relation to the year of income—the commencement of the holding period within the meaning of that subsection or, if the first use of the motor vehicle in the course of producing assessable income of the taxpayer occurred during that holding period, the commencement of that use;

(D) in any other case—the commencement of the holding period within the meaning of section 82KUA or of the period referred to in subparagraph 82KZ (1) (c) (i) or, if the first use of the motor vehicle in the course of producing assessable income of the taxpayer occurred during that holding period or period, the commencement of that use; or";

(g) by omitting from subsection (1) the definition of "long-term log book car" and substituting the following definition:

" 'long-term log book car', in relation to a taxpayer, in relation to a year of income, means a log book car in relation to the taxpayer in relation to the year of income other than a car while it is held by the taxpayer pending its replacement, for use in the course of producing assessable income of the taxpayer, by another car;";

(h) by omitting from subsection (1) the definition of "rental log book car";

(j) by inserting in subsection (1) the following definition:

" 'motor vehicle' includes a vehicle known as a four wheel drive vehicle;".

25. Sections 82KTA and 82KTB of the Principal Act are repealed and the following sections are substituted:

Holding of car or motor vehicle

"82KTA. (1) A reference in this Subdivision:

(a) to a car held by a taxpayer; or

(b) to a motor vehicle held by a taxpayer;

is a reference to a car or to a motor vehicle, as the case may be, owned or leased by the taxpayer for use in the course of producing assessable income of the taxpayer (whether or not the car or motor vehicle was used for any other purpose while it was so owned or leased).

"(2) A reference in this Subdivision:

(a) to a period during which a car was held by a taxpayer; or

(b) to a period during which a motor vehicle was held by a taxpayer;

is a reference to a period during which the car or the motor vehicle, as the case may be, was continuously held by the taxpayer.

Holding period of car or motor vehicle

"82KTB. Unless the contrary intention appears, a reference in this Subdivision:

(a) to a period in a year of income during which a taxpayer held a car; or

(b) to a period in a year of income during which a taxpayer held a motor vehicle;

is a reference to the period that:

(c) commences on whichever of the following times is applicable:

(i) if the taxpayer held the car or the motor vehicle, as the case may be, at the time of commencement of the year of income—that time;

(ii) in any other case—the time in the year of income when the taxpayer commenced to hold the car or the motor vehicle, as the case may be; and

(d) ends at whichever of the following times is applicable:

(i) if the taxpayer continued to hold the car or the motor vehicle, as the case may be, until the time of the end of the year of income—that time;

(ii) in any other case—the time in the year of income when the taxpayer ceased to hold the car or the motor vehicle, as the case may be.".

Deemed specification of matters in odometer records

26. Section 82KTD of the Principal Act is amended:

(a) by omitting from paragraph (a) "car" and substituting "motor vehicle";

(b) by omitting from paragraph (b) "the car" and substituting "the motor vehicle".

Log book year of income

27. Section 82KTG of the Principal Act is amended by omitting from subparagraphs (d) (i) and (ii) "that was a rental log book car or any car".

Deductions not allowable for car expenses incurred in a log book year of income unless log book records and odometer records etc. are maintained

28. Section 82KUB of the Prinicpal Act is amended by omitting from paragraphs (a) and (b) "the deductible car is not a rental log book car and".

Other expenses

29. Section 82KZ of the Principal Act is amended:

(a) by omitting from subsection (1) "unless documentary evidence of the expense is obtained by or on behalf of the taxpayer." and substituting the following:

"unless:

(c) if the expense is in respect of fuel or oil in relation to a motor vehicle:

(i) odometer records are maintained by or on behalf of the taxpayer for the period during which the motor vehicle is held by the taxpayer during the year of income; or

(ii) documentary evidence of the expense is obtained by or on behalf of the taxpayer; or

(d) in any other case—documentary evidence of the expense is obtained by or on behalf of the taxpayer.";

(b) by adding at the end the following subsections:

"(5) Where:

(a) a travel allowance in respect of the purchase of food and drink and expenditure incidental to travel (whether or not the allowance is also in respect of accommodation) was paid or is payable (whether or not under an industrial instrument) to a taxpayer (in this subsection called the 'relevant taxpayer');

(b) the allowance relates solely or principally to travel by the relevant taxpayer outside Australia;

(c) the amount of the allowance in respect of the purchase of food and drink and expenditure incidental to travel is, in the

opinion of the Commissioner, reasonable having regard to the total of the amounts of the outgoings that it would be reasonable for a taxpayer to whom the allowance was paid or is payable to incur, in respect of the travel to which the allowance relates, in respect of the purchase of food and drink and expenditure incidental to the travel; and

(d) the total of the amounts of the eligible expenses in respect of the purchase of food and drink and expenditure incidental to travel, in relation to the allowance, incurred by the relevant taxpayer and claimed by the relevant taxpayer as deductions in respect of the year of income in which the expenses were incurred does not exceed the amount of the allowance in respect of the purchase of food and drink and expenditure incidental to travel;

the following provisions have effect in relation to the relevant taxpayer in relation to the expenses referred to in paragraph (d):

(e) subsection (1) does not apply, and shall be deemed never to have applied;

(f) section 82KZA applies, and shall be deemed always to have applied, as if:

(i) paragraph (1) (a) of that section were omitted;

(ii) subsections (2) and (3) of that section were omitted and the following subsections were substituted:

'(2) Where subsection 82KZ (5) applies in relation to a taxpayer in relation to a travel allowance, the Commissioner may, except where subsection 82KZ (6) also applies in relation to the allowance, by notice in writing served on the taxpayer, require the taxpayer to produce to the Commissioner, within a specified period of not less than 28 days, the travel diary relating to the travel to which the expenses referred to in paragraph 82KZ (5) (d) relate.

'(3) Where:

(a) at the time when the notice is served, the retention period in relation to any of the expenses has not ended; and

(b) the taxpayer does not produce the travel diary to the Commissioner within the period specified in the notice or such longer period as the Commissioner allows;

a deduction is not allowable, and shall be deemed never to have been allowable, under this Act in respect of the expense.';

(iii) subsection (6) of that section were omitted; and

(iv) paragraph (7) (g) of that section were amended by omitting "paragraphs (1) (c) and (3) (f)" and substituting "paragraph (1) (c) and subsection (3)";

(g) section 82KZBB applies, and shall be deemed always to have applied, as if paragraph (1) (g) of that section were amended by omitting "section 82KZ and paragraphs 82KZA (1) (a), (aa) and (c) and (3) (ba), (c), (d) and (f) do not apply" and substituting "section 82KZ, paragraphs 82KZA (1) (a), (aa) and (c) and subsection 82KZA (3) do not apply".

"(6) Where:

(a) a travel allowance was paid or is payable to a taxpayer;

(b) the allowance relates solely or principally to travel outside Australia by the taxpayer as the pilot, flight engineer, flight attendant, or other member of the crew, of an aircraft; and

(c) the total of the amounts of the eligible expenses, in relation to the allowance, incurred by the taxpayer and claimed by the taxpayer as deductions in respect of the year of income in which the expenses were incurred does not exceed the amount of the allowance;

the following provisions have effect in relation to the taxpayer in relation to the expenses referred to in paragraph (c):

(d) subsections (2) and (3) do not apply, and shall be deemed never to have applied;

(e) section 82KZA applies, and shall be deemed always to have applied, (in addition to any application of that section to the taxpayer in accordance with subsection (5) of this section) as if paragraph (1) (c) of that section were omitted and, where apart from this subsection subsection (2) of that section applies, paragraph (3) (f) of that section were omitted.".

Retention, and production, of documents

30. Section 82KZA of the Principal Act is amended:

(a) by omitting paragraph (1) (aa) and substituting the following paragraph:

"(aa) in the case of an expense that is in respect of fuel or oil and that was incurred in respect of a motor vehicle when owned or leased by the taxpayer:

(i) documentary evidence of the expense; or

(ii) odometer records maintained by or on behalf of the taxpayer for:

(A) if the taxpayer elects that subsection 82KW (2) apply in relation to the motor vehicle in relation to the year of income—

the holding period within the meaning of that subsection; or

(B) in any other case—the holding period within the meaning of section 82KUA or the period referred to in subparagraph 82KZ (1) (c) (i), as the case requires;";

(b) by omitting paragraph (3) (ba) and substituting the following paragraph:

"(ba) in the case of an expense that is in respect of fuel or oil and that was incurred in respect of a motor vehicle when owned or leased by the taxpayer—produces to the Commissioner, within the period specified in the notice or such longer period as the Commissioner allows:

(i) documentary evidence of the expense; or

(ii) odometer records maintained by or on behalf of the taxpayer for:

(A) if the taxpayer elects that subsection 82KW (2) apply in relation to the motor vehicle in relation to the year of income—the holding period within the meaning of that subsection; or

(B) in any other case—the holding period within the meaning of section 82KUA or the period referred to in subparagraph 82KZ (1) (c) (i), as the case requires;";

(c) by omitting from paragraph (5) (aa) and subsection (6A) "a car" and substituting "an".

Relief from certain substantiation requirements where taxpayer had a reasonable expectation that substantiation would not be required

31. Section 82KZBB of the Principal Act is amended:

(a) by omitting from paragraph (1) (g) "and (c) and (3)" and substituting ", (aa) and (c) and (3) (ba),";

(b) by omitting from paragraph (2) (a) and subparagraph (2) (b) (i) "car" (wherever occurring) and substituting "motor vehicle";

(c) by omitting from subparagraph (2) (b) (iii) "car after" and substituting "motor vehicle after";

(d) by omitting from paragraphs (2) (d) and (g) "car" and substituting "motor vehicle".

