



Income Tax (Transitional Provisions) Act 1997

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About this compilation

This compilation

This is a compilation of the *Income Tax (Transitional Provisions) Act 1997* that shows the text of the law as amended and in force on 20 March 2015 (the **compilation date**).

This compilation was prepared on 31 March 2015.

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act setting out application and transitional provisions for the *Income Tax Assessment Act 1997*

Chapter 1—Introduction and core provisions

Part 1-1—Preliminary

Division 1—Preliminary

Table of sections

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| 1-1 | Short title |
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| 1-7 | Administration of this Act |
| 1-10 | Definitions and rules for interpreting this Act |

1-1 Short title

This Act may be cited as the *Income Tax (Transitional Provisions) Act 1997*.

1-5 Commencement

This Act commences on 1 July 1997.

1-7 Administration of this Act

The Commissioner has the general administration of this Act.

Note: An effect of this provision is that people who acquire information under this Act are subject to the confidentiality obligations and exceptions in Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

1-10 Definitions and rules for interpreting this Act

(1) In this Act, an expression has the same meaning as in the *Income Tax Assessment Act 1997*.

Chapter 1 Introduction and core provisions

Part 1-1 Preliminary

Division 1 Preliminary

Section 1-10

- (2) Division 950 of the *Income Tax Assessment Act 1997* (which contains rules for interpreting that Act) applies to this Act as if the provisions of this Act were provisions of that Act.

Part 1-3—Core Provisions

Division 4—How to work out the income tax payable on your taxable income

Table of sections

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| 4-1 | Application of the <i>Income Tax Assessment Act 1997</i> |
| 4-10 | Temporary flood and cyclone reconstruction levy |
| 4-11 | Temporary budget repair levy |

4-1 Application of the *Income Tax Assessment Act 1997*

The *Income Tax Assessment Act 1997*, as originally enacted, applies to assessments for the 1997-98 income year and later income years.

Note: For the application of amendments of that Act (including new provisions inserted in it), see the Acts making the amendments.

4-10 Temporary flood and cyclone reconstruction levy

Temporary flood and cyclone reconstruction levy

- (1) You must pay extra income tax (***temporary flood and cyclone reconstruction levy***) for the 2011-12 financial year if:
 - (a) you are an individual; and
 - (b) your taxable income for the 2011-12 income year exceeds \$50,000.

Note: This section will also affect the income tax payable by some trustees who are taxed as if certain trust income were income of individuals. See sections 98 and 99 of the *Income Tax Assessment Act 1936*.

- (2) Subsection (1) does not apply if you are a member of a class of individuals specified in a legislative instrument made by the Minister for the purposes of this subsection.
- (3) The Minister may only specify a class of individuals for the purposes of subsection (2) if the Minister is satisfied that the class

Section 4-11

was affected by a natural disaster that happened in Australia between:

- (a) 1 July 2010; and
- (b) 30 June 2012.

Amount of temporary flood and cyclone reconstruction levy

- (4) Your temporary flood and cyclone reconstruction levy is worked out by reference to your taxable income for the 2011-12 income year, using the rate or rates that apply to you.

Note: See section 12B of the *Income Tax Rates Act 1986*.

Interaction with other provisions

- (5) For the purpose of working out your income tax for the 2011-12 financial year, subsection 4-10(3) of the *Income Tax Assessment Act 1997* has effect as if it stated that your income tax for the financial year is the total of:
 - (a) the amount worked out using the method statement in that subsection; and
 - (b) the amount of any extra tax you must pay as mentioned in subsection (1) of this section.
- (6) To avoid doubt, temporary flood and cyclone reconstruction levy is not included in your basic income tax liability worked out in accordance with step 2 of the method statement in subsection 4-10(3) of the *Income Tax Assessment Act 1997*.

Note: You cannot apply any tax offsets against temporary flood and cyclone reconstruction levy under Part 2-20 of the *Income Tax Assessment Act 1997*, because temporary flood and cyclone reconstruction levy is not included in your basic income tax liability.

- (7) Disregard this section for the purposes of section 770-75 of the *Income Tax Assessment Act 1997* (Foreign income tax offset limit).

4-11 Temporary budget repair levy

Temporary budget repair levy

- (1) You must pay extra income tax (***temporary budget repair levy***) for a financial year if:
- (a) you are an individual; and
 - (b) your taxable income for the corresponding income year exceeds \$180,000; and
 - (c) the financial year is a temporary budget repair levy year.

Note: This section will also affect the income tax payable by some trustees who are taxed as if certain trust income were income of individuals. See sections 98 and 99 of the *Income Tax Assessment Act 1936*.

Amount of temporary budget repair levy

- (2) Your temporary budget repair levy is worked out by reference to your taxable income for the corresponding income year using the rate or rates that apply to you.

Note: See Part IV of the *Income Tax Rates Act 1986*.

Interaction with other provisions

- (3) For the purpose of working out your income tax for the financial year:
- (a) section 4-10 of the *Income Tax Assessment Act 1997* has effect as if it made you liable to pay the extra tax mentioned in subsection (1) of this section; and
 - (b) subsection 4-10(3) of that Act has effect as if step 4 of the method statement in that subsection were omitted and the following were substituted:

Step 3A. Subtract your tax offsets from your basic income tax liability.

For the list of tax offsets, see section 13-1.

Section 4-11

Step 3B. Add the extra income tax you must pay as mentioned in subsection 4-11(1) of the *Income Tax (Transitional Provisions) Act 1997*.

Step 4. If an amount of your tax offset for foreign income tax under Division 770 remains after applying section 63-10, subtract the remaining amount from the result of step 3B. The result is how much income tax you owe for the financial year.

- (4) To avoid doubt, temporary budget repair levy is not included in your basic income tax liability.

Note: As a result, you cannot apply any tax offsets against temporary budget repair levy under Part 2-20 of the *Income Tax Assessment Act 1997* (apart from the foreign income tax offset applied under step 4 of the method statement in subsection (3)).

Meaning of temporary budget repair levy year

- (5) Each of the following is a **temporary budget repair levy year**:
- (a) the 2014-15 financial year;
 - (b) the 2015-16 financial year;
 - (c) the 2016-17 financial year.

Division 5—How to work out when to pay your income tax

Table of Subdivisions

- 5-A How to work out when to pay your income tax

Subdivision 5-A—How to work out when to pay your income tax

Table of sections

- 5-5 Application of Division 5 of the *Income Tax Assessment Act 1997*
5-7 References in tax sharing agreements to former section 204
5-10 General interest charge liabilities under former subsection 204(3)
5-15 Application of section 5-15 of the *Income Tax Assessment Act 1997*

5-5 Application of Division 5 of the *Income Tax Assessment Act 1997*

Subject to section 5-15 of this Act, Division 5 of the *Income Tax Assessment Act 1997*, as originally enacted, applies in relation to income tax or shortfall interest charge you must pay for:

- (a) the 2010-11 financial year; or
- (b) a later financial year.

5-7 References in tax sharing agreements to former section 204

- (1) A reference in an agreement to section 204 of the *Income Tax Assessment Act 1936* is taken, from the commencement of this section, to be a reference to section 5-5 of the *Income Tax Assessment Act 1997*, if:
 - (a) paragraph 721-25(1)(a) of the *Income Tax Assessment Act 1997* applies to the agreement; and
 - (b) the agreement was in force just before the commencement of this section.
- (2) This section applies in relation to tax to which Division 5 of the *Income Tax Assessment Act 1997* applies.

5-10 General interest charge liabilities under former subsection 204(3)

- (1) This section applies if, just before the commencement of this section, you were liable, under subsection 204(3) (the *old provision*) of the *Income Tax Assessment Act 1936*, to pay the general interest charge on an unpaid amount (the *liability*) of any tax or shortfall interest charge.
- (2) On that commencement, the old provision ceases to apply to the liability.
- (3) From that commencement, section 5-15 (the *new provision*) of the *Income Tax Assessment Act 1997*, as originally enacted, applies to the liability as if:
 - (a) the liability remained unpaid at that time; and
 - (b) so much of the charge under the old provision as remained unpaid at that time had been imposed under the new provision and remained unpaid at that time.

5-15 Application of section 5-15 of the *Income Tax Assessment Act 1997*

- (1) Section 5-15 of the *Income Tax Assessment Act 1997* (General interest charge payable on unpaid income tax or shortfall interest charge), as originally enacted, applies to an amount of income tax or shortfall interest charge you must pay for a financial year, if the income tax or shortfall interest charge is due to be paid on or after the commencement of that section.
- (2) For the purposes of subsection (1), it does not matter whether the financial year ended before, on or after the commencement of that section.

Division 6—Assessable income and exempt income

Table of sections

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| 6-2 | Effect of this Division |
| 6-3 | Assessable income for income years before 1997-98 |
| 6-20 | Exempt income for income years before 1997-98 |

6-2 Effect of this Division

This Division has effect for the purposes of the *Income Tax Assessment Act 1997* and of this Act.

6-3 Assessable income for income years before 1997-98

For the 1996-97 income year or an earlier income year, ***assessable income*** means all the amounts that under the *Income Tax Assessment Act 1936* are included in the assessable income.

6-20 Exempt income for income years before 1997-98

For the 1996-97 income year or an earlier income year, ***exempt income*** means income which is exempt from tax and includes income which is not assessable income.

Division 8—Deductions

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| 8-2 | Effect of this Division |
| 8-3 | Deductions for income years before 1997-98 |
| 8-10 | No double deductions for income year before 1997-98 and income year after 1996-97 |

8-2 Effect of this Division

This Division has effect for the purposes of the *Income Tax Assessment Act 1997* and of this Act.

8-3 Deductions for income years before 1997-98

For the 1996-97 income year or an earlier income year, **deduction** means a deduction allowable under the *Income Tax Assessment Act 1936*.

8-10 No double deductions for income year before 1997-98 and income year after 1996-97

If:

- (a) a provision of the *Income Tax Assessment Act 1936* allows you a deduction in respect of an amount for the 1996-97 income year or an earlier income year; and
- (b) a different provision of that Act, or a provision of the *Income Tax Assessment Act 1997*, allows you a deduction in respect of the same amount for the 1997-98 income year or a later income year;

you can deduct only under the provision that is most appropriate.

Chapter 2—Liability rules of general application

Part 2-1—Assessable income

Division 15—Some items of assessable income

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| 15-1 | General application provision |
| 15-10 | Application of section 15-10 of the <i>Income Tax Assessment Act 1997</i> to bounties and subsidies |
| 15-15 | Application of section 15-15 of the <i>Income Tax Assessment Act 1997</i> to profit-making plans |
| 15-20 | Application of section 15-20 of the <i>Income Tax Assessment Act 1997</i> to royalties |
| 15-30 | Application of section 15-30 of the <i>Income Tax Assessment Act 1997</i> to insurance or indemnity payments |
| 15-35 | Application of section 15-35 of the <i>Income Tax Assessment Act 1997</i> to interest on overpayments and early payments of tax |

15-1 General application provision

- (1) Division 15 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.
- (2) However, the sections of that Act listed in the table apply in accordance with the corresponding sections of this Act.

| Application provisions for specific sections | | |
|--|---|--|
| Item | This section of the <i>Income Tax Assessment Act 1997</i> ... | Applies as described in this section of this Act ... |
| 1 | 15-10 | 15-10 |
| 2 | 15-15 | 15-15 |
| 3 | 15-20 | 15-20 |
| 4 | 15-30 | 15-30 |
| 5 | 15-35 | 15-35 |

Section 15-10

15-10 Application of section 15-10 of the *Income Tax Assessment Act 1997* to bounties and subsidies

Section 15-10 (Bounties and subsidies) of the *Income Tax Assessment Act 1997* applies to a bounty or subsidy received in the 1997-98 income year or a later income year.

15-15 Application of section 15-15 of the *Income Tax Assessment Act 1997* to profit-making undertaking or plan

Section 15-15 (Profit-making undertaking or plan) of the *Income Tax Assessment Act 1997* applies to a profit arising in the 1997-98 income year or a later income year, even if the undertaking or plan was entered into, or began to be carried on or carried out, before the 1997-98 income year.

15-20 Application of section 15-20 of the *Income Tax Assessment Act 1997* to royalties

Section 15-20 (Royalties) of the *Income Tax Assessment Act 1997* applies to an amount received as or by way of royalty in the 1997-98 income year or a later income year.

15-30 Application of section 15-30 of the *Income Tax Assessment Act 1997* to insurance or indemnity payments

Section 15-30 (Insurance or indemnity for loss of assessable income) of the *Income Tax Assessment Act 1997* applies to an amount received in the 1997-98 income year or a later income year as insurance or indemnity for the loss at any time of an amount that would have been assessable income under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

15-35 Application of section 15-35 of the *Income Tax Assessment Act 1997* to interest on overpayments and early payments of tax

Section 15-35 (Interest on overpayments and early payments of tax) of the *Income Tax Assessment Act 1997* applies to interest that

is paid or applied in the 1997-98 income year or a later income year, even if some or all of the interest became payable earlier.

Division 20—Items included to reverse the effect of past deductions

Table of Subdivisions

| | |
|------|---|
| 20-A | Insurance, indemnity or recoupment for deductible expenses |
| 20-B | Disposal of a car for which lease payments have been deducted |

Subdivision 20-A—Insurance, indemnity or recoupment for deductible expenses

Table of sections

| | |
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| 20-1 | Application of Subdivision 20-A of the <i>Income Tax Assessment Act 1997</i> |
|------|--|

20-1 Application of Subdivision 20-A of the *Income Tax Assessment Act 1997*

Subdivision 20-A of the *Income Tax Assessment Act 1997* applies to an assessable recoupment received in the 1997-98 income year or a later income year of a loss or outgoing whenever incurred.

Subdivision 20-B—Disposal of a car for which lease payments have been deducted

Table of sections

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| 20-100 | Application of Subdivision 20-B of the <i>Income Tax Assessment Act 1997</i> |
| 20-105 | The cost of a car acquired in the 1996-97 income year or an earlier income year |
| 20-110 | The termination value of a car disposed of in the 1996-97 income year or an earlier income year |
| 20-115 | Reducing the assessable amount for the disposal of a car in the 1997-98 income year or later if there has been an earlier disposal of it |

20-100 Application of Subdivision 20-B of the *Income Tax Assessment Act 1997*

Subdivision 20-B of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

20-105 The cost of a car acquired in the 1996-97 income year or an earlier income year

(1) If:

- (a) in the 1997-98 income year or a later income year you dispose of a car that was leased to you or your associate; and
- (b) the lessor acquired the car in the 1996-97 income year or an earlier income year;

the cost of the car to the lessor for the purposes of section 20-120 of the *Income Tax Assessment Act 1997* is worked out under the depreciation provisions of the *Income Tax Assessment Act 1936*.

Note 1: Section 20-120 of the *Income Tax Assessment Act 1997* is about a limit on the amount to be included in your assessable income because of your disposal of the car.

Note 2: The depreciation provisions were in Subdivision A of Division 3 of Part III of the *Income Tax Assessment Act 1936*.

- (2) In working out the cost of the car to the lessor, disregard any election the lessor made under former subsection 59(2A) or (2D) of the *Income Tax Assessment Act 1936* to reduce the cost of the car.

20-110 The termination value of a car disposed of in the 1996-97 income year or an earlier income year

If:

- (a) in the 1997-98 income year or a later income year you dispose of a car that was leased to you or your associate; and
- (b) the lessor disposed of the car in the 1996-97 income year or an earlier income year;

the car's termination value (in respect of the disposal by the lessor) for the purposes of section 20-120 of the *Income Tax Assessment Act 1997* is the consideration receivable by the lessor for the

Section 20-115

disposal (worked out under former section 59 of the *Income Tax Assessment Act 1936*).

Note: Section 20-120 of the *Income Tax Assessment Act 1997* is about a limit on the amount to be included in your assessable income because of your disposal of the car.

20-115 Reducing the assessable amount for the disposal of a car in the 1997-98 income year or later if there has been an earlier disposal of it

If:

- (a) section 20-110 or 20-125 of the *Income Tax Assessment Act 1997* includes an amount in your assessable income for the 1997-98 income year or a later income year because of your disposal of a car; and
- (b) in the 1996-97 income year or an earlier income year (but after the lease period began) there was an earlier disposal of the car, or an interest in it, by you or another entity in a situation described in the following table;

each limit on the amount to be included in your assessable income is reduced as follows:

Reducing each limit on the amount to be included

| Item | In this situation: | reduce each limit by: |
|------|--|-----------------------|
| 1 | Former section 26AAB of the <i>Income Tax Assessment Act 1936</i> included an amount in your assessable income in respect of such an earlier disposal by you | that amount |
| 2 | Former section 26AAB of the <i>Income Tax Assessment Act 1936</i> included an amount in another entity's assessable income in respect of such an earlier disposal by the other entity | that amount |
| 3 | Former section 26AAB of the <i>Income Tax Assessment Act 1936</i> would have included an amount in your assessable income in respect of such an earlier disposal by you but for the operation of former subsection 26AAB(12) of that Act | that amount |
| 4 | Former section 26AAB of the <i>Income Tax Assessment Act 1936</i> would have included an amount in another entity's assessable income in respect of such an earlier disposal by the other entity | that amount |

Reducing each limit on the amount to be included

| Item | In this situation: | reduce each limit by: |
|-------------|--|------------------------------|
| | but for the operation of former subsection 26AAB(12) of that Act | |
| 5 | Former subsection 26AAB(9) of the <i>Income Tax Assessment Act 1936</i> reduced the amount to be included in your assessable income in respect of such an earlier disposal by you | the amount of the reduction |
| 6 | Former subsection 26AAB(9) of the <i>Income Tax Assessment Act 1936</i> reduced the amount to be included in another entity's assessable income in respect of such an earlier disposal by the other entity | the amount of the reduction |

Part 2-5—Rules about deductibility of particular kinds of amounts

Division 25—Some amounts you can deduct

Table of sections

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| 25-1 | Application of Division 25 of the <i>Income Tax Assessment Act 1997</i> |
| 25-40 | Application of section 25-40 of the <i>Income Tax Assessment Act 1997</i> |
| 25-45 | Application of section 25-45 of the <i>Income Tax Assessment Act 1997</i> |
| 25-50 | Application of section 25-90 of the <i>Income Tax Assessment Act 1997</i> |
| 25-65 | Local government election expenses |

25-1 Application of Division 25 of the *Income Tax Assessment Act 1997*

Division 25 (Some amounts you can deduct) of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years, except as provided by this Division.

25-40 Application of section 25-40 of the *Income Tax Assessment Act 1997*

Section 25-40 (Loss from profit-making undertaking or plan) of the *Income Tax Assessment Act 1997* applies to a loss arising in the 1997-98 income year or a later income year, even if the undertaking or plan was entered into, or began to be carried on or carried out, before the 1997-98 income year.

25-45 Application of section 25-45 of the *Income Tax Assessment Act 1997*

Section 25-45 (which is about deductions for losses by theft etc.) of the *Income Tax Assessment Act 1997* applies to a loss discovered in the 1997-98 income year or a later income year.

25-50 Application of section 25-90 of the *Income Tax Assessment Act 1997*

Section 25-90 (which is about deductions relating to foreign exempt income) of the *Income Tax Assessment Act 1997* applies to an amount incurred in an income year that begins on or after 1 July 2001.

25-65 Local government election expenses

Section 25-65 of the *Income Tax Assessment Act 1997* applies to the 2006-07 income year and later income years, in relation to expenditure whenever incurred. In relation to expenditure incurred in the 2005-06 income year or an earlier income year, it applies as if:

- (a) it had applied to all income years before the 2006-07 income year; and
- (b) an allowable deduction for the expenditure under section 74A of the *Income Tax Assessment Act 1936* had been a deduction for the expenditure under section 25-65 of the *Income Tax Assessment Act 1997*.

Note: This section also has the result that, to the extent that a recoupment of the expenditure has been included in your assessable income by former subsections 74A(4) and (5) of the *Income Tax Assessment Act 1936*, the expenditure will be disregarded in applying the \$1,000 per election deduction limit: see subsection 25-65(2) of the *Income Tax Assessment Act 1997*.

Section 26-1

Division 26—Some amounts you cannot deduct, or cannot deduct in full

Table of sections

| | |
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| 26-1 | Application of Division 26 of the <i>Income Tax Assessment Act 1997</i> |
| 26-30 | Application of section 26-30 of the <i>Income Tax Assessment Act 1997</i> |

26-1 Application of Division 26 of the *Income Tax Assessment Act 1997*

Division 26 of the *Income Tax Assessment Act 1997* (which prevents or limits deductions) applies to assessments for the 1997-98 income year and later income years, except as provided by this Division.

26-30 Application of section 26-30 of the *Income Tax Assessment Act 1997*

Section 26-30 (which denies a deduction for relative's travel expenses) of the *Income Tax Assessment Act 1997* applies to travel on or after 1 July 1997.

Division 30—Gifts or contributions

Table of sections

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| 30-1 | Application of Division 30 of the <i>Income Tax Assessment Act 1997</i> |
| 30-5 | Keeping in force old declarations and instruments |
| 30-25 | Keeping in force the old gifts registers |
| 30-102 | Fund, authorities and institutions taken to be endorsed |

30-1 Application of Division 30 of the *Income Tax Assessment Act 1997*

Division 30 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

30-5 Keeping in force old declarations and instruments

- (1) This section applies to a declaration or other instrument (described in column 2 of an item in the table in this section) that is in force at the end of 30 June 1997 for the purposes of the provision of the *Income Tax Assessment Act 1936* referred to in that column of the item.
- (2) On and after 1 July 1997 the declaration or other instrument also has effect as if it were an approval or declaration (described in column 3 of the same item) made for the purposes of the provision of the *Income Tax Assessment Act 1997* referred to in that column of the item.

Anything done on or after 1 July 1997 in relation to an approval or declaration described in column 3 of an item in the table also has effect as if it had been done in relation to the declaration or other instrument described in column 2 of that item.

On and after 1 July 1997

| Item | This approval, declaration or other instrument: | also has effect as if it were: |
|------|--|---|
| 1 | An instrument certifying an institution to be a technical and further education institution for the purposes of item 2.1.7 of table 2 in | A declaration that the institution is a technical and further education institution for the |

Chapter 2 Liability rules of general application

Part 2-5 Rules about deductibility of particular kinds of amounts

Division 30 Gifts or contributions

Section 30-25

On and after 1 July 1997

| Item | This approval, declaration or other instrument: | also has effect as if it were: |
|-------------|---|---|
| | subsection 78(4) | purposes of item 2.1.7 of the table in subsection 30-25(1) |
| 2 | An instrument certifying that purposes of an institution covered by item 2.1.7 of table 2 in subsection 78(4), or of the college covered by item 2.2.14 of that table, relate exclusively to tertiary education | A declaration (for the purposes of section 30-30) that those purposes of the institution, or of the college, relate solely to tertiary education |
| 3 | An instrument approving an organisation, or a branch or section of an organisation, to be a marriage guidance organisation for the purposes of item 8.1.1 of table 8 in subsection 78(4) | A declaration that the organisation, or branch or section of the organisation, is a marriage guidance organisation for the purposes of item 8.1.1 of the table in subsection 30-70(1) |
| 4 | A declaration that a public fund is an eligible fund for the purposes of item 9.1.1 of table 9 in subsection 78(4) | A declaration that the public fund is a relief fund for the purposes of item 9.1.1 of the table in subsection 30-80(1) |
| 5 | An instrument approving a person as a valuer under subsection 78(18) | An approval of the person as a valuer under section 30-210 |
| 6 | An instrument approving an organisation as an approved organisation for the purposes of subsection 78(21) | A declaration that the organisation is an approved organisation for the purposes of section 30-85 |
| 7 | An instrument certifying a country to be a developing country for the purposes of subsection 78(21) | A declaration that the country is a developing country for the purposes of section 30-85 |

30-25 Keeping in force the old gifts registers

- (1) On and after 1 July 1997, the register described in column 2 of an item in the table in this section (as the register existed at the end of 30 June 1997) also has effect as if it were the register described in column 3 of that item.

Column 2 refers to provisions of the *Income Tax Assessment Act 1936*. Column 3 refers to provisions of the *Income Tax Assessment Act 1997*.

- (2) Anything done on or after 1 July 1997 in relation to the register described in column 3 of an item in the table also has effect as if it had been done in relation to the register described in column 2 of that item.

| On and after 1 July 1997 | | |
|---------------------------------|---|---|
| Item | This register: | also has effect as if it were: |
| 1 | The register of cultural organisations kept under section 78AA | The register of cultural organisations kept under Subdivision 30-F |
| 2 | The register of environmental organisations kept under section 78AB | The register of environmental organisations kept under Subdivision 30-E |

30-102 Fund, authorities and institutions taken to be endorsed

- (1) The authorities and institutions listed in this table are taken to have been endorsed by the Commissioner of Taxation for the purposes of item 12A.1.1 of the table in section 30-102 of the *Income Tax Assessment Act 1997* under paragraph 30-120(a) of that Act.

| Item | Fund, authority or institution | Established under legislation of the following State or Territory |
|-------------|--|--|
| 1 | State Emergency Service | New South Wales |
| 2 | Country Fire Authority | Victoria |
| 3 | Victoria State Emergency Service | Victoria |
| 4 | Queensland Fire and Rescue Service | Queensland |
| 5 | State Emergency Service | Queensland |
| 6 | Fire and Emergency Services Authority of Western Australia | Western Australia |
| 7 | State Emergency Service South Australia | South Australia |
| 8 | Tasmania Fire Service | Tasmania |
| 9 | State Emergency Service | Tasmania |
| 10 | ACT Rural Fire Service | Australian Capital Territory |
| 11 | ACT State Emergency Service | Australian Capital Territory |

Chapter 2 Liability rules of general application

Part 2-5 Rules about deductibility of particular kinds of amounts

Division 30 Gifts or contributions

Section 30-102

- (2) The fund listed in this table is taken to have been endorsed by the Commissioner of Taxation for the purposes of item 12A.1.2 of section 30-102 of the *Income Tax Assessment Act 1997* under paragraph 30-120(b) of that Act.

| Item | Fund, authority or institution | Established under legislation of the following State or Territory |
|-------------|---------------------------------------|--|
| 1 | CFA & Brigades Donations Fund | Victoria |

- (3) The funds, authorities and institutions referred to in subsections (1) and (2) are taken to have been endorsed on the day on which Schedule 7 to the *Tax Laws Amendment (2010 Measures No. 4) Act 2010* commences.

Division 32—Entertainment expenses

Table of sections

32-1 Application of Division 32 of the *Income Tax Assessment Act 1997*

32-1 Application of Division 32 of the *Income Tax Assessment Act 1997*

Division 32 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

Division 34—Non-compulsory uniforms

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| 34-1 | Application of Division 34 of the <i>Income Tax Assessment Act 1997</i> |
| 34-5 | Things done under former section 51AL of the <i>Income Tax Assessment Act 1936</i> |

34-1 Application of Division 34 of the *Income Tax Assessment Act 1997*

Division 34 (Non-compulsory uniforms) of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

34-5 Things done under former section 51AL of the *Income Tax Assessment Act 1936*

- (1) From 1 July 1997, anything done under or in connection with a provision of former section 51AL of the *Income Tax Assessment Act 1936* has effect as if it had been done under or in connection with the corresponding provision of Division 34 of the *Income Tax Assessment Act 1997*.
- (2) From 1 July 1997, a thing described in column 2 of an item in the table (as that thing existed at the end of 30 June 1997) has effect as if it were the thing described in column 3 of that item.

Column 2 refers to provisions of the *Income Tax Assessment Act 1936*. Column 3 refers to provisions of the *Income Tax Assessment Act 1997*.

As from 1 July 1997

| Item | This: | has effect as if it were this: |
|-------------|---|---|
| 1 | The Register of Approved Occupational Clothing that former subsection 51AL(5) requires the Industry Secretary to keep | The Register of Approved Occupational Clothing that section 34-45 requires the Industry Secretary to keep |
| 2 | Approved occupational clothing guidelines | Approved occupational clothing |

As from 1 July 1997

| Item | This: | has effect as if it were this: |
|-------------|---|--|
| | in force under former subsection 51AL(7) | guidelines made under section 34-55 |
| 3 | A delegation by the Industry Secretary under former subsection 51AL(23) | A delegation by the Industry Secretary under section 34-65 |

(3) Subsection (2) does not limit the generality of subsection (1).

Division 35—Deferral of losses from non-commercial business activities

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| 35-10 | Deductions for certain new business investment |
| 35-20 | Application of Commissioner's decisions |

35-10 Deductions for certain new business investment

The rule in subsection 35-10(2) of the *Income Tax Assessment Act 1997* does not apply for an income year to a business activity if:

- (a) apart from that rule, you could otherwise deduct amounts under Division 41 of that Act for that income year; and
- (b) the total of those amounts is more than or equal to the excess worked out under that subsection for the business activity for the income year.

35-20 Application of Commissioner's decisions

A decision of the Commissioner made under section 35-55 of the *Income Tax Assessment Act 1997*:

- (a) before the commencement of Schedule 2 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009*; and
- (b) for one or more income years;

continues to have effect, after that commencement, for those income years despite the amendments made by that Schedule.

Division 36—Tax losses of earlier income years

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| 36-100 | Tax losses for the 1997-98 and later income years |
| 36-105 | Tax losses for 1989-90 to 1996-97 income years |
| 36-110 | Tax losses for 1957-58 to 1988-89 income years |

36-100 Tax losses for the 1997-98 and later income years

To work out your **tax loss** (if any) for the 1997-98 income year or a later income year, apply the provisions of the *Income Tax Assessment Act 1997* about tax losses.

Start at Division 36 of that Act.

36-105 Tax losses for 1989-90 to 1996-97 income years

- (1) If you incurred a loss for the purposes of section 79E (General domestic losses of 1989-90 to 1996-97 years of income) of the *Income Tax Assessment Act 1936* in any of the 1989-90 to 1996-97 income years, the loss is your **tax loss** for that income year, which is called a **loss year**.
- (2) You can deduct the tax loss in the 1997-98 or a later income year only to the extent that it has not already been deducted.

36-110 Tax losses for 1957-58 to 1988-89 income years

- (1) If you incurred a loss for the purposes of section 80AA (Primary production losses of pre-1990 years of income) of the *Income Tax Assessment Act 1936* in any of the 1957-58 to 1988-89 income years, the loss is your **tax loss** for that income year, which is called a **loss year**. The loss is also called a **primary production loss**.
- (2) You can deduct the tax loss in the 1997-98 or a later income year only to the extent that it has not already been deducted.
- (3) You deduct your primary production losses (in the order in which you incurred them) before any other tax losses of the same or any other loss year, except film losses.

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- (4) A company cannot transfer any amount of a primary production loss for the 1983-84 or an earlier income year under Subdivision 170-A (Transfer of tax losses within wholly-owned groups of companies) of the *Income Tax Assessment Act 1997*.
- (5) For the purposes of determining how much (if any) of a primary production loss you can deduct in the 1997-98 or a later income year, subsections 80AA(9), (10) and (11) of the *Income Tax Assessment Act 1936* apply in the same way as they apply for the purposes they refer to.

Part 2-10—Capital allowances: rules about deductibility of capital expenditure

Division 40—Capital allowances

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Subdivision 40-B—Core provisions

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Chapter 2 Liability rules of general application

Part 2-10 Capital allowances: rules about deductibility of capital expenditure

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40-10 Plant

- (1) This section applies to you if:
- (a) you have deducted or can deduct amounts for plant under Division 42 of the *Income Tax Assessment Act 1997* (the **former Act**) as in force just before it was amended by the *New Business Tax System (Capital Allowances) Act 2001* and the *New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001*, or you could have deducted amounts under that Division for the plant if you had used it, or had it installed ready for use, for the purpose of producing assessable income before that day; and
 - (b) either:
 - (i) you hold the plant at 1 July 2001; or
 - (ii) subparagraph (i) does not apply and you were the owner or quasi-owner of the plant at the end of 30 June 2001.
- (2) Division 40 of the *Income Tax Assessment Act 1997* as amended by the *New Business Tax System (Capital Allowances) Act 2001* and the *New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001* (the **new Act**) applies to the plant on this basis:
- (a) the amount that was your undeducted cost at the end of 30 June 2001 becomes the plant's opening adjustable value; and

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- (b) you use the same cost, effective life and method that you were using under Division 42 of the former Act, or that you would have used if you had used the plant for the purpose of producing assessable income at the end of 30 June 2001; and
- (c) if you excluded an amount from your assessable income under section 42-290 of the former Act for a balancing adjustment event that occurred on or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999—the cost of the plant, and its opening adjustable value, are reduced by that amount; and
- (d) if subparagraph (1)(b)(ii) applies to you—you are treated as the holder of the plant while you are its holder or while the circumstances under which you would have been the owner or quasi-owner of the plant under the former Act continue.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) If you were using a rate for the plant under subsection 42-160(1) or 42-165(1) of the former Act just before 1 July 2001, or would have been using such a rate if you had used it, or had it installed ready for use, for the purpose of producing assessable income before that day, Division 40 of the new Act applies to the plant on this basis:
 - (a) for the diminishing value method—replace the component in the formula in subsection 40-70(1) of the new Act that includes the plant's effective life with the rate you were using; and
 - (b) for the prime cost method:
 - (i) replace the component in the formula in subsection 40-75(1) of the new Act that includes the plant's effective life with the rate you were using; and
 - (ii) increase the plant's cost under Division 42 of the former Act by any amounts included in the second element of the plant's cost after 30 June 2001.

Note 1: Recalculating effective life will have no practical effect for an entity to whom subsection (3) applies because the component in the relevant formula that relies on effective life has been replaced.

Note 2: Small business entities can choose to work out the decline in value of their depreciating assets under Division 328.

40-12 Plant acquired after 30 June 2001

- (1) This section applies to you if:
 - (a) you entered into a contract to acquire an item of plant before 1 July 2001 and you acquired it after 30 June 2001; or
 - (b) you started to construct an item of plant before 1 July 2001 and you complete its construction after 30 June 2001.
- (2) Division 40 of the new Act applies to the plant.
- (3) If you entered into the contract, or started to construct the plant, at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999, you replace the component in the formula in subsection 40-70(1) or 40-75(1) of the new Act that includes the plant's effective life with the rate you would have been using if you had acquired it, or completed its construction, before 1 July 2001 and had used it, or had it installed ready for use, for the purpose of producing assessable income before that day.

40-13 Accelerated depreciation for split or merged plant

- (1) This section applies to a depreciating asset that is plant if:
 - (a) you entered into a contract to acquire the plant, you otherwise acquired it or you started to construct it before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; and
 - (b) you held it at the end of 30 June 2001; and
 - (c) on or after 1 July 2001:
 - (i) the plant is split into 2 or more depreciating assets; or
 - (ii) the plant is merged into another depreciating asset.
- (2) For a case where the plant is split into 2 or more depreciating assets, the new Act applies as if you had acquired the assets into which it is split before the time mentioned in paragraph (1)(a) while you continue to hold those assets.
- (3) For a case where the plant is merged into another depreciating asset, section 40-125 of the new Act does not apply to the asset, or to your interest in the asset, into which it is merged while you continue to hold it.

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40-15 Recalculating effective life

You cannot recalculate the effective life of a depreciating asset for which:

- (a) you were using, just before 1 July 2001, a rate under subsection 42-160(1) or 42-165(1) of the former Act; or
- (b) you would have been using such a rate if you had used the asset, or had it installed ready for use, for the purpose of producing assessable income before that day.

40-20 IRUs

- (1) This section applies to you if:
 - (a) you have deducted or can deduct an amount for an IRU under Division 44 of the former Act or you would have been able to deduct an amount for it under that Division if you had used it for the purpose of producing assessable income before 1 July 2001; and
 - (b) you hold the IRU at 1 July 2001.
- (2) Division 40 of the new Act applies to the IRU on this basis:
 - (a) you use the cost, effective life and method you were using under Division 44 of the former Act or that you would have used if you had used the IRU for the purpose of producing assessable income before 1 July 2001; and
 - (b) the amount that was your undeducted cost of the IRU at the end of 30 June 2001 becomes the IRU's opening adjustable value.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-25 Software

- (1) Despite its repeal by this Act, Division 46 of the former Act continues to apply to expenditure on software that you incurred and that was in a software pool under that Division at the end of 30 June 2001.

- (2) For a unit of software for which you were deducting amounts under Subdivision 46-B of the former Act or for which you could have deducted amounts under that Subdivision if you had used the software for the purpose of producing assessable income before 1 July 2001, Division 40 of the new Act applies to the unit on this basis:
- (a) its cost is the amount of expenditure you incurred on the unit; and
 - (b) you must use the prime cost method; and
 - (c) its opening adjustable value at 1 July 2001 is its undeducted cost at the end of 30 June 2001; and
 - (d) you must use the same effective life you were using under Subdivision 46-B of the former Act or that you would have used if you had used the software for the purpose of producing assessable income before 1 July 2001.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-30 Spectrum licences

- (1) This section applies to you if you have deducted or can deduct an amount under Division 380 of the former Act for expenditure incurred in obtaining a spectrum licence on or before 30 June 2001 or you could have deducted an amount under that Division for that expenditure if you had used the licence for the purpose of producing assessable income on or before that day.
- (2) Division 40 of the new Act applies to the spectrum licence on this basis:
- (a) its cost is your expenditure incurred in obtaining the licence; and
 - (b) its opening adjustable value at 1 July 2001 is the amount of unrecouped expenditure for the licence at the end of 30 June 2001; and
 - (c) its effective life is the same as it had under the former Act; and
 - (d) you must use the prime cost method.

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Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-33 Datacasting transmitter licences

- (1) This section applies to you if you hold a datacasting transmitter licence at 1 July 2001.
- (2) Division 40 of the new Act applies to the licence on this basis:
 - (a) its cost is your expenditure incurred in obtaining the licence; and
 - (b) its opening adjustable value at 1 July 2001 is its cost; and
 - (c) its effective life is 15 years less any period that has elapsed from the day the licence was issued until 1 July 2001; and
 - (d) you must use the prime cost method.

40-35 Mining unrecouped expenditure

- (1) This section applies to you if you have an amount of unrecouped expenditure under Division 330 of the former Act at the end of 30 June 2001.

Note: Subsection (6) also applies to a case where you did not have unrecouped expenditure at 30 June 2001: see subsection (8).
- (2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the *notional asset*) you hold on this basis:
 - (a) it has an opening adjustable value at 1 July 2001 equal to the amount of unrecouped expenditure reduced by any deductions allowable under section 330-80 of the former Act for your income year ending on 30 June 2001; and
 - (b) it has a cost equal to the total amount of allowable capital expenditure under the former Act; and
 - (c) in applying the formula in section 40-75 of the new Act for the income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (d) it is taken to have been used for a taxable purpose at the start of 1 July 2001; and
 - (e) it has a remaining effective life worked out under subsection (3); and

(f) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) The remaining effective life of the notional asset at the start of an income year (***present income year***) for which you are working out its decline in value is:
- (a) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible mining operations other than in the course of petroleum mining is the lesser of these:
 - (i) the number equal to the difference between 10 and the number of income years (which may be zero) before the present income year for which an amount in respect of expenditure was deductible;
 - (ii) the number equal to the number of whole years in the estimated life of the mine, or proposed mine, on the mining property, or, if there is more than one such mine, of the mine that has the longest estimated life, as at the end of the present income year; or
 - (b) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible mining operations in the course of petroleum mining is the lesser of these:
 - (i) the number equal to the difference between 10 and the number of income years (which may be zero) before the present income year for which an amount in respect of expenditure was deductible;
 - (ii) the number equal to the number of whole years in the estimated life of the petroleum field or proposed petroleum field as at the end of the present income year; or
 - (c) for an amount of unrecouped expenditure in respect of expenditure incurred in carrying on eligible quarrying operations the lesser of these:
 - (i) the number equal to the difference between 20 and the number of income years (which may be zero) before the

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present income year for which an amount in respect of expenditure was deductible; and

- (ii) the number equal to the number of whole years in the estimated life of the quarry, or proposed quarry, on the quarrying property, or, if there is more than one such quarry, of the quarry that has the longest estimated life, as at the end of the present income year.

- (4) Sections 40-95 and 40-110 of the new Act do not apply to the unrecouped expenditure.

- (5) If either:

- (a) both of these subparagraphs apply:

- (i) any of the unrecouped expenditure referred to in subsection (1) relates to a depreciating asset (the *real asset*);
 - (ii) in an income year (the *cessation year*) you stop holding the real asset, or stop using it for a taxable purpose; or

- (b) both of these subparagraphs apply:

- (i) any of the unrecouped expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the *other property*);
 - (ii) in the cessation year, the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;

there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the real asset or the other property and has not been taken into account in working out the amount of a balancing adjustment in relation to the real asset.

- (6) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:

- (a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or

- (b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or
- (c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or
- (d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or
- (e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

- (7) If section 40-115 of the new Act applies, or section 40-125 of the new Act would, apart from this subsection, apply, to the real asset referred to in subsection (5) of this section, then:
 - (a) if the real asset is split into 2 or more depreciating assets and you stop holding, or stop using for a taxable purpose, one or more but not all of the assets into which it is split—subsection (5) does not apply to that asset or assets into which it is split that you continue to hold and continue to use for a taxable purpose; or
 - (b) if the real asset is merged into another depreciating asset—section 40-125 does not apply to the asset into which it is merged while you continue to hold it.
- (8) Subsection (6) also applies to a case where:
 - (a) you did not have an amount of unrecouped expenditure under Division 330 of the former Act at the end of 30 June 2001, but you had an amount of unrecouped expenditure under that Division before 30 June 2001; and
 - (b) that expenditure relates to property that is not a depreciating asset (the *other property*); and
 - (c) after that day, the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose.

40-37 Post-30 June 2001 mining expenditure

- (1) This section applies to you if:
- (a) you incur expenditure after 30 June 2001 under a contract entered into before that day; and
 - (b) the expenditure would have been allowable capital expenditure, and you could have deducted an amount for it, under Division 330 of the former Act if you had incurred it before 1 July 2001; and
 - (c) the expenditure does not relate to a depreciating asset.
- (2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the **notional asset**) you hold on this basis:
- (a) it has a cost at the time you incur the expenditure equal to the amount of the expenditure; and
 - (b) in applying the formula in section 40-75 of the new Act for the income year in which you incur the expenditure—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (c) it is taken to be used for a taxable purpose when you incur the expenditure; and
 - (d) it has an effective life worked out under subsection (3); and
 - (e) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) The effective life of the notional asset at the start of an income year (**present income year**) for which you are working out its decline in value is:
- (a) for an amount of expenditure incurred in carrying on eligible mining operations other than in the course of petroleum mining—the lesser of 10 and the number equal to the number of whole years in the estimated life of the mine, or proposed mine, on the mining property, or, if there is more than one such mine, of the mine that has the longest estimated life, as at the end of the present income year; or
 - (b) for an amount of expenditure incurred in carrying on eligible mining operations in the course of petroleum mining—the lesser of 10 and the number equal to the number of whole

- years in the estimated life of the petroleum field or proposed petroleum field as at the end of the present income year; or
- (c) for an amount of expenditure incurred in carrying on eligible quarrying operations—the lesser of 20 and the number equal to the number of whole years in the estimated life of the quarry, or proposed quarry, on the quarrying property, or, if there is more than one such quarry, of the quarry that has the longest estimated life, as at the end of the present income year.
- (4) Sections 40-95 and 40-110 of the new Act do not apply to the expenditure.
- (5) If both of these paragraphs apply:
- (a) any of the expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the **other property**);
 - (b) in an income year (the **cessation year**), the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;
- there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the other property.
- (6) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:
- (a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or
 - (b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or
 - (c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or
 - (d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or

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- (e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

40-38 Mining cash bidding payments

- (1) This section applies to expenditure you incur, under a contract entered into before 30 June 2001, if:
 - (a) the expenditure would have been a mining cash bidding payment under Subdivision 330-D of the former Act; and
 - (b) either:
 - (i) you incurred the expenditure before that day but the grant of the mining authority concerned occurred on a day (the **start day**) after 30 June 2001; or
 - (ii) the grant of the mining authority concerned occurred before 30 June 2001 but you incurred the expenditure on a day (also the **start day**) after 30 June 2001.
 - (2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the **notional asset**) you hold on this basis:
 - (a) it has a cost at the start day equal to the amount of the expenditure; and
 - (b) in applying the formula in section 40-75 of the new Act for the income year in which the start day occurs—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (c) it is taken to be used for a taxable purpose on the start day; and
 - (d) it has an effective life worked out under subsection (3); and
 - (e) you must use the prime cost method.
- Note: There are special rules for entities that have substituted accounting periods: see section 40-65.
- (3) The effective life of the notional asset at the start of an income year (**present income year**) for which you are working out its decline in value is:
 - (a) for an amount of expenditure incurred in carrying on eligible mining operations other than in the course of petroleum

- mining—the lesser of 10 and the number equal to the number of whole years in the estimated life of the mine, or proposed mine, on the mining property, or, if there is more than one such mine, of the mine that has the longest estimated life, as at the end of the present income year; or
- (b) for an amount of expenditure incurred in carrying on eligible mining operations in the course of petroleum mining—the lesser of 10 and the number equal to the number of whole years in the estimated life of the petroleum field or proposed petroleum field as at the end of the present income year.
- (4) Sections 40-95 and 40-110 of the new Act do not apply to the expenditure.
- (5) If both of these paragraphs apply:
- (a) any of the expenditure referred to in subsection (1) relates to a depreciating asset (the *real asset*);
- (b) in an income year (the *cessation year*) you stop holding the real asset, or stop using it for a taxable purpose;
- there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the real asset and has not been taken into account in working out the amount of a balancing adjustment in relation to the real asset.
- (6) If section 40-115 of the new Act applies, or section 40-125 of the new Act would, apart from this subsection, apply, to the real asset referred to in subsection (5) of this section, then:
- (a) if the real asset is split into 2 or more depreciating assets and you stop holding, or stop using for a taxable purpose, one or more but not all of the assets into which it is split—subsection (5) does not apply to that asset or assets into which it is split that you continue to hold and continue to use for a taxable purpose; or
- (b) if the real asset is merged into another depreciating asset—section 40-125 does not apply to the asset into which it is merged while you continue to hold it.

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40-40 Transport expenditure

- (1) This section applies to you if you have deducted or can deduct an amount for transport capital expenditure in respect of a transport facility under Subdivision 330-H of the former Act, or you could have deducted an amount for the expenditure under that Subdivision if you had started to use the facility for a qualifying purpose before 1 July 2001.
- (2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the **notional asset**) you hold on this basis:
 - (a) it has an opening adjustable value at 1 July 2001 equal to the total amount of transport capital expenditure under the former Act less the amounts you have deducted or can deduct for that expenditure under the former Act; and
 - (b) it has a cost equal to the total amount of transport capital expenditure under the former Act; and
 - (c) in applying the formula in section 40-75 of the new Act for your income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (ca) it is taken to have been used for a taxable purpose at the start of 1 July 2001; and
 - (d) it has an effective life at the start of 1 July 2001 equal to the years remaining for the expenditure under section 330-395 of the former Act; and
 - (e) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) Sections 40-95 and 40-110 of the new Act do not apply to the expenditure.
- (4) If either:
 - (a) both of these subparagraphs apply:
 - (i) any of the transport capital expenditure referred to in subsection (1) relates to a depreciating asset (the **real asset**);
 - (ii) in an income year (the **cessation year**) you stop holding the real asset, or stop using it for a taxable purpose; or

(b) both of these subparagraphs apply:

- (i) any of the transport capital expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the *other property*);
- (ii) in the cessation year, the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;

there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the real asset or the other property and has not been taken into account in working out the amount of a balancing adjustment in relation to the real asset.

(5) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:

- (a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or
- (b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or
- (c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or
- (d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or
- (e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

(6) If section 40-115 of the new Act applies, or section 40-125 of the new Act would, apart from this subsection, apply, to the real asset referred to in subsection (4) of this section, then:

- (a) if the real asset is split into 2 or more depreciating assets and you stop holding, or stop using for a taxable purpose, one or

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more but not all of the assets into which it is split—
subsection (4) does not apply to that asset or assets into
which it is split that you continue to hold and continue to use
for a taxable purpose; or

- (b) if the real asset is merged into another depreciating asset—
section 40-125 does not apply to the asset into which it is
merged while you continue to hold it.

40-43 Post-30 June 2001 transport expenditure

- (1) This section applies to you if:
 - (a) you incur expenditure after 30 June 2001 under a contract entered into before that day; and
 - (b) the expenditure would have been transport capital expenditure in respect of a transport facility, and you could have deducted an amount for it, under Subdivision 330-H of the former Act if you had incurred it before 1 July 2001 and you had started to use the facility for a qualifying purpose before 1 July 2001; and
 - (c) the expenditure does not relate to a depreciating asset.
- (2) Division 40 of the new Act applies to the expenditure as if it were a depreciating asset (the *notional asset*) you hold on this basis:
 - (a) it has a cost at the time you incur the expenditure equal to the amount of the expenditure; and
 - (b) in applying the formula in section 40-75 of the new Act for your income year in which you incur the expenditure—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (c) it is taken to have been used for a taxable purpose when you incur the expenditure; and
 - (d) it has an effective life when you incur the expenditure equal to the years remaining for the expenditure under section 330-395 of the former Act; and
 - (e) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) Sections 40-95 and 40-110 of the new Act do not apply to the expenditure.
- (4) If both of these paragraphs apply:
- (a) any of the expenditure referred to in subsection (1) relates to property that is not a depreciating asset (the **other property**);
 - (b) in an income year (the **cessation year**), the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose;
- there is an additional decline in value of the notional asset for the cessation year equal to so much of the notional asset's adjustable value as relates to the other property.
- (5) If the other property is disposed of, lost or destroyed, or you stop using it for a taxable purpose, you must include in your assessable income:
- (a) if the other property is sold for a price specific to that property—that price, less the expenses of the sale (to the extent the expenses are reasonably attributable to selling that particular property); or
 - (b) if the other property is sold with additional property without a specific price being allocated to it—the part of the total sale price, less the reasonably attributable expenses of the sale, that is reasonably attributable to selling the other property; or
 - (c) if the other property is lost or destroyed—the amount or value received or receivable under an insurance policy or otherwise for the loss or destruction; or
 - (d) if you own the other property and you stop using it for a taxable purpose—its market value at that time; or
 - (e) if you do not own the property and you stop using it for a taxable purpose—a reasonable amount.

However, the amount included is reduced to the extent (if any) that it is also included under subsection 40-830(6) of the new Act.

40-44 No additional decline in certain cases

- (1) Despite subsections 40-35(5), 40-38(5) and 40-40(4), there is no additional decline in the value of the notional asset referred to in those subsections if:

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- (a) apart from this section, subsection 40-35(5), 40-38(5) or 40-40(4) would apply because the real asset referred to in that subsection is disposed of; and
 - (b) roll-over relief is chosen under subsection 40-340(3) of the *Income Tax Assessment Act 1997* for the disposal.
- (2) Instead, the cost to the transferee of that real asset is the sum of:
 - (a) the adjustable value of that real asset; and
 - (b) the adjustable value of the notional asset referred to in subsection 40-35(5), 40-38(5) or 40-40(4);just before the disposal.

40-45 Intellectual property

- (1) This section applies to you if:
 - (a) at the end of 30 June 2001, you hold an item of intellectual property referred to in the table in section 373-35 of the former Act; and
 - (b) you have deducted or can deduct an amount for expenditure on the asset under Division 373 of the former Act or you could have deducted an amount under that Division for that expenditure if you had used the asset for the purpose of producing assessable income on or before that day.
- (2) Division 40 of the new Act applies to the item on this basis:
 - (a) it has an opening adjustable value at 1 July 2001 equal to its unrecouped expenditure under the former Act at the end of 30 June 2001; and
 - (b) its cost is its original unrecouped expenditure under the former Act; and
 - (c) its effective life is the same as it had under the former Act; and
 - (d) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-47 IRUs

- (1) Division 40 of the new Act does not apply to an IRU to the extent to which expenditure on the IRU was incurred at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999 (the **IRU time**).
- (2) Division 40 of the new Act does not apply to an IRU over an international telecommunications submarine cable system if the system had been used for telecommunications purposes at or before the IRU time.

40-50 Forestry roads and timber mill buildings

- (1) This section applies to you if:
 - (a) you have deducted or can deduct an amount under Subdivision 387-G of the former Act for an amount (the **qualifying amount**) of expenditure on a forestry road or timber mill building or could have deducted an amount under that Subdivision if you had used the road or building for the purpose of producing assessable income; and
 - (b) you hold the road or building at the end of 30 June 2001.
- (2) Division 40 of the new Act applies to the asset on this basis:
 - (a) it has an opening adjustable value at 1 July 2001 equal to the qualifying amount less any amounts you have deducted or can deduct for it under the former Act; and
 - (b) in applying the formula in section 40-75 of the new Act for your income year in which 1 July 2001 occurs—you use the adjustments in subsection 40-75(3) of the new Act; and
 - (c) its cost is the qualifying amount; and
 - (d) it has an effective life equal to the remaining life you last estimated for it under the former Act; and
 - (e) you can recalculate its effective life if you conclude that your estimate is no longer accurate (except that the effective life cannot exceed 25 years); and
 - (f) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-55 Environmental impact assessment

- (1) This section applies to you if you have deducted or can deduct an amount under Subdivision 400-A of the former Act for an amount (the *qualifying amount*) of expenditure on or before 30 June 2001 on evaluating the impact on the environment of a project under Subdivision 400-A of the former Act.
- (2) Division 40 of the new Act applies to the qualifying amount as if it were a depreciating asset on this basis:
 - (a) it has an opening adjustable value at 1 July 2001 equal to the qualifying amount less any amounts you have deducted or can deduct for it under the former Act or the *Income Tax Assessment Act 1936*; and
 - (b) it has a cost equal to the qualifying amount; and
 - (c) it has an effective life equal to the number of years for which you could deduct for the qualifying amount worked out under subsection 400-15(3) of the former Act; and
 - (d) you must use the prime cost method.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-60 Pooling under Subdivision 42-L of the former Act

- (1) Units of plant that you had allocated to a pool under Subdivision 42-L of the former Act and that were allocated to the pool by 30 June 2001 are treated as a single depreciating asset for the purposes of Division 40 of the new Act.
- (2) Division 40 of the new Act applies to the single depreciating asset on this basis:
 - (a) its cost and opening adjustable value at 1 July 2001 is the closing balance of the pool for your income year in which 30 June 2001 occurred; and
 - (b) you must use the diminishing value method; and
 - (c) in applying the formula in section 40-70 of the new Act for your income year in which 1 July 2001 occurs—it has a base value equal to that opening adjustable value; and

- (d) you replace the component in the formula in subsection 40-70(1) of the new Act that includes an asset's effective life with the pool percentage you were using for the pool; and
- (e) if an item of plant is removed from the pool because a balancing adjustment event occurs for the item or because of subsection (3) of this section, section 40-115 of the new Act applies so that you are treated as having split the single depreciating asset into the removed asset and the remaining assets in the pool; and
- (f) if an amount is included in the second element of the cost of a depreciating asset in the pool, Division 40 of the new Act applies as if that amount had been included in the second element of the cost of the single asset.

Note: There are special rules for entities that have substituted accounting periods: see section 40-65.

- (3) An item of plant in the pool is automatically removed from the pool if you stop using it wholly for taxable purposes (except because a balancing adjustment event occurs for the item).

Note 1: You work out the decline in value of an item removed under this subsection under Subdivision 40-B of the new Act, using the cost for it worked out under section 40-205 of the new Act.

Note 2: There are special rules for entities that have substituted accounting periods: see section 40-65.

40-65 Substituted accounting periods

- (1) This section sets out special rules for the application of Division 40 of the new Act to an entity that:
 - (a) has a substituted accounting period; and
 - (b) because of a provision of this Subdivision, uses Division 40 of the new Act to work out the decline in value of an asset, or of something that is treated as an asset.
- (2) The entity works out its deductions for its income year that includes 1 July 2001 (the *calculation year*) in this way:
 - (a) the entity works out its deductions for that asset under the former Act as from the start of its calculation year up to the

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- end of 30 June 2001 as if that period were an income year;
and
- (b) the entity works out the decline in value of the asset under Division 40 of the new Act from 1 July 2001 until the end of its calculation year as if that period were an income year in accordance with the following provisions of this section.
- (3) The asset's opening adjustable value for the purposes of Division 40 of the new Act is:
- (a) for a unit of plant (including IRUs and expenditure on software that is not pooled)—its undeducted cost at the end of 30 June 2001; or
 - (b) for expenditure on eligible mining or quarrying operations, an item of intellectual property or a spectrum licence—the amount of unrecouped expenditure for the expenditure, item or licence under the former Act at the end of 30 June 2001 reduced, in the case of eligible mining or quarrying operations, by an amount you have deducted or can deduct for the calculation year under the former Act and not yet taken into account in calculating unrecouped expenditure; or
 - (c) for transport capital expenditure—the entity's amount of transport capital expenditure under the former Act at the end of 30 June 2001 less any amounts the entity has deducted or can deduct for it under the former Act up to that time; or
 - (d) for expenditure on a forestry road, a timber mill building, a horticultural plant or a grapevine—the amount of that expenditure less any amounts the entity has deducted or can deduct for it under the former Act up to 30 June 2001; or
 - (e) for expenditure on evaluating the impact on the environment of a project—the amount of that expenditure less any amounts the entity has deducted or can deduct for it under the former Act up to 30 June 2001; or
 - (f) for assets that were pooled under Subdivision 42-M or 42-L of the former Act—the closing balance of the pool at the end of 30 June 2001.
- (4) The asset's base value for applying the formula in section 40-70 of the new Act for the diminishing value method is that opening adjustable value.
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- (5) The decline in value for the assets referred to in this subsection is worked out using the prime cost method without the adjustments in subsection 40-75(3) of the new Act, and the opening adjustable value specified in subsection (3) of this section, in this way:
- (a) for an item of plant for which you were using the prime cost method—using the rules in section 40-10 of this Act; and
 - (b) for an IRU for which you were using the prime cost method—using the rules in section 40-20 of this Act; and
 - (c) for a unit of software for which the entity was deducting amounts under Subdivision 46-B of the former Act—using the rules in subsection 40-25(2) of this Act; and
 - (d) for a spectrum licence—using the rules in section 40-30 of this Act; and
 - (e) for an item of intellectual property—using the rules in section 40-45 of this Act; and
 - (f) for an amount of expenditure on evaluating the impact on the environment of a project—using the rules in section 40-55 of this Act.
- (6) The decline in value for the assets referred to in this subsection is worked out using the prime cost method using the adjustments in subsection 40-75(3) of the new Act, and the opening adjustable value specified in subsection (3) of this section, in this way:
- (a) for an amount of unrecouped expenditure under Division 330 of the former Act—using the rules in section 40-35 of this Act; and
 - (b) for an amount of transport capital expenditure under Division 330 of the former Act—using the rules in section 40-40 of this Act; and
 - (c) for a forestry road or timber mill building—using the rules in section 40-50 of this Act.
- (7) The entity must work out the decline in value of each of the assets for later income years under Division 40 of the new Act.
- (8) The entity must, in working out its deductions under this section for the calculation year for:

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- (a) allowable capital expenditure for which the entity had deducted or can deduct an amount under Subdivision 330-C of the former Act; or
 - (b) transport capital expenditure for which the entity had deducted or can deduct an amount under Subdivision 330-H of the former Act; or
 - (c) a water facility for which the entity had deducted or can deduct an amount under Subdivision 387-B of the former Act; or
 - (d) expenditure on connecting power to land or upgrading the connection for which the entity had deducted or can deduct an amount under Subdivision 387-E of the former Act; or
 - (e) expenditure on a telephone line on or extending to land for which the entity had deducted or can deduct an amount under Subdivision 387-E of the former Act;
- reduce its deductions for each of the periods referred to in paragraphs (2)(a) and (b) by multiplying the deduction for that period by the number of days in that period and dividing the result by 365.
- (9) The entity cannot deduct anything for an asset referred to in this section under the former Act for any part of its calculation year after 30 June 2001.
 - (10) You are entitled to a further deduction for a depreciating asset for which you are using the diminishing value method if the sum of the deductions worked out under paragraphs (2)(a) and (b) (the **sum amount**) is less than the deduction to which you would have been entitled for the asset if the former Act had continued to apply to the whole of the calculation year (the **former Act amount**).
 - (11) You increase the amount worked out under paragraph (2)(b) by the difference between the former Act amount and the sum amount.