Other interpretative provisions

32. Section 160K of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions:

" 'Crown lease' means:

(a) a lease of land granted by the Crown under a statutory law of the Commonwealth, of a State or of a Territory; or

(b) a similar lease granted under a statutory law of a foreign country (whether or not that country is a republic);

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

'statutory law' means a law, being a statutory instrument;";

(b) by omitting from subsection (2) "other than section 160ZZM" and substituting "(other than sections 160ZZM and 160ZZMA)".

Composite assets

33. Section 160P of the Principal Act is amended:

(a) by inserting in paragraph (6) (a) "(other than a periodic roll-over asset)" after "asset";

(b) by inserting after subsection (6) the following subsection:

"(6A) Where:

(a) a periodic roll-over asset (in this subsection called the 'actual asset') acquired by a taxpayer before 20 September 1985 has been disposed of on or after that date;

(b) if it were assumed that:

(i) the actual asset; and

(ii) all the predecessor assets of the actual asset;

together constituted a single asset (in this subsection called the 'overall asset'), an act or thing done in relation to the actual asset or any of the predecessor assets after the taxpayer first acquired any of the predecessor assets would constitute an improvement of a capital nature to the overall asset;

(c) if the improvement were a separate asset from the overall asset:

(i) the improvement would be taken, for the purposes of this Part, to have been acquired by the taxpayer on or after 20 September 1985; and

(ii) the indexed cost base to the taxpayer of the improvement would exceed the amount applicable for the purposes of subparagraph (6) (c) (ii) in relation to the year of income in which the actual asset was disposed of; and

(d) the amount of the indexed cost base referred to in subparagraph (c) (ii) exceeds 5% of the consideration in respect of the disposal of the actual asset;

the improvement shall be taken, for the purposes of this Part, to be an asset separate from the actual asset and each of those predecessor assets.";

(c) by adding at the end the following subsections:

"(9) For the purposes of this section:

(a) an asset is a predecessor of a second asset if the second asset replaced the first-mentioned asset in circumstances of a kind referred to in a periodic roll-over provision; and

(b) where there is a series of acquisitions of assets such that each asset replaced a previously acquired asset in circumstances of a kind referred to in a periodic roll-over provision, each of the assets involved in the series (other than the last asset to be acquired) shall be taken to be a predecessor of the last asset to be acquired.

"(10) In this section:

'periodic roll-over asset' means an asset to which a periodic roll-over provision applies;

'periodic roll-over provision' means section 160ZWA, 160ZZF or 160ZZPE.".

Indexation of indexed cost base limit

34. Section 160Q of the Principal Act is amended by inserting in paragraph (10) (a) "relates" after "160P (6) (b)".

Disposal of taxable Australian assets

35. Section 160T of the Principal Act is amended:

(a) by omitting "or" from the end of paragraph (g);

(b) by adding at the end the following paragraphs:

"(j) the asset comprised a share in, or security of, a company and the following conditions are satisfied in relation to the acquisition of the asset by the taxpayer:

(i) the asset was received by the taxpayer as consideration in respect of the disposal (in this paragraph called the 'previous disposal') of another asset by the taxpayer to the company;

(ii) the previous disposal took place after 28 January 1988;

(iii) section 160ZZN or 160ZZO applied in respect of the previous disposal;

(iv) at the time of the previous disposal, the taxpayer:

(A) was not a trustee of a trust estate and was not a resident of Australia; or

(B) was a trustee of a trust estate that was not a resident trust estate or of a unit trust that was not a resident unit trust; or

(k) the following conditions are satisfied in relation to the acquisition of the asset by the taxpayer:

(i) the taxpayer acquired the asset as a result of a disposal (in this paragraph called the 'previous disposal') in respect of which section 160ZZN or 160ZZO applied;

(ii) the previous disposal was by:

(A) another taxpayer who was not a trustee of a trust estate and was not a resident of Australia; or

(B) a trustee of a trust estate that was not a resident trust estate or of a unit trust that was not a resident unit trust;

(iii) the previous disposal took place after 28 January 1988 and on or before 25 May 1988.".

Acquisition by lessee of reversionary interest of lessor

36. Section 160ZW of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

"(1) Where:

(a) the lessee under a lease of land acquires the reversionary interest of the lessor in the land; and

(b) section 160ZWA does not apply in respect of that acquisition;

the following provisions of this section have effect for the purposes of this Part.".

37. After section 160ZW of the Principal Act the following Division is inserted:

"***Division 5A—Crown Leases***

Roll-over or conversion of Crown lease

"160ZWA. (1) This section applies where:

(a) at a particular time, one or more Crown leases (in this section called the 'original Crown leases') owned by a taxpayer expire or are surrendered;

(b) one or more fresh Crown leases (in this section called the 'new Crown leases') or one or more freehold interests, or both, is or are granted to the taxpayer by way of any one or more of the following:

(i) the renewal of the original Crown leases, where the renewal is (whether by law, custom or otherwise) wholly or principally attributable to the taxpayer's prior ownership of the original Crown leases;

(ii) the extension of the term of the original Crown leases, where the extension is (whether by law, custom or otherwise) wholly or principally attributable to the taxpayer's prior ownership of the original Crown leases;

(iii) changing the purpose for which the land to which the original Crown leases related may be used;

(iv) in a case where the original Crown leases were not leases in perpetuity—the conversion of the original Crown leases to Crown leases in perpetuity;

(v) the conversion of the original Crown leases to freehold interests;

(vi) the consolidation, or the consolidation and division, of the original Crown leases;

(vii) the subdivision of the original Crown leases;

(viii) excising or relinquishing a part (which part is in this section called the 'excised area') of the area of land to which the original Crown leases related;

(ix) expanding the area of land to which the original Crown leases related; and

(c) in the case of a taxpayer in the capacity of a trustee of a trust estate—immediately after the grant of the new Crown leases or the freehold interests, the taxpayer holds the new Crown leases or the freehold interests upon the same trust as the taxpayer held the original Crown leases.

"(2) Subject to subsection (4), this Part (other than this section) does not apply in respect of the expiry or surrender of any of the original Crown leases.

"(3) For the purposes of this section:

(a) an original Crown lease acquired by the taxpayer before 20 September 1985 shall be taken to be a pre-20 September 1985 original Crown lease; and

(b) any other original Crown lease shall be taken to be a post-20 September 1985 original Crown lease.

"(4) Subject to this Part, if the taxpayer received, or was entitled to receive, any consideration in respect of the expiry or surrender of a post-20 September 1985 original Crown lease that related, in whole or in part, to the excised area:

(a) if the original Crown lease related wholly to the excised area—this Part applies in respect of the disposal of that Crown lease; and

(b) if the original Crown lease related only in part to the excised area—the taxpayer shall be taken, for the purposes of this Part, to have disposed of that part of that Crown lease that is attributable to the excised area.

"(5) If a particular new Crown lease or freehold interest relates wholly to land to which a pre-20 September 1985 original Crown lease related—the taxpayer shall be taken, for the purposes of this Part, to have acquired the new Crown lease or freehold interest before 20 September 1985.

"(6) If a particular new Crown lease relates wholly to land to which a post-20 September 1985 original Crown lease related—the new Crown lease shall be taken, for the purposes of this section, to be a post-20 September 1985 new Crown lease.

"(7) If a particular freehold interest relates wholly to land to which a post-20 September 1985 original Crown lease related—the freehold interest shall be taken, for the purposes of this section, to be a post-20 September 1985 freehold interest.

"(8) If a particular new Crown lease relates partly to any 2 or more of the following:

(a) land to which a pre-20 September 1985 original Crown lease related;

(b) land to which a post-20 September 1985 original Crown lease related;

(c) other land;

the following provisions have effect:

(d) the new Crown lease shall be taken, for the purposes of this Part, to comprise 2 or 3 separate leases, as follows:

(i) the new Crown lease to the extent to which it relates to land to which a pre-20 September 1985 original Crown lease related;

(ii) the new Crown lease to the extent to which it relates to land to which a post-20 September 1985 original Crown lease related;

(iii) the new Crown lease to the extent to which it relates to other land;

(e) the taxpayer shall be treated, for the purposes of this Part, as if the taxpayer had acquired the lease referred to in subparagraph (d) (i) before 20 September 1985;

(f) the lease referred to in subparagraph (d) (ii) shall be taken, for the purposes of this section, to be a post-20 September 1985 new Crown lease;

(g) on the disposal of the actual new Crown lease, the consideration in respect of the disposal of the actual lease shall be apportioned between the separate leases.

"(9) If a particular freehold interest relates partly to any 2 or more of the following:

(a) land to which a pre-20 September 1985 original Crown lease related;

(b) land to which a post-20 September 1985 original Crown lease related;

(c) other land;

the following provisions have effect:

(d) the freehold interest shall be taken, for the purposes of this Part, to comprise 2 or 3 separate freehold interests as follows:

(i) the freehold interest to the extent to which it relates to land to which a pre-20 September 1985 original Crown lease related;

(ii) the freehold interest to the extent to which it relates to land to which a post-20 September 1985 original Crown lease related;

(iii) the freehold interest to the extent to which it relates to other land;

(e) the taxpayer shall be treated, for the purposes of this Part, as if the taxpayer had acquired the freehold interest referred to in subparagraph (d) (i) before 20 September 1985;

(f) the freehold interest referred to in subparagraph (d) (ii) shall be taken, for the purposes of this section, to be a post-20 September 1985 freehold interest;

(g) on the disposal of the actual freehold interest, the consideration in respect of the disposal of the actual freehold interest shall be apportioned between the separate freehold interests.