40-67 Methods for working out decline in value

- (1) Subsections 40-65(6) and (7) of the *Income Tax Assessment Act 1997* apply with the changes set out in this section if either or both of the following events have happened:

- (a) you have deducted one or more amounts under former section 73BA of the *Income Tax Assessment Act 1936* for an asset;
 - (b) you could have deducted one or more amounts under that former section for the asset if you had not chosen tax offsets under former section 73I of that Act.
- (2) Assume:
- (a) paragraph 40-65(6)(a) of the *Income Tax Assessment Act 1997* included both events set out in subsection (1) of this section; and
 - (b) subsections 40-65(6) and (7) of that Act deal with all 4 kinds of events in a corresponding way to the way that they deal with 2 kinds of events.

40-70 References to amounts deducted and reductions in deductions

- (1) A reference in the new Act to an amount that you have deducted or can deduct for a depreciating asset under Division 40 of the new Act includes a reference to an amount that you have deducted or can deduct for a capital allowance relating to the asset under the former Act or the *Income Tax Assessment Act 1936*.
- (2) An amount you have deducted or can deduct for a water facility under Subdivision 387-B of the former Act or former section 75B of the *Income Tax Assessment Act 1936* is taken to have been deducted under Subdivision 40-F of the new Act.
- (3) A reference in the new Act to a reduction in your deduction for a depreciating asset includes a reference to amounts by which your deductions for the asset were reduced under the former Act or the *Income Tax Assessment Act 1936*.

40-72 New diminishing value method not to apply in some cases

- (1) If:
 - (a) you are taken to start holding a depreciating asset on or after 10 May 2006 because of section 40-115 (about splitting a depreciating asset) or 40-125 (about merging depreciating assets) of the *Income Tax Assessment Act 1997*; and

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- (b) it is reasonable to conclude that you split the asset or merged the assets for the main purpose of ensuring that the decline in value of the asset or assets (after the splitting or merging) would be worked out under section 40-72 of that Act; that Act applies to you as if you had started to hold the split or merged asset or assets before 10 May 2006.
- (2) The *Income Tax Assessment Act 1997* applies to you as if you had started to hold a depreciating asset before 10 May 2006 if:
 - (a) you had actually started to hold it before that day; and
 - (b) on or after 10 May 2006, you stop holding the depreciating asset; and
 - (c) it is reasonable to conclude that you did this for the main purpose of ensuring that the decline in value of the asset would be worked out under section 40-72 of that Act.
- (3) The *Income Tax Assessment Act 1997* applies to you as if you had started to hold a depreciating asset (the ***substituted asset***) before 10 May 2006 if:
 - (a) you started to hold the substituted asset on or after that day under an arrangement; and
 - (b) the substituted asset is identical to or has a purpose similar to another depreciating asset that another entity acquired from you on or after that day under that arrangement; and
 - (c) you did not deal with the other entity at arm's length; and
 - (d) it is reasonable to conclude that you entered into the arrangement for the main purpose of ensuring that the decline in value of the substituted asset would be worked out under section 40-72 of that Act.

40-75 Mining expenditure incurred after 1 July 2001 on an asset

- (1) This section applies to you if:
 - (a) you hold a depreciating asset (except a mining, quarrying or prospecting right that you started to hold before 1 July 2001) that you:
 - (i) started to hold under a contract entered into before 1 July 2001; or

- (ii) constructed where the construction started before that day; or
 - (iii) started to hold in some other way before that day; and
 - (b) your expenditure on the asset, whenever incurred, would have been allowable capital expenditure, transport capital expenditure or expenditure on exploration or prospecting within the meaning of Division 330 of the former Act if it had been incurred before 1 July 2001.
- (2) If you incur expenditure on the asset after 30 June 2001 that forms part of the cost of the asset, you can deduct the expenditure for the income year in which you incur it if it would have been expenditure on exploration or prospecting within the meaning of Division 330 of the former Act.
- (3) Otherwise, Subdivision 40-B of the new Act applies to the asset on the basis that it has a cost, and an adjustable value, of zero at the start of 1 July 2001, and an effective life on that day or at its start time, whichever is the later, worked out under subsection (4) of this section.
- (4) The effective life of the depreciating asset is the shorter of its effective life worked out under Division 40 and:
- (a) if the expenditure on the asset was incurred in relation to eligible mining operations other than in the course of petroleum mining—the shorter of:
 - (i) 10 years; and
 - (ii) the number of whole years in the estimated life of the mine or proposed mine to which the expenditure relates or, if there is more than one such mine, of the mine that has the longest estimated life; or
 - (b) if the expenditure on the asset was incurred in relation to eligible mining operations in the course of petroleum mining—the shorter of:
 - (i) 10 years; and
 - (ii) the number of whole years in the estimated life of the petroleum field or proposed petroleum field to which the expenditure relates; or

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- (c) if the expenditure on the asset was incurred in relation to eligible quarrying operations—the shorter of:
 - (i) 20 years; or
 - (ii) the number of whole years in the estimated life of the quarry or proposed quarry to which the expenditure relates or, if there is more than one such quarry, of the quarry that has the longest estimated life.

40-77 Mining, quarrying or prospecting rights or information held before 1 July 2001

- (1) Division 40 of the new Act does not apply to a mining, quarrying or prospecting right that you started to hold before 1 July 2001.

Note: If you incur expenditure relating to assets of that kind, you cannot deduct it under Division 40. However, the expenditure may be taken into account in calculating a capital gain or capital loss under Part 3-1 or 3-3 of the *Income Tax Assessment Act 1997*.

- (1A) Division 40 of the new Act does not apply to a renewal or extension of a mining, quarrying or prospecting right that you started to hold before 1 July 2001.
- (1B) Subsection (1) applies to a mining, quarrying or prospecting right (the ***new right***) that you start to hold on or after 1 July 2001 as if you had started to hold the new right before that day if:
 - (a) you started to hold another mining, quarrying or prospecting right before that day; and
 - (b) the other right ends on or after that day; and
 - (c) the new right and the other right relate to the same area, or any difference in area is not significant.
- (1C) Division 40 of the new Act does not apply to a mining, quarrying or prospecting right if:
 - (a) a company (the ***original holder***) started to hold the right before 1 July 2001; and
 - (b) the right is transferred after that day to another company where:

- (i) the other company is a member of the same wholly-owned group as the original holder and was a member of that group just before that day; and
 - (ii) the right was held in the period between that day and the time of the transfer by a company or companies that were members of that group on that day and at the time of the transfer.
- (2) If, after 30 June 2001:
 - (a) you dispose of a mining, quarrying or prospecting right that you started to hold before 1 July 2001 to an associate of yours (except a company that is a member of the same wholly-owned group); or
 - (b) you enter into an arrangement in relation to such a right under which you maintain, in essence, the economic ownership of the right but not its legal ownership;
the cost of the right to the purchaser is limited, for the purposes of Division 40 of the new Act, to a maximum of the costs that would have been deductible for the right under Division 330 of the former Act.
- (3) An amount that would be included in your assessable income under section 15-40 or subsection 40-285(1) of the new Act in respect of mining, quarrying or prospecting information you started to hold before 1 July 2001 is reduced (but not below zero) by so much of the capital cost of acquiring the information that you incurred before that day and that:
 - (a) you have not deducted and cannot deduct (either immediately or over time) under the former Act; and
 - (b) did not form part of allowable capital expenditure under the former Act; and
 - (c) did not entitle you to a deduction under section 330-235 of the former Act;but only to the extent that you have not already applied the amount under this section.
- (4) Your assessable income includes an amount if:
 - (a) after 1 July 2001, you stop holding a mining, quarrying or prospecting right that you started to hold before that day; and

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- (b) you have deducted or can deduct an amount for it under Subdivision 330-C in relation to Subdivision 330-D or 330-E of the former Act.

The amount included is the amount you have deducted or can deduct.

- (5) Your assessable income also includes an amount if:
 - (a) after 1 July 2001, you stop holding a mining, quarrying or prospecting right that you started to hold before that day; and
 - (b) because of section 40-35 or 40-38 of this Act, you have deducted or can deduct an amount for a notional asset that relates to expenditure on the right under Division 40 of the new Act.

The amount included is the amount you have deducted or can deduct.

- (6) Division 110 of the new Act applies as if an amount included in assessable income under subsection (4) or (5) of this section were the reversal of a deduction under a provision of the new Act outside Parts 3-1 and 3-3 and Division 243.
- (7) An amount that would be included in your assessable income under subsection 40-285(1) of the new Act in respect of a mining, quarrying or prospecting right is reduced by an amount worked out under subsection (8) if:
 - (a) you acquired the right from an associate (except a company that is a member of the same wholly-owned group) on or after 1 July 2001; and
 - (b) the associate started to hold the right before that day.
- (8) The amount is reduced (but not below zero) by the difference between the capital cost that you incurred after that day and the amount to which the cost of the right is limited under subsection (2) of this section.

40-80 Other expenditure incurred after 1 July 2001 on a depreciating asset

- (1) This section applies to you if:

- (a) you incur expenditure after 30 June 2001 that forms part of the cost of a depreciating asset; and
 - (b) the depreciating asset is one that you:
 - (i) started to hold under a contract entered into before 1 July 2001; or
 - (ii) constructed where the construction started before that day; or
 - (iii) started to hold in some other way before that day; and
 - (c) if you had incurred the expenditure before 1 July 2001, and had satisfied any relevant requirement for deductibility, you would have been able to deduct an amount for it under Division 44, 373 or 380, or Subdivision 46-B or 387-G, of the former Act.
- (2) Subdivision 40-B of the new Act applies to the asset on the basis that it has a cost, and an adjustable value, of zero at the start of 1 July 2001.

40-100 Commissioner's determination of effective life

A determination by the Commissioner of the effective life of an asset that was made under section 42-110 of the former Act and that was in force at the end of 30 June 2001 has effect as if it had been made under section 40-100 of the new Act.

40-105 Calculations of effective life

- (1) This section applies to the following (the *instrument*):
- (a) a determination under section 40-100 of the *Income Tax Assessment Act 1997* of the effective life of an asset;
 - (b) a calculation under section 40-105 of that Act of the effective life of an asset;
- if the instrument was in force immediately before the commencement of Schedule 1 to the *Tax Laws Amendment (Research and Development) Act 2011*.
- (2) The instrument has effect, after that commencement, as if it had been made under that section as amended by the *Tax Laws Amendment (Research and Development) Act 2011*.

Subdivision 40-C—Cost

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40-230 Car limit

40-230 Car limit

- (1) Division 40 of the new Act applies as if references in that Division to the car limit included references to:
 - (a) the car depreciation limit under Division 42 of the former Act; and
 - (b) the motor vehicle depreciation limit under former section 57AF of the *Income Tax Assessment Act 1936*.
- (2) If you:
 - (a) have a substituted accounting period; and
 - (b) start to hold a car in your 2001-02 income year but before 1 July 2001;you must use as the car limit the car depreciation limit under section 42-80 of the former Act for the 2000-01 financial year.

Subdivision 40-D—Balancing adjustments

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40-285 Balancing adjustments

- (1) Paragraphs 40-285(1)(a) and (2)(a) of the new Act have effect in relation to a depreciating asset that you held at 1 July 2001 as if amounts you have deducted or can deduct for the asset under the former Act or the *Income Tax Assessment Act 1936* were part of the asset's decline in value under Division 40.
- (2) You are entitled to a further deduction under subsection (3) if:
 - (a) you are entitled to a deduction under subsection 40-285(2) of the new Act for a balancing adjustment event happening to a depreciating asset:
 - (i) to which Division 58 of the former Act applied; or
 - (ii) to which former section 61A of the *Income Tax Assessment Act 1936* applied, or for which the transition time under Division 57 in Schedule 2D to that Act occurred before 1 July 2001; and
 - (b) you would have been entitled to a further deduction under section 42-197 of the former Act.
- (3) The amount of the further deduction is the amount worked out under section 42-197 of the former Act.
- (4) Division 40 of the new Act applies to a balancing adjustment event that occurs on or after 1 July 2001 for a depreciating asset you hold if you held the asset on that day.
- (5) The amount included in your assessable income under subsection 40-285(1) or section 40-370 of the new Act for a balancing adjustment event happening to a depreciating asset is reduced if:
 - (a) the asset is either:
 - (i) a depreciating asset that is not plant and that you started to hold under a contract entered into before 1 July 2001, you constructed where the construction started before that day or you started to hold in some other way before that day; or
 - (ii) plant that you acquired at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; and

- (b) any capital gain or capital loss would be disregarded (if Part 3-1 of the new Act applied):
- (i) because of section 118-5 (about cars, motor cycles and valour decorations); or
 - (ii) because of section 118-10 (about collectables); or
 - (iii) because of section 118-12 (about plant used to produce exempt income); or
 - (iv) because the asset was a pre-CGT asset at the time of the balancing adjustment event.
- (6) The reduction is:

$$\left[\text{Termination value} - \text{Cost} \right] \times \left[1 - \left(\frac{\text{Sum of reductions}}{\text{Total decline}} \right) \right]$$

where:

sum of reductions is the sum of the reductions in your deductions for the asset because you did not use it for a particular purpose.

total decline is the decline in value of the depreciating asset since you started to hold it.

- (7) Section 118-24 of the new Act applies to CGT event A1 (disposal of a CGT asset) happening to a depreciating asset if the event happens:
- (a) if the depreciating asset is plant—at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
 - (b) if the depreciating asset is not plant—before 1 July 2001;

where:

- (c) the time of the event is when you entered into the contract for the disposal of the asset; and
- (d) the change in ownership constituting the disposal occurred after the applicable time mentioned in paragraph (a) or (b).

40-287 Disposal of pre-1 July 2001 mining depreciating asset to associate

- (1) This section applies if:
 - (a) on or after 1 July 2001, a company (the **transferor**) disposes of a depreciating asset to another company; and
 - (b) the companies are members of the same linked group at the time of the disposal; and
 - (c) apart from this section, the disposal would have resulted in:
 - (i) an amount (the **included amount**) being included in the assessable income of the transferor under subsection 40-285(1) of the *Income Tax Assessment Act 1997*; and
 - (ii) the transferor having an additional decline in value (the **deductible amount**) under subsection 40-35(5), 40-38(5) or 40-40(4) of this Act; and
 - (d) the included amount is more than the deductible amount.
- (2) Subsection 40-35(5), 40-38(5) or 40-40(4) of this Act does not apply to the disposal.
- (3) The amount that is included in the transferor's assessable income under subsection 40-285(1) of the *Income Tax Assessment Act 1997* is the included amount reduced by the deductible amount.

40-288 Disposal of pre-1 July 2001 mining non-depreciating asset to associate

- (1) This section applies if:
 - (a) on or after 1 July 2001, a company (the **transferor**) disposes of property that is not a depreciating asset to another company; and
 - (b) the companies are members of the same linked group at the time of the disposal; and
 - (c) apart from this section, the disposal would have resulted in the transferor having an additional decline in value (the **deductible amount**) under subsection 40-35(5), 40-37(5), 40-40(4) or 40-43(4) of this Act; and
 - (d) the sum of:

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- (i) the money the transferor receives, or is entitled to receive, in respect of the disposal; and
 - (ii) the market value of any other property the transferor receives, or is entitled to receive, in respect of the disposal;
- is more than the deductible amount.
- (2) There is no additional decline in value of the notional asset referred to in subsection 40-35(5), 40-37(5), 40-40(4) or 40-43(4) as a result of the disposal.
- (3) Any amount that would be included in the transferor's assessable income under subsection 40-35(6), 40-37(6), 40-38(6), 40-40(5) or 40-43(5) of this Act, or subsection 40-830(6) of the *Income Tax Assessment Act 1997*, as a result of the disposal is reduced by the deductible amount.

40-289 Surrendered firearms

If a balancing adjustment event for a firearm that you hold occurs because you surrender it after the commencement of this section under firearms surrender arrangements, any amount by which its termination value exceeds its adjustable value is not included in your assessable income under subsection 40-285(1) of the *Income Tax Assessment Act 1997*.

40-290 Reduction of deductions under former Act etc.

Subsection 40-290(2) of the new Act has effect in relation to a depreciating asset that you held at 1 July 2001 as if:

- (a) any amount by which your deductions for the asset were reduced under the former Act or the *Income Tax Assessment Act 1936* because you did not use it for a particular purpose were an amount by which your deductions for the asset were reduced under section 40-25 of the new Act; and
- (b) the ***total decline*** element of the formula in that subsection included all amounts you have deducted or can deduct for the asset under the former Act or the *Income Tax Assessment Act 1936*.

40-292 Balancing adjustment—assets used for both general tax purposes and R&D activities

R&D entity has old law R&D decline in value deductions

- (1) This section applies to an R&D entity if:
- (a) a balancing adjustment event happens in an income year (the **event year**) commencing on or after 1 July 2011 for an asset held by the R&D entity and:
 - (i) the R&D entity can deduct, for an income year, an amount under section 40-25 of the *Income Tax Assessment Act 1997* (the **new Act**), as that section applies apart from Division 355 of that Act and former section 73BC of the *Income Tax Assessment Act 1936* (the **old Act**); or
 - (ii) the R&D entity could have deducted, for an income year, an amount as described in subparagraph (i) if it had used the asset; and
 - (b) either or both of the following subparagraphs apply:
 - (i) the R&D entity can deduct (the **old law deductions**) under former section 73BA or 73BH of the old Act an amount for one or more income years for the asset;
 - (ii) the R&D entity chooses tax offsets under former section 73I of the old Act instead of deductions (also the **old law deductions**) under those former sections for one or more income years for the asset.

Note: This section applies even if the R&D entity is entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions under section 355-305 of that Act for the asset.

Section 40-290 to be applied as if use for carrying on R&D activities were use for a taxable purpose

- (2) In applying section 40-290 of the new Act (including references in that section to the reduction of deductions under section 40-25 of that Act) in relation to the asset, assume that using the asset for a taxable purpose includes using it for:
- (a) the purpose of the carrying on, by or on behalf of the R&D entity, of the research and development activities (within the

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meaning of former section 73B of the old Act) to which the old law deductions relate; or

- (b) if the R&D entity is entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions (the **new law deductions**) under section 355-305 of that Act for the asset—the purpose of conducting the R&D activities to which the new law deductions relate.

Increase in amounts deductible or assessable under section 40-285

- (3) Any amount (the **section 40-285 amount**):

- (a) that the R&D entity can deduct for the asset under section 40-285 of the new Act (after applying subsection (2) of this section) for the event year; or
- (b) that is included in the R&D entity's assessable income for the asset under section 40-285 of the new Act (after applying subsection (2) of this section) for the event year;

is taken to be increased under section 40-292 of the new Act by the following amount:

$$\text{Adjusted section 40-285 amount} \times \left(\left(\frac{\text{Old law 1.25 rate deductions}}{\text{Total decline in value}} \times \frac{1}{4} \right) + \left(\frac{\text{Sum of new law deductions}}{\text{Total decline in value}} \times \frac{1}{3} \right) \right)$$

where:

adjusted section 40-285 amount means:

- (a) if the section 40-285 amount is a deduction—the amount of the deduction; or
- (b) if the section 40-285 amount is an amount included in the R&D entity's assessable income—so much of the section 40-285 amount as does not exceed the total decline in value.

old law 1.25 rate deductions means the sum of the R&D entity's notional Division 40 deductions, and notional Division 42

deductions, (if any) for the asset that were multiplied by 1.25 in working out the old law deductions.

total decline in value means the cost of the asset less its adjustable value.

Normal rules do not apply for the asset and the event

(4) Neither of the following sections:

- (a) section 40-292 of the new Act (as amended by the *Tax Laws Amendment (Research and Development) Act 2011*);
- (b) section 40-292 of the new Act (as that section applies because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*);

to the extent that they would otherwise apply apart from this section to the R&D entity for the event, do so apply to the R&D entity for the event.

Note 1: The section 40-292 of the new Act mentioned in paragraph (a) would otherwise apply for the event in a case where the R&D entity had new law deductions.

Note 2: The section 40-292 of the new Act mentioned in paragraph (b) would otherwise apply for the event in respect of the old law deductions.

40-293 Balancing adjustment—partnership assets used for both general tax purposes and R&D activities

Partners have old law R&D decline in value deductions

(1) This section applies to an R&D partnership if:

- (a) a balancing adjustment event happens in an income year (the **event year**) commencing on or after 1 July 2011 for an asset held by the R&D partnership and:
 - (i) the R&D partnership can deduct, for an income year, an amount under section 40-25 of the *Income Tax Assessment Act 1997* (the **new Act**), as that section applies apart from Division 355 of that Act and former section 73BC of the *Income Tax Assessment Act 1936* (the **old Act**); or

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- (ii) the R&D partnership could have deducted, for an income year, an amount as described in subparagraph (i) if it had used the asset; and
- (b) either or both of the following subparagraphs apply:
 - (i) one or more partners of the R&D partnership can deduct (the ***old law deductions***) under former section 73BA or 73BH of the old Act amounts for one or more income years for the asset;
 - (ii) one or more partners of the R&D partnership choose tax offsets under former section 73I of the old Act instead of deductions (also the ***old law deductions***) under those former sections for one or more income years for the asset.

Note: This section applies even if the partners are entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions under section 355-520 of that Act for the asset.

Section 40-290 to be applied as if use for carrying on R&D activities were use for a taxable purpose

- (2) In applying section 40-290 of the new Act (including references in that section to the reduction of deductions under section 40-25 of that Act) in relation to the asset, assume that using the asset for a taxable purpose includes using it for:
 - (a) the purpose of the carrying on, by or on behalf of the R&D partnership, of the research and development activities (within the meaning of former section 73B of the old Act) to which the old law deductions relate; or
 - (b) if one or more partners of the R&D partnership are entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions (the ***new law deductions***) under section 355-520 of that Act for the asset—the purpose of conducting the R&D activities to which the new law deductions relate.

Increase in amounts deductible or assessable under section 40-285

- (3) Any amount (the ***section 40-285 amount***):

- (a) that the R&D partnership can deduct for the asset under section 40-285 of the new Act (after applying subsection (2) of this section) for the event year; or
- (b) that is included in the R&D partnership's assessable income for the asset under section 40-285 of the new Act (after applying subsection (2) of this section) for the event year;
- is taken to be increased under section 40-293 of the new Act by the following amount:

$$\text{Adjusted section 40-285 amount} \times \left(\left(\frac{\text{Old law 1.25 rate deductions}}{\text{Total decline in value}} \times \frac{1}{4} \right) + \left(\frac{\text{Sum of all new law deductions}}{\text{Total decline in value}} \times \frac{1}{3} \right) \right)$$

where:

adjusted section 40-285 amount means:

- (a) if the section 40-285 amount is a deduction—the amount of the deduction; or
- (b) if the section 40-285 amount is an amount included in the R&D partnership's assessable income—so much of the section 40-285 amount as does not exceed the total decline in value.

old law 1.25 rate deductions means the sum of the partners' notional Division 40 deductions, and notional Division 42 deductions, (if any) for the asset that were multiplied by 1.25 in working out the old law deductions.

total decline in value means the cost of the asset less its adjustable value.

Normal rules do not apply for the asset and the event

- (4) Section 40-293 of the new Act, to the extent that it would otherwise apply apart from this section to the R&D partnership or its partners for the event, does not so apply to the R&D partnership and the partners for the event.

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Note: Section 40-293 of the new Act would otherwise apply for the event in a case where the partners had new law deductions.

40-295 Later year relief

- (1) You may exclude an amount that has been included in your assessable income for plant as a result of a balancing adjustment event that occurred in your 1999-2000 or 2000-01 income year to the extent that you choose under section 42-290 of the former Act to treat that amount as an amount you have deducted for the decline in value of replacement plant.
- (2) You can only make this choice for the replacement plant if:
 - (a) you acquire it:
 - (i) within 2 income years after the end of the income year in which the balancing adjustment event occurred; and
 - (ii) in your 2001-02 or 2002-2003 income year; and
 - (b) at the end of the income year in which you acquired it, you used it, or had it installed ready for use, wholly for the purpose of producing assessable income; and
 - (c) you can deduct an amount for its decline in value; and
 - (d) you had not made a choice under section 42-285 or 42-293 of the former Act for the balancing adjustment event.
- (3) The adjustable value of the replacement plant is reduced by the amount covered by the choice as at the first day of the income year in which you acquired it.

40-340 Roll-overs

- (1) This section applies to an entity (the *transferee*) if:
 - (a) there is roll-over relief under section 40-340 of the new Act as a result of a balancing adjustment event happening to plant; and
 - (b) the transferor referred to in that section was working out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act.

Plant acquired before 21 September 1999

- (2) The transferee works out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act using the same method as the transferor if:
- (a) the transferor started to hold the plant under a contract entered into at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
 - (b) the transferor constructed it and the construction started at or before that time; or
 - (c) the transferor acquired it in some other way at or before that time; or
 - (d) the transferor acquired it from an entity that was working out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act and paragraph (a), (b) or (c) of this subsection applied to that entity or to the earliest successive transferor.

Small business taxpayers

- (3) The transferee also works out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act using the same method as the transferor if:
- (a) the plant was not acquired as mentioned in subsection (2); and
 - (b) the transferor, or an earlier successive transferor, was using a rate for the plant under subsection 42-160(1) or 42-165(1) of the former Act; and
 - (c) the conditions set out in this table are satisfied:

| Conditions for small business taxpayers retaining accelerated rates | |
|--|--|
| Item | Condition |
| 1 | The transferee must have been a small business taxpayer for the income year (the <i>start year</i>) that includes the time when the entity first used the plant, or first had it installed ready for use. |
| 2 | At that time, at least 50% of the transferee's intended use of the plant must be in carrying on a business for the purpose of producing assessable income. |
| 3 | At that time, neither of these applies: |

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Conditions for small business taxpayers retaining accelerated rates

Item Condition

- (a) it could reasonably be expected that, because of the plant's use, whether in connection with another asset or not, the transferee would not be a small business taxpayer for the income year following the start year or for either of the next 2 income years;
 - (b) the plant is being or is intended to be let predominantly on a lease of a kind specified in subsection (5).
-
- (4) For the purposes of item 2 in the table in subsection (3), an entity is treated as if it is not carrying on a business in relation to the activities of a partnership in which the entity is a partner unless the entity is connected with the partnership.
 - (5) A lease of plant referred to in item 3 of the table in subsection (3) is an agreement (including a renewal of an agreement) under which the holder of the plant grants a right to use the plant to another entity, but not a hire purchase agreement or a short-term hire agreement.
 - (6) The transferee works out the decline in value of the plant by:
 - (a) for the diminishing value method—replacing the component in the formula in subsection 40-70(1) of the new Act that includes the plant's effective life with the rate the transferor, or the earliest successive transferor, was using; or
 - (b) for the prime cost method:
 - (i) replacing the component in the formula in subsection 40-75(1) of the new Act that includes the plant's effective life with the rate the transferor, or the earliest successive transferor, was using; and
 - (ii) increasing the plant's cost under Division 42 of the former Act by any amounts included in the second element of the plant's cost after 30 June 2001.

Meaning of small business taxpayer

- (7) An entity is a **small business taxpayer** for an income year if:
 - (a) the entity carries on a business in that year; and

- (b) the entity's average turnover for that year is less than \$1,000,000.

Note: An entity is treated as carrying on a business if it is winding up a business and it was previously a small business taxpayer: see subsection (11).

Meaning of average turnover

- (8) An entity's **average turnover** for an income year (the **current year**) is:

$$\frac{\text{Sum of relevant group turnovers}}{\text{Number of averaging years}}$$

where:

number of averaging years is:

- (a) 3; or
(b) if the entity did not carry on a business in each of the current year and the 2 years before the current year, the number of those income years in which the entity carried on a business.

Note: An entity is treated as carrying on a business if it is winding up a business and it was previously a small business taxpayer: see subsection (11).

sum of relevant group turnovers is the sum of:

- (a) the entity's group turnover for the current year; and
(b) the entity's group turnover (if any) for the 2 preceding income years.

Meaning of group turnover

- (9) The **group turnover** of an entity (the **primary entity**) for an income year is the sum of:

- (a) the value of the business supplies the primary entity made in the income year; and
(b) the value of the business supplies entities connected with the primary entity made in the income year;

reduced by:

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- (c) that part of the value of the business supplies the primary entity made in the income year that is attributable to supplies it made during the year to entities connected with it when they were connected with it; and
- (d) that part of the value of the business supplies entities connected with the primary entity made in the income year that is attributable to supplies the connected entities made during the year to the primary entity when they were connected with it; and
- (e) that part of the value of the business supplies another entity made in the income year that is attributable to supplies the other entity made to a third entity at a time when both the other entity and third entity were connected with the primary entity.

Value of business supplies

- (10) The **value** of the business supplies an entity makes in an income year is the sum of:
 - (a) for taxable supplies (if any) the entity makes during the year in the course of carrying on a business—the value (as defined by section 9-75 of the GST Act) of the supplies; and
 - (b) for other supplies the entity makes during the year in the course of carrying on a business—the prices (as defined by section 9-75 of the GST Act) of the supplies.

Winding up a business

- (11) Subsections (7) and (8) apply to an entity as if it carried on a business in an income year if:
 - (a) in that year the entity was winding up a business it previously carried on; and
 - (b) the entity was a small business taxpayer for the income year in which it stopped carrying on that business.

40-345 Balancing adjustments for depreciating assets that retain CGT indexation

- (1) The amount included in your assessable income under subsection 40-285(1) or 104-240(1) of the new Act as a result of a balancing adjustment event occurring for:
 - (a) plant that you acquired at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
 - (b) a depreciating asset that is not plant and that you acquired before 1 July 2001;is reduced (but not below nil) if:
 - (c) for a paragraph (a) case—there would have been a reduction under subsection 42-192(2) of the former Act as a result of that event; or
 - (d) for a paragraph (b) case—there would have been a reduction under subsection 42-192(2) of the former Act as a result of that event if the asset were plant.
- (2) The amount of the reduction is the amount worked out under subsection 42-192(2) of the former Act.
- (3) There is no reduction under subsection (1) to an amount included in your assessable income under subsection 104-240(1) if the balancing adjustment event results in a discount capital gain under Division 115.
- (4) However, you can choose not to make a reduction under subsection (1) and instead take advantage of the discount capital gain.
- (5) Subsection (6) applies to an entity (the *transferee*) if there is roll-over relief under section 40-340 of the new Act as a result of a balancing adjustment event happening to a depreciating asset held by the transferee.
- (6) Subsections (1), (2), (3) and (4) apply also to the transferee if:
 - (a) for a depreciating asset that is plant:
 - (i) the transferor referred to in section 40-340 of the new Act started to hold the plant under a contract entered

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- into at or before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
- (ii) the transferor constructed it and the construction started at or before that time; or
 - (iii) the transferor acquired it in some other way at or before that time; or
 - (iv) the transferor acquired it from an entity that was working out the decline in value of the plant under subsection 40-10(3) or 40-12(3) of this Act and subparagraph (i), (ii) or (iii) of this paragraph applied to that entity or to the earliest successive transferor; or
- (b) for a depreciating asset that is not plant:
- (i) the transferor started to hold the asset under a contract entered into before 1 July 2001; or
 - (ii) the transferor constructed it and the construction started at or before that day; or
 - (iii) the transferor acquired it in some other way before that day.