"(10) For the purposes of subsections (11) and (12), a post-20 September 1985 new Crown lease or a post-20 September 1985 freehold interest shall be taken to be a post-20 September 1985 land asset.

"(11) The taxpayer shall be taken to have paid or given as consideration in respect of the acquisition of a post-20 September 1985 land asset:

(a) for the purposes of ascertaining whether a capital gain accrued to the taxpayer in the event of a subsequent disposal of the land asset by the taxpayer—the amount calculated in accordance with the formula:

$$\textbf{ICB of post CGT orig. leases} \times \frac{\textbf{MV of land asset}}{\textbf{MV of post CGT land assets}}$$

where:

ICB of post CGT orig. leases is the sum of the amounts that would have been the indexed cost bases to the taxpayer of post-20 September 1985 original Crown leases for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original Crown leases reduced, in a case where subsection (4) applies in relation to any of the post-20 September 1985 original Crown leases, by so much of those indexed cost bases as is attributable to the excised area concerned;

MV of land asset is the number of dollars in the market value of the land asset immediately after the acquisition of the land asset by the taxpayer; and

MV of post CGT land assets is the number of dollars in the market value of the post-20 September 1985 land assets immediately after the acquisition of the land assets by the taxpayer; or

(b) for the purposes of ascertaining whether the taxpayer incurred a capital loss in the event of a subsequent disposal of the land asset

by the taxpayer—the amount calculated in accordance with the formula:

$$\textbf{RCB of post CGT orig. leases} \times \frac{\textbf{MV of land asset}}{\textbf{MV of post CGT land assets}}$$

where:

RCB of post CGT orig. leases is the sum of the amounts that would have been the reduced cost bases to the taxpayer of post-20 September 1985 original Crown leases for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original Crown leases reduced, in a case where subsection (4) applies in relation to any of the post-20 September 1985 original Crown leases, by so much of those reduced cost bases as is attributable to the excised area concerned;

MV of land asset is the number of dollars in the market value of the land asset immediately after the acquisition of the land asset by the taxpayer; and

MV of post CGT land assets is the number of dollars in the market value of the post-20 September 1985 land assets immediately after the acquisition of the land assets by the taxpayer.

"(12) If a post-20 September 1985 land asset is disposed of by the taxpayer within 12 months after the earliest day, being a day after 19 September 1985, on which any post-20 September 1985 original Crown lease was acquired by the taxpayer, the reference in paragraph (11) (a) to the indexed cost bases to the taxpayer of post-20 September 1985 original Crown leases is a reference to the cost bases to the taxpayer of the post-20 September 1985 original Crown leases.

"(13) Where:

(a) the area of land (in this subsection called the 'original area') to which the original Crown leases related differs from the area of land (in this subsection called the 'new area') to which the new Crown leases or the freehold interests relate; and

(b) having regard to all relevant circumstances, including:

(i) the difference between the size of the original area and the size of the new area;

(ii) the difference between:

(A) the market value of the new Crown leases or the freehold interests immediately after the grant of the new Crown leases or freehold interests to the taxpayer; and

(B) the amount that would have been the market value of the new Crown leases or freehold interests, immediately after the grant of the new Crown leases

or freehold interests to the taxpayer, if the new Crown leases or freehold interests had been granted in respect of the original area instead of the new area;

(iii) if land (in this subparagraph called the 'excepted land') that formed part (whether a minor part or a significant part) of the original area is not included in the new area but land (in this subparagraph called the 'new land') that did not form part of the original area is included in the new area—the circumstances that gave rise to the exclusion of the excepted land from, and the inclusion of the new land in, the new area and, in particular, (if applicable) the circumstance that the taxpayer sought, but was unable to secure, the inclusion of the excepted land and agreed to the inclusion of the new land only as a substitute for the excepted land; and

(iv) in the case of the grant of new Crown leases—whether the new Crown leases were granted for the purpose of correcting errors or omissions;

the Commissioner is satisfied that it would be unreasonable not to apply this subsection;

the Commissioner may, for the purposes of subsections (5) to (9) (inclusive), to such extent as the Commissioner considers reasonable, treat a new Crown lease or a freehold interest as relating, in whole or in part, to land to which a particular original Crown lease related.

"(14) In this section:

'freehold interest' means an estate in fee simple.

"(15) Where:

(a) a Crown lease (in this subsection called the 'original lease') of land (in this subsection called the 'original land') has been granted to a taxpayer;

(b) after the grant of the original lease, the original land came to be vested in or held by a government authority; and

(c) the government authority granted to the taxpayer under a statutory law of the Commonwealth, of a State or of a Territory a lease (in this subsection called the 'fresh lease') of the original land, or of that land less an excised area or together with an additional area;

then, for the purposes of this section, the fresh lease shall be taken to be a Crown lease and to have been granted by way of renewal of the original lease.

"(16) If there was a period between the end of the term of the original lease referred to in subsection (15) and the beginning of the term of the fresh lease so referred to, that period shall not be taken to preclude the fresh lease from being regarded for the purposes of that subsection as a renewal of the original lease provided that the taxpayer concerned continued in occupation of the original land during that period under a permission,

licence or authority granted by the relevant government authority pending the grant of the fresh lease.".

38. After section 160ZYQ of the Principal Act the following Division is inserted:

"***Division 10A—Rights to Acquire Units in a Unit Trust***

Application

"160ZYQA. Where:

(a) a person (in this Division called the 'unitholder') holds units in a unit trust (in this Division called the 'original units');

(b) after 28 January 1988, the trustee of the unit trust issues to the unitholder rights (in this Division called the 'rights') to acquire units (in this Division called 'new units') in the unit trust or to acquire an option (in this Division called the 'option') to acquire units in the unit trust; and

(c) the unitholder did not pay or give any consideration in respect of the acquisition of the rights;

sections 160ZYQB to 160ZYQE (inclusive) have effect.

Exercise of rights not to constitute disposal

"160ZYQB. The rights shall not be taken to have been disposed of by the exercise of the rights.

Time of acquisition of rights

"160ZYQC. The rights shall be deemed, for the purposes of this Part, to have been acquired by the unitholder at the time when the unitholder acquired the original units.

Unitholder not to be deemed to have paid or given consideration for rights

"160ZYQD. The unitholder shall not be deemed to have paid or given any consideration in respect of the acquisition of the rights.

Exercise of rights

"160ZYQE. (1) When the rights are exercised, whether by the unitholder or by a person who acquired the rights directly or indirectly as a result of the disposal of the rights by the unitholder, the person who exercised the rights shall be deemed, for the purposes of this Part, to have acquired the new units or the option, as the case may be, at the time when the rights were exercised.

"(2) Subject to subsection (4), if the rights are exercised by the unitholder, the unitholder shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units or the option, as the case may be, an amount equal to the amount paid in respect of the exercise of the rights.

"(3) If the rights are exercised by a person who acquired the rights directly or indirectly as a result of the disposal of the rights by the unitholder, that person shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units or the option, as the case may be, an amount equal to the sum of the consideration paid or given by that person for the acquisition of the rights and the amount paid in respect of the exercise of the rights.

"(4) Where:

(a) the rights are exercised by the unitholder; and

(b) the rights are deemed, by virtue of section 160ZYQC, to have been acquired by the unitholder before 20 September 1985;

the unitholder shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units or the option, as the case may be, an amount equal to the sum of the market value of the rights at the time when the rights were exercised and the amount paid in respect of the exercise of the rights.

Application of Division to holders of convertible notes

"160ZYQF. In addition to the effect that it has apart from this section, this Division also has the effect it would have if:

(a) the reference in paragraph 160ZYQA (a) to a person who holds units in a unit trust were a reference to a person who holds convertible notes within the meaning of Division 12A issued by the trustee of the unit trust;

(b) references to the unitholder were references to the person who holds the convertible notes; and

(c) references to the original units were references to the convertible notes held by that person.".

39. After section 160ZYX of the Principal Act the following Division is inserted:

"Division 11A—Unit Trust-issued Options to Unitholders to Acquire Unissued Units

Application

"160ZYXA. Where:

(a) a person (in this Division called the 'unitholder') holds units in a unit trust (in this Division called the 'original units');

(b) after 28 January 1988, the trustee of the unit trust issues to the unitholder an option (in this Division called the 'option') to acquire other units (in this Division called the 'new units') in the unit trust; and

(c) the unitholder did not pay or give any consideration in respect of the acquisition of the option;

sections 160ZYXB to 160ZYXE (inclusive) have effect.

Exercise of option not to constitute disposal

"160ZYXB. The option shall not be taken to have been disposed of by the exercise of the option.

Time of acquisition of option

"160ZYXC. The option shall be deemed, for the purposes of this Part, to have been acquired by the unitholder at the time when the unitholder acquired the original units.

Unitholder not to be deemed to have paid or given consideration for option

"160ZYXD. The unitholder shall not be deemed to have paid or given any consideration in respect of the acquisition of the option.

Exercise of option

"160ZYXE. (1) When the option is exercised, whether by the unitholder or by a person who acquired the option directly or indirectly as a result of the disposal of the option by the unitholder, the person who exercised the option shall be deemed, for the purposes of this Part, to have acquired the new units at the time when the option was exercised.

"(2) Subject to subsection (4), if the option is exercised by the unitholder, the unitholder shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units an amount equal to the amount paid in respect of the exercise of the option.

"(3) If the option is exercised by a person who acquired the option directly or indirectly as a result of the disposal of the option by the unitholder, that person shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units an amount equal to the sum of the consideration paid or given by that person for the acquisition of the option and the amount paid in respect of the exercise of the option.

"(4) Where:

(a) the option is exercised by the unitholder; and

(b) the option is deemed, by virtue of section 160ZYXC, to have been acquired by the unitholder before 20 September 1985;

the unitholder shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the new units an amount equal to the sum of the market value of the option at the time when the option is exercised and the amount paid in respect of the exercise of the option.

Application of Division to holders of convertible notes

"160ZYXF. In addition to the effect that it has apart from this section, the Division also has the effect it would have if:

(a) the reference in paragraph 160ZYXA (a) to a person who holds units in a unit trust were a reference to a person who holds

convertible notes within the meaning of Division 12A issued by the trustee of the unit trust;

(b) references to the unitholder were references to the person who holds the convertible notes; and

(c) references to the original units were references to the convertible notes held by that person.".

Heading to Division 12 of Part IIIA

40. The heading to Division 12 of Part IIIA of the Principal Act is amended by adding at the end "—*Companies*".

41. After section 160ZZB of the Principal Act the following Division is inserted:

"***Division 12A—Convertible Notes—Unit Trusts***

Definition of convertible note

"160ZZBA. In this Division:

'convertible note' means a note issued after 28 January 1988 by the trustee of a unit trust, being a note that, if the unit trust were a company, would be a convertible note issued by the company, and includes a note that would be a convertible note within the meaning of Division 3A of Part III if:

(a) references in that Division to a company were references to a unit trust, or to the trustee of a unit trust, as the context requires; and

(b) references in that Division to shares were references to units.

Conversion of note not to constitute disposal

"160ZZBB. A convertible note shall not be taken to have been disposed of by the conversion of the note into units.

Time of acquisition of units

"160ZZBC. Where units are acquired by a taxpayer by the conversion of a convertible note, the units shall be deemed, for the purposes of this Part, to have been acquired by the taxpayer at the time when the conversion took place.

Consideration in respect of acquisition

"160ZZBD. A taxpayer who acquired units by the conversion of a convertible note shall be deemed, for the purposes of this Part, to have paid or given as consideration in respect of the acquisition of the units an amount equal to the sum of the consideration paid or given by the taxpayer in respect of the acquisition of the convertible note and the amount paid by the taxpayer in respect of the conversion.".

Options

42. Section 160ZZC of the Principal Act is amended by omitting from subsection (1) "Division 10 or 11" and substituting "Division 10, 10A, 11 or 11A".

Roll-over of prospecting rights and mining rights

43. Section 160ZZF of the Principal Act is amended:

(a) by omitting "or of a Territory" from the definitions of "mining right" and "prospecting right" in subsection (1) and substituting ", of a Territory or of a foreign country";

(b) by inserting in subsection (1) the following definition:

" 'mining asset' means:

(a) a mining right; or

(b) a prospecting right;";

(c) by omitting subsection (2) and substituting the following subsections:

"(2) This section applies where:

(a) at a particular time, one or more mining assets (in this section called the 'original mining assets') owned by a taxpayer expire or are surrendered;

(b) one or more fresh mining assets (in this section called the 'new mining assets') is or are granted to the taxpayer by way of any one or more of the following:

(i) the renewal of the original mining assets, where the renewal is (whether by law, custom or otherwise) wholly or principally attributable to the taxpayer's prior ownership of the original mining assets;

(ii) the extension of the term of the original mining assets, where the extension is (whether by law, custom or otherwise) wholly or principally attributable to the taxpayer's prior ownership of the original mining assets;

(iii) the consolidation, or the consolidation and division, of the original mining assets;

(iv) the subdivision of the original mining assets;

(v) in a case where the original mining assets are mining rights—the conversion of those mining rights to prospecting rights;

(vi) in a case where the original mining assets are prospecting rights—the conversion of those prospecting rights to mining rights;

(vii) excising or relinquishing a part (which part is in this section called the 'excised area') of the area to which the original mining assets related;

(viii) expanding the area of land to which the original mining assets related; and

(c) in the case of a taxpayer in the capacity of a trustee of a trust estate—immediately after the grant of the new mining assets, the taxpayer holds the new mining assets upon the same trust as the taxpayer held the original mining assets.

"(3) Subject to subsection (5), this Part (other than this section) does not apply in respect of the expiry or surrender of any of the original mining assets.

"(4) For the purposes of this section:

(a) an original mining asset acquired by the taxpayer before 20 September 1985 shall be taken to be a pre-20 September 1985 original mining asset; and

(b) any other original mining asset shall be taken to be a post-20 September 1985 original mining asset.

"(5) Subject to this Part, if the taxpayer received, or was entitled to receive, any consideration in respect of the expiry or surrender of a post-20 September 1985 original mining asset that related, in whole or in part, to the excised area:

(a) if the original mining asset related wholly to the excised area—this Part applies in respect of the disposal of that mining asset; and

(b) if the original mining asset related only in part to the excised area—the taxpayer shall be taken, for the purposes of this Part, to have disposed of that part of that mining asset that is attributable to the excised area.

"(6) If a particular new mining asset relates wholly to land to which a pre-20 September 1985 original mining asset related—the taxpayer shall be taken, for the purposes of this Part, to have acquired the new mining asset before 20 September 1985.

"(7) If a particular new mining asset relates wholly to land to which a post-20 September 1985 original mining asset related—the new mining asset shall be taken, for the purposes of this section, to be a post-20 September 1985 new mining asset.

"(8) If a particular new mining asset relates partly to any 2 or more of the following:

(a) land to which a pre-20 September 1985 original mining asset related;

(b) land to which a post-20 September 1985 original mining asset related;

(c) other land;

the following provisions have effect:

(d) the new mining asset shall be taken, for the purposes of this Part, to comprise 2 or 3 separate mining assets, as follows:

(i) the new mining asset to the extent to which it relates to land to which a pre-20 September 1985 original mining asset related;

(ii) the new mining asset to the extent to which it relates to land to which a post-20 September 1985 original mining asset related;

(iii) the new mining asset to the extent to which it relates to other land;

(e) the taxpayer shall be treated, for the purposes of this Part, as if the taxpayer had acquired the mining asset referred to in subparagraph (d) (i) before 20 September 1985;

(f) the mining asset referred to in subparagraph (d) (ii) shall be taken, for the purposes of this section, to be a post-20 September 1985 new mining asset;

(g) on the disposal of the actual new mining asset, the consideration in respect of the disposal of the actual mining asset shall be apportioned between the separate assets.

"(9) The taxpayer shall be taken to have paid or given as consideration in respect of the acquisition of a post-20 September 1985 new mining asset:

(a) for the purposes of ascertaining whether a capital gain accrued to the taxpayer in the event of a subsequent disposal of the new mining asset by the taxpayer—the amount calculated in accordance with the formula:

$$\textbf{ICB of post CGT orig. assets} \times \frac{\textbf{MV of new asset}}{\textbf{MV of post CGT new assets}}$$

where:

ICB of post CGT orig. assets is the sum of the amounts that would have been the indexed cost bases to the taxpayer of post-20 September 1985 original mining assets for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original mining assets reduced, in a case where subsection (5) applies in relation to any of the post-20 September 1985 original mining assets, by so much of those indexed cost bases as is attributable to the excised area concerned;

MV of new asset is the number of dollars in the market value of the new mining asset immediately after the acquisition of the asset by the taxpayer; and

MV of post CGT new assets is the number of dollars in the market value of the post-20 September 1985 new mining assets immediately after the acquisition of the assets by the taxpayer; or

(b) for the purposes of ascertaining whether the taxpayer incurred a capital loss in the event of a subsequent disposal of the new mining asset by the taxpayer—the amount calculated in accordance with the formula:

$$\textbf{RCB of post CGT orig. assets} \times \frac{\textbf{MV of new asset}}{\textbf{MV of post CGT new assets}}$$

where:

RCB of post CGT orig. assets is the sum of the amounts that would have been the reduced cost bases to the taxpayer of post-20 September 1985 original mining assets for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original mining assets reduced, in a case where subsection (5) applies in relation to any of the post-20 September 1985 original mining assets, by so much of those reduced cost bases as is attributable to the excised area concerned;

MV of new asset is the number of dollars in the market value of the new mining asset immediately after the acquisition of the asset by the taxpayer; and

MV of post CGT new assets is the number of dollars in the market value of the post-20 September 1985 new mining assets immediately after the acquisition of the assets by the taxpayer.

"(10) If a post-20 September 1985 new mining asset is disposed of by the taxpayer within 12 months after the earliest day, being a day after 19 September 1985, on which any post-20 September 1985 original mining asset was acquired by the taxpayer, the reference in paragraph (9) (a) to the indexed cost bases to the taxpayer of post-20 September 1985 original mining assets is a reference to the cost bases to the taxpayer of the post-20 September 1985 original mining assets.