40-365 Involuntary disposals

Section 40-365 of the new Act applies to a case where:

- (a) a balancing adjustment event occurred for plant in the circumstances mentioned in subsection 42-293(2) of the former Act before 1 July 2001; and
- (b) you start to hold a replacement asset or assets after that day; and
- (c) the conditions in subsections 40-365(3) and (4) of the new Act are satisfied.

Subdivision 40-E—Low-value and software development pools

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40-420 Low-value pools under Division 42 continue

- (1) A low-value pool you created under Subdivision 42-M of the former Act continues under the new Act as if it had been created under Subdivision 40-E of the new Act.
- (2) For the purposes of working out the decline in value of depreciating assets in such a pool for your income year in which 1 July 2001 occurs, step 3 of the method statement in subsection 40-440(1) of the new Act applies to the pool closing balance, worked out under section 42-470 of the former Act, for the income year before that year.

40-430 Allocating assets to low-value pools

For the purposes of Subdivision 40-E of the *Income Tax Assessment Act 1997*, you cannot allocate a depreciating asset to a low-value pool if:

- (a) you can deduct an amount for the asset under former section 73BA of the *Income Tax Assessment Act 1936*; or
- (b) you could so deduct an amount if you had not chosen a tax offset under former section 73I of that Act;

for a period before, or starting at the same time as, the allocation has effect.

40-450 Software development pools

Subsection 40-450(2) of the new Act has effect as if the reference to expenditure being allocated to a software development pool included a reference to expenditure being allocated to a software pool under Division 46 of the former Act.

Subdivision 40-F—Primary production depreciating assets

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40-515 Water facilities, grapevines and horticultural plants

- (1) This section applies to you if you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the **qualifying amount**) of expenditure on any of these (the **primary production asset**):
 - (a) the construction, manufacture, installation or acquisition of a water facility; or
 - (b) the establishment of horticultural plants; or
 - (c) the establishment of grapevines;and you would have been able to deduct amounts for the qualifying amount for the income year in which 1 July 2001 occurs under the former Act if it had continued to apply.
- (2) Subdivision 40-F of the new Act applies to the primary production asset on this basis:
 - (a) the qualifying amount is taken to be:
 - (i) for a water facility—the amount of capital expenditure you incurred on the construction, manufacture, installation or acquisition of the water facility; or
 - (ii) for a horticultural plant or a grapevine—the amount of capital expenditure incurred that is attributable to the establishment of the plant or grapevine; and
 - (b) for horticultural plants, you use the effective life determined under section 387-175 of the former Act; and
 - (c) amounts that have been deducted or can be deducted for the qualifying amount under the former Act or the *Income Tax Assessment Act 1936* are taken to be a decline in value under Subdivision 40-F of the new Act.

40-520 Special rule for water facilities you no longer hold

- (1) This section applies to you if:
 - (a) you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the *qualifying amount*) of expenditure on a water facility; and
 - (b) you do not hold the water facility at the start of 1 July 2001.
- (2) Subdivision 40-F of the new Act applies to the water facility on the basis specified in subsection 40-515(2) of this Act, and no other taxpayer can deduct amounts for it under the new Act.

40-525 Amounts deducted for water facilities

The reference in subsection 40-555(1) of the new Act to a person having deducted or being able to deduct an amount under Subdivision 40-F of the new Act for expenditure on a water facility includes a reference to the person having deducted or being able to deduct an amount for it under:

- (a) Subdivision 387-B of the former Act; or
- (b) former section 75B of the *Income Tax Assessment Act 1936*.

Subdivision 40-G—Capital expenditure of primary producers and other landholders

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| 40-650 | Special rule for land that you no longer hold |
| 40-670 | Farm consultants |

40-645 Electricity supply and telephone lines

- (1) This section applies to you if you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the *qualifying amount*) of expenditure on:
 - (a) connecting or upgrading the supply of mains electricity to land; or
 - (b) a telephone line on land;

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and you hold the land to which the electricity or telephone line relates at the start of 1 July 2001.

- (2) You deduct amounts for the qualifying amount under Subdivision 40-G of the new Act in the same way you were writing it off under Division 387 of the former Act.
- (3) A reference in subsection 40-650(4), (5) or (7) of the new Act to an amount being deducted under Subdivision 40-G of that Act includes a reference to an amount being deducted under:
 - (a) Subdivision 387-F of the former Act; or
 - (b) former section 70 of the *Income Tax Assessment Act 1936*.

40-650 Special rule for land that you no longer hold

- (1) This section applies to you if:
 - (a) you have deducted or can deduct an amount under Division 387 of the former Act for an amount (the ***qualifying amount***) of expenditure on connecting or upgrading the supply of mains electricity to land or a telephone line on land; and
 - (b) you do not hold the land to which the electricity or telephone line relates at the start of 1 July 2001.
- (2) Subdivision 40-G of the new Act applies to the qualifying amount on the basis specified in that Subdivision, and no other taxpayer can deduct amounts for it under the new Act.

40-670 Farm consultants

A person approved as a farm consultant under Subdivision 387-A of the former Act is taken to be approved as a farm consultant under section 40-670 of the new Act.

Subdivision 40-I—Capital expenditure that is deductible over time

Table of sections

40-825 Genuine prospectors

40-832 New method not to apply in some cases

40-825 Genuine prospectors

The exemption provided by section 330-60 of the former Act continues to apply to ordinary income derived before 20 August 2001.

40-832 New method not to apply in some cases

If:

- (a) on or after 10 May 2006 you abandon, sell or otherwise dispose of a project; and
- (b) you have deducted or can deduct amounts for project amounts in relation to that project; and
- (c) on or after that day, you start to operate that project again; and
- (d) it is reasonable to conclude that you did this for the main purpose of ensuring that deductions for project amounts in relation to that project would be worked out under section 40-832 of that Act;

the *Income Tax Assessment Act 1997* applies to you as if the project had started to operate before 10 May 2006.

Subdivision 40-J—Ships depreciated under section 57AM of the Income Tax Assessment Act 1936

Table of sections

40-830 Ships depreciated under section 57AM of the *Income Tax Assessment Act 1936*

40-830 Ships depreciated under section 57AM of the *Income Tax Assessment Act 1936*

(1) This section applies if:

- (a) you have deducted or can deduct amounts for a ship under section 57AM of the *Income Tax Assessment Act 1936* as in force before its repeal by Schedule 1 to the *Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006*; and

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- (b) you hold the ship when this section commences.
- (2) Division 40 of the *Income Tax Assessment Act 1997* applies to the ship after the commencement of this section.
- (3) For the purposes of that application:
 - (a) the cost of the ship when this section commences is its cost under the *Income Tax Assessment Act 1936* just before that time; and
 - (b) the ship's adjustable value when this section commences is its depreciated value under the *Income Tax Assessment Act 1936* just before that time; and
 - (c) paragraphs 40-285(1)(a) and (2)(a) have effect as if amounts you have deducted or can deduct under section 57AM of the *Income Tax Assessment Act 1936*, as in force before its repeal, are taken to be part of the ship's decline in value under Subdivision 40-B of the *Income Tax Assessment Act 1997*.

Division 43—Deductions for capital works

Table of sections

| | |
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| 43-100 | Application of Division 43 to quasi-ownership rights over land |
| 43-105 | Application of subsections 43-50(1) and (2) to hotel buildings and apartment buildings |
| 43-110 | Application of subsection 43-75(3) |

43-100 Application of Division 43 to quasi-ownership rights over land

Division 43 of the *Income Tax Assessment Act 1997* applies to quasi-ownership rights over land granted in respect of:

- (a) capital works being a hotel building or an apartment building begun after 30 June 1997; and
- (b) other capital works begun after 26 February 1992.

43-105 Application of subsections 43-50(1) and (2) to hotel buildings and apartment buildings

Subsections 43-50(1) and (2) of the *Income Tax Assessment Act 1997* do not apply to capital works being a hotel building or an apartment building begun before 1 July 1997.

43-110 Application of subsection 43-75(3)

Subsection 43-75(3) of the *Income Tax Assessment Act 1997* does not apply to capital works being a hotel building or an apartment building begun before 1 July 1997.

Division 45—Disposal of leases and leased plant

Table of sections

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|-------|--|
| 45-1 | Application of Division 45 of the <i>Income Tax Assessment Act 1997</i> |
| 45-3 | Application of Division 45 to disposals between February 1999 and September 1999 |
| 45-40 | Application of Division to plant formerly owned by exempt entities |

45-1 Application of Division 45 of the *Income Tax Assessment Act 1997*

Division 45 of the *Income Tax Assessment Act 1997* applies to assessments for the income year in which 22 February 1999 occurs and later income years.

45-3 Application of Division 45 to disposals between February 1999 and September 1999

- (1) For disposals of plant or interests in plant on or after 22 February 1999 and before 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999, Division 45 of the *Income Tax Assessment Act 1997* applies with the modifications specified in this section.
- (2) That Division applies as if subsection 45-5(2) were replaced by this provision:
- (2) The amount included is the lesser of:
 - (a) the excess referred to in paragraph (1)(e); and
 - (b) the amounts you have deducted or can deduct for depreciation of the plant or, if you disposed of an interest in the plant, so much of those amounts as is attributable to that interest.

It is included for the income year in which the disposal occurred.

- (3) That Division applies as if paragraph 45-5(5)(a) were replaced by this provision:

- (a) it is included in that assessable income under a provision of this Act outside this Division and Parts 3-1 and 3-3 (about capital gains and losses); or
 - (4) That Division applies as if subsection 45-10(2) were replaced by this provision:
 - (2) The amount included is the lesser of:
 - (a) the excess referred to in paragraph (1)(f); and
 - (b) that part of the amounts the partnership has deducted or can deduct for depreciation of the plant that has been or would be reflected in your interest in the partnership net income or partnership loss (your *partnership amount*) or, if you disposed of part of your interest in the plant, so much of your partnership amount as is attributable to that part of that interest.
- It is included for the income year in which the disposal occurred.
- (5) That Division applies as if paragraph 45-10(5)(a) were replaced by this provision:
 - (a) it is included in that assessable income under a provision of this Act outside this Division and Parts 3-1 and 3-3 (about capital gains and losses); or
 - (6) That Division applies as if this section were added at the end of that Division:

45-40 Application of Division to plant formerly owned by exempt entities

- (1) There are the consequences set out in this table for a transition entity that disposes of the plant, interest in plant or interest (or part) in a partnership to an entity specified in subsection (3).

| Consequences for transition entities | | |
|---|--|--|
| Item | In this situation: | There are these consequences: |
| 1 | The entity chooses, under section 58-20, that depreciation | (a) section 45-5 has effect as if paragraph 45-5(2)(b) were omitted and replaced by paragraph 58-85(8)(a); and |

Chapter 2 Liability rules of general application

Part 2-10 Capital allowances: rules about deductibility of capital expenditure

Division 45 Disposal of leases and leased plant

Section 45-40

Consequences for transition entities

| Item | In this situation: | There are these consequences: |
|------|--|--|
| | deductions and balancing adjustments are to be calculated by reference to the notional written down value of plant | (b) section 45-10 has effect as if paragraph 45-10(2)(b) operated on that part of the amount worked out under paragraph 58-85(8)(a) that has been or would be reflected in the entity's interest in the partnership net income or partnership loss if that amount were an amount deducted for depreciation of the plant. |
| 2 | The entity chooses, under section 58-20, that depreciation deductions and balancing adjustments are to be calculated by reference to the undeducted pre-existing audited book value of plant | (a) section 45-5 has effect as if paragraph 45-5(2)(b) were omitted and replaced by paragraph 58-145(8)(a); and (b) section 45-10 has effect as if paragraph 45-10(2)(b) operated on that part of the amount worked out under paragraph 58-145(8)(a) that has been or would be reflected in the entity's interest in the partnership net income or partnership loss if that amount were an amount deducted for depreciation of the plant. |

(2) There are the consequences set out in this table for an entity that:

- (a) acquired the plant from a tax exempt vendor in connection with the acquisition of a business; and
- (b) disposes of the plant, interest in plant or interest (or part) in a partnership to an entity specified in subsection (3).

Consequences for transition entities

| Item | In this situation: | There are these consequences: |
|------|--|--|
| 1 | The entity chooses, under section 58-155, that depreciation deductions and balancing adjustments are to be calculated by reference to the notional written down value of plant | (a) section 45-5 has effect as if paragraph 45-5(2)(b) were omitted and replaced by paragraph 58-215(3)(a); and (b) section 45-10 has effect as if paragraph 45-10(2)(b) operated on that part of the amount worked out under paragraph 58-215(3)(a) that has been or would be reflected in the entity's interest in the partnership net income or partnership loss if that amount were an amount deducted for depreciation of the plant. |
| 2 | The entity chooses, | (a) section 45-5 has effect as if paragraph 45-5(2)(b) |

Consequences for transition entities

| Item | In this situation: | There are these consequences: |
|-------------|---|---|
| | under section 58-155, that depreciation deductions and balancing adjustments are to be calculated by reference to the undeducted pre-existing audited book value of plant | were omitted and replaced by paragraph 58-270(3)(a); and (b) section 45-10 has effect as if paragraph 45-10(2)(b) operated on that part of the amount worked out under paragraph 58-270(3)(a) that has been or would be reflected in the entity's interest in the partnership net income or partnership loss if that amount were an amount deducted for depreciation of the plant. |

- (3) The entities are:
- (a) an exempt entity; or
 - (b) the trustee of a complying superannuation fund; or
 - (c) the trustee of a complying approved deposit fund; or
 - (d) the trustee of a pooled superannuation trust; or
 - (e) an entity that is not an Australian resident; or
 - (f) an entity that is a State/Territory body for the purposes of Division 1AB of Part III of the *Income Tax Assessment Act 1936* and whose income is exempt under that Division.

Apportionment

- (4) If the entity concerned disposed of an interest in the plant rather than the plant (for a paragraph 45-5(2)(b) case), instead of the amount worked out under the table in subsection (1) or (2), the entity uses so much of that amount as is attributable to that interest.
- (5) If the entity concerned disposed of part of its interest in the plant rather than all of it (for a paragraph 45-10(2)(b) case), instead of the amount worked out under the table in subsection (1) or (2), the entity uses so much of that amount as is attributable to that part of that interest.

Part 2-15—Non-assessable income

Division 50—Exempt entities

Table of sections

| | |
|-------|---|
| 50-1 | Application of Division 50 of the <i>Income Tax Assessment Act 1997</i> |
| 50-50 | Charities established prior to 1 July 1997 |

50-1 Application of Division 50 of the *Income Tax Assessment Act 1997*

Division 50 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

50-50 Charities established prior to 1 July 1997

Disregard the use of the following amounts in determining (for the purposes of Subdivision 50-A of the *Income Tax Assessment Act 1997* whether a fund established before 1 July 1997 operates and pursues its purposes in Australia:

- (a) an amount received by the entity before 1 July 1997;
- (b) an amount derived from an amount mentioned in paragraph (a) or this paragraph.

Division 51—Exempt amounts

Table of sections

51-1 Application of Division 51 of the *Income Tax Assessment Act 1997*

51-1 Application of Division 51 of the *Income Tax Assessment Act 1997*

Division 51 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

Division 52—Certain pensions, benefits and allowances are exempt from income tax

Table of sections

52-1 Application of Division 52 of the *Income Tax Assessment Act 1997*

52-1 Application of Division 52 of the *Income Tax Assessment Act 1997*

Division 52 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

Division 53—Various exempt payments

Table of sections

53-1 Application of Division 53 of the *Income Tax Assessment Act 1997*

53-1 Application of Division 53 of the *Income Tax Assessment Act 1997*

Division 53 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

Division 54—Exemption for certain payments made under structured settlements and structured orders

Table of sections

54-1 Application of Division 54 of the *Income Tax Assessment Act 1997*

54-1 Application of Division 54 of the *Income Tax Assessment Act 1997*

- (1) Division 54 of the *Income Tax Assessment Act 1997* applies to assessments for the 2001-2002 income year and later income years.
- (2) However, the Division does not apply unless the date of the settlement or order is 26 September 2001 or a later date.

Division 55—Payments that are not exempt from income tax

Table of sections

55-1 Application of Division 55 of the *Income Tax Assessment Act 1997*

55-1 Application of Division 55 of the *Income Tax Assessment Act 1997*

Division 55 of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.

Division 59—Particular amounts of non-assessable non-exempt income

Table of Subdivisions

59-N Native title benefits

Subdivision 59-N—Native title benefits

Table of sections

59-50 Indigenous holding entities

59-50 Indigenous holding entities

Without limiting subsection 59-50(6) of the *Income Tax Assessment Act 1997*, an entity was an **Indigenous holding entity** at a time if:

- (a) the time occurred:
 - (i) during an income year starting on or after 1 July 2008; and
 - (ii) before the commencement of Chapter 2 of the *Australian Charities and Not-for-profits Commission Act 2012*; and
- (b) at that time, the entity was endorsed under Subdivision 50-B of the *Income Tax Assessment Act 1997* as exempt from income tax because the entity was covered by item 1.1, 1.5, 1.5A or 1.5B of the table in section 50-5 of that Act, as in force at that time.

Part 2-20—Tax offsets

Division 61—Generally applicable tax offsets

Table of Subdivisions

61-L Tax offset for Medicare levy surcharge (lump sum payments in arrears)

Subdivision 61-L—Tax offset for Medicare levy surcharge (lump sum payments in arrears)

Table of Sections

61-575 Application of Subdivision 61-L of the *Income Tax Assessment Act 1997*

61-575 Application of Subdivision 61-L of the *Income Tax Assessment Act 1997*

Subdivision 61-L (Tax offset for Medicare levy surcharge (lump sum payments in arrears)) of the *Income Tax Assessment Act 1997* applies to assessments for the 2005-06 income year and later income years.

Division 67—Refundable tax offset rules

Table of Subdivisions

| | |
|------|---|
| 67-L | Notices of totals of tax offset refunds for 2012-13 income year |
|------|---|

Subdivision 67-L—Notices of totals of tax offset refunds for 2012-13 income year

Table of sections

Giving notices

| | |
|--------|--|
| 67-100 | Notices of total of tax offset refunds |
| 67-105 | Deemed notices |
| 67-110 | Requests for notices |
| 67-115 | Effect of notices |

Amending notices

| | |
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| 67-120 | Amendment of notices |
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Validity of notices, evidence and review

| | |
|--------|---------------------|
| 67-125 | Validity of notices |
| 67-130 | Evidence |
| 67-135 | Review of notices |

Giving notices

67-100 Notices of total of tax offset refunds

- (1) The Commissioner may at any time give you a notice specifying:
 - (a) the amount the Commissioner has ascertained as being the total of your tax offset refunds for the 2012-13 income year;
or
 - (b) that the Commissioner has ascertained that you can get no such refunds for the 2012-13 income year.

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Note: The total of your tax offset refunds for later income years is included in your assessment for those years: see Part IV of the *Income Tax Assessment Act 1936*.

- (2) The notice may be included in any notice the Commissioner gives to you, including a notice of assessment.
- (3) The Commissioner may give you the notice electronically if you are required to lodge, or have lodged, your income tax return for the income year electronically.

67-105 Deemed notices

- (1) This section applies if:
 - (a) an entity is a self-assessment entity for the 2012-13 income year; and
 - (b) the entity lodges its income tax return for the 2012-13 income year at a particular time; and
 - (c) just before that time, the Commissioner has not already given the entity a notice under section 67-100.
- (2) The Commissioner is taken:
 - (a) to have ascertained, in accordance with what the entity specified in the return:
 - (i) an amount as being the total of the entity's tax offset refunds for the income year; or
 - (ii) that the entity can get no such refunds for the income year; and
 - (b) to have given the entity a notice to that effect under section 67-100 on the day on which the entity lodges the return.

67-110 Requests for notices

- (1) You may request the Commissioner in the approved form to give you a notice under this Subdivision.
- (2) The Commissioner must comply with the request if:
 - (a) the Commissioner has not already given you a notice under this Subdivision; and

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- (b) you make the request on or after:
 - (i) the day you lodge your income tax return for the income year; or
 - (ii) if you were not required to lodge an income tax return for the income year—the day after the end of the income year; and
 - (c) you make the request before the end of:
 - (i) if the Commissioner has given or gives you a notice of assessment for the income year—the period within which you may object against the assessment under paragraph 14ZW(1)(aa) of the *Taxation Administration Act 1953*; or
 - (ii) otherwise—2 years after the end of the income year; or
 - (iii) in any case—such further period as the Commissioner allows.
- (3) The Commissioner is treated, for the purposes of section 67-135, as having given you, on the 60th day after you make the request, a notice specifying that the Commissioner has ascertained that you can get no tax offset refunds for the income year, if the Commissioner has not complied with the request by that 60th day.

67-115 Effect of notices

- (1) Your entitlement to a tax offset refund, and the time by which the refund must be applied in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953*, do not depend on, and are not in any way affected by, the giving of a notice under this Subdivision.
- (2) An ascertainment mentioned in subsection 67-100(1) is not an assessment for the purposes of the income tax law.

Amending notices

67-120 Amendment of notices

The Commissioner may amend a notice at any time. An amended notice is a notice for all purposes of this Subdivision.

Validity of notices, evidence and review

67-125 Validity of notices

The validity of a notice is not affected by non-compliance with the provisions of this Act or of any other taxation law.

67-130 Evidence

- (1) The production of:
 - (a) a notice given under this Subdivision; or
 - (b) a document under the hand of the Commissioner, a Second Commissioner, or a Deputy Commissioner, purporting to be a copy of a notice given under this Subdivision;
 is, except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the notice, conclusive evidence that the notice was given and of the particulars in it.
- (2) The production of a document under the hand of the Commissioner, a Second Commissioner, or a Deputy Commissioner, purporting to be a copy of or extract from a notice given under this Subdivision is evidence of the matters set out in the document to the same extent as the original would have been evidence of those matters.

67-135 Review of notices

- (1) You may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a notice given to you under this Subdivision if you are dissatisfied with the notice.
- (2) Section 14ZV of the *Taxation Administration Act 1953* applies to an amended notice in the same way as it applies to an amended determination.
- (3) Despite subsection 14ZW(1) of that Act (and without limiting subsections 14ZW(2) and (3)), you must lodge the objection with the Commissioner before the end of:

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- (a) if the Commissioner gives you a notice of assessment for the income year—the period within which you may object against the assessment; or
- (b) if the Commissioner does not give you a notice of assessment—the period within which you may have objected against an assessment under subsection 14ZW(1) if the Commissioner had given you notice of the assessment on the day the Commissioner gave you the notice under this Subdivision.

Part 2-25—Trading stock

Division 70—Trading stock

Table of sections

| | |
|--------|--|
| 70-1 | Application of Division 70 of the <i>Income Tax Assessment Act 1997</i> |
| 70-10 | Accounting for your disposal of items that stop being trading stock because of the change of definition |
| 70-20 | Application of section 70-20 of the <i>Income Tax Assessment Act 1997</i> to trading stock bought on or after 1 July 1997 |
| 70-55 | Cost of live stock acquired by natural increase |
| 70-70 | Valuing interests in FIFs on hand at the start of 1991-92 |
| 70-90 | Application of sections 70-90 and 70-95 of the <i>Income Tax Assessment Act 1997</i> to disposals of trading stock outside the ordinary course of business |
| 70-100 | Application of section 70-100 of the <i>Income Tax Assessment Act 1997</i> to disposals of trading stock outside ordinary course of business |
| 70-105 | Application of section 70-105 of the <i>Income Tax Assessment Act 1997</i> to deaths on or after 1 July 1997 |
| 70-115 | Application of section 70-115 of the <i>Income Tax Assessment Act 1997</i> to insurance and indemnity payments in 1997-98 and later income years |

70-1 Application of Division 70 of the *Income Tax Assessment Act 1997*

- (1) Division 70 (Trading stock) of the *Income Tax Assessment Act 1997* applies to assessments for the 1997-98 income year and later income years.
- (2) However, the sections of that Division listed in the table apply in accordance with the corresponding sections of this Act.

| Application provisions for specific sections | | |
|--|---|--|
| Item | This section of the <i>Income Tax Assessment Act 1997</i> ... | Applies as described in this provision of this Act ... |
| 1 | 70-20 | 70-20 |
| 2 | 70-55 | 70-55(1) |
| 3 | 70-70 | 70-70 |

Section 70-10

| Application provisions for specific sections | | |
|--|---|--|
| Item | This section of the <i>Income Tax Assessment Act 1997</i> ... | Applies as described in this provision of this Act ... |
| 4 | 70-90 | 70-90 |
| 5 | 70-95 | 70-90 |
| 6 | 70-100 | 70-100 |
| 7 | 70-105 | 70-105 |
| 8 | 70-115 | 70-115 |

70-10 Accounting for your disposal of items that stop being trading stock because of the change of definition

- (1) This section explains how to account for your disposal of an item during or after the 1997-98 income year if:
- (a) just *before* that income year, the item was an item of your trading stock, as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* as in force at that time; and
 - (b) at no time since that time has the item been an item of your trading stock, as defined in section 70-10 of the *Income Tax Assessment Act 1997*.

Example: This section applies to an item you produced, manufactured, acquired or purchased *before* 1997-98 for manufacture, sale or exchange, but have not held for that purpose at any time since just before the start of that year.

If the disposal is outside the ordinary course of business

- (2) If:
- (a) the disposal occurred *on or after* 1 July 1997; and
 - (b) former subsection 36(1) of the *Income Tax Assessment Act 1936* (dealing with disposals of trading stock outside the ordinary course of business) would have applied to the disposal if it had occurred *before* 1 July 1997;
- sections 70-90 and 70-95 of the *Income Tax Assessment Act 1997* (dealing with disposals of trading stock outside the ordinary course of business) apply to your disposal of the item as if it were an item of your trading stock (as defined in section 70-10 of the *Income Tax Assessment Act 1997*).

Note: This ensures that your assessable income includes the market value of the item on the day of disposal. This counters your deduction under the *Income Tax Assessment Act 1936* for your expenditure to acquire the item as trading stock.

Additional rule for early balancers

- (3) If the disposal occurred *before* 1 July 1997, then, for the purposes of former subsection 36(1) of the *Income Tax Assessment Act 1936* (dealing with disposals of trading stock outside the ordinary course of business), the item is taken to have been, at the time of the disposal, trading stock as defined in section 70-10 of the *Income Tax Assessment Act 1997*.

Note: See the note to subsection (2).

Deduction for closing value at end of 1996-97

- (4) If:
- (a) former subsection 36(1) of the *Income Tax Assessment Act 1936* applies to the disposal, or would have if it had occurred before 1 July 1997; and
 - (b) the item's value was taken into account at the end of the 1996-97 income year under former Subdivision B (Trading stock) of Division 2 of Part III of the *Income Tax Assessment Act 1936*;

you can deduct for the income year of the disposal the item's value as so taken into account.

Note: This deduction offsets the effect of the item's value *not* having been taken into account under Subdivision 70-C of the *Income Tax Assessment Act 1997* at the start of the income year of the disposal.

70-20 Application of section 70-20 of the *Income Tax Assessment Act 1997* to trading stock bought on or after 1 July 1997

Section 70-20 (Non-arm's length transactions) of the *Income Tax Assessment Act 1997* applies to purchases that take place on or after 1 July 1997.

70-55 Cost of live stock acquired by natural increase

- (1) Section 70-55 of the *Income Tax Assessment Act 1997* applies to animals acquired by natural increase in or after the 1997-98 income year.
- (2) For the purposes of Subdivision 70-C of the *Income Tax Assessment Act 1997*, the **cost** of an animal acquired by natural increase before the 1997-98 income year is the cost price of the animal under former section 34 of the *Income Tax Assessment Act 1936*.
- (3) For the purposes of Subdivision 70-C of the *Income Tax Assessment Act 1997*, the **cost** of an animal acquired by a partnership by natural increase before the 1997-98 income year depends on whether its cost price has been used in working out the share of a partner in the partnership's net income or partnership loss for an earlier income year:
 - (a) if it has, the **cost** is that cost price, or the *lowest* of those cost prices if more than one cost price was used to work out the respective shares of partners;
 - (b) if it has not, the **cost** is the minimum cost price prescribed for the purposes of former section 34 of the *Income Tax Assessment Act 1936* for that class of animal for the time when the animal was acquired, or the animal's actual cost price if no minimum was prescribed.

Note 1: Former section 93 of the *Income Tax Assessment Act 1936* allowed each partner to choose the cost price of an animal for working out the partner's share of the partnership's net income or partnership loss for income years before the 1997-98 income year.

Note 2: Former section 34 of the *Income Tax Assessment Act 1936* provides for the valuation of live stock acquired by natural increase before the 1997-98 income year.

70-70 Valuing interests in FIFs on hand at the start of 1991-92

- (1) If:
 - (a) an interest in a FIF was an item of your trading stock on hand at the *start* of the 1991-92 income year; and

(b) that interest was also an item of your trading stock on hand at the *end* of the 1997-98 income year or a later income year; the **value** of the item at the *end* of the 1997-98 or later income year is the value of the item as taken into account under former Subdivision B (Trading stock) of Division 2 of Part III of the *Income Tax Assessment Act 1936* at the *start* of the 1991-92 income year.

- (2) This section has effect despite section 70-45 (the general rule about how to value your trading stock at the end of the income year) of the *Income Tax Assessment Act 1997*, but subject to subsection 70-70(2) (which allows you to elect to value all your interests in FIFs at their market value instead) of that Act.

Effect of election under former subsection 31(5) of the Income Tax Assessment Act 1936 on valuation of interests in FIFs

- (3) If you made an election under former subsection 31(5) of the *Income Tax Assessment Act 1936* (to value all your interests in FIFs at market value), subsection 70-70(2) of the *Income Tax Assessment Act 1997* applies to your interests in FIFs as if you had made an election under subsection 70-70(2).

70-90 Application of sections 70-90 and 70-95 of the *Income Tax Assessment Act 1997* to disposals of trading stock outside the ordinary course of business

Sections 70-90 (Assessable income on disposal of trading stock outside the ordinary course of business) and 70-95 (Purchase price is taken to be market value) of the *Income Tax Assessment Act 1997* apply to a disposal of an item of trading stock that takes place on or after 1 July 1997.

70-100 Application of section 70-100 of the *Income Tax Assessment Act 1997* to disposals of trading stock outside ordinary course of business

Basic application

- (1) Section 70-100 (Notional disposal when you stop holding an item as trading stock) of the *Income Tax Assessment Act 1997* applies to trading stock that stops being trading stock on hand of an entity on or after 1 July 1997.

Transitional provision if that section affects an assessment for 1996-97

- (2) The value of trading stock to which subsection (4) of that section applies is to be worked out using the rules in the *Income Tax Assessment Act 1936* (and not the rules in Subdivision 70-C of the *Income Tax Assessment Act 1997*) if:
 - (a) that section affects an assessment for the 1996-97 year of income under the *Income Tax Assessment Act 1936*; and
 - (b) an election is made under subsection (4) of that section to value trading stock at what would have been its value at the end of an income year ending on the day it became trading stock on hand of the second entity.

Note: Section 70-100 of the *Income Tax Assessment Act 1997* may affect an assessment for the 1996-97 income year if any of the entities with an interest in the trading stock (either before or after it becomes trading stock on hand of the second entity) has a 1996-97 income year ending on or after 1 July 1997.

70-105 Application of section 70-105 of the *Income Tax Assessment Act 1997* to deaths on or after 1 July 1997

- (1) Section 70-105 (Death of owner) of the *Income Tax Assessment Act 1997* applies to trading stock that devolves as a result of a person dying on or after 1 July 1997.

Transitional provision if that section affects an assessment for 1996-97

- (2) The value of an item to which subsection (3) or (4) of that section applies is to be worked out using the rules in the *Income Tax Assessment Act 1936* (and not the rules in Subdivision 70-C of the *Income Tax Assessment Act 1997*) if:

- (a) that section affects an assessment for the 1996-97 year of income under the *Income Tax Assessment Act 1936*; and
- (b) an election is made under subsection (3) or (4) of that section to value the item at an amount other than its market value.

Note: Section 70-105 of the *Income Tax Assessment Act 1997* may affect an assessment for the 1996-97 income year if an entity on which the item devolves has a 1996-97 income year ending on or after 1 July 1997.

70-115 Application of section 70-115 of the *Income Tax Assessment Act 1997* to insurance and indemnity payments in 1997-98 and later income years

Section 70-115 (Compensation for lost trading stock) of the *Income Tax Assessment Act 1997* applies to an amount received in the 1997-98 income year or a later income year by way of insurance or indemnity for a loss of trading stock, even if the loss occurred earlier. However, that section does not apply to an amount that is assessable income for an income year before the 1997-98 income year.

Part 2-40—Rules affecting employees and other taxpayers receiving PAYG withholding payments

Division 82—Pre-10 May 2006 entitlements to life benefit termination payments

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Subdivision 82-A—Application of Division

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| 82-10 | Pre-10 May 2006 entitlements— <i>transitional termination payments</i> |
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82-10 Pre-10 May 2006 entitlements—*transitional termination payments*

- (1) This Division applies in relation to a life benefit termination payment received by you on or after 1 July 2007 if:
 - (a) the payment is received by you because you are entitled to it under a written contract, a law of the Commonwealth, a State, a Territory or another country, an instrument under such a law, a collective agreement within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* or an AWA within the meaning of that Act; and

- (b) the entitlement is provided for under that contract, law, instrument or agreement as in force just before 10 May 2006.
- (2) However, this Division does not apply in relation to a life benefit termination payment received by you on or after 1 July 2012 (except to the extent provided by Subdivision 82-E).
- (3) This Division applies in relation to a life benefit termination payment only to the extent that the contract, law or agreement as in force just before 10 May 2006 specifies the amount of the payment, or a way to work out a specific amount of the payment.
- (4) For the purpose of subsection (3), a specific amount can be worked out in ways including either or both of the following:
- (a) by a method or formula for working out the amount;
 - (b) by provision for you or another person (or entity) to make a choice between forms of payment allowing amounts to be worked out as provided by subsection (3) and paragraph (a) of this subsection.
- Example: For paragraph (b), a specific amount of a life benefit termination payment that you receive on 1 July 2007 can be worked out from the terms of your written contract if the contract provided (just before 10 May 2006) for you to choose between payment in the form of a cash amount of \$100,000 or the transfer to you of 10,000 shares in a specified company.
- Note: Section 80-15 of the *Income Tax Assessment Act 1997* allows for employment termination payments to include the transfer of property (for example, shares). If so, the market value of the property is included in the amount of the payment (except any part of the property for which separate consideration has been given).
- (5) To the extent that this Division applies to a life benefit termination payment, Subdivision 82-A of the *Income Tax Assessment Act 1997* does not apply to the payment (subject to Subdivision 82-E of this Act).
- (6) In this Division:
- transitional termination payment*** means:
- (a) a life benefit termination payment to which this Division applies; or

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Part 2-40 Rules affecting employees and other taxpayers receiving PAYG withholding payments

Division 82 Pre-10 May 2006 entitlements to life benefit termination payments

Section 82-10A

- (b) if this Division applies to only part of a life benefit termination payment—that part of the payment.

Subdivision 82-B—Transitional termination payments: general

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| 82-10B | Lower cap amount |
| 82-10C | Recipient under preservation age |
| 82-10D | Upper cap amount |

82-10A Recipient has reached preservation age

Application

- (1) This section applies to a transitional termination payment you receive (except any part of the payment that is a directed termination payment) if you are your preservation age or older on the last day of the income year in which you receive the payment.

Note 1: You do not pay income tax on directed termination payments: see section 82-10G.

Note 2: Under section 82-10C, you may also be entitled to a tax offset on the taxable component of a transitional termination payment you receive in an income year before the year in which you reached your preservation age.

Tax free component

- (2) The tax free component of the payment is not assessable income and is not exempt income.

Taxable component

- (3) The taxable component of the payment is assessable income.
- (4) You are entitled to a tax offset that ensures that the rate of income tax on the amount mentioned in subsection (6) (the **low rate part**) does not exceed 15%.

- (5) You are entitled to a tax offset that ensures that the rate of income tax on the amount mentioned in subsection (7) (the ***middle rate part***) does not exceed 30%.

Note: The remaining part is taxed at the top marginal rate in accordance with the *Income Tax Rates Act 1986*.

- (6) The low rate part is so much of the taxable component of the payment as does not exceed your lower cap amount under section 82-10B.
- (7) The middle rate part is so much of the taxable component of the payment as:
- (a) exceeds your low rate part (if any); and
 - (b) does not exceed the amount worked out as follows:

Your upper cap amount Your lower cap amount
under section 82-10D – under section 82-10B

Note: If you have received another life benefit termination payment in the same income year (or in an earlier income year) that is not a transitional termination payment, your entitlement to a tax offset under this section is not affected by your entitlement (if any) to a tax concession for the other payment (under section 82-10 of the *Income Tax Assessment Act 1997*).

82-10B Lower cap amount

Initial lower cap amount is the ETP cap for the income year

- (1) Your ***lower cap amount*** in relation to a transitional termination payment you receive at a time in an income year is the ETP cap amount for the year, reduced in accordance with this section.

Note: For the ETP cap amount, see section 82-160 of the *Income Tax Assessment Act 1997*.

Reduction of lower cap amount in relation to each payment

- (2) Reduce your lower cap amount in relation to the payment (but not below zero):
- (a) by the amount (if any) (the ***cap excess***) worked out under subsection (3); and

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- (b) by so much of the total amounts of transitional termination payments (if any) that you received at an earlier time (whether in the income year or in an earlier income year) for which you are entitled to a tax offset under subsection 82-10A(4).
- (3) For paragraph (2)(a), the cap excess is worked out using this method:

Method statement

- Step 1. Work out the total of the taxable components of all the amounts (if any) of transitional termination payments received by you (including any directed termination payments received on your behalf) in any income year before the income year in which you reached your preservation age.
- Step 2. Work out the total of the taxable components of all the directed termination payments (if any) received on your behalf at an earlier time, in the income year in which you reached your preservation age or later.
- Step 3. Work out the amount (the **cap difference**) by which \$1,000,000 exceeds the ETP cap for the income year in which you receive the payment to which subsection (1) applies.
- Step 4. The cap excess is the amount (not less than zero) by which the sum of the amounts in steps 1 and 2 exceeds the cap difference in step 3.

Directed termination payments—time of receipt when received by entity to which they are directed

- (4) For the purposes of this section, a directed termination payment is taken to be received on your behalf at the time the entity to which it is directed receives the payment.

ETP cap not to be reduced under section 82-10 of the Income Tax Assessment Act 1997

- (5) For the purposes of this section, disregard any reduction of the ETP cap amount under section 82-10 of the *Income Tax Assessment Act 1997*.

82-10C Recipient under preservation age

Application

- (1) This section applies to a transitional termination payment you receive (except any part of the payment that is a directed termination payment) if you are under your preservation age on the last day of the income year in which you receive the payment.

Note: You do not pay income tax on directed termination payments: see section 82-10G.

Tax free component

- (2) The tax free component of the payment is not assessable income and is not exempt income.

Taxable component

- (3) The taxable component of the payment is assessable income.
- (4) You are entitled to a tax offset that ensures that the rate of income tax on the amount mentioned in subsection (5) does not exceed 30%.

Note: The remainder of the taxable component is taxed at the top marginal rate in accordance with the *Income Tax Rates Act 1986*.

- (5) The amount is so much of the taxable component of the payment as does not exceed your upper cap amount under section 82-10D.

Note: If you have received another life benefit termination payment in the same income year (or in an earlier income year) that is not a transitional termination payment, your entitlement to a tax offset under this section is not affected by your entitlement (if any) to a tax concession for the other payment (under section 82-10 of the *Income Tax Assessment Act 1997*).

Section 82-10D

82-10D Upper cap amount

Initial upper cap amount is \$1,000,000

- (1) Your **upper cap amount** in relation to a transitional termination payment you receive at a time in an income year is \$1,000,000, reduced in accordance with this section.

Reduction of upper cap amount for each payment

- (2) Reduce your upper cap amount in relation to the payment (but not below zero):
 - (a) by the total of all the amounts (if any) included in your assessable income under subsection 82-10C(3) and subsection 82-10A(3) that you received at an earlier time (whether in the income year or in an earlier income year); and
 - (b) by the total amount of the taxable components of all directed termination payments (if any) received on your behalf at an earlier time (whether in the income year or in an earlier income year).

Directed termination payments—time of receipt when received by entity to which they are directed

- (3) For this section, a directed termination payment is taken to be received on your behalf at the time the entity to which it is directed receives the payment.

Subdivision 82-C—Pre-payment statements

Table of sections

82-10E Transitional termination payments—pre-payment statements

82-10E Transitional termination payments—pre-payment statements

- (1) This section applies if an entity (the **payer**) proposes to pay a transitional termination payment to an individual.

- (2) The payer must give the individual a statement (a *pre-payment statement*) meeting the requirements of this section.
- (3) The statement must include the following information:
 - (a) the amount (if any) that would be the tax free component of the transitional termination payment;
 - (b) the amount (if any) that would be the taxable component of the transitional termination payment;
 - (c) any other information specified in the regulations.
- (4) The statement must also include details of the opportunity to make a choice in accordance with section 82-10F.

Subdivision 82-D—Directed termination payments made to superannuation and other entities

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| 82-10F | <i>Directed termination payments</i> |
| 82-10G | Directed termination payments not assessable income and not exempt income |

82-10F *Directed termination payments*

- (1) A transitional termination payment (or part of such a payment) is a *directed termination payment* if:
 - (a) the individual chooses, in accordance with this section, to direct the payment (or part of the payment) to be made; and
 - (b) the payment (or part of the payment) is made on the individual's behalf as directed.

Choice to make payment

- (2) An individual may choose, within 30 days after a pre-payment statement about a transitional termination payment is given to the individual under section 82-10E, to direct the payer to use all or part of the payment to make a payment on behalf of the individual:
 - (a) to a complying superannuation plan; or
 - (b) to purchase a superannuation annuity.

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Division 82 Pre-10 May 2006 entitlements to life benefit termination payments

Section 82-10G

- (3) To make the choice, the individual must:
 - (a) make it in the approved form; and
 - (b) give the completed form to the payer.
- (4) The payer must, immediately after receiving a completed form under subsection (3):
 - (a) give the entity (or entities) to which payment is directed written notice of the amount that is to be paid, and of the tax free component of the amount; and
 - (b) comply with the direction (or directions) in the form.

82-10G Directed termination payments not assessable income and not exempt income

A directed termination payment made on your behalf, that you are taken to receive under section 80-20 of the *Income Tax Assessment Act 1997*, is not assessable income and is not exempt income.

Note 1: Directed termination payments are paid into a complying superannuation plan (or to purchase a superannuation annuity) on your behalf: see section 82-10F.

Note 2: The taxable component of the payment is included in the assessable income of the entity receiving the payment: see section 295-190 of the *Income Tax Assessment Act 1997*.

Note 3: In addition, income tax may be payable on a benefit you later receive from the plan to which the directed termination payment is made: see Divisions 301-307 of the *Income Tax Assessment Act 1997*.

Subdivision 82-E—Pre-10 May 2006 entitlements and employment termination payments made after 1 July 2012

Table of sections

- 82-10H Transitional termination payments may reduce ETP cap amount for payments under section 82-10 after 1 July 2012

82-10H Transitional termination payments may reduce ETP cap amount for payments under section 82-10 after 1 July 2012

- (1) This section deals with the application of paragraph 82-10(4)(b) of the *Income Tax Assessment Act 1997* to an income year beginning on or after 1 July 2012.
- (2) For the purposes of that paragraph, the ETP cap amount is taken to be further reduced (but not below zero) by the amount mentioned in subsection (3) (the ***concessional amount***) of any transitional termination payment made in consequence of the same employment termination as the employment termination to which the paragraph applies.
- (3) The concessional amount of a transitional termination payment is the part (if any) of the taxable component of the payment for which you are entitled to a tax offset under section 82-10A or 82-10C of this Act.

Division 83A—Employee share schemes

Table of Subdivisions

- 83A-A Application of Division 83A of the *Income Tax Assessment Act 1997*
- 83A-B Application of former provisions of the *Income Tax Assessment Act 1936*

Subdivision 83A-A—Application of Division 83A of the Income Tax Assessment Act 1997

Table of sections

- 83A-5 Application of Division 83A of the *Income Tax Assessment Act 1997*

83A-5 Application of Division 83A of the *Income Tax Assessment Act 1997*

- (1) Division 83A of the *Income Tax Assessment Act 1997* applies in relation to an ESS interest if:
 - (a) the interest was acquired on or after 1 July 2009; and
 - (b) the relevant share or right (within the meaning of Division 13A of Part III of the *Income Tax Assessment Act 1936*, as in force at the time (the **pre-Division 83A time**) occurring just before Schedule 1 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009* commenced, (**former Division 13A**)) was *not* acquired (within the meaning of former Division 13A) before 1 July 2009.
- (2) Furthermore, Subdivision 83A-C of the *Income Tax Assessment Act 1997* (and the rest of Division 83A of that Act, to the extent that it relates to that Subdivision) also applies in relation to an ESS interest if:
 - (a) all of the following subparagraphs apply:
 - (i) at the pre-Division 83A time, subsection 139B(3) of the *Income Tax Assessment Act 1936* applied in relation to the interest;

- (ii) the interest was acquired (within the meaning of former Division 13A) before 1 July 2009;
 - (iii) the cessation time mentioned in subsection 139B(3) of the *Income Tax Assessment Act 1936*, as in force at the pre-Division 83A time, for the interest did not occur before 1 July 2009; or
 - (b) all of the following subparagraphs apply:
 - (i) at the pre-Division 83A time, section 26AAC of the *Income Tax Assessment Act 1936*, as in force at that time, (**former section 26AAC**) applied in relation to the interest;
 - (ii) the interest was acquired (within the meaning of former section 26AAC) before 1 July 2009;
 - (iii) an amount has not been included in a person's assessable income under former section 26AAC in relation to the interest before 1 July 2009.
- (2A) To avoid doubt, for the purposes of subparagraph (2)(a)(i), section 139CDA of the *Income Tax Assessment Act 1936* applied to the interest at the pre-Division 83A time if the taxpayer in question first became or becomes an employee, as mentioned in that section, before the cessation time for the interest. It does not matter whether the employee so became or becomes an employee before, on or after the pre-Division 83A time.
- Note: Section 139CDA was about shares or rights acquired while engaged in foreign service.
- (3) Subsection (2) applies despite section 83A-105 of the *Income Tax Assessment Act 1997*.
 - (4) If Subdivision 83A-C of the *Income Tax Assessment Act 1997* applies in relation to an ESS interest because of subsection (2):
 - (a) do not include an amount in your assessable income under subsection 83A-110(1) of that Act in relation to the ESS interest to the extent that the amount relates to your employment outside Australia; and
 - (b) subject to subsection 83A-115(3) or 83A-120(3) of that Act, whichever is applicable, treat the **ESS deferred taxing point** for the interest as being:

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- (i) if paragraph (2)(a) of this section applies—the cessation time mentioned in subparagraph (2)(a)(iii); or
- (ii) if paragraph (2)(b) applies—the earliest time at which an amount is included in a person's assessable income under former section 26AAC in relation to the interest; and
- (c) treat the reference in subsection 83A-115(3) or 83A-120(3) (30 day rule for ESS deferred taxing point), whichever is applicable, of that Act to the time worked out under subsection 83A-115(2) or 83A-120(2) of that Act as being a reference to the time worked out under paragraph (b) of this subsection; and
- (d) treat the requirements in paragraphs 83A-310(a), (b) and (c) of that Act as being satisfied in relation to the interest if, and only if:
 - (i) if paragraph (2)(a) applies—the 2 requirements mentioned in section 139DD of the *Income Tax Assessment Act 1936* (as in force at the pre-Division 83A time) are satisfied in relation to the interest; or
 - (ii) if paragraph (2)(b) applies—the requirements in paragraphs (8D)(a), (b) and (c) of former section 26AAC are satisfied in relation to the interest; and
- (e) Subdivision 14-C in Schedule 1 to the *Taxation Administration Act 1953* (about TFN withholding tax (ESS)) does not apply to the ESS interest; and
- (f) if paragraph (2)(a) applies:
 - (i) for the purposes of Division 115 of the *Income Tax Assessment Act 1997* (Discount capital gains and trusts' net capital gains), treat the ESS interest as having been acquired by an individual when the individual acquired the legal title in the share or right of which the ESS interest forms part; and
 - (ii) for the purposes of Division 392 in Schedule 1 to the *Taxation Administration Act 1953* (Statements), disregard any election made under former section 139E of the *Income Tax Assessment Act 1936*; and

- (g) if paragraph (2)(b) applies—paragraph 82-135(m) of the *Income Tax Assessment Act 1997* does not apply in relation to the ESS interest.

Subdivision 83A-B—Application of former provisions of the Income Tax Assessment Act 1936

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| 83A-15 | Indeterminate rights |

83A-10 Savings—continued operation of former provisions

- (1) This section applies if:
- (a) at the time (the ***pre-Division 83A time***) occurring just before Schedule 1 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009* commenced:
 - (i) Division 13A of Part III of the *Income Tax Assessment Act 1936*, as in force at that time, (***former Division 13A***) applied in relation to a share or right (within the meaning of former Division 13A); or
 - (ii) section 26AAC of that Act, as in force at that time, applied in relation to a share or right (within the meaning of that section as in force at that time); and
 - (b) if there is a beneficial interest in the share or right that is an ESS interest—Division 83A of the *Income Tax Assessment Act 1997* does not apply in relation to the interest under section 83A-5.
- (2) If subparagraph (1)(a)(i) applies, to avoid doubt, former Division 13A continues to apply (in spite of its repeal) to the share or right.
- (3) If subparagraph (1)(a)(ii) applies, to avoid doubt, sections 26AAC and 26AAD of the *Income Tax Assessment Act 1936*, as in force at the pre-Division 83A time, continue to apply (in spite of their repeal) to the share or right.

Section 83A-15

83A-15 Indeterminate rights

- (1) This section applies if:
 - (a) you acquired a beneficial interest in a right before 1 July 2009; and
 - (b) on or after 1 July 2009, the right becomes a right to acquire a beneficial interest in a share.
- (2) Division 13A of the *Income Tax Assessment Act 1936* is taken to have applied as if the right had always been a right to acquire the beneficial interest in the share.

Amendment of assessments

- (3) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment at any time for the purpose of giving effect to subsection (2) of this section.

Chapter 3—Specialist liability rules

Part 3-1—Capital gains and losses: general topics

Division 102—Application of Parts 3-1 and 3-3 of the Income Tax Assessment Act 1997

Table of sections

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| 102-5 | Working out capital gains and capital losses |
| 102-15 | Applying net capital losses |
| 102-20 | Net capital gains, capital gains and capital losses for income years before 1998-99 |

102-1 Application of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*

Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* (about capital gains and capital losses) apply to assessments for the 1998-99 income year and later income years.

102-5 Working out capital gains and capital losses

General rule

- (1) In working out whether you have made a capital gain or a capital loss from a CGT event that happens in relation to a CGT asset in the 1998-99 income year or a later income year, you use only the provisions of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* (or a provision of an Act that modifies the operation of those Parts) unless a provision of this Part or Part 3-3 of this Act also requires you to use another provision.

Note 1: This means that, for example, in working out your cost base of the asset, you will apply the new law to circumstances that occurred before the 1998-99 income year (except where this Act requires you to use another provision).

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Note 2: In most cases, the other provision is a provision of this Act. However, in some cases, other provisions may be relevant (for example, provisions of the *Income Tax Assessment Act 1936*).

Note 3: Part X of the *Income Tax Assessment Act 1936* includes provisions that modify the operation of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*.

Roll-overs

(2) If:

- (a) an entity acquired a CGT asset before the start of the 1998-99 income year as part of a transaction or event or series of transactions or events in respect of which there was a roll-over under the *Income Tax Assessment Act 1936*; and
- (b) the entity owned the asset just before the start of that income year; and
- (c) a CGT event happens in relation to the asset in that income year or a later one;

the provisions of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* apply to the asset from the time when the roll-over happened except that the first element of the cost base and reduced cost base of the asset (when the roll-over happened) is the amount the entity is taken to have paid as consideration in respect of the acquisition of the asset under the relevant provision of the *Income Tax Assessment Act 1936*.

102-15 Applying net capital losses

- (1) In working out whether you have a net capital gain for the 1998-99 income year, the amount of any net capital loss for the 1997-98 income year or an earlier income year must be worked out under the *Income Tax Assessment Act 1936*.
- (2) If you had a net capital loss for the 1997-98 income year, or some unapplied net capital loss for either of the 2 preceding income years, under former Part IIIA of the *Income Tax Assessment Act 1936*, it can be carried forward to a later income year to be applied under the *Income Tax Assessment Act 1997*.

Note: The way in which capital losses can be applied may be affected by other provisions: see section 102-30 of the *Income Tax Assessment Act 1997*.

- (3) If you had a net listed personal-use asset loss for the 1997-98 income year under former Part IIIA of the *Income Tax Assessment Act 1936*, it is taken for the purposes of the *Income Tax Assessment Act 1997* to be a net capital loss from collectables for that income year.

102-20 Net capital gains, capital gains and capital losses for income years before 1998-99

For the 1997-98 income year or an earlier income year:

capital gain has the meaning given by former Part IIIA of the *Income Tax Assessment Act 1936*.

capital loss has the meaning given by former Part IIIA of the *Income Tax Assessment Act 1936*.

net capital gain has the meaning given by former Part IIIA of the *Income Tax Assessment Act 1936*.

Division 104—CGT events

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Subdivision 104-C—End of a CGT asset

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104-25 Cancellation, surrender and similar endings

The capital proceeds from an ending referred to in subsection 104-25(3) of the *Income Tax Assessment Act 1997* in relation to shares are reduced by any amount that was taken into account as a capital gain for the shares under former section 160ZL of the *Income Tax Assessment Act 1936* for the 1997-98 income year or an earlier income year.

Subdivision 104-D—Bringing into existence a CGT asset

Table of sections

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| 104-40 | Granting an option |
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104-40 Granting an option

A capital gain or capital loss is disregarded if:

- (a) you made the capital gain or capital loss for the 1997-98 income year or an earlier income year under former Part IIIA

of the *Income Tax Assessment Act 1936* because you granted an option to an entity, or renewed or extended an option you had granted; and

- (b) the other entity exercises the option in the 1998-99 income year or a later income year.

Subdivision 104-E—Trusts

Table of sections

104-70 Capital payment before 18 December 1986 for trust interest

104-70 Capital payment before 18 December 1986 for trust interest

- (1) Section 104-70 of the *Income Tax Assessment Act 1997* applies for the purpose of working out the cost base of a unit or an interest you own in a trust if these conditions are satisfied:
- (a) CGT event E4 happens in relation to the unit; and
 - (b) you were taken to have disposed of the unit or interest under former section 160ZM of the *Income Tax Assessment Act 1936* (the former equivalent of CGT event E4) because of a payment made by the trustee before 18 December 1986; and
 - (c) some or all of the payment (the ***non-assessable part***) was not included in your assessable income; and
 - (d) some or all of the non-assessable part (the ***attributable part***) was attributable to a deduction under former Division 10C or 10D of Part III of the *Income Tax Assessment Act 1936* (about capital works).
- (2) The cost base of the unit or interest is also reduced by the attributable part.
- (3) Subsection 104-70(5) of the *Income Tax Assessment Act 1997* also reduces the cost base and reduced cost base of a unit or interest to nil if an amount was taken into account as a capital gain for the unit or interest under former section 160ZM of the *Income Tax Assessment Act 1936*.

Subdivision 104-G—Shares

Table of sections

104-135 Capital payment for shares

104-135 Capital payment for shares

Subsection 104-135(3) of the *Income Tax Assessment Act 1997* also reduces the cost base and reduced cost base of a share to nil if an amount was taken into account as a capital gain for the share under former section 160ZL of the *Income Tax Assessment Act 1936*.

Subdivision 104-I—Australian residency ends

Table of sections

104-165 Choices made under subsection 104-165(2) of the *Income Tax Assessment Act 1997*
104-166 Subsection 104-165(1) still applies if you continue to be a short term Australian resident

104-165 Choices made under subsection 104-165(2) of the *Income Tax Assessment Act 1997*

- (1) This section applies if:
 - (a) a choice was made under subsection 104-165(2) of the *Income Tax Assessment Act 1997*; and
 - (b) because of the choice, an asset is taken to have the necessary connection with Australia under subsection 104-165(3) of the *Income Tax Assessment Act 1997* just before the commencement of Schedule 4 of the *Tax Laws Amendment (2006 Measures No. 4) Act 2006*.
- (2) To avoid doubt, the choice has effect for the purposes of subsection 104-165(3) of the *Income Tax Assessment Act 1997* as in force on and after that commencement.

Note: This means that the asset will be taxable Australian property under the *Income Tax Assessment Act 1997* as in force on and after that commencement.

104-166 Subsection 104-165(1) still applies if you continue to be a short term Australian resident

Subsection 104-165(1) of the *Income Tax Assessment Act 1997* continues to apply, despite its repeal by item 20 of Schedule 1 to the *Tax Laws Amendment (2006 Measures No. 1) Act 2006*, to an individual:

- (a) who is in Australia on the day on which that item receives the Royal Assent; and
- (b) who remains an Australian resident from that day until the time subsection 104-165(1) is applied in respect of him or her.

Subdivision 104-J—CGT events relating to roll-overs

Table of sections

| | |
|---------|--|
| 104-175 | Company ceasing to be member of wholly-owned group after roll-over |
| 104-185 | Change of status of replacement asset for a roll-over under Division 17A of former Part IIIA of the 1936 Act or Division 123 of the 1997 Act |

104-175 Company ceasing to be member of wholly-owned group after roll-over

- (1) Unless subsection (2) or (3) of this section applies, sections 104-175 and 104-180 of the *Income Tax Assessment Act 1997* apply if there was a roll-over under former section 160ZZO of the *Income Tax Assessment Act 1936* for a disposal of an asset from one company to another company (the *transferee*).
- (2) If CGT event J1 would happen in relation to the roll-over in a situation involving something happening in relation to the transferee, that event does not happen if there would have been no deemed disposal and re-acquisition of the asset by the transferee in that situation under whichever of these provisions would have been relevant for that situation if it had happened before the start of the 1998-99 income year:
 - (a) former section 160ZZOA of that Act; or
 - (b) former paragraphs 160ZZO(1)(g) and (h) of that Act.

Section 104-185

- (3) In working out whether subsection (2) affects you, take into account provisions of other Acts that amended former Part IIIA of the *Income Tax Assessment Act 1936* and that affect the situation referred to in that subsection.

104-185 Change of status of replacement asset for a roll-over under Division 17A of former Part IIIA of the 1936 Act or Division 123 of the 1997 Act

Section 104-185 of the *Income Tax Assessment Act 1997* applies to a replacement asset for a roll-over under:

- (a) Division 17A of former Part IIIA of the *Income Tax Assessment Act 1936*; or
(b) Division 123 of the *Income Tax Assessment Act 1997*;
in the same way as it applies to a replacement asset for a roll-over under Subdivision 152-E of the *Income Tax Assessment Act 1997*.

Subdivision 104-K—Other CGT events

Table of sections

- 104-205 Partial realisation of intellectual property
104-235 CGT event K7: asset used for old law R&D activities

104-205 Partial realisation of intellectual property

Subsection 104-205(3) of the *Income Tax Assessment Act 1997* also reduces the cost base and reduced cost base of the item to nil if an amount was taken into account as a capital gain for the item under former section 160ZZD of the *Income Tax Assessment Act 1936*.

104-235 CGT event K7: asset used for old law R&D activities

Section applies if asset used for old law R&D activities

- (1) This section applies to an R&D entity if:
(a) a balancing adjustment event happens in an income year commencing on or after 1 July 2011 for an asset held by the R&D entity; and

- (b) at some time when the R&D entity held the asset, it used the asset for the purpose of the carrying on by or on its behalf of research and development activities (within the meaning of former section 73B of the *Income Tax Assessment Act 1936*).