"(11) Where:

(a) the area of land (in this subsection called the 'original area') to which the original mining assets related differs from the area of land (in this subsection called the 'new area') to which the new mining assets relate; and

(b) having regard to all relevant circumstances, including:

(i) the difference between the size of the original area and the size of the new area;

(ii) the difference between:

(A) the market value of the new mining assets immediately after the grant of the new mining assets to the taxpayer; and

(B) the amount that would have been the market value of the new mining assets, immediately after the grant of the new mining assets to the taxpayer, if the new mining assets had been granted in respect of the original area instead of the new area; and

(iii) whether the new mining assets were granted for the purpose of correcting errors or omissions;

the Commissioner is satisfied that it would be unreasonable not to apply this subsection;

the Commissioner may, for the purposes of subsections (6) to (8) (inclusive), to such extent as the Commissioner considers reasonable, treat a new mining asset as relating, in whole or in part, to land to which a particular original mining asset related.".

Involuntary disposal

44. Section 160ZZK of the Principal Act is amended:

(a) by omitting subsection (2);

(b) by inserting after subsection (5) the following subsection:

"(5A) Notwithstanding subsection 160U (9), where an asset is taken to have been disposed of because of the loss or destruction of the asset, the time of disposal shall be taken, for the purposes of subsection (5) of this section, to be the time when the loss or destruction occurred.";

(c) by inserting after subsection (7) the following subsections:

"(7A) For the purposes of this section, where:

(a) an Australian Crown lease owned by a taxpayer expires;

(b) the Crown lease is capable of being renewed; and

(c) the Crown lease is not renewed;

an amount of money received by the taxpayer by way of compensation for the non-renewal of the Crown lease shall be treated as if it were received by the taxpayer by way of compensation for the compulsory acquisition of the Crown lease.

"(7B) For the purposes of this section, where:

(a) a notice is served on a taxpayer by or on behalf of an Australian government or Australian government authority:

(i) inviting the taxpayer to negotiate with the government or authority with a view to the acquisition, by agreement, by the government or authority, of an asset; and

(ii) informing the taxpayer that, if those negotiations are unsuccessful, the asset will be compulsorily acquired by the government or authority; and

(b) as a result of those negotiations, the asset is acquired by the government or authority;

an amount of money received by the taxpayer in respect of the disposal of the asset to the government or authority shall be treated as if it were received by the taxpayer by way of compensation for the compulsory acquisition of the asset.

"(7C) A reference in this section to the compulsory acquisition of an asset is a reference to the compulsory acquisition of the asset by an Australian government or an Australian government authority.

"(7D) In this section:

'Australian Crown lease' means a lease of the kind referred to in paragraph (a) of the definition of 'Crown lease' in subsection 160K (1);

'Australian government' means the Commonwealth, a State or a Territory;

'Australian government authority' means an authority of the Commonwealth, of a State or of a Territory.".

Asset received as a result of involuntary disposal

45. Section 160ZZL of the Principal Act is amended:

(a) by omitting subsection (5);

(b) by adding at the end the following subsections:

"(7) For the purposes of this section, where:

(a) an Australian Crown lease owned by a taxpayer expires;

(b) the Crown lease is capable of being renewed; and

(c) the Crown lease is not renewed;

any asset received by the taxpayer by way of compensation for the non-renewal of the Crown lease shall be treated as if it were received by the taxpayer by way of compensation for the compulsory acquisition of the Crown lease.

"(8) For the purposes of this section, where:

(a) a notice is served on a taxpayer by or on behalf of an Australian government or Australian government authority:

(i) inviting the taxpayer to negotiate with the government or authority with a view to the acquisition, by agreement, by the government or authority, of an asset (in this subsection called the 'first asset'); and

(ii) informing the taxpayer that, if those negotiations are unsuccessful, the first asset will be compulsorily acquired by the government or authority; and

(b) as a result of those negotiations, the first asset is acquired by the government or authority;

any other asset received by the taxpayer in respect of the disposal of the first asset to the government or authority shall be treated as if it were received by the taxpayer by way of compensation for the compulsory acquisition of the first asset.

"(9) A reference in this section to the compulsory acquisition of an asset is a reference to the compulsory acquisition of the asset by an Australian government or an Australian government authority.

"(10) In this section:

'Australian Crown lease' means a lease of the kind referred to in paragraph (a) of the definition of 'Crown lease' in subsection 160K (1);

'Australian government' means the Commonwealth, a State or a Territory;

'Australian government authority' means an authority of the Commonwealth, of a State or of a Territory.".

46. After section 160ZZM of the Principal Act the following section is inserted:

Transfer of asset from company or trust to spouse upon breakdown of marriage

"160ZZMA. (1) This section applies where:

(a) on or after 20 September 1985, a taxpayer (in this section called the 'first taxpayer'), being a company or a trustee of a trust estate, disposes of an asset (in this section called the 'roll-over asset') to a person (in this section called the 'spouse') who is or was the spouse of another person; and

(b) the disposal of the roll-over asset is pursuant to:

(i) an order of a court under the *Family Law Act 1975* or under a corresponding law of a foreign country; or

(ii) a maintenance agreement approved by a court under section 87 of the *Family Law Act 1975* or a corresponding agreement approved by, or otherwise sanctioned by, a court under a corresponding law of a foreign country.

"(2) This Part (other than this section) does not apply in respect of the disposal and:

(a) if the roll-over asset was acquired by the first taxpayer before 20 September 1985—the spouse shall be taken to have acquired the roll-over asset before that date; or

(b) if the roll-over asset was acquired by the first taxpayer on or after 20 September 1985:

(i) the spouse shall be taken to have paid as consideration in respect of the acquisition of the roll-over asset an amount equal to:

(A) for the purpose of ascertaining whether a capital gain accrued to the spouse in the event of a subsequent disposal of the roll-over asset by the spouse—the amount that would have been the indexed cost base to the first taxpayer of the roll-over asset for the purposes of this Part if this Part had applied in respect of the disposal of the roll-over asset by the first taxpayer to the spouse; or

(B) for the purpose of ascertaining whether the spouse incurred a capital loss in the event of a subsequent disposal of the roll-over asset by the spouse—the amount that would have been the reduced cost base to the first taxpayer of the roll-over asset for the purposes of this Part if this Part had applied in respect of the disposal of the roll-over asset by the first taxpayer to the spouse; and

(ii) in the case of a roll-over asset that was a personal-use asset of the first taxpayer—the roll-over asset shall be taken, for the purposes of this Part, to be a personal-use asset of the spouse.

"(3) If, in a case to which paragraph (2) (b) applies, the roll-over asset is disposed of by the spouse within 12 months after the day on which the roll-over asset was acquired by the first taxpayer, the reference in that paragraph to the indexed cost base to the first taxpayer of the roll-over asset shall be read as a reference to the cost base to the first taxpayer of the roll-over asset.

"(4) Where, immediately before the disposal of the roll-over asset by the first taxpayer, another taxpayer (in this section called the 'second taxpayer') (whether or not the spouse) held another asset, being:

(a) if the first taxpayer is a company:

(i) a share in the company that was acquired by the second taxpayer after 19 September 1985;

(ii) a loan to the company, being a loan acquired by the second taxpayer after 19 September 1985; or

(iii) an underlying interest in a share in, or loan to, the company, being an underlying interest that was acquired by the second taxpayer after 19 September 1985; or

(b) if the first taxpayer is a trustee of a trust estate:

(i) an interest or unit in the trust that was acquired by the second taxpayer after 19 September 1985;

(ii) a loan to the trustee, being a loan acquired by the second taxpayer after 19 September 1985; or

(iii) an underlying interest in an interest or unit in the trust, or in a loan to the trustee, being an underlying interest that

was acquired by the second taxpayer after 19 September 1985;

(which other asset is in this section called the 'second taxpayer's asset'), the following provisions have effect:

(c) for the purposes of ascertaining whether a capital gain accrued to the second taxpayer in the event of a subsequent disposal of the second taxpayer's asset by the second taxpayer—the indexed cost base to the second taxpayer of the second taxpayer's asset shall be reduced by:

(i) if the roll-over asset was acquired by the first taxpayer before 20 September 1985—the amount calculated in accordance with the formula:

Adjusted MV − Adjusted assessable amount

where:

Adjusted MV is so much of the adjusted market value of the roll-over asset immediately before the disposal of the roll-over asset by the first taxpayer as may reasonably be regarded as being represented in the adjusted market value of the second taxpayer's asset immediately before the disposal of the roll-over asset by the first taxpayer; and

Adjusted assessable amount is the adjusted assessable amount (if any); or

(ii) if the roll-over asset was acquired by the first taxpayer on or after 20 September 1985—the amount calculated in accordance with the formula:

Adjusted ICB − Adjusted assessable amount

where:

Adjusted ICB is so much of the adjusted indexed cost base to the first taxpayer of the roll-over asset immediately before the disposal of the roll-over asset by the first taxpayer as may reasonably be regarded as being represented in the adjusted market value of the second taxpayer's asset immediately before the disposal of the roll-over asset by the first taxpayer; and

Adjusted assessable amount is the adjusted assessable amount (if any);

(d) for the purposes of ascertaining whether the second taxpayer incurred a capital loss in the event of a subsequent disposal of the second taxpayer's asset by the second taxpayer—the reduced cost base to the second taxpayer of the second taxpayer's asset shall:

(i) if subparagraph (iii) does not apply and the roll-over asset was acquired by the first taxpayer before 20 September 1985—be reduced by the amount calculated in accordance with the formula:

MV − Assessable amount

where:

MV is so much of the market value of the roll-over asset immediately before the disposal of the roll-over asset by the first taxpayer as may reasonably be regarded as being represented in the market value of the second taxpayer's asset immediately before the disposal of the roll-over asset by the first taxpayer; and

Assessable amount is the assessable amount (if any);

(ii) if subparagraph (iii) does not apply and the roll-over asset was acquired by the first taxpayer on or after 20 September 1985—be reduced by the amount calculated in accordance with the formula:

RCB − Assessable amount

where:

RCB is so much of the reduced cost base to the first taxpayer of the roll-over asset immediately before the disposal of the roll-over asset by the first taxpayer as may reasonably be regarded as being represented in the market value of the second taxpayer's asset immediately before the disposal of the roll-over asset by the first taxpayer; and

Assessable amount is the assessable amount (if any); or

(iii) if the reduced cost base to the second taxpayer, as reduced by subparagraph (i) or (ii) of this paragraph, exceeds the indexed cost base to the second taxpayer as reduced by subparagraph (c) (i) or (ii)—be taken to be equal to the indexed cost base as so reduced.