Changed application of sections 104-235 and 104-240

- (2) Sections 104-235 and 104-240 of the *Income Tax Assessment Act 1997* (the **new Act**) apply to the R&D entity for the event as if:
 - (a) a reference in those sections to the purpose of conducting R&D activities for which you were registered under section 27A of the *Industry Research and Development Act 1986*;
included:
 - (b) a reference to the purpose described in paragraph (1)(b) of this section.

Normal rules do not apply for the asset and the event

- (3) Neither of the following sections:
 - (a) sections 104-235 and 104-240 of the new Act (as amended by the *Tax Laws Amendment (Research and Development) Act 2011*);
 - (b) sections 104-235 and 104-240 of the new Act (as those sections apply because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*);to the extent that they would otherwise apply apart from this section to the R&D entity for the event, do so apply to the R&D entity for the event.

Note 1: The sections described in paragraph (a) would otherwise apply for the event in a case where the R&D entity had used the asset for the purpose of conducting R&D activities for which it was registered under section 27A of the *Industry Research and Development Act 1986*.

Note 2: The sections described in paragraph (b) would otherwise apply in respect of the purpose described in paragraph (1)(b) of this section.

Division 108—CGT assets

Table of Subdivisions

- 108-A What a CGT asset is
- 108-B Collectables
- 108-D Separate CGT assets

Subdivision 108-A—What a CGT asset is

Table of sections

- 108-5 CGT assets

108-5 CGT assets

If:

- (a) an entity owned a thing that is not a form of property before 26 June 1992 and at all times from that day to the start of the entity's 1998-99 income year; and
- (b) that thing was not, before 26 June 1992, an *asset* as defined in former section 160A of the *Income Tax Assessment Act 1936*;

the thing is not a CGT asset.

Subdivision 108-B—Collectables

Table of sections

- 108-15 Sets of collectables

108-15 Sets of collectables

Section 108-15 of the *Income Tax Assessment Act 1997* does not apply to a collectable you own that you last acquired before 16 December 1995.

Note: That section has special rules for the separate disposal of collectables that are a set.

Subdivision 108-D—Separate CGT assets

Table of sections

| | |
|--------|---|
| 108-75 | Capital improvements to CGT assets for which a roll-over may be available |
| 108-85 | Improvement threshold |

108-75 Capital improvements to CGT assets for which a roll-over may be available

- (1) Subsection 108-75(2) of the *Income Tax Assessment Act 1997* applies to a roll-over under former section 160ZWA of the *Income Tax Assessment Act 1936* in the same way that it applies to a roll-over under Subdivision 124-J of the *Income Tax Assessment Act 1997*.
- (2) Subsection 108-75(2) of the *Income Tax Assessment Act 1997* applies to a roll-over under former section 160ZZF of the *Income Tax Assessment Act 1936* in the same way that it applies to a roll-over under Subdivision 124-L of the *Income Tax Assessment Act 1997*.
- (3) Subsection 108-75(2) of the *Income Tax Assessment Act 1997* applies to a roll-over under former section 160ZZPE of the *Income Tax Assessment Act 1936* in the same way that it applies to a roll-over under Subdivision 124-C of the *Income Tax Assessment Act 1997*.
- (4) Subsection 108-75(2) of the *Income Tax Assessment Act 1997* applies to a roll-over under former section 160ZWC of the *Income Tax Assessment Act 1936* in the same way that it applies to a roll-over under Subdivision 124-K of the *Income Tax Assessment Act 1997*.

Note: This provision covers the case where the roll-over occurred in the 1997-98 income year or an earlier one and the relevant CGT event in the 1998-99 income year or a later one.

Section 108-85

108-85 Improvement threshold

Despite section 108-85 of the *Income Tax Assessment Act 1997*, the Commissioner is entitled to publish the improvement threshold for the 1998-99 income year:

- (a) before the beginning of that year; or
- (b) within a reasonable time after the beginning of that year.

Division 109—Acquisition of CGT assets

Table of Subdivisions

109-A Operative rules

Subdivision 109-A—Operative rules

Table of sections

109-5 General acquisition rules

109-5 General acquisition rules

- (1) If:
- (a) the circumstances specified in the second column of the table in subsection 109-5(2) of the *Income Tax Assessment Act 1997* for CGT event E1, E2 or E3 happened in relation to an asset before 12 noon, by legal time in the Australian Capital Territory, on 12 January 1994; and
 - (b) the trustee that owned the asset just after those circumstances happened also owned it at all times from then until the start of the trustee's 1998-99 income year;
- the question whether those circumstances resulted in an acquisition of an asset by the trustee is to be determined under the *Income Tax Assessment Act 1936* as in force just before 12 noon, by legal time in the Australian Capital Territory, on 12 January 1994.
- (2) The acquisition rule for CGT event E9 (about an entity creating a trust over future property) in the table in subsection 109-5(2) of the *Income Tax Assessment Act 1997* does not apply to you as trustee if the agreement to create the trust was made before 12 noon, by legal time in the Australian Capital Territory, on 12 January 1994.

Division 110—Cost base and reduced cost base

Table of Subdivisions

110-A Cost base

Subdivision 110-A—Cost base

Table of sections

110-25 Cost base of CGT asset of life insurance company or registered organisation
110-35 Incidental costs

110-25 Cost base of CGT asset of life insurance company or registered organisation

For the purpose of working out the capital gain of a life insurance company or a registered organisation from a CGT event happening after 11.45 am (by legal time in the Australian Capital Territory) on 21 September 1999 and before 1 July 2000, the cost base includes indexation only if the company or organisation chooses that the cost base includes indexation.

110-35 Incidental costs

Despite subsection 110-35(2) of the *Income Tax Assessment Act 1997*, expenditure for professional advice about taxation incurred before 1 July 1989 does *not* form part of the cost base of a CGT asset.

Division 112—Modifications to cost base and reduced cost base

Table of Subdivisions

- 112-A General rules
- 112-B Special rules

Subdivision 112-A—General rules

Table of sections

- 112-20 Market value substitution rule

112-20 Market value substitution rule

In working out the cost base and reduced cost base of a CGT asset:

- (a) that you acquired before 16 August 1989; and
- (b) to which paragraph 112-20(2)(b) or (c), or item 5 or 6 in the table in subsection 112-20(3), of the *Income Tax Assessment Act 1997* would apply (apart from this section);

disregard subsections 112-20(2) and (3) of that Act.

Note: This section preserves the pre-16 August 1989 position for, among other things, shares or units issued or allotted to you by allowing the market value substitution rule to apply.

Subdivision 112-B—Special rules

Table of sections

- 112-100 Effect of terminated gold mining exemptions

112-100 Effect of terminated gold mining exemptions

- (1) This section affects how to work out a capital gain or capital loss you make from a CGT event that happens to a CGT asset after 31 December 1990 if:
 - (a) before 1 January 1991, you used the asset (other than on a prior holding of it) solely for the purpose of producing

Section 112-100

exempt income, and principally for the purpose of producing exempt income to which former paragraph 23(o) or former subsection 23C(1) of the *Income Tax Assessment Act 1936* (about income from producing or selling gold) applied; and

- (b) you owned the asset continuously from the end of 31 December 1990 until the CGT event.

Capital gain

- (2) For the purposes of working out a capital gain you make from the CGT event, if the asset's market value at the end of 31 December 1990 was more than its cost base at that time, the first element of its cost base at that time is that market value.

Capital loss

- (3) The rest of this section has effect for the purposes of working out a capital loss you make from the CGT event.
- (4) If the asset's market value at the end of 31 December 1990 was less than its reduced cost base at that time, the first element of its reduced cost base at that time is that market value.
- (5) In applying section 110-55 of the *Income Tax Assessment Act 1997* (about reduced cost base):
- (a) treat your notional deductions (within the meaning of Subdivision B or C of former Division 16H of Part III of the *Income Tax Assessment Act 1936*) as amounts you have deducted; and
 - (b) disregard the effect of former sections 159GZZO and 159GZZZ of that Act.

Division 114—Indexation of cost base

Table of sections

114-5 When indexation relevant

114-5 When indexation relevant

Indexation is *not* relevant to the capital gain of a life insurance company or a registered organisation from a CGT event happening after 11.45 am (by legal time in the Australian Capital Territory) on 21 September 1999 and before 1 July 2000 unless the company or organisation has chosen that the cost base include indexation for the purposes of the *Income Tax Assessment Act 1997*.

Division 118—Exemptions

Table of Subdivisions

| | |
|-------|--------------------|
| 118-A | General exemptions |
| 118-B | Main residence |
| 118-C | Goodwill |

Subdivision 118-A—General exemptions

Table of sections

| | |
|---------|---------------------------|
| 118-10 | Interests in collectables |
| 118-24A | Pilot plant |

118-10 Interests in collectables

- (1) This section applies to a collectable you own that:
 - (a) is an interest in:
 - (i) artwork, jewellery, an antique or a coin or medallion; or
 - (ii) a rare folio, manuscript or book; or
 - (iii) a postage stamp or first day cover; and
 - (b) you last acquired before 16 December 1995.
- (2) A capital gain or capital loss you make from the interest is disregarded if the first element of its cost base is \$500 or less.

118-24A Pilot plant

- (1) Disregard a capital gain or capital loss you make from a CGT event happening in relation to pilot plant, as defined in former subsection 73B(1) of the *Income Tax Assessment Act 1936*:
 - (a) if the CGT event happens after 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999; or
 - (b) if:
 - (i) the CGT event is CGT event A1 (disposal of a CGT asset); and

- (ii) the time of the event is when you entered into the contract for the disposal of the CGT asset; and
 - (iii) the change of ownership constituting the disposal occurred after 11.45 am, by legal time in the Australian Capital Territory, on 21 September 1999.
- (2) However, subsection (1) does not apply to assessments for the 2001-2002 income year and later income years.

Subdivision 118-B—Main residence

Table of sections

118-195 Exemption—dwelling acquired from deceased estate

118-195 Exemption—dwelling acquired from deceased estate

- (1) This section applies to an entity:
- (a) that acquired an ownership interest in a dwelling as trustee of a deceased estate on or before 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996; or
 - (b) to whom an ownership interest in a dwelling passed as a beneficiary in a deceased estate on or before that time.
- (2) Item 1 in the table in subsection 118-195(1) of the *Income Tax Assessment Act 1997* applies to the entity in relation to the dwelling as if that item required the dwelling to be the deceased's main residence throughout the deceased's ownership period.
- (3) Section 118-192 and subsections 118-190(4) and 118-200(4) do not apply to the entity in relation to the dwelling.

Subdivision 118-C—Goodwill

Table of sections

118-260 Business exemption threshold

Section 118-260

118-260 Business exemption threshold

Despite section 118-260 of the *Income Tax Assessment Act 1997*, the Commissioner is entitled to publish the business exemption threshold for the 1998-99 income year:

- (a) before the beginning of that year; or
- (b) within a reasonable time after the beginning of that year.

Division 121—Record keeping

Table of sections

| | |
|--------|---|
| 121-15 | Retaining records under Division 121 |
| 121-25 | Records for mergers between qualifying superannuation funds |

121-15 Retaining records under Division 121

If you were retaining records under former section 160ZZU of the *Income Tax Assessment Act 1936* for an asset, you must continue to retain them in accordance with Division 121 of the *Income Tax Assessment Act 1997*.

121-25 Records for mergers between qualifying superannuation funds

- (1) A superannuation fund to which former subsection 160ZZU(6A) of the *Income Tax Assessment Act 1936* applied just before the start of the 1998-99 income year must keep the records referred to in that subsection, and retain them until the end of 30 June 2002.
- (2) A superannuation fund to which former subsection 160ZZU(6B) of the *Income Tax Assessment Act 1936* applied just before the start of the 1998-99 income year in relation to a CGT asset must keep the records referred to in that subsection for the asset, and retain them until the end of 5 years after CGT event A1, B1, C1, C2, G1 or G3 happens in relation to the asset.

Note: The full list of CGT events is in section 104-5 of the *Income Tax Assessment Act 1997*.

Maximum penalty: 30 penalty units.

- (3) Subsection (1) or (2) does not require a fund to retain records if the Commissioner notifies the fund that the retention of the records is not required.

Part 3-3—Capital gains and losses: special topics

Division 124—Replacement-asset roll-overs

Table of Subdivisions

- 124-C Statutory licences
- 124-I Change of incorporation

Subdivision 124-C—Statutory licences

Table of sections

- 124-140 New statutory licence—ASGE licence etc.
- 124-141 ASGE licence etc.—cost base of ineligible part
- 124-142 ASGE licence etc.—cost base of aquifer access licence etc.

124-140 New statutory licence—ASGE licence etc.

- (1) Sections 124-141 and 124-142 apply if:
- (a) there are one or more roll-overs under section 124-140 of the *Income Tax Assessment Act 1997* where:
 - (i) your ownership of one or more statutory licences (each of which is an **original licence**) ends, resulting in CGT event C2 happening to the licence (or to each of the licences as part of an arrangement); and
 - (ii) you are issued one or more new licences (each of which is a **new licence**) for the original licence (or original licences); and
 - (b) if there was only one original licence—that licence is covered under subsection (2); and
 - (c) if there was more than one original licence—at least one of the original licences was covered under subsection (2); and
 - (d) if there is only one new licence—that licence is covered under subsection (3); and
 - (e) if there is more than one new licence—only one of the new licences is covered under subsection (3); and

- (f) the original licence (or at least one of the original licences) has an ineligible part (as described in section 124-150 of the *Income Tax Assessment Act 1997*).
- (2) A licence is covered under this subsection if it is:
 - (a) a bore licence issued under the *Water Act 1912* of New South Wales; or
 - (b) a licence of a kind specified in the regulations.
- (3) A licence is covered under this subsection if it is:
 - (a) an aquifer access licence under the *Water Management Act 2000* of New South Wales issued in accordance with the New South Wales Achieving Sustainable Groundwater Entitlements program (the **ASGE program**); or
 - (b) a licence of a kind specified in the regulations.

124-141 ASGE licence etc.—cost base of ineligible part

- (1) For an original licence that has an ineligible part, the cost base of the ineligible part is the cost base of the original licence multiplied by the amount worked out under the formula:

$$\frac{\text{Total ineligible proceeds}}{\text{Total ineligible proceeds} + \text{Value of new licence}}$$

where:

total ineligible proceeds is the total of the ineligible proceeds (as described in section 124-150 of the *Income Tax Assessment Act 1997*) in relation to all of the original licences that have an ineligible part.

value of new licence is:

- (a) if the new licence is an aquifer access licence mentioned in paragraph 124-40(3)(a)—the 2002 value assigned under the ASGE program to the new licence; or
- (b) otherwise—the value of the new licence worked out in accordance with the regulations.

Section 124-142

- (2) The regulations may specify one or more ways of working out the value of a licence (other than an aquifer access licence mentioned in paragraph 124-40(3)(a)) for the purposes of this section.
- (3) For an original licence that has an ineligible part, the reduced cost base of the ineligible part is the reduced cost base of the original licence multiplied by the amount worked under the formula set out in subsection (1).

124-142 ASGE licence etc.—cost base of aquifer access licence etc.

- (1) The first element of the cost base and reduced cost base of the new licence that is covered under subsection 124-140(3) is the total of the cost bases of the original licences.

Note: For the purposes of this section, the cost base of each original licence that has an ineligible part is reduced in accordance with subsection 124-150(4) of the *Income Tax Assessment Act 1997*.

- (2) The cost base and reduced cost base of any new licence that is *not* covered under subsection 124-140(3) is nil.
- (3) Subsections (4) and (5) apply if:
 - (a) there was more than one original licence; and
 - (b) some of the original licences were acquired before 20 September 1985; and
 - (c) subsection 124-165(2) of the *Income Tax Assessment Act 1997* applies in relation to the new licence that is covered under subsection 124-140(3) (splitting that licence into 2 separate CGT assets).
- (4) For the purposes of subsection (2), treat the asset that is taken under paragraph 124-165(2)(a) of that Act to have been acquired on or after 20 September 1985 as a new licence that is covered under subsection 124-140(3) of this Act.
- (5) Work out the first element of the cost base and reduced cost base of that asset in accordance with subsection 124-165(3) of that Act.

Subdivision 124-I—Change of incorporation

Table of sections

124-510 Application of Subdivision 124-I of the *Income Tax Assessment Act 1997*

124-510 Application of Subdivision 124-I of the *Income Tax Assessment Act 1997*

Subdivision 124-I of the *Income Tax Assessment Act 1997*, as amended by Schedule 2 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*, applies to CGT events happening after 7.30 pm (by legal time in the Australian Capital Territory) on 11 May 2010.

Division 125—Demerger relief

Table of Subdivisions

125-B Consequences for owners of interests

Subdivision 125-B—Consequences for owners of interests

Table of sections

125-75 Employee share schemes

125-75 Employee share schemes

Despite the amendment of section 125-75 of the *Income Tax Assessment Act 1997* made by Schedule 1 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009*, subsection (1) of that section continues to apply, from the commencement of that Schedule, to each ownership interest that it applied to just before that commencement.

Division 126—Roll-overs

Table of Subdivisions

- 126-A Merger of qualifying superannuation funds
- 126-B Transfer of life insurance business

Subdivision 126-A—Merger of qualifying superannuation funds

Table of sections

- 126-100 Merger of qualifying superannuation funds

126-100 Merger of qualifying superannuation funds

- (1) This section applies to a CGT asset of a superannuation fund (the *transferee*) if:
 - (a) the transferee acquired the asset from another superannuation fund in circumstances to which former section 160ZZPI of the *Income Tax Assessment Act 1936* applied; and
 - (b) the transferee owned the asset just before the start of the 1998-99 income year; and
 - (c) CGT event A1, B1, C1, C2, G1 or G3 happens in relation to the asset in that income year or a later one.

Note: The full list of CGT events is in section 104-5 of the *Income Tax Assessment Act 1997*.

- (2) The first element of the cost base of the asset in the hands of the transferee (at the time the transferee acquired the asset) is the asset's cost base (in the hands of the other fund) at that time.
- (3) The reduced cost base of the asset in the hands of the transferee is worked out similarly.

Subdivision 126-B—Transfer of life insurance business

Table of sections

- 126-150 Roll-over on transfer of life insurance business

Section 126-150

126-160 Effects of roll-over

126-165 References to Subdivision 126-B of the *Income Tax Assessment Act 1997*

126-150 Roll-over on transfer of life insurance business

- (1) There may be a roll-over if:
 - (a) a CGT event happens because all or part of the life insurance business of a life insurance company (the **originating company**) is transferred to another life insurance company (the **recipient company**):
 - (i) in accordance with a scheme confirmed by the Federal Court of Australia under Part 9 of the *Life Insurance Act 1995*; or
 - (ii) under the *Financial Sector (Transfers of Business) Act 1999*; and
 - (b) the originating company and the recipient company were members of the same wholly-owned group just before the transfer; and
 - (c) one of these happens:
 - (i) a CGT asset (the **original asset**) of the originating company becomes an asset of the recipient company; or
 - (ii) a CGT asset of the originating company ends and the recipient company acquires an equivalent replacement asset; or
 - (iii) the originating company creates a CGT asset in the recipient company; and
 - (d) the transfer takes place:
 - (i) before 30 June 2004; or
 - (ii) if the originating company and the recipient company are members of the same consolidated group or consolidatable group and the head company of that group has a substituted accounting period—before the end of the head company’s income year in which 30 June 2004 occurs.
- (2) The CGT asset involved (the **roll-over asset**) must not be trading stock of the recipient company just after the time of the transfer.

- (3) If:
- (a) the roll-over asset is a right or convertible interest referred to in Division 130, or an option referred to in Division 134, of the *Income Tax Assessment Act 1997* or an exchangeable interest; and
 - (b) the recipient company acquires another CGT asset by exercising the right or option or by converting the convertible interest or in exchange for the disposal or redemption of the exchangeable interest;
- the other asset cannot become trading stock of the recipient company just after the recipient company acquired it.

126-160 Effects of roll-over

- (1) A capital gain or capital loss the originating company makes from the CGT event is disregarded.
- (2) The first element of the cost base of the original asset or the replacement asset for the recipient company is the cost base of the original asset for the originating company just before the time of the CGT event.
- (3) The first element of the reduced cost base of the original asset or the replacement asset for the recipient company is worked out similarly.
- (4) For a case where the originating company creates a CGT asset in the recipient company, the first element of the asset's cost base (in the hands of the recipient company) is the amount applicable under this table. The first element of its reduced cost base is worked out similarly.

Creating a CGT asset

| CGT event number | Applicable amount |
|------------------|-------------------|
|------------------|-------------------|

| | |
|----|--|
| D1 | the incidental costs the originating company incurred that relate to the CGT event |
| D2 | the expenditure the originating company incurred to grant the option |
| D3 | the expenditure the originating company incurred to grant the right |

Section 126-165

Creating a CGT asset

| CGT event number | Applicable amount |
|-------------------------|--|
| F1 | the expenditure the originating company incurred on the grant, renewal or extension of the lease |

The expenditure can include giving property: see section 103-5 of the *Income Tax Assessment Act 1997*.

- (5) If the originating company acquired the original asset before 20 September 1985, the recipient company is taken to have acquired the original asset or the replacement asset before that day.

126-165 References to Subdivision 126-B of the *Income Tax Assessment Act 1997*

A reference in an Act to a roll-over under Subdivision 126-B of the *Income Tax Assessment Act 1997* includes a reference to a roll-over under this Subdivision.

Example: Examples of the operation of this provision include:

- (a) CGT event J1 may happen if the recipient company stops being a 100% subsidiary of a member of a company group after a roll-over under this Subdivision; and
- (c) an allocable cost amount may be affected under section 705-93 because of a roll-over under this Subdivision.

Division 128—Effect of death

Table of sections

128-15 Effect on the legal personal representative or beneficiary

128-15 Effect on the legal personal representative or beneficiary

The rule in item 3 in the table in subsection 128-15(4) of the *Income Tax Assessment Act 1997* (about a dwelling that was your main residence just before you died and was not being used for the purpose of producing assessable income) does not apply to a dwelling that devolved to your legal personal representative, or passed to a beneficiary in your estate, on or before 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996.

Division 130—Investments

Table of Subdivisions

- 130-A Bonus shares and units
- 130-B Rights
- 130-C Convertible notes

Subdivision 130-A—Bonus shares and units

Table of sections

- 130-20 Issue of bonus shares or units

130-20 Issue of bonus shares or units

- (1) This section modifies some of the rules in section 130-20 of the *Income Tax Assessment Act 1997* if:
 - (a) you own shares in a company or units in a unit trust (the **original equities**); and
 - (b) on or before the day specified in subsection (2) or (3), the company issues other shares, or the trustee issues other units, (the **bonus equities**) to you because it owes an amount to you in relation to the original equities.
- (2) If the bonus equities are shares and they were issued on or before 30 June 1987:
 - (a) subsection 130-20(2) of the *Income Tax Assessment Act 1997* does not apply to you; and
 - (b) you work out the cost base and reduced cost base of the bonus equities under subsection 130-20(3) of that Act regardless of whether any part of the amount owed to you by the company is a dividend.
- (3) The rule in item 2 of the table in subsection 130-20(3) of the *Income Tax Assessment Act 1997* does not apply if the bonus equities were issued on or before 1 pm, by legal time in the Australian Capital Territory, on 10 December 1986 and you were required to pay or give something for them. Instead, you are taken

to have acquired the bonus equities when you acquired the original equities.

Subdivision 130-B—Rights

Table of sections

130-40 Exercise of rights

130-40 Exercise of rights

- (1) The modifications in section 130-40 of the *Income Tax Assessment Act 1997* apply to you for rights (issued to you by a company before 16 August 1989) to acquire shares, or options to acquire shares, in that company, only if you were a shareholder of that company.
- (2) The modifications in section 130-40 of the *Income Tax Assessment Act 1997* apply to you for rights (issued to you by a company after 15 August 1989 and before the start of the 1993-94 income year) to acquire shares, or options to acquire shares in the company because you were a shareholder of another company, only if the companies were members of the same wholly-owned group for the whole of the income year in which the issue occurred.
- (3) The modification in item 3 of the table in section 130-40 of the *Income Tax Assessment Act 1997* applies also to your exercise of rights (that you acquired before 20 September 1985) to acquire shares, or options to acquire shares, in a company.

Subdivision 130-C—Convertible notes

Table of sections

130-60 Shares or units acquired by converting a convertible note

130-60 Shares or units acquired by converting a convertible note

- (1) The modification in item 1 of the table in subsection 130-60(1) of the *Income Tax Assessment Act 1997* does not apply to shares or units in a unit trust you acquire by converting a convertible note (that is a traditional security) that you acquired after 10 May 1989

Section 130-60

and before 16 August 1989. Instead, the first element of the cost base and reduced cost base of the shares or units is the sum of:

- (a) what you paid or gave to acquire the note; and
- (b) any amount you paid in relation to the conversion;

if that sum is more than the market value of the shares or units (at the time of conversion).

- (2) The modification in item 2 of the table in subsection 130-60(1) of the *Income Tax Assessment Act 1997* does not apply to shares you acquire by converting a convertible note (that is not a traditional security) that you acquired before 20 September 1985 where you paid or gave something in relation to the conversion. Instead, the first element of the cost base and reduced cost base of the shares is the sum of:
 - (a) the market value of the note at the time of the conversion; and
 - (b) what you paid or gave in relation to the conversion.
- (3) Subsection 130-60(2) of the *Income Tax Assessment Act 1997* does not apply to the acquisition of shares by the conversion of a convertible note that you acquired before 20 September 1985 if you did not pay or give anything in relation to the conversion. Instead, you are taken to have acquired them when you acquired the convertible note.

Division 134—Options

Table of sections

134-1 Exercise of options

134-1 Exercise of options

- (1) The modification in item 1 in the table in subsection 134-1(1) of the *Income Tax Assessment Act 1997* does not apply to an option (that was granted before 20 September 1985 and exercised after that day) that binds the grantor to create (including grant or issue) or dispose of a CGT asset. Instead, the first element of the cost base and reduced cost base of the CGT asset acquired by the grantee by exercising the option includes the market value of the option when it was exercised.
- (2) This section does not apply to an option if:
 - (a) it has been renewed or extended; and
 - (b) the last renewal or extension occurred on or after 20 September 1985.

Division 136—Foreign residents

Table of Subdivisions

136-A Making a capital gain or loss

Subdivision 136-A—Making a capital gain or loss

Table of sections

136-25 When an asset is taxable Australian property

136-25 When an asset is taxable Australian property

A CGT asset a company owns is taxable Australian property if:

- (a) the company acquired the asset after 28 January 1988 and on or before 25 May 1988; and
- (b) it acquired the asset as a result of a disposal (for the purposes of former Part IIIA of the *Income Tax Assessment Act 1936*) for which there was a roll-over under former section 160ZZN or 160ZZO of that Act; and
- (c) that disposal was by:
 - (i) an entity that was not a trustee, and not a resident of Australia for the purposes of that Act; or
 - (ii) an entity that was a trustee of a trust that was not a resident trust estate, or a resident unit trust, for the purposes of that Act.

Division 140—Share value shifting

Table of Subdivisions

140-A When is there share value shifting?

Subdivision 140-A—When is there share value shifting?

Table of sections

140-7 Pre-1994 share value shifts irrelevant
140-15 Off-market buy backs

140-7 Pre-1994 share value shifts irrelevant

You make adjustments to the cost base and reduced cost base of shares under Division 140 of the *Income Tax Assessment Act 1997* only in relation to schemes where the decrease in market value and increase in market value occur after 12 noon, by legal time in the Australian Capital Territory, on 12 January 1994.

140-15 Off-market buy backs

- (8) A share value shift is disregarded under subsection 140-15(8) of the *Income Tax Assessment Act 1997* only if:
- (a) the company concerned buys back the shares after 7.30 pm, by legal time in the Australian Capital Territory, on 9 May 1995; and
 - (b) the buy back is not done under an arrangement that is an excluded transitional arrangement within the meaning of subitem 12(2) of Schedule 1 of the *Taxation Laws Amendment Act (No 1) 1996*.

Division 149—When an asset stops being a pre-CGT asset

Table of sections

149-5 Assets that stopped being pre-CGT assets under old law

149-5 Assets that stopped being pre-CGT assets under old law

- (1) This section applies to a CGT asset that:
 - (a) an entity last acquired before 20 September 1985; and
 - (b) the entity owned just before the start of the 1998-99 income year; and
 - (c) the entity was taken to have acquired on a day (the *acquisition day*) on or after 20 September 1985 under Division 20 of former Part IIIA of the *Income Tax Assessment Act 1936*.
- (2) In applying Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997* to the entity:
 - (a) the entity is taken to have acquired the asset on the acquisition day; and
 - (b) the first element of the cost base and reduced cost base of the asset on the acquisition day is the amount for which the entity is taken to have acquired it under Division 20 of former Part IIIA of the *Income Tax Assessment Act 1936*.

Division 152—Small business relief

Table of sections

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| 152-5 | Small business roll-over chosen but no capital gain returned |
| 152-10 | Small business roll-over not chosen and time remains to acquire a replacement asset |
| 152-15 | Amendment of assessments |

152-5 Small business roll-over chosen but no capital gain returned

- (1) This section applies if:
 - (a) you chose a roll-over under Subdivision 152-E of the *Income Tax Assessment Act 1997* (or under former Division 123 of that Act) for a capital gain you made for an income year from a CGT event that happened in relation to a CGT asset before the commencement of this section; and
 - (b) you did not include the capital gain in working out your net capital gain for that year; and
 - (c) assuming that you had acquired a replacement asset before the CGT event, you would have been entitled to choose that roll-over.
- (2) The capital gain is disregarded for the purposes of the *Income Tax Assessment Act 1997*.
- (3) If you acquired a replacement asset within the period (the **replacement asset period**) ending 2 years after the last CGT event in the income year for which you obtained the roll-over but the total of the first and second elements of the cost base of that asset is less than the amount of the capital gain that would, apart from this subsection, be disregarded, the amount to be disregarded is that total.
- (4) However, if you do not acquire a replacement asset within the replacement asset period, that Act applies to you as if you had never chosen the roll-over, and the capital gain is not disregarded.
- (5) The Commissioner may extend the replacement asset period.

152-10 Small business roll-over not chosen and time remains to acquire a replacement asset

- (1) This section applies if:
 - (a) you made a capital gain for an income year from a CGT event that happened before the commencement of this section; and
 - (b) you included the capital gain in working out your net capital gain for that year; and
 - (c) at the commencement of this section, you have not acquired a replacement asset but the replacement asset period had not expired; and
 - (d) assuming that you had acquired a replacement asset before the CGT event, you would have been entitled to choose a roll-over under Subdivision 152-E of that Act.
- (2) The capital gain is disregarded for the purposes of the *Income Tax Assessment Act 1997*.
- (3) If you acquired a replacement asset within the replacement asset period but the total of the first and second elements of the cost base of that asset is less than the amount of the capital gain that would, apart from this subsection, be disregarded, the amount to be disregarded is that total.
- (4) However, if you do not acquire a replacement asset within the replacement asset period, that Act applies to you as if you had never chosen the roll-over, and the capital gain is not disregarded.
- (5) The Commissioner may extend the replacement asset period.

152-15 Amendment of assessments

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment made before the commencement of this section at any time in the period of 4 years starting at that commencement for the purpose of giving effect to this Division.

Part 3-5—Corporate taxpayers and corporate distributions

Division 165—Income tax consequences of changing ownership or control of a company

Table of Subdivisions

- 165-CA Applying net capital losses of earlier income years
- 165-CB Working out the net capital gain and the net capital loss for the income year of the change
- 165-CC Change of ownership or control of company that has an unrealised net loss
- 165-CD Reductions after alterations in ownership or control of loss company
- 165-C Deducting bad debts

Subdivision 165-CA—Applying net capital losses of earlier income years

Table of sections

- 165-95 Application of Subdivision 165-CA of the *Income Tax Assessment Act 1997*

165-95 Application of Subdivision 165-CA of the *Income Tax Assessment Act 1997*

Subdivision 165-CA of the *Income Tax Assessment Act 1997* (about companies applying net capital losses of earlier income years) applies to assessments for the 1998-99 income year and later income years.

Subdivision 165-CB—Working out the net capital gain and the net capital loss for the income year of the change

Table of sections

Section 165-105

165-105 Application of Subdivision 165-CB of the *Income Tax Assessment Act 1997*

165-105 Application of Subdivision 165-CB of the *Income Tax Assessment Act 1997*

Subdivision 165-CB of the *Income Tax Assessment Act 1997* (about companies working out the net capital gain and the net capital loss for the income year of the change) applies to assessments for the 1998-99 income year and later income years.

Subdivision 165-CC—Change of ownership or control of company that has an unrealised net loss

Table of sections

165-115E Choice to use global method to work out unrealised net loss

165-115E Choice to use global method to work out unrealised net loss

A choice under section 165-115E of the *Income Tax Assessment Act 1997* to use the global method of working out whether a company has an unrealised net loss at a particular time must be made within 6 months after the day on which the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* received the Royal Assent if:

- (a) that time is before that day; and
- (b) subsection 165-115E(4) of that Act would otherwise require the choice to be made before the end of those 6 months.

Subdivision 165-CD—Reductions after alterations in ownership or control of loss company

Table of sections

165-115U Choice to use global method to work out adjusted unrealised loss

165-115ZC When certain notices to be given

165-115ZD Adjustment (or further adjustment) for interest realised at a loss after global method has been used

165-115U Choice to use global method to work out adjusted unrealised loss

A choice under section 165-115U of the *Income Tax Assessment Act 1997* to use the global method of working out whether a company has an adjusted unrealised loss at a particular time must be made within 6 months after the day on which the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* received the Royal Assent if:

- (a) that time is before that day; and
- (b) subsection 165-115U(1D) of that Act would otherwise require the choice to be made before the end of those 6 months.

165-115ZC When certain notices to be given

- (1) A notice under subsection 165-115ZC(4) or (5) of the *Income Tax Assessment Act 1997* must be given within 6 months after the day on which the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* received the Royal Assent if the alteration time is before that day.
- (2) If, because of amendments made by Schedule 14 to the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002*, a notice already given under subsection 165-115ZC(4) or (5) of the *Income Tax Assessment Act 1997* before the day referred to in subsection (1) of this section no longer complies with section 165-115ZC of the *Income Tax Assessment Act 1997*, the entity required to give the notice may comply with that section 165-115ZC by giving a further notice.
- (3) The further notice:
 - (a) must vary the notice referred to in subsection (2) in such a way (which may include setting out additional information) that the notice as varied complies with section 165-115ZC of the *Income Tax Assessment Act 1997* as affected by the amendments; and
 - (b) must be given within the 6 months referred to in subsection (1) of this section, or within a further period allowed by the Commissioner; and

Section 165-115ZD

(c) must otherwise be given in accordance with that section.

Special rules for consolidatable groups and potential MEC groups

- (4) Subsections (5) and (6) have effect if:
- (a) the alteration time mentioned in section 165-115ZC of the *Income Tax Assessment Act 1997* is after 10 November 1999 and before 1 July 2004; and
 - (b) apart from this section, subsection 165-115ZC(4) or (5) of that Act would require an entity (the **notifying entity**) to give a notice to another entity (the **receiving entity**) in relation to the alteration time; and
 - (c) just before the alteration time, the notifying entity and the receiving entity were both members of the same consolidatable group or potential MEC group.
- (5) Subsections 165-115ZC(4) and (5) of the *Income Tax Assessment Act 1997* do not apply to the notifying entity if both it and the receiving entity became members of the same consolidated group or MEC group before 1 July 2004.
- (6) Even if subsection (5) does not apply, the notifying entity is not required to give the notice to the receiving entity before the end of 6 months after the commencement of this subsection.
- (7) Subsections (1) and (3) have effect subject to subsections (5) and (6).

165-115ZD Adjustment (or further adjustment) for interest realised at a loss after global method has been used

- (1) This section affects how sections 165-115ZA and 165-115ZB of the *Income Tax Assessment Act 1997* apply to an interest (the **equity**) in, or a debt owed by, a company if apart from this section, a loss (the **realised loss**):
- (a) would be realised for income tax purposes by a realisation event that happens to the equity or debt; or
 - (b) would be so realised but for Subdivision 170-D of that Act (which defers realisation of capital losses and deductions);

and the company chose to use the global method of working out whether it had an adjusted unrealised loss at the last alteration time:

- (c) that happened for the company, before the realisation event; and
- (d) immediately before which the equity or debt was, or was part of:
 - (i) if the company was a loss company at that alteration time—a relevant equity interest, or a relevant debt interest, that an entity had in the company; or
 - (ii) otherwise—what would have been such an interest if the company had been a loss company at that alteration time;

and these conditions are satisfied:

- (e) that last alteration time is before the day on which the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* received the Royal Assent; and
- (f) the entity that owns the equity or debt immediately before the realisation event chooses to apply this section to the equity or debt, in relation to that last alteration time, instead of section 165-115ZD of the *Income Tax Assessment Act 1997*; and
- (g) the choice is made on or before the latest of these:
 - (i) the last day of the period of 6 months after the day referred to in paragraph (c) of this subsection;
 - (ii) the day on which the entity lodges its income tax return for the income year in which the realisation event occurred;
 - (iii) such later day as the Commissioner allows.

If the entity makes that choice, this section applies accordingly instead of that section.

- (2) In addition to any application to the equity or debt, in relation to that last alteration time, that sections 165-115ZA and 165-115ZB of the *Income Tax Assessment Act 1997* have apart from this section, those sections apply (and are taken always to have applied) to the equity or debt, in relation to that last alteration time, as if:

Section 165-115ZD

- (a) the company had an adjusted unrealised loss at that time equal to the realised loss (see subsection (1) or (5), as appropriate, of this section) of this section, except so much of the loss as it is reasonable to conclude is attributable to *none* of these:
 - (i) a notional capital loss, or a notional revenue loss, that the company has at that last alteration time in respect of a CGT asset;
 - (ii) a trading stock decrease in relation to that time for a CGT asset that was trading stock of the company at that time; and
 - (b) the company were therefore a loss company at that time; and
 - (c) that adjusted unrealised loss were the company's overall loss at that time.
- (3) For the purposes of how sections 165-115ZA and 165-115ZB of the *Income Tax Assessment Act 1997* apply because of this section, the adjustment amount under section 165-115ZB of that Act is to be worked out and applied in accordance with subsection 165-115ZB(6) (the non-formula method) of that Act.
- (4) To avoid doubt:
 - (a) a notice need not be given under section 165-115ZC of the *Income Tax Assessment Act 1997* because of this section; and
 - (b) this section does not affect the requirements that apply to a notice that otherwise must be given under that section.
- (5) If the equity or debt is a revenue asset at the time of the realisation event, subsection (2) applies on the basis that the realised loss is the total of:
 - (a) the loss (if any) realised for income tax purposes by the realisation event happening to the equity or debt in its character as a CGT asset; and
 - (b) the loss (if any) realised for income tax purposes by the realisation event happening to the equity or debt in its character as a revenue asset.

Subdivision 165-C—Deducting bad debts

Table of sections

165-135 Application of Subdivision 165-C of the *Income Tax Assessment Act 1997*

165-135 Application of Subdivision 165-C of the *Income Tax Assessment Act 1997*

Subdivision 165-C of the *Income Tax Assessment Act 1997* (about companies deducting bad debts) applies to assessments for the 1998-1999 income year and later income years.

Division 166—Income tax consequences of changing ownership or control of a listed public company

Table of Subdivisions

166-C Deducting bad debts

Subdivision 166-C—Deducting bad debts

Table of sections

166-40 Application of Subdivision 166-C of the *Income Tax Assessment Act 1997*

166-40 Application of Subdivision 166-C of the *Income Tax Assessment Act 1997*

Subdivision 166-C of the *Income Tax Assessment Act 1997* (about listed public companies deducting bad debts) applies to assessments for the 1998-1999 income year and later income years.

Division 170—Treatment of company groups for income tax purposes

Table of Subdivisions

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| 170-A | Transfer of tax losses within certain wholly-owned groups of companies |
| 170-B | Transfer of net capital losses within certain wholly-owned groups of companies |
| 170-C | Provisions applying to both transfers of tax losses and transfers of net capital losses within wholly-owned groups of companies |
| 170-D | Transfer of life insurance business |

Subdivision 170-A—Transfer of tax losses within certain wholly-owned groups of companies

Table of sections

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| 170-45 | Special rules affecting utilisation of losses in a bundle do not affect the amount of a tax loss that can be transferred |
| 170-55 | Ordering rule for losses previously transferred under Subdivision 707-A of the <i>Income Tax Assessment Act 1997</i> |

170-45 Special rules affecting utilisation of losses in a bundle do not affect the amount of a tax loss that can be transferred

In working out an amount under subsection 170-45(4) of the *Income Tax Assessment Act 1997* (which may limit the amount of a tax loss that can be transferred under Subdivision 170-A of that Act), disregard these sections of this Act:

- (a) section 707-325 (which lets the available fraction for a bundle of losses be greater than it would otherwise be);
- (b) section 707-327 (which effectively lets the available fraction relevant to the utilisation of a loss be chosen in some cases);
- (c) section 707-350 (which sets the limit on utilising certain losses in a bundle).

**170-55 Ordering rule for losses previously transferred under
Subdivision 707-A of the *Income Tax Assessment Act 1997***

If 2 or more losses that a company can transfer for an income year under Subdivision 170-A of the *Income Tax Assessment Act 1997* were previously transferred to it under Subdivision 707-A of that Act, it must transfer first those losses (if any) covered by subsection 707-350(1).

Subdivision 170-B—Transfer of net capital losses within certain wholly-owned groups of companies

Table of sections

- 170-101 Application of Subdivision 170-B of the *Income Tax Assessment Act 1997*
- 170-145 Special rules affecting utilisation of losses in a bundle do not affect the amount of a net capital loss that can be transferred
- 170-155 Ordering rule for losses previously transferred under Subdivision 707-A of the *Income Tax Assessment Act 1997*

170-101 Application of Subdivision 170-B of the *Income Tax Assessment Act 1997*

Subdivision 170-B of the *Income Tax Assessment Act 1997* (about transfer of net capital losses within wholly-owned groups of companies) applies to assessments for the 1998-99 income year and later income years.

170-145 Special rules affecting utilisation of losses in a bundle do not affect the amount of a net capital loss that can be transferred

In working out an amount under subsection 170-145(7) of the *Income Tax Assessment Act 1997* (which may limit the amount of a net capital loss that can be transferred under Subdivision 170-B of that Act), disregard these sections of this Act:

- (a) section 707-325 (which lets the available fraction for a bundle of losses be greater than it would otherwise be);
- (b) section 707-327 (which effectively lets the available fraction relevant to the utilisation of a loss be chosen in some cases);

- (c) section 707-350 (which sets the limit on utilising certain losses in a bundle).

170-155 Ordering rule for losses previously transferred under Subdivision 707-A of the *Income Tax Assessment Act 1997*

If 2 or more losses that a company can transfer for an income year under Subdivision 170-B of the *Income Tax Assessment Act 1997* were previously transferred to it under Subdivision 707-A of that Act, it must transfer first those losses (if any) covered by subsection 707-350(1).

Subdivision 170-C—Provisions applying to both transfers of tax losses and transfers of net capital losses within wholly-owned groups of companies

Table of sections

- 170-220 Direct and indirect interests in the loss company
170-225 Direct and indirect interests in the gain company

170-220 Direct and indirect interests in the loss company

Any reduction in the cost base and reduced cost base of a share or in the reduced cost base of a debt that has been made or is required to be made under former subsection 160ZP(13) of the *Income Tax Assessment Act 1936* (as that subsection applied from time to time) is taken to have been made or to be required to be made under section 170-220 of the *Income Tax Assessment Act 1997*.

170-225 Direct and indirect interests in the gain company

Any increase in the cost base and reduced cost base of a share or debt that has been made or is authorised to be made under former subsections 160ZP(14) and (15) of the *Income Tax Assessment Act 1936* (as those subsections applied from time to time) is taken to have been made or to be authorised to be made under section 170-225 of the *Income Tax Assessment Act 1997*.

Subdivision 170-D—Transfer of life insurance business

Table of sections

170-300 Transfer of life insurance business

170-300 Transfer of life insurance business

If:

- (a) all or part of the life insurance business of a life insurance company (the *originating company*) is transferred to another life insurance company (the *recipient company*):
 - (i) in accordance with a scheme confirmed by the Federal Court of Australia under Part 9 of the *Life Insurance Act 1995*; or
 - (ii) under the *Financial Sector (Transfers of Business) Act 1999*; and
- (b) the originating company makes a capital loss from a CGT asset as a result of the transfer; and
- (c) that capital loss is disregarded because of Subdivision 126-B of this Act;

Subdivision 170-C of the *Income Tax Assessment Act 1997* has effect as if:

- (d) that capital loss were a net capital loss transferred by the originating company to the recipient company by an agreement under section 170-150 of that Act; and
- (e) the application year referred to in section 170-225 of that Act were the year in which the transfer of life insurance business took place.

Division 175—Use of a company's losses, deductions or bad debts to avoid income tax

Table of Subdivisions

- 175-CA Tax benefits from unused net capital losses of earlier income years
- 175-CB Tax benefits from unused capital losses of the current year
- 175-C Tax benefits from unused bad debt deductions

Subdivision 175-CA—Tax benefits from unused net capital losses of earlier income years

Table of sections

- 175-40 Application of Subdivision 175-CA of the *Income Tax Assessment Act 1997*

175-40 Application of Subdivision 175-CA of the *Income Tax Assessment Act 1997*

Subdivision 175-CA of the *Income Tax Assessment Act 1997* (about companies obtaining tax benefits from unused net capital losses of earlier income years) applies to assessments for the 1998-99 income year and later income years.

Subdivision 175-CB—Tax benefits from unused capital losses of the current year

Table of sections

- 175-55 Application of Subdivision 175-CB of the *Income Tax Assessment Act 1997*

175-55 Application of Subdivision 175-CB of the *Income Tax Assessment Act 1997*

Subdivision 175-CB of the *Income Tax Assessment Act 1997* (about companies obtaining tax benefits from unused capital losses of the current income year) applies to assessments for the 1998-99 income year and later income years.

Subdivision 175-C—Tax benefits from unused bad debt deductions

Table of sections

175-78 Application of Subdivision 175-C of the *Income Tax Assessment Act 1997*

175-78 Application of Subdivision 175-C of the *Income Tax Assessment Act 1997*

Subdivision 175-C of the *Income Tax Assessment Act 1997* (about companies obtaining tax benefits from unused bad debt deductions) applies to assessments for the 1998-99 income year and later income years.

Division 197—Tainted share capital accounts

Table of Subdivisions

- 197-A Definitions
- 197-B General application provision
- 197-C Special provisions about companies whose share capital accounts were tainted when old Division 7B was closed off

Subdivision 197-A—Definitions

Table of sections

- 197-1 Definitions

197-1 Definitions

In this Part:

introduction day means the day on which the Bill for the Act that added this Division was introduced into the Parliament.

new Division 197 means Division 197 of the *Income Tax Assessment Act 1997*.

old Division 7B means Division 7B of Part IIIAA of the *Income Tax Assessment Act 1936*.

old Division 7B close-off day means 1 July 2002.

Subdivision 197-B—General application provision

Table of sections

- 197-5 Application of new Division 197

197-5 Application of new Division 197

Subject to Subdivision 197-C of this Division, new Division 197 applies to transfers made into a company's share capital account after the introduction day.

Subdivision 197-C—Special provisions about companies whose share capital accounts were tainted when old Division 7B was closed off

Table of sections

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| 197-10 | Subdivision applies to companies whose share capital accounts were tainted when old Division 7B was closed off |
| 197-15 | Account taken to have ceased to be tainted when old Division 7B was closed off |
| 197-20 | After introduction day, account taken to have become tainted under new Division 197 to extent of previous tainting |
| 197-25 | Special provisions if company chooses to untaint after introduction day |

197-10 Subdivision applies to companies whose share capital accounts were tainted when old Division 7B was closed off

This Subdivision applies to a company if, immediately before the old Division 7B close-off day, the company's share capital account was tainted under old Division 7B.

197-15 Account taken to have ceased to be tainted when old Division 7B was closed off

- (1) The company's share capital account is taken to have ceased to be tainted under old Division 7B at the start of the Division 7B close-off day.
- (2) No liability to untainting tax, and no franking debit, arises under old Division 7B in relation to the share capital account being taken to have ceased to be tainted.

197-20 After introduction day, account taken to have become tainted under new Division 197 to extent of previous tainting

- (1) Immediately after the introduction day, the company's share capital account is taken to become tainted under new Division 197 as if:
 - (a) the company had, at that time, transferred an amount (the *notionally transferred amount*) to its share capital account

from another of its accounts that equalled the tainting amount (the **old Division 7B tainting amount**), within the meaning of old Division 7B, in relation to the share capital account immediately before the old Division 7B close-off day; and

- (b) none of the exclusions in sections 197-10 to 197-40 of new Division 197 applied, to any extent, in relation to the notionally transferred amount.
- (2) No franking debit arises under Subdivision 197-B of new Division 197 in relation to the notionally transferred amount.

197-25 Special provisions if company chooses to untaint after introduction day

- (1) This section applies if, after the introduction day, the company chooses under section 197-55 of new Division 197 to untaint its share capital account.

Working out the amount of section 197-60 untainting tax

- (2) For the purpose of section 197-60 of new Division 197, the **tainting amount** at the time of the choice to untaint is taken to consist of:
- (a) the amounts (the **old Division 7B tainting amount components**) that made up the old Division 7B tainting amount; and
 - (b) any amounts to which new Division 197 applies that have been transferred to the company's share capital account since the introduction day and before the choice to untaint is made.

Note 1: The company will not be liable to untainting tax if it is covered by subsection (5).

Note 2: If the company is covered by subsection (6), the old Division 7B tainting amount components will not be included in the tainting amount for the purpose of section 197-60.

- (3) For the purpose of section 197-60 of new Division 197, a reference to the section 197-45 franking debit that arose in relation to an old Division 7B tainting amount component is taken to be a reference to the tax-paid-basis franking debit amount in relation to that component (see subsection (4)).

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- (4) For the purpose of subsection (3), the ***tax-paid-basis franking debit amount***, in relation to an old Division 7B tainting amount component, is the amount worked out in accordance with the formula:

$$\left(\text{Class A franking debit} \times \frac{39}{61} \right) + \left(\text{Class C franking debit} \times \frac{30}{70} \right)$$

where:

class A franking debit means the class A franking debit (if any) that arose under section 160ARDV of old Division 7B in relation to the old Division 7B tainting amount component.

class C franking debit means the class C franking debit that arose under section 160ARDQ or 160ARDV of old Division 7B in relation to the old Division 7B tainting amount component.

- (5) The company is not liable to untainting tax under section 197-60 of new Division 197 in relation to the choice to untaint if:
- (a) during the period from the time when the company's share capital account became tainted under old Division 7B to the time when the choice to untaint is made, the company was a company with only lower tax shareholders (as defined in subsection 197-60(1) of new Division 197); and
 - (b) the tainting amount for the purpose of section 197-60 of new Division 197 does not include any amounts of the kind mentioned in paragraph (2)(b) of this section.
- (6) If:
- (a) the tainting amount for the purpose of section 197-60 of new Division 197 consists of or includes an amount or amounts of the kind mentioned in paragraph (2)(b) of this section; and
 - (b) during the period from the time when the company's share capital account became tainted to the time when the amount, or the first of the amounts, referred to in paragraph (a) of this subsection was transferred into the company's share capital account, the company was a company with only lower tax shareholders (as defined in subsection 197-60(1) of new Division 197);
-

then, despite subsection (2) of this section, for the purpose of section 197-60 of new Division 197, the tainting amount at the time of the choice to untaint does not include the old Division 7B tainting amount components.

Working out the amount of section 197-65 franking debit

- (7) For the purpose of section 197-65 of new Division 197, the **tainting amount** at the time of the choice to untaint is taken to consist of:
- (a) the amounts (the **old Division 7B tainting amount components**) that made up the old Division 7B tainting amount; and
 - (b) any amounts to which new Division 197 applies that have been transferred to the company's share capital account since the introduction day and before the choice to untaint is made.
- Note: In relation to amounts described in paragraph (b), section 197-65 applies without any notional modifications.
- (8) Paragraph 197-65(1)(b) of new Division 197 has effect in relation to each old Division 7B tainting amount component as if the following paragraph (the **notionally substituted paragraph**) were substituted for it:
- (b) the tax-paid-basis franking debit amount in relation to the old Division 7B tainting amount component is less than the amount calculated by the formula in subsection 197-65(3) in relation to the component.
- (9) Subsection 197-65(3) of new Division 197 has effect in relation to each old Division 7B tainting amount component as if the reference to the amount of the franking debit that arose under section 197-45 in relation to the transferred amount were instead a reference to the tax-paid-basis franking debit amount in relation to the old Division 7B tainting amount component.
- (10) For the purpose of the notionally substituted paragraph, and of subsection (9) of this section, the **tax-paid-basis franking debit amount**, in relation to an old Division 7B tainting amount component, is the amount worked out in accordance with the formula:

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$$\left(\text{Class A franking debit} \times \frac{39}{61} \right) + \left(\text{Class C franking debit} \times \frac{30}{70} \right)$$

where:

class A franking debit means the class A franking debit (if any) that arose under section 160ARDV of old Division 7B in relation to the old Division 7B tainting amount component.

class C franking debit means the class C franking debit that arose under section 160ARDQ or 160ARDV of old Division 7B in relation to the old Division 7B tainting amount component.

Part 3-6—The imputation system

Division 201—Object and application of Part 3-6

Table of sections

201-1 Estimated debits

201-1 Estimated debits

Former Part IIIAA of the *Income Tax Assessment Act 1936* does not apply to any of the following acts if it is done on or after 1 July 2002:

- (a) lodging an application with the Commissioner for a determination of an estimated debit;
- (b) lodging an application with the Commissioner for a determination of an estimated debit in substitution for an earlier determination;
- (c) a determination by the Commissioner of an estimated debit (including a determination in substitution for an earlier determination);
- (d) the service of notice of any such determination on a company;
- (e) the deemed determination of an estimated debit in accordance with an application (including an application for a determination in substitution for an earlier determination);
- (f) the deemed service of notice of a determination on a company (including service of notice of a determination in substitution for an earlier determination).

Division 203—Benchmark rule

Table of sections

203-1 Franking periods straddling 1 July 2002

203-1 Franking periods straddling 1 July 2002

Where, but for this section, 1 July 2002 would fall within a franking period for a corporate tax entity, but would not be the first day of the franking period, the franking period:

- (a) is taken to begin at the start of 1 July 2002; and
- (b) is taken to end when it would otherwise have ended.

Division 205—Franking accounts

Table of sections

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| 205-1 | Order of events provision |
| 205-5 | Washing estimated debits out of the franking account before conversion |
| 205-10 | Converting the franking account balance to a tax paid basis—companies whose 2001-02 franking year ends on 30 June 2002 |
| 205-15 | Converting the franking account balance to a tax paid basis—companies whose 2001-02 franking year ends before 30 June 2002 |
| 205-20 | A late balancing company may elect to have its FDT liability determined on 30 June |
| 205-25 | Franking deficit tax |
| 205-30 | Deferring franking deficit |
| 205-35 | No franking deficit tax if franking account in deficit at the close of the 2001-02 income year of a late balancing entity |
| 205-70 | Tax offset arising from franking deficit tax liabilities |
| 205-71 | Modification of franking deficit tax offset rules |
| 205-75 | Working out the tax offset for the first income year |
| 205-80 | Application of Subdivision C of Division 5 of former Part IIIAA of the <i>Income Tax Assessment Act 1936</i> |

205-1 Order of events provision

If a company has a franking account under former Part IIIAA of the *Income Tax Assessment Act 1936* (the **old account**) at the end of 30 June 2002, the old account is closed off and an opening balance is created in the company's franking account under section 205-10 as follows:

- (a) any estimated debits in the old account at the end of 30 June 2002 are washed out of the account under section 205-5; and
- (b) then:
 - (i) in the case of a company whose 2001-02 franking year ends on 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936*—the company's franking account balances are converted under section 205-10 to a tax paid basis; and
 - (ii) in the case of a company whose 2001-02 franking year ends before 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936*—the company's

Section 205-5

franking account balances are converted under section 205-15 to a tax paid basis.

205-5 Washing estimated debits out of the franking account before conversion

If, under former Part IIIAA of the *Income Tax Assessment Act 1936*, the termination time in relation to an estimated debit of a company would, but for this section, occur after the end of 30 June 2002, it is taken to have occurred at the end of 30 June 2002.

Note: A franking credit of the appropriate class equal to the debit will arise under former section 160APU of that Act at the beginning of 30 June 2002.

205-10 Converting the franking account balance to a tax paid basis—companies whose 2001-02 franking year ends on 30 June 2002

- (1) This section applies to companies whose 2001-02 franking year ends on 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936* (the **1936 Act**).
- (2) If the company has a franking surplus of a particular class under former Part IIIAA of the 1936 Act at the end of 30 June 2002:
 - (a) no franking credit arises under former section 160APL of that Act because of the surplus; and
 - (b) a franking credit arises on 1 July 2002 in the franking account established under section 205-10 of the *Income Tax Assessment Act 1997* (the **1997 Act**) for the company.

The amount of the franking credit is worked out under subsection (3).

- (3) The franking credit generated under paragraph (2)(b) from a franking surplus of a class specified in column 2 of the following table is worked out using the formula in column 3 of the table for that class.

| Conversion of 1936 Act franking surplus into 1997 Act franking credit | | |
|--|--------------------------|---|
| Item | Franking surplus | Franking credit generated under paragraph (2)(b) |
| 1 | class A franking surplus | Amount of the class A franking surplus at the end of 30 June 2002 under the 1936 Act $\times \frac{39}{61}$ |
| 2 | class B franking surplus | Amount of the class B franking surplus at the end of 30 June 2002 under the 1936 Act $\times \frac{33}{67}$ |
| 3 | class C franking surplus | Amount of the class C franking surplus at the end of 30 June 2002 under the 1936 Act $\times \frac{30}{70}$ |

205-15 Converting the franking account balance to a tax paid basis—companies whose 2001-02 franking year ends before 30 June 2002

- (1) This section applies to companies whose 2001-02 franking year ends before 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936* (the **1936 Act**).
- (2) If, but for this subsection, the company would have a franking surplus of a particular class under former Part IIIAA of the 1936 Act at the end of 30 June 2002 (an **original surplus**):
 - (a) a franking debit equal to the surplus is taken to arise for the company under former Part IIIAA of the 1936 Act at the end of 30 June 2002; and
 - (b) a franking credit arises on 1 July 2002 in the franking account established under section 205-10 of the *Income Tax Assessment Act 1997* (the **1997 Act**) for the company.

The amount of the franking credit is worked out under subsection (3).
- (3) The franking credit generated under paragraph (2)(b) from an original surplus of a class specified in column 2 of the following table is worked out using the formula in column 3 of the table for that class.

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Conversion of 1936 Act franking surplus into 1997 Act franking credit

| Item | Original surplus | Franking credit generated under paragraph (2)(b) |
|------|------------------|---|
| 1 | class A | Amount of the original class A surplus $\times \frac{39}{61}$ |
| 2 | class B | Amount of the original class B surplus $\times \frac{33}{67}$ |
| 3 | class C | Amount of the original class C surplus $\times \frac{30}{70}$ |

- (4) If, but for this subsection, the company would have a franking deficit of a particular class under former Part IIIAA of the 1936 Act at the end of 30 June 2002 (an *original deficit*):
- (a) a franking credit equal to the deficit is taken to arise for the company under former Part IIIAA of the 1936 Act at the end of 30 June 2002; and
 - (b) a franking debit arises on 1 July 2002 in the franking account established under section 205-10 of the 1997 Act for the company.
- The amount of the franking debit is worked out under subsection (5).

- (5) The franking debit generated under paragraph (4)(b) from an original deficit of a class specified in column 2 of the following table is worked out using the formula in column 3 of the table for that class.