"(5) If the second taxpayer's asset is disposed of by the second taxpayer within 12 months after the day on which the first taxpayer acquired the roll-over asset:

(a) a reference in paragraph (4) (c) to the adjusted market value shall be read as a reference to the market value;

(b) the reference in subparagraph (4) (c) (ii) to the adjusted indexed cost base shall be read as a reference to the cost base; and

(c) a reference in paragraph (4) (c) to the adjusted assessable amount shall be read as a reference to the assessable amount.

"(6) For the purposes of this section, an asset held by a taxpayer shall be taken to be an underlying interest in particular property if, because of the holding of that asset, the taxpayer holds an interest (whether directly or through one or more interposed companies, partnerships or trusts) in the property.

"(7) Subject to subsection (8), if at any time, whether before or after the commencement of this section, the Australian Statistician has published

or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

"(8) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

"(9) A reference in this section to the adjusted market value of an asset, to the adjusted indexed cost base of an asset or to the adjusted assessable amount is a reference to:

(a) if the factor ascertained in accordance with subsections (10) and (11) in relation to the market value, the indexed cost base or the assessable amount, as the case may be, is greater than 1—the market value, the indexed cost base or the assessable amount, as the case may be, multiplied by that factor; or

(b) in any other case—the market value, the indexed cost base or the assessable amount, as the case may be.

"(10) The factor to be ascertained for the purposes of subsection (9) in relation to the market value or the indexed cost base of an asset immediately before the disposal of the roll-over asset by the first taxpayer or in relation to the assessable amount in relation to that disposal is the number (calculated to 3 decimal places) ascertained by dividing the index number in respect of the quarter of the year in which the second taxpayer's asset was disposed of by the second taxpayer by the index number in respect of the quarter of the year in which the roll-over asset was disposed of by the first taxpayer.

"(11) Where the factor ascertained in accordance with subsection (10) would, if it were calculated to 4 decimal places, end with a number greater than 4, that factor shall be taken to be the factor calculated to 3 decimal places in accordance with that subsection and increased by 0.001.

"(12) In this section:

'assessable amount', in relation to the disposal of the roll-over asset by the first taxpayer, means any amount that, as a result of that disposal, is included in the assessable income of the second taxpayer of any year of income by virtue of a provision of this Act other than this Part;

'index number', in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.".

Transfer of asset to wholly-owned company

47. Section 160ZZN of the Principal Act is amended:

(a) by omitting "or" from the end of subparagraph (2) (a) (ii);

(b) by omitting subparagraph (2) (a) (iii) and substituting the following subparagraphs:

"(iii) on or before 25 May 1988, a taxpayer (other than a company or a taxpayer in the capacity of a trustee) disposed of a taxable Australian asset to a company that is not a resident of Australia;

(iv) both of the following conditions are satisfied:

(A) after 25 May 1988, a taxpayer (other than a company or a taxpayer in the capacity of a trustee) disposes of a taxable Australian asset to a company that is not a resident of Australia;

(B) immediately after the disposal, the asset is a taxable Australian asset of the company;";

(c) by omitting "and" from the end of paragraph (2) (c);

(d) by inserting after paragraph (2) (c) the following paragraph:

"(ca) in a case where the disposal took place after 28 January 1988 and the taxpayer is a partnership:

(i) if one or more of the partners is a trustee of a trust estate:

(A) immediately after the disposal, each such partner holds the shares in the company upon the same trust as the partner held the partner's interests in the partnership immediately before the disposal; and

(B) immediately after the disposal, each such partner holds the shares in the company in the same proportions as the partner held the partner's interests in the partnership immediately before the disposal; and

(ii) if one or more of the partners is not a trustee of a trust estate—immediately after the disposal, each such partner beneficially owns the shares in the company in the same proportions as the partner held the partner's interests in the partnership immediately before the disposal; and";

(e) by omitting "or" from the end of subparagraph (4) (a) (ii);

(f) by omitting subparagraph (4) (a) (iii) and substituting the following subparagraphs:

"(iii) on or before 25 May 1988, a taxpayer in the capacity of a trustee of a trust estate or of a unit trust disposed of a taxable Australian asset of the trust estate or of the unit trust to a company that is not a resident of Australia;

(iv) both of the following conditions are satisfied:

(A) after 25 May 1988, a taxpayer in the capacity of a trustee of a trust estate or of a unit trust disposes of a taxable Australian asset of the trust estate or

of the unit trust to a company that is not a resident of Australia;

(B) immediately after the disposal, the asset is a taxable Australian asset of the company;";

(g) by inserting after subsection (6) the following subsection:

"(6A) Subsection (6) does not apply to a disposal that took place after 28 January 1988.".

Transfer of asset between companies in the same group

48. Section 160ZZO of the Principal Act is amended:

(a) by omitting from subparagraphs (1) (a) (i) and (ii) "referred to as" (wherever occurring) and substituting "called";

(b) by omitting "or" from the end of subparagraph (1) (a) (ii);

(c) by omitting subparagraph (1) (a) (iii) and substituting the following subparagraphs:

"(iii) on or before 25 May 1988, a company (in this section also called the 'transferor') disposed of a taxable Australian asset to another company (in this section also called the 'transferee') that is not a resident of Australia;

(iv) the following conditions are satisfied:

(A) after 25 May 1988, a company (in this section also called the 'transferor') disposes of a taxable Australian asset to another company (in this section also called the 'transferee') that is not a resident of Australia;

(B) immediately after the disposal, the asset is a taxable Australian asset of the transferee;".

49. After section 160ZZP of the Principal Act the following sections are inserted:

Exchange of units in the same unit trust

"160ZZPAA. (1) This section applies where:

(a) after 28 January 1988, the trustee of a unit trust redeems or cancels all the units of a particular class in the unit trust;

(b) a taxpayer holds units of that class in the unit trust (in this section called the 'original units');

(c) the taxpayer is a resident of Australia or the redemption or cancellation constitutes a disposal of a taxable Australian asset;

(d) the trustee of the unit trust issues to the taxpayer other units in the unit trust (in this section called the 'new units') in substitution for the original units;

(e) the market value of the new units immediately after they were issued is not less than the market value of the original units immediately before the redemption or cancellation;

(f) the taxpayer did not receive any consideration other than the new units because of the redemption or cancellation; and

(g) the taxpayer has elected that this section is to apply in respect of the redemption or cancellation.

"(2) This Part (other than this section) does not apply in respect of the redemption or cancellation and:

(a) if the original units were acquired by the taxpayer before 20 September 1985—the taxpayer shall be taken to have acquired the new units before that date; or

(b) if the original units were acquired by the taxpayer on or after 20 September 1985—the taxpayer shall be taken to have paid as consideration in respect of the acquisition of the new units an amount equal to:

(i) for the purpose of ascertaining whether a capital gain accrued to the taxpayer in the event of a subsequent disposal of the new units by the taxpayer—the amount that would have been the indexed cost base to the taxpayer of the original units for the purposes of this Part if this Part had applied in respect of the disposal of the original units by the taxpayer; or

(ii) for the purpose of ascertaining whether the taxpayer incurred a capital loss in the event of a subsequent disposal of the new units by the taxpayer—the amount that would have been the reduced cost base to the taxpayer of the original units for the purposes of this Part if this Part had applied in respect of the disposal of the original units by the taxpayer.

"(3) If, in a case to which paragraph (2) (b) applies, the new units were disposed of by the taxpayer within 12 months after the day on which the original units were acquired by the taxpayer, the reference in that paragraph to the indexed cost base to the taxpayer of the original units shall be read as a reference to the cost base to the taxpayer of the original units.

"(4) An election by a taxpayer under subsection (1) shall be made by notice in writing given to the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the year of income in which the redemption or cancellation concerned took place, or within such further period as the Commissioner allows.

Options and rights to acquire unissued shares affected by share splits or share consolidations

"160ZZPAB. (1) This section applies where:

(a) a taxpayer owns:

(i) rights (in this section called the 'original rights') issued by a company to acquire shares (in this section called the 'original shares') in the company or to acquire an option to acquire

shares (in this section also called the 'original shares') in the company; or

(ii) an option (in this section called the 'original option') to acquire shares (in this section also called the 'original shares') in the company;

(b) either of the following conditions is satisfied in relation to the original shares:

(i) the original shares are consolidated and divided into shares (in this section called the 'new shares') of larger amount;

(ii) the original shares are subdivided into shares (in this section also called the 'new shares') of smaller amount;

(c) after 28 January 1988, and as a consequence of the consolidation or subdivision:

(i) the original rights are cancelled; or

(ii) the original option is cancelled;

as the case may be;

(d) the taxpayer is a resident of Australia or the cancellation constituted a disposal of a taxable Australian asset;

(e) the company issues to the taxpayer:

(i) other rights (in this section called the 'new rights') relating to the new shares, in substitution for the original rights; or

(ii) another option (in this section called the 'new option') relating to the new shares, in substitution for the original option;

(f) the market value of the new rights or the new option immediately after it was or they were issued is not less than the market value of the original rights or the original option immediately before the cancellation;

(g) the taxpayer did not receive any consideration other than the new rights or the new option in respect of the cancellation; and

(h) the taxpayer has elected that this section is to apply in respect of the cancellation of the original rights or the original option.