Conversion of 1936 Act franking deficit into 1997 Act franking debit

| Item | Original deficit | Franking debit generated under paragraph (4)(b) |
|------|------------------|---|
| 1 | class A | Amount of the original class A deficit $\times \frac{39}{61}$ |
| 2 | class B | Amount of the original class B deficit $\times \frac{33}{67}$ |
| 3 | class C | Amount of the original class C deficit $\times \frac{30}{70}$ |

205-20 A late balancing company may elect to have its FDT liability determined on 30 June

- (1) This section applies after 30 June 2002.
- (2) A corporate tax entity's liability to pay franking deficit tax is determined under sections 205-25 and 205-30 of this Act (the ***transitional provisions***), and not under sections 205-45 and 205-50 of the *Income Tax Assessment Act 1997* (the ***ongoing provisions***), if:
 - (a) the entity was in existence at the end of 30 June 2002; and
 - (b) the entity's 2001-02 income year ends after 30 June 2002; and
 - (c) the entity makes a valid election to have its liability to pay franking deficit tax determined under the transitional provisions.
- (3) The entity makes a valid election to have its liability to pay franking deficit tax determined under the transitional provisions if:
 - (a) the election is in writing; and
 - (b) the election is made on the day on which liability for franking deficit tax would be determined under those provisions, or earlier than that day but in the income year in which that day occurs; and
 - (c) the entity's liability to pay franking deficit tax has not previously been determined under the ongoing provisions.

205-25 Franking deficit tax

Object

- (1) While recognising that an entity may anticipate franking credits when franking distributions, the object of this section is to prevent those credits from being anticipated indefinitely by requiring the entity to reconcile its franking account at certain times and levying tax if the account is in deficit.

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Franking deficit at end of 30 June

- (2) An entity is liable to pay franking deficit tax imposed by the *New Business Tax System (Franking Deficit Tax) Act 2002* if its franking account is in deficit at the end of 30 June in the year 2003 or a later year.

Corporate tax entity ceases to be a franking entity

- (3) An entity is liable to pay franking deficit tax imposed by the *New Business Tax System (Franking Deficit Tax) Act 2002* if:
- (a) it ceases to be a franking entity after 30 June 2002; and
 - (b) immediately before it ceases to be a franking entity, its franking account is in deficit.

Note: The tax is imposed in the *New Business Tax System (Franking Deficit Tax) Act 2002* and the amount of the tax is set out in that Act.

205-30 Deferring franking deficit

Object

- (1) The object of this section is to ensure that an entity does not avoid franking deficit tax by deferring the time at which a franking debit occurs in its franking account.

End of year deficit deferred

- (2) If:
- (a) a corporate tax entity receives a refund of income tax within 3 months after 30 June in the year 2003 or a later year; and
 - (b) the refund is attributable to a period of 12 months ending at the end of 30 June in that year; and
 - (c) the franking account of the entity would have been in deficit, or in deficit to a greater extent, at the end of 30 June in that year if the refund had been received immediately before that time;
- the refund is taken to have been paid to the entity immediately before that time.

Deficit on ceasing to be a franking entity deferred

- (3) If an entity ceases to be a franking entity during a period of 12 months ending on 30 June in the year 2003 or a later year, a refund of income tax is taken to have been paid to it immediately before it ceased to be a franking entity, for the purposes of subsection 205-25(3), if:
- (a) the refund is attributable to a period within that 12 months during which the entity was a franking entity; and
 - (b) the refund is paid within 3 months after the entity ceases to be a franking entity; and
 - (c) the franking account of the entity would have been in deficit, or in deficit to a greater extent, immediately before it ceased to be a franking entity, if the refund had been received before it ceased to be a franking entity.

205-35 No franking deficit tax if franking account in deficit at the close of the 2001-02 income year of a late balancing entity

If:

- (a) an entity's 2001-02 income year ends after 30 June 2002; and
- (b) its franking account is in deficit at the end of that income year;

the entity is not liable to pay franking deficit tax under subsection 205-45(2) of the *Income Tax Assessment Act 1997* because the account is in deficit at that time.

205-70 Tax offset arising from franking deficit tax liabilities

General application rule

- (1) Section 205-70 of the *Income Tax Assessment Act 1997* has effect in relation to a corporate tax entity's assessments for the 2002-2003 income year and later income years, except as provided in the following subsections.

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Late balancing entities—2001-2002 income year

- (2) If a corporate tax entity's 2001-2002 income year ends after 30 June 2002, section 205-70 of the *Income Tax Assessment Act 1997* has effect in relation to the entity's assessment for that income year as if the following method statement had replaced the method statement in that section.

Method statement

Step 1. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a).

Step 2. Add to the step 1 result the excess that is covered by paragraph (1)(c).

The result is the tax offset to which the entity is entitled under this section for the relevant year.

Late balancing entities—2002-2003 income year

- (3) If:
- (a) a corporate tax entity's 2002-2003 income year ends after 30 June 2003; and
 - (b) the entity makes a valid election under section 205-20 in that income year;
- section 205-70 of the *Income Tax Assessment Act 1997* has effect in relation to the entity's assessment for that income year as if the following method statement had replaced the method statement in that section.

Method statement

Step 1. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a) and was incurred before 30 June 2003.

Step 2. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a) and was incurred on 30 June 2003.

Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account during the period of 12 months immediately preceding that date.

Step 3. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a) and was incurred after 30 June 2003.

Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account after that date and before the end of the last day on which the entity incurred a franking deficit tax liability in the relevant year.

Step 4. Work out the total amount of franking deficit tax that is covered by paragraph (1)(b) and was incurred in the 2001-2002 income year.

Step 5. Work out the excess that is covered by paragraph (1)(c).

Step 6. Add up the results of steps 1, 2, 3, 4 and 5. The result is the tax offset to which the entity is entitled under this section for the relevant year.

Late balancing entities—later income years

(4) If:

- (a) an income year of a corporate tax entity ends after 30 June 2004; and
- (b) the entity makes a valid election under section 205-20 in that income year;

section 205-70 of the *Income Tax Assessment Act 1997* has effect in relation to the entity's assessment for that income year as if the

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following method statement had replaced the method statement in that section.

Method statement

Step 1. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a) and was incurred on or before the 30 June in the relevant year.

Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account during the period of 12 months immediately preceding that 30 June.

Step 2. Work out the total amount of franking deficit tax that is covered by paragraph (1)(a) and was incurred after the 30 June in the relevant year.

Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account after that date and before the end of the last day on which the entity incurred a franking deficit tax liability in the relevant year.

Step 3. Work out the total amount of franking deficit tax that is covered by paragraph (1)(b) in relation to a previous income year and was incurred on or before the 30 June in that income year.

Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account during the period of 12 months immediately preceding that 30 June.

- Step 4. Work out the total amount of franking deficit tax that is covered by paragraph (1)(b) in relation to a previous income year and was incurred after the 30 June in that income year.
- Then reduce it by 30% if it exceeds 10% of the total amount of franking credits that arose in the entity's franking account after that date and before the end of the last day on which the entity incurred a franking deficit tax liability in that income year.
- Step 5. Add up the results of steps 3 and 4 for all the previous income years covered by paragraph (1)(b).
- Step 6. Work out the excess that is covered by paragraph (1)(c).
- Step 7. Add up the results of steps 1, 2, 5 and 6. The result is the tax offset to which the entity is entitled under this section for the relevant year.

Application of the 30% reduction rule

- (5) If a franking credit has been taken into account previously in reducing an amount worked out under a step in the method statement in:
- (a) subsection (3) or (4); or
 - (b) section 205-70 of the *Income Tax Assessment Act 1997*;
- that credit is not to be taken into account again in reducing another amount worked out under a step in such a method statement.
- (6) The 30% reductions for an entity in steps 2 and 3 of the method statement in subsection (3), and in steps 1, 2, 3 and 4 of the method statement in subsection (4), apply only to franking deficit tax that is attributable to franking debits of the entity:
- (a) that arose under table item 1, 3, 5 or 6 in section 205-30 of the *Income Tax Assessment Act 1997* for the relevant income year; and

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- (b) if the entity has franking debits covered by paragraph (a) for the relevant income year—that arose under table item 2 in that section of that Act for the relevant income year.
- (7) The 30% reductions in those steps do not apply in working out the amount of the tax offset to which an entity is entitled for the relevant year if the Commissioner determines in writing, on application by the entity in the approved form, that the excess referred to in those steps was due to events outside the control of the entity.
- (8) A determination under subsection (7) is not a legislative instrument.

205-71 Modification of franking deficit tax offset rules

- (1) This section applies to events that occur on or after 1 July 2002 and before the start of the 2004-05 income year.
- (2) The 30% reductions for an entity in steps 1 and 2 of the method statement in subsection 205-70(2) of the *Income Tax Assessment Act 1997* apply only to franking deficit tax that is attributable to franking debits of the entity:
 - (a) that arose under table item 1, 3, 5 or 6 in section 205-30 of the *Income Tax Assessment Act 1997* for the relevant income year; and
 - (b) if the entity has franking debits covered by paragraph (a) for the relevant income year—that arose under table item 2 in that section of that Act for the relevant income year.
- (3) The 30% reductions in steps 1 and 2 of the method statement in subsection 205-70(2) of the *Income Tax Assessment Act 1997* do not apply in working out the amount of the tax offset to which an entity is entitled for the relevant year if the Commissioner determines in writing, on application by the entity in the approved form, that the excess referred to in those steps was due to events outside the control of the entity.
- (4) A determination under subsection (3) is not a legislative instrument.

205-75 Working out the tax offset for the first income year

First income year and relevant liabilities

- (1) This section applies to a corporate tax entity in relation to:
 - (a) this income year of the entity (the **first income year**):
 - (i) the 2001-2002 income year if subsection 205-70(2) applies to the entity; or
 - (ii) the 2002-2003 income year if subsection 205-70(2) does not apply to the entity; and
 - (b) amounts of liabilities incurred by the entity (the **relevant liabilities**) that:
 - (i) are covered by paragraph (1)(a) of former section 160AQK or of former section 160AQKAA (as appropriate) of the *Income Tax Assessment Act 1936*; and
 - (ii) have not been applied under that Act to reduce the entity's income tax liabilities for an earlier income year.

Relevant liabilities carried forward to the first income year

- (2) Section 205-70 of the *Income Tax Assessment Act 1997* has effect in relation to the entity as if:
 - (a) so much of the relevant liabilities as were incurred by the entity during the first income year were liabilities to pay franking deficit tax under that Act; and
 - (b) so much of the relevant liabilities as were incurred by the entity before the start of the first income year were the excess mentioned in paragraph (1)(c) of that section.
- (3) Subsection (2) has effect only for the purposes of working out:
 - (a) whether or not the entity is entitled to a tax offset under section 205-70 of the *Income Tax Assessment Act 1997* for the first income year or a later income year; and
 - (b) the amount of that tax offset.

**205-80 Application of Subdivision C of Division 5 of former
Part IIIAA of the *Income Tax Assessment Act 1936***

- (1) This section applies if Subdivision C of Division 5 of former Part IIIAA of the *Income Tax Assessment Act 1936* would, apart from former section 160AOAA of that Act, apply in relation to an entity's assessment for a year of income that ends before 1 July 2002.
- (2) Former section 160AOAA of that Act does not prevent:
 - (a) the making of a determination under that Subdivision on or after that date for an offset to reduce the entity's income tax liability for that year of income; and
 - (b) the operation of any provision in that Subdivision in relation to that determination.
- (3) However, in working out the amount of that offset, any liabilities to pay franking deficit tax or deficit deferral tax that have been taken into account in working out a tax offset under section 205-70 of the *Income Tax Assessment Act 1997* must be disregarded.

Division 208—Exempting entities and former exempting entities

Table of sections

208-111 Converting former exempting company's exempting account balance on 30 June 2002

208-111 Converting former exempting company's exempting account balance on 30 June 2002

- (1) This section has effect for the purposes of working out the following for a company that was a former exempting company (as defined in former Part IIIAA of the *Income Tax Assessment Act 1936*) at the end of 30 June 2002:
- (a) whether the company has an exempting surplus or an exempting deficit for the purposes of the *Income Tax Assessment Act 1997* at a time after 30 June 2002;
 - (b) the company's class A exempting account balance (as defined in that Part) at a time after 30 June 2002;
 - (c) the company's class C exempting account balance (as defined in that Part) at a time after 30 June 2002.

Class A exempting surplus at the end of 30 June 2002

- (2) If the company had a class A exempting surplus (as defined in former Part IIIAA of the *Income Tax Assessment Act 1936*) at the end of 30 June 2002:
- (a) a class A exempting debit equal to the surplus is taken to have arisen immediately before the end of 30 June 2002 for the purposes of that Part; and
 - (b) an exempting credit of the amount worked out using the formula is taken to have arisen at the start of 1 July 2002 in the exempting account that the company has under section 208-110 of the *Income Tax Assessment Act 1997*:

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$$\text{Amount of the surplus} \times \frac{39}{61}$$

Note: Section 205-5 (with former sections 160APU and 160AQCNM of the *Income Tax Assessment Act 1936*) may affect whether the company had such a surplus at the end of 30 June 2002 and the amount of that surplus, but this section does not (because this section affects the company's exempting account balance only after then).

Class C exempting surplus at the end of 30 June 2002

- (3) If the company had a class C exempting surplus (as defined in former Part IIIAA of the *Income Tax Assessment Act 1936*) at the end of 30 June 2002:
- (a) a class C exempting debit equal to the surplus is taken to have arisen immediately before the end of 30 June 2002 for the purposes of that Part; and
 - (b) an exempting credit of the amount worked out using the formula is taken to have arisen at the start of 1 July 2002 in the exempting account that the company has under section 208-110 of the *Income Tax Assessment Act 1997*:

$$\text{Amount of the surplus} \times \frac{30}{70}$$

Note: Section 205-5 (with former sections 160APU and 160AQCNM of the *Income Tax Assessment Act 1936*) may affect whether the company had such a surplus at the end of 30 June 2002 and the amount of that surplus, but this section does not (because this section affects the company's exempting account balance only after then).

Class A exempting deficit at end of 30 June 2002

- (4) If the company had a class A exempting deficit (as defined in former Part IIIAA of the *Income Tax Assessment Act 1936*) at the end of 30 June 2002 and its 2001-02 franking year (as defined in that Part) ended earlier:
- (a) a class A exempting credit equal to the deficit is taken to have arisen at the end of 30 June 2002 for the purposes of that Part; and

- (b) an exempting debit of the amount worked out using the formula is taken to have arisen at the start of 1 July 2002 in the exempting account that the company has under section 208-110 of the *Income Tax Assessment Act 1997*:

$$\text{Amount of the deficit} \times \frac{39}{61}$$

- Note: If the company's 2001-02 franking year ended at the end of 30 June 2002 and it would have had a class A exempting deficit at that time apart from former section 160AQCNO of the *Income Tax Assessment Act 1936*, that section will have eliminated the deficit and either:
- (a) increased the company's liability for franking deficit tax; or
 - (b) reduced the franking credit arising under section 205-10 of this Act in the franking account the company has under the *Income Tax Assessment Act 1997*.

Class C exempting deficit at end of 30 June 2002

- (5) If the company had a class C exempting deficit (as defined in former Part IIIAA of the *Income Tax Assessment Act 1936*) at the end of 30 June 2002 and its 2001-02 franking year (as defined in that Part) ended earlier:
- (a) a class C exempting credit equal to the deficit is taken to have arisen at the end of 30 June 2002 for the purposes of that Part; and
 - (b) an exempting debit of the amount worked out using the formula is taken to have arisen at the start of 1 July 2002 in the exempting account that the company has under section 208-110 of the *Income Tax Assessment Act 1997*:

$$\text{Amount of the deficit} \times \frac{30}{70}$$

- Note: If the company's 2001-02 franking year ended at the end of 30 June 2002 and it would have had a class C exempting deficit at that time apart from former section 160AQCNO of the *Income Tax Assessment Act 1936*, that section will have eliminated the deficit and either:
- (a) increased the company's liability for franking deficit tax; or
 - (b) reduced the franking credit arising under section 205-10 of this Act in the franking account the company has under the *Income Tax Assessment Act 1997*.

Division 210—Venture capital franking

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| 210-10 | Converting the venture capital sub-account balance to a tax paid basis—PDFs whose 2001-02 franking year ends on 30 June 2002 |
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210-1 Order of events provision

The venture capital sub-account of a PDF under former Part IIIAA of the *Income Tax Assessment Act 1936* (the **old sub-account**) is closed off at the end of 30 June 2002 and an opening balance is created in the PDF's venture capital sub-account under section 210-100 of the *Income Tax Assessment Act 1997* as follows:

- (a) any estimated venture capital debits in the old sub-account at the end of 30 June 2002 are washed out of the account under section 210-5; and
- (b) then:
 - (i) in the case of a PDF whose 2001-02 franking year ends on 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936*—the PDF's venture capital sub-account balance is converted under section 210-10 to a tax paid basis; and
 - (ii) in the case of a PDF whose 2001-02 franking year ends before 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936*—the PDF's venture capital sub-account balance is converted under section 210-15 to a tax paid basis.

210-5 Washing estimated venture capital debits out of the old sub-account before conversion

If, under former Part IIIAA of the *Income Tax Assessment act 1936*, the termination time in relation to an estimated venture capital debit of a PDF would, but for this section, occur after the end of 30 June 2002, it is taken to have occurred at the end of 30 June 2002.

210-10 Converting the venture capital sub-account balance to a tax paid basis—PDFs whose 2001-02 franking year ends on 30 June 2002

- (1) This section applies to PDFs whose 2001-02 franking year ends on 30 June 2002 under former Part IIIAA of the *Income Tax Assessment Act 1936* (the **1936 Act**).
- (2) If the PDF has a venture capital surplus under former Part IIIAA of the 1936 Act at the end of 30 June 2002:
 - (a) no venture capital credit arose under former section 160ASEE of that Act because of the surplus; and
 - (b) a venture capital credit arises on 1 July 2002 in the venture capital sub-account established under section 210-100 of the *Income Tax Assessment Act 1997* for the PDF.
- (3) The amount of the venture capital credit is worked out using the following formula:

$$\begin{array}{c} \text{Amount of the} \\ \text{venture capital surplus} \\ \text{at the end of 30 June 2002} \\ \text{under the 1936 Act} \end{array} \times \frac{30}{70}$$

210-15 Converting the venture capital sub-account balance to a tax paid basis—PDFs whose 2001-02 franking year ends before 30 June 2002

- (1) This section applies to PDFs whose 2001-02 franking year ends before 30 June 2002 under former Part IIIAA of the *Income Tax Assessment 1936* (the **1936 Act**).

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- (2) If, but for this subsection, the PDF would have a venture capital surplus under former Part IIIAA of the 1936 Act at the end of 30 June 2002 (the *original surplus*):
- (a) a venture capital debit equal to the original surplus is taken to arise for the PDF under former Part IIIAA of the 1936 Act at the end of 30 June 2002; and
 - (b) a venture capital credit arises on 1 July 2002 in the venture capital sub-account established under section 210-100 of the *Income Tax Assessment Act 1997* (the **1997 Act**) for the PDF.
- (3) The amount of the venture capital credit is worked out using the formula:

$$\text{Amount of the original surplus} \times \frac{30}{70}$$

- (4) If, but for this subsection, the PDF would have a venture capital deficit under former Part IIIAA of the 1936 Act at the end of 30 June 2002 (the *original deficit*):
- (a) a venture capital credit equal to the original deficit is taken to arise for the PDF under former Part IIIAA of the 1936 Act at the end of 30 June 2002; and
 - (b) a venture capital debit arises on 1 July 2002 in the venture capital sub-account established under section 210-100 of the 1997 Act for the PDF.
- (5) The amount of the venture capital debit is worked out using the formula:

$$\text{Amount of the original deficit} \times \frac{30}{70}$$

Division 214—Administering the imputation system

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214-1 Application

This Division applies to a corporate tax entity if a liability to pay franking deficit tax arises for the entity under section 205-25 of this Act because of events that occur within a period of 12 months ending on 30 June in any year (the ***balancing period***).

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214-5 Entity must give a franking return

- (1) The entity must give the Commissioner a franking return for the balancing period setting out the following information before the end of the month immediately following the end of the period:
 - (a) if the entity is a franking entity at the end of the balancing period—its franking account balance at the end of the period; and
 - (b) if the entity ceases to be a franking entity during the balancing period—its franking account balance immediately before it ceased to be a franking entity; and
 - (c) the amount (if any) of franking deficit tax that the entity is liable to pay under section 205-25 of this Act because of events that have occurred, or are taken to have occurred, during the balancing period.
- (2) The return must be in writing in the approved form.

214-10 Notice to a specific corporate tax entity

- (1) The Commissioner may give the entity a written notice requiring the entity to give the Commissioner a franking return for the balancing period.
- (2) The entity must comply with the requirement within the time specified in the notice, or within any further time allowed by the Commissioner.
- (3) The entity must comply with the requirement regardless of whether the entity has given, or has been required to give, the Commissioner a return under section 214-5.

214-15 Effect of a refund on franking returns

If no franking return is outstanding

- (1) If:
 - (a) the entity receives a refund of income tax; and

- (b) the receipt of the refund gives rise to a liability, or an increased liability, to pay franking deficit tax because of the operation of subsection 205-30(2) or (3) of this Act; and
- (c) when the refund is received, the entity does not have a franking return that is outstanding for the balancing period in which the liability arose;

the entity must give the Commissioner a franking return for the period within 14 days after the refund is received.

Refund received within 14 days before an outstanding franking return is due

(2) If:

- (a) the entity receives a refund of income tax; and
- (b) the receipt of the refund gives rise to a liability, or an increased liability, to pay franking deficit tax because of the operation of subsection 205-30(2) or (3) of this Act; and
- (c) when the refund is received, the entity does not have a franking return that is outstanding for the balancing period in which the liability arose; and
- (d) the entity receives the refund within the period of 14 days ending on the day by which the outstanding return must be given to the Commissioner;

the entity may, instead of accounting for the liability, or increased liability, in the outstanding return, account for it in a further return given to the Commissioner within 14 days after the refund is received.

*Meaning of **outstanding***

- (3) A franking return for a balancing period is **outstanding** at a particular time if each of the following is true at that time:
 - (a) the entity has been required to give a franking return for the period;
 - (b) the time within which the franking return must be given has not yet passed;
 - (c) the franking return has not yet been given.

214-20 Franking returns for the income year

- (1) A franking return for a balancing period is in addition to any franking return that the entity is required to give to the Commissioner under Subdivision 214-A of the *Income Tax Assessment Act 1997* for the income year in which the balancing period ends.
- (2) However, if an entity is required to give a franking return for a balancing period, it is not required to include in its franking return for the income year in which that period ends anything that should have been included in the franking return for the balancing period.

214-25 Commissioner may make a franking assessment

- (1) The Commissioner may make an assessment of:
 - (a) if the entity is a franking entity at the end of the balancing period—its franking account balance at the end of the period; and
 - (b) if the entity ceases to be a franking entity during the balancing period—its franking account balance immediately before it ceased to be a franking entity; and
 - (c) the amount (if any) of franking deficit tax that the entity is liable to pay under section 205-25 of this Act because of events that have occurred, or are taken to have occurred, during the balancing period.

This is a *franking assessment* for the entity for the balancing period.

- (2) The Commissioner must give the entity notice of the assessment as soon as practicable after making the assessment.
- (3) The notice may be included in a notice of any other assessment under this Act.

214-30 Commissioner taken to have made a franking assessment on first return

- (1) If:

- (a) the entity gives the Commissioner a franking return under section 214-5 or 214-10 of this Act on a particular day (the **return day**); and
 - (b) the return is the first franking return given to the Commissioner by the entity for the balancing period; and
 - (c) the Commissioner has not already made a franking assessment for the entity for that period;
- the Commissioner is taken to have made a franking assessment for the entity for the period on the return day, and to have assessed:
- (d) the entity's franking account balance at a particular time as that stated in the return as the balance at that time; and
 - (e) the amount (if any) of franking deficit tax payable by the entity because of events that have occurred, or are taken to have occurred, during the period as those stated in the return.
- (2) The return is taken to be notice of the assessment signed by the Commissioner and given to the entity on the return day.

214-35 Amendments within 3 years of the original assessment

- (1) The Commissioner may amend a franking assessment for the entity for the balancing period at any time during the period of 3 years after the original assessment day for the entity for the period.
- (2) The **original assessment day** for the entity for the balancing period is the day on which the first franking assessment for the entity for the period is made.

214-40 Amended assessments are treated as franking assessments

Once an amended franking assessment for the entity for the balancing period is made, it is taken to be a **franking assessment** for the entity for the period.

214-45 Further return as a result of a refund affecting a franking deficit tax liability

- (1) If:
- (a) a franking assessment for the entity for the balancing period has been made; and
 - (b) on a particular day (the *further return day*) the entity gives the Commissioner a further return for the balancing period under subsection 214-15(1) of this Act (because the entity has received a refund of income tax that affects its liability to pay franking deficit tax);
- the Commissioner is taken to have amended the entity's franking assessment on the further return day, and to have assessed:
- (c) the entity's franking account balance at a particular time as that stated in the further return as the balance at that time; and
 - (d) the amount of franking deficit tax payable by the entity because of events that have occurred, or are taken to have occurred, during the period as those stated in the further return.
- (2) The further return is taken to be notice of the amended assessment signed by the Commissioner and given to the entity on the further return day.

214-50 Later amendments—on request

The Commissioner may amend a franking assessment for the entity for the balancing period after the end of a period of 3 years after the original franking assessment day if, within that 3 year period:

- (a) the entity applies for the amendment; and
- (b) the entity gives the Commissioner all the information necessary for making the amendment.

214-55 Later amendments—failure to make proper disclosure

If:

- (a) the entity does not make a full and true disclosure to the Commissioner of the information necessary for a franking assessment for the entity for the balancing period; and
 - (b) in making the assessment, the Commissioner makes an under-assessment; and
 - (c) the Commissioner is not of the opinion that the under-assessment is due to fraud or evasion;
- the Commissioner may amend the assessment at any time during the period of 6 years after the original franking assessment day.

214-60 Later amendments—fraud or evasion

If:

- (a) the entity does not make a full and true disclosure to the Commissioner of the information necessary for a franking assessment for the entity for the balancing period; and
- (b) in making the assessment, the Commissioner makes an under-assessment; and
- (c) the Commissioner is of the opinion that the under-assessment is due to fraud or evasion;

the Commissioner may amend the assessment at any time.

214-65 Further amendment of an amended particular

If:

- (a) a franking assessment for the entity for the balancing period has been amended (the *first amendment*) in any particular; and
- (b) the Commissioner is of the opinion that it would be just to further amend the assessment in that particular so as to reduce the assessment;

the Commissioner may do so within a period of 3 years after the first amendment.

214-70 Other later amendments

In a case not covered by sections 214-50, 214-55, 214-60 or 214-65, the Commissioner may amend the franking assessment for

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the entity for the balancing period after the period of 3 years after the original assessment day has expired, but not so as to reduce the assessment.

214-75 Amendment on review etc.

Nothing in this Division prevents the amendment of a franking assessment for the entity for the balancing period:

- (a) to give effect to a decision on a review or appeal; or
- (b) to reduce the assessment as a result of an objection made under this Act or pending an appeal or review.

214-80 Notice of amendments

- (1) If the Commissioner amends the entity's franking assessment for the balancing period, the Commissioner must give the entity notice of the amendment as soon as practicable after making the amendment.
- (2) The notice may be included in a notice of any other assessment under this Act.

214-85 Validity of assessment

The validity of a franking assessment for the entity for the balancing period is not affected because any of the provisions of this Act (as defined in the *Income Tax Assessment Act 1997*) have not been complied with.

214-90 Objections

If a corporate tax entity is dissatisfied with a franking assessment made in relation to the entity under this Division, the entity may object against the assessment in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

214-95 Evidence

Section 177 of the *Income Tax Assessment Act 1936* applies as if:

- (a) a reference in that section to a return included a reference to a franking return under this Division; and
- (b) a reference in that section to an assessment or a notice of assessment included a reference to a franking assessment or a notice of a franking assessment (as required) under this Division.

214-100 Due date for payment of franking tax

General rule

- (1) Unless this section provides otherwise, franking deficit tax assessed for the entity because of events that have occurred, or are taken to have occurred, during the balancing period is due and payable on the last day of the month immediately following the end of the balancing period.

Amended assessments—other than because of deficit deferral

- (2) If:
 - (a) the Commissioner amends a franking assessment for the entity for the balancing period (the **earlier assessment**) other than because of the operation of section 214-30 (an amendment because of a refund of tax that affects franking deficit tax liability); and
 - (b) the amount of franking deficit tax payable under the amended assessment exceeds the amount of franking deficit tax payable under the earlier assessment;the excess amount is due and payable one month after the day on which the assessment was amended.

Tax payable because of deficit deferral

- (3) If:
 - (a) the entity receives a refund of income tax; and
 - (b) the receipt of the refund gives rise to a liability, or an increased liability, to pay franking deficit tax because of the operation of subsection 205-30(2) or (3);

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the franking deficit tax or, if there is an increase in an existing liability to pay franking deficit tax, the difference between the original liability and the increased liability, is due and payable on:

- (c) if the entity accounts for the liability, or increased liability, in a franking return that is outstanding for the balancing period in which the liability arose—the day on which the outstanding return is required to be given to the Commissioner; or
- (d) in any other case—14 days after the day on which the refund was received.

214-105 General interest charge

If:

- (a) franking deficit tax that is payable by the entity remains unpaid after the time by which it is due and payable; and
- (b) the Commissioner has not allocated the unpaid amount to an RBA;

the entity is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (c) starts at the beginning of the day on which the franking deficit tax was due to be paid; and
- (d) ends at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the franking deficit tax;
 - (ii) general interest charge on any of the franking deficit tax.

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

214-110 Refunds of amounts overpaid

Section 172 of the *Income Tax Assessment Act 1936* applies for the purposes of this Division as if references in that section to tax included references to franking deficit tax.

214-120 Record keeping

Section 262A of the *Income Tax Assessment Act 1936* applies for the purposes of this Division as if:

- (a) the reference in that section to a person carrying on a business were a reference to a corporate tax entity; and
- (b) the reference in paragraph (2)(a) of that section to the person's income and expenditure were a reference to:
 - (i) the entity's franking account balance; and
 - (ii) the entity's liability to pay franking tax; and
- (c) paragraph (5)(a) of that section were omitted.

214-125 Power of Commissioner to obtain information

Section 264 of the *Income Tax Assessment Act 1936* applies for the purposes of this Division as if the reference in paragraph (1)(b) of that section to a person's income or assessment were a reference to a matter relevant to the administration or operation of this Division.

214-135 Interpretation

If an expression is defined in this Division, it has the meaning given in that definition, and not the meaning given in the *Income Tax Assessment Act 1997*.

Division 219—Imputation for life insurance companies

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| 