"(2) This Part (other than this section) does not apply in respect of the cancellation and:

(a) if the original rights or the original option was or were acquired by the taxpayer before 20 September 1985—the taxpayer shall be taken to have acquired the new rights or the new option before that date; or

(b) if the original rights or the original option was or were acquired by the taxpayer on or after 20 September 1985—the taxpayer shall be taken to have paid as consideration in respect of the acquisition of the new rights or the new option an amount equal to:

(i) for the purpose of ascertaining whether a capital gain accrued to the taxpayer in the event of the subsequent disposal by the taxpayer of:

(A) the new rights;

(B) the new option; or

(C) the shares or option to which the new rights or the new option relates;

the amount that would have been the indexed cost base to the taxpayer of the original rights or the original option for the purposes of this Part if this Part had applied in respect of the cancellation of the original rights or the original option; or

(ii) for the purposes of ascertaining whether the taxpayer incurred a capital loss in the event of the subsequent disposal by the taxpayer of:

(A) the new rights;

(B) the new option; or

(C) the shares or option to which the new rights or the new option relates;

the amount that would have been the reduced cost base to the taxpayer of the original rights or the original option for the purposes of this Part if this Part had applied in respect of the cancellation of the original rights or the original option.

"(3) If, in a case to which paragraph (2) (b) applies:

(a) the new rights or the new option was or were disposed of by the taxpayer within 12 months after the day on which the original rights or the original option was or were acquired by the taxpayer; or

(b) the shares or option to which the new rights or the new option relates was or were disposed of by the taxpayer within 12 months after the day on which the shares or the option was or were acquired by the taxpayer;

the reference in that paragraph to the indexed cost base to the taxpayer of the original rights or the original option shall be read as a reference to the cost base to the taxpayer of the original rights or the original option.

"(4) An election by a taxpayer under subsection (1) shall be made by notice in writing given to the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the year of income in which the cancellation concerned took place, or within such further period as the Commissioner allows.

Options and rights to acquire unissued units affected by unit splits or unit consolidations

"160ZZPAC. (1) This section applies where:

(a) a taxpayer owns:

(i) rights (in this section called the 'original rights') issued by the trustee of a unit trust to acquire units (in this section called the 'original units') in the unit trust or to acquire an option to acquire units (in this section also called the 'original units') in the unit trust; or

(ii) an option (in this section called the 'original option') to acquire units (in this section also called the 'original units') in the unit trust;

(b) either of the following conditions is satisfied in relation to the original units:

(i) the original units are consolidated and divided into units (in this section called the 'new units') of larger amount;

(ii) the original units are subdivided into units (in this section also called the 'new units') of smaller amount;

(c) after 28 January 1988, and as a consequence of the consolidation or subdivision:

(i) the original rights are cancelled; or

(ii) the original option is cancelled;

as the case may be;

(d) the taxpayer is a resident of Australia or the cancellation constituted a disposal of a taxable Australian asset;

(e) the trustee of the unit trust issues to the taxpayer:

(i) other rights (in this section called the 'new rights') relating to the new units, in substitution for the original rights; or

(ii) another option (in this section called the 'new option') relating to the new units, in substitution for the original option;

(f) the market value of the new rights or the new option immediately after it was or they were issued is not less than the market value of the original rights or the original option immediately before the cancellation;

(g) the taxpayer did not receive any consideration other than the new rights or the new option in respect of the cancellation; and

(h) the taxpayer has elected that this section is to apply in respect of the cancellation of the original right or the original options.

"(2) This Part (other than this section) does not apply in respect of the cancellation and:

(a) if the original rights or the original option was or were acquired by the taxpayer before 20 September 1985—the taxpayer shall be taken

to have acquired the new rights or the new option before that date; or

(b) if the original rights or the original option was or were acquired by the taxpayer on or after 20 September 1985—the taxpayer shall be taken to have paid as consideration in respect of the acquisition of the new rights or the new option an amount equal to:

(i) for the purpose of ascertaining whether a capital gain accrued to the taxpayer in the event of the subsequent disposal by the taxpayer of:

(A) the new rights;

(B) the new option; or

(C) the units or option to which the new rights or the new option relates;

the amount that would have been the indexed cost base to the taxpayer of the original rights or the original option for the purposes of this Part if this Part had applied in respect of the cancellation of the original rights or the original option; or

(ii) for the purpose of ascertaining whether the taxpayer incurred a capital loss in the event of the subsequent disposal by the taxpayer of:

(A) the new rights;

(B) the new option; or

(C) the units or option to which the new rights or the new option relates;

the amount that would have been the reduced cost base to the taxpayer of the original rights or the original option for the purposes of this Part if this Part had applied in respect of the cancellation of the original rights or the original option.

"(3) If, in a case to which paragraph (2) (b) applies:

(a) the new rights or the new option was or were disposed of by the taxpayer within 12 months after the day on which the original rights or the original option was or were acquired by the taxpayer; or

(b) the units or option to which the new rights or the new option relates was or were disposed of by the taxpayer within 12 months after the day on which the units or the option was or were acquired by the taxpayer;

the reference in that paragraph to the indexed cost base to the taxpayer of the original rights or the original option shall be read as a reference to the cost base to the taxpayer of the original rights or the original option.

"(4) An election by a taxpayer under subsection (1) shall be made by notice in writing given to the Commissioner on or before the date of lodgment of the return of income of the taxpayer for the year of income in

which the cancellation concerned took place, or within such further period as the Commissioner allows.".

50. After section 160ZZPB of the Principal Act the following sections are inserted in Division 17 of Part IIIA:

Company schemes of arrangement—exchange of shares in original company for shares in interposed company

"160ZZPC. Section 160ZZPA applies to a scheme for the reorganisation of the affairs of a company (in this section called the 'original company') that was entered into, or commenced to be carried out, after 28 January 1988 in a corresponding way to the way in which that section applies to a scheme for the reorganisation of the affairs of a unit trust and, for the purposes of that corresponding application:

(a) references in that section to the unit trust or to the trustee of the unit trust shall be read as references to the original company;

(b) references in that section to units in the unit trust shall be read as references to shares in the original company; and

(c) the requirements in paragraphs 160ZZPA (1) (g) and (h) shall be replaced by a requirement that both the original company and the interposed company are residents of Australia at the completion time and, if the disposals occurred at different times, at all times during the period commencing at the time of the first of the disposals and ending at the completion time.

Company schemes of arrangement—redemption or cancellation of shares in original company in exchange for shares in interposed company

"160ZZPD. Section 160ZZPB applies to a scheme for the reorganisation of the affairs of a company (in this section called the 'original company') that was entered into, or commenced to be carried out, after 28 January 1988 in a corresponding way to the way in which that section applies to a scheme for the reorganisation of the affairs of a unit trust and, for the purposes of that corresponding application:

(a) references in that section to the unit trust or to the trustee of the unit trust shall be read as references to the original company;

(b) references in that section to units in the unit trust shall be read as references to shares in the original company; and

(c) the requirements in paragraphs 160ZZPB (1) (g) and (h) shall be replaced by a requirement that both the original company and the interposed company are residents of Australia at the completion time and, if the disposals occurred at different times, at all times during the period commencing at the time of the first of the disposals and ending at the completion time.

Renewal or extension of statutory licence

"160ZZPE. (1) This section applies where:

(a) a statutory licence (in this section called the 'original licence') owned by a taxpayer expires or is surrendered;

(b) a fresh statutory licence (in this section called the 'fresh licence') is granted to the taxpayer by way of the renewal, or the extension of the term, of the original licence, where the renewal or extension is (whether by law, custom or otherwise) wholly or principally attributable to the taxpayer's ownership of the original licence; and

(c) in the case of a taxpayer in the capacity of a trustee of a trust estate—immediately after the grant of the fresh licence, the taxpayer holds the fresh licence upon the same trust as the taxpayer held the original licence.

"(2) This Part (other than this section) does not apply in respect of the expiry or surrender of the original licence and:

(a) if the original licence was acquired by the taxpayer before 20 September 1985—the taxpayer shall be taken to have acquired the fresh licence before that date; and

(b) if the original licence was acquired by the taxpayer on or after 20 September 1985—the taxpayer shall be taken to have paid as consideration in respect of the acquisition of the fresh licence an amount equal to:

(i) for the purposes of ascertaining whether a capital gain accrued to the taxpayer in the event of a subsequent disposal of the fresh licence by the taxpayer—the sum of:

(A) the amount that would have been the indexed cost base to the taxpayer of the original licence for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original licence; and

(B) any amount paid for the acquisition of the fresh licence; or

(ii) for the purposes of ascertaining whether the taxpayer incurred a capital loss in the event of a subsequent disposal of the fresh licence by the taxpayer—the sum of:

(A) the amount that would have been the reduced cost base to the taxpayer of the original licence for the purposes of this Part if this Part had applied in respect of the expiry or surrender of the original licence; and

(B) any amount paid for the acquisition of the fresh licence.

"(3) If, in a case to which paragraph (2) (b) applies, the fresh licence is disposed of by the taxpayer within 12 months after the day on which the original licence was acquired by the taxpayer, the reference in that paragraph to the indexed cost base to the taxpayer of the original licence shall be read as a reference to the cost base to the taxpayer of the original licence.

"(4) In this section:

'statutory licence' means an authority, licence or permit granted by or on behalf of:

(a) a government; or

(b) a government authority;

under a statutory law of the Commonwealth, of a State, of a Territory or of a foreign country, but does not include:

(c) a lease; or

(d) a mining asset within the meaning of section 160ZZF.

***In specie* distribution of shares by trustee of public trading trust**

"160ZZPF. (1) This section applies where:

(a) all of the following conditions are satisfied in relation to the disposal of particular shares in a company by the trustee of a unit trust:

(i) the shares were acquired by the trustee before 20 September 1985;

(ii) the shares were disposed of by the trustee to 2 or more taxpayers, being unitholders in the unit trust (in this section called the 'unitholding taxpayers');

(iii) each of the disposals was in satisfaction of an entitlement in respect of one or more units in the unit trust (in this section called the 'unitholding taxpayer's entitlement units') held by each unitholding taxpayer;

(iv) each of the disposals occurred:

(A) after 28 January 1988 and before 1 July 1988; and

(B) during a year of income of the unit trust earlier than the year of income commencing on 1 July 1988;

(v) the unit trust was established, within the meaning of section 102R, before 20 September 1985;

(vi) if the unit trust had been established, within the meaning of section 102R, after 19 September 1985, the unit trust would have been a public trading trust, for the purposes of Division 6C of Part III, in relation to each year of income of the unit trust in which each of the disposals occurred; and

(b) both of the following conditions are satisfied in relation to a particular unitholding taxpayer:

(i) at least one of the unitholding taxpayer's entitlement units was acquired by the unitholding taxpayer before 20 September 1985;

(ii) the unitholding taxpayer has elected that this section is to apply in respect of the acquisition by the unitholding taxpayer of all the shares that were acquired by the unitholding taxpayer and in respect of which the conditions specified in paragraph (a) are satisfied.

"(2) The following provisions have effect in relation to a particular unitholding taxpayer:

(a) if all the unitholding taxpayer's entitlement units were acquired by the unitholding taxpayer before 20 September 1985—the unitholding

taxpayer shall be taken, for the purposes of this Part, to have acquired the shares concerned before 20 September 1985;

(b) if:

(i) some, but not all, of the unitholding taxpayer's entitlement units were acquired by the unitholding taxpayer before 20 September 1985;

(ii) the unitholding taxpayer, in the notice of election, nominates, as pre-CGT shares, such of the shares acquired by the unitholding taxpayer as are specified in the notice; and

(iii) the number of shares nominated by the unitholding taxpayer does not exceed the number calculated in accordance with the formula:

$$\textbf{Shares} \times \frac{\textbf{Pre CGT units}}{\textbf{Total units}}$$

where:

Shares is the number of shares acquired by the unitholding taxpayer;

Pre CGT units is the number of unitholding taxpayer's entitlement units acquired by the unitholding taxpayer before 20 September 1985; and

Total units is the number of unitholding taxpayer's entitlement units held by the unitholding taxpayer;

the unitholding taxpayer shall be taken, for the purposes of this Part, to have acquired the nominated shares before 20 September 1985.

"(3) An election by a unitholding taxpayer under subsection (1) shall be made by notice in writing given to the Commissioner on or before the date of lodgment of the return of income of the unitholding taxpayer for the year of income in which the acquisition of the shares concerned took place, or within such further period as the Commissioner allows.".

Exemption of principal residence

51. Section 160ZZQ of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsection:

"(1A) For the purposes of this section, where:

(a) an asset was disposed of by a company or a trustee of a trust estate to a taxpayer;

(b) the asset was acquired by the company or the trustee on or after 20 September 1985; and

(c) because of section 160ZZMA, this Part (other than that section) does not apply in respect of the disposal;

the following provisions have effect:

(d) the taxpayer shall be treated as having owned the asset at all times during the period (in this subsection called the

'prior ownership period') commencing at the time when the company or trustee acquired the asset and ending at the time of the disposal of the asset;

(e) a dwelling to which the asset relates shall not be treated as the sole or principal residence of the taxpayer during the prior ownership period.";

(b) by inserting in paragraph (2) (a) and subparagraph (2) (b) (ii) "a Crown lease," after "an estate in fee simple,".

Application of amendments

52. (**1**) The amendment made by section 22 applies to assessments in respect of income of the year of income commencing on 1 July 1986 and of all subsequent years of income.

(**2**) The amendments made by section 23 and sections 32 to 51 (inclusive) apply to assessments in respect of income of the year of income in which 20 September 1985 occurred and of all subsequent years of income.

(**3**) The amendments made by paragraphs 24 (a), (c), (g) and (h) and sections 27 and 28 apply in relation to an expense incurred by a taxpayer in a year of income commencing on or after 1 July 1988.

(**4**) The amendments made by paragraphs 24 (b), (d), (e), (f) and (j) and sections 25, 26, 29, 30 and 31 apply in relation to an expense incurred by a taxpayer in a year of income commencing on or after 1 July 1986.

Amendment of assessments

53. Nothing in section 170 of the Principal Act prevents the amendment of an assessment made before the commencement of this section for the purpose of giving effect to this Act.

SCHEDULE

Section 18

AMENDMENTS OF THE FRINGE BENEFITS TAX ASSESSMENT ACT 1986 RELATING TO CAR RECORDS

Paragraph 10 (2) (b):

Omit "return", substitute "car records".

Paragraph 10 (2) (c):

Omit "return", substitute "car records".

Paragraph 10A (a):

Omit "his or her return", substitute "the employer's car records".

Subparagraph 10A (b) (ii):

Omit "his or her return for the current", substitute "the employer's car records for the".

Paragraph 10B (b):

Omit "his or her return", substitute "the employer's car records".

Sub-subparagraph 10B (b) (i) (B):

Omit "employer's return", substitute "employer's car records".

Paragraph 10C (1) (a):

Omit "his or her return", substitute "the employer's car records".

Paragraph 10C (1) (c):

Omit "return", substitute "car records".

Paragraph 10C (1) (d):

Omit "his or her return", substitute "the employer's car records".

Paragraph 10C (1) (d):

Omit "the return", substitute "the car records".

Paragraph 10C (2) (b):

Omit "his or her return", substitute "the employer's car records".

Subsection 10C (2):

Omit "the return", substitute "the car records".

Paragraph 65E (a):

Omit "his or her return", substitute "the employer's car records".

Subparagraph 65E (b) (ii):

Omit "his or her return", substitute "the employer's car records".

SCHEDULE—continued

Paragraph 65F (b):

Omit "his or her return", substitute "the employer's car records".

Sub-subparagraph 65F (b) (i) (B):

Omit "employer's return", substitute "employer's car records".

Paragraph 65G (a):

Omit "return", substitute "car records".

Paragraph 65G (b):

Omit "return", substitute "car records".

Paragraph 65H (1) (a):

Omit "his or her return", substitute "the employer's car records".

Paragraph 65H (1) (c):

Omit "return", substitute "car records".

Paragraph 65H (1) (d):

Omit "his or her return", substitute "the employer's car records".

Paragraph 65H (1) (d):

Omit "the return", substitute "the car records".

Paragraph 65H (2) (b):

Omit "his or her return", substitute "the employer's car records".

Subsection 65H (2):

Omit "the return", substitute "the car records".

Subparagraph 106 (1) (aa) (iv):

Omit the subparagraph.

Paragraph 115A (1) (a):

Omit "his or her return", substitute "the employer's car records".

Paragraph 115A (2) (a):

Omit "his or her return", substitute "the employer's car records".

Section 162D:

Repeal the section, substitute the following section:

Deemed specification of matters in car records

"162D. Where an employer fails, through inadvertence, to specify any or all of the following matters in car records of the employer for a year of tax:

SCHEDULE—continued

(a) a period of a kind mentioned in subsection 162H (1) or (2);

(b) a nomination of the kind mentioned in subsection 162K (2) or 162L (2) or particulars of such a nomination;

(c) a percentage of a kind mentioned in section 10A, 10B, 65E or 65F;

the Commissioner may determine that a period, nomination, particular or percentage of that kind specified by the employer in a document lodged with the Commissioner shall be treated, for the purposes of this Act, as if it had been specified by the employer in those car records.".

Sub-subparagraph 162G (1) (g) (iii) (A):

Omit "his or her return", substitute "the employer's car records".

Sub-subparagraph 162G (2) (g) (iii) (A):

Omit "his or her return", substitute "the employer's car records".

Subparagraph 162H (1) (b) (ii):

Omit "his or her return", substitute "the employer's car records".

Subparagraph 162H (2) (b) (ii):

Omit "his or her return", substitute "the employer's car records".

Subsection 162K (2):

Omit "his or her return", substitute "the employer's car records".

Subsection 162L (2):

Omit "his or her return", substitute "the employer's car records".

NOTES

1. No. 39, 1986, as amended. For previous amendments, see Nos. 48 and 112, 1986; Nos. 23 and 145, 1987; No. 139, 1987 (as amended by Nos. 11 and 78, 1988); and Nos. 6, 7, 95, 97 and 153, 1988.

2. No. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981;

NOTES—continued

Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 8, 11, 59, 75, 78, 80, 87, 95, 97, 127 and 153, 1988; and No. 2, 1989.

[*Minister's second reading speech made in—*
House of Representatives on 25 May 1988
Senate on 29 August 1988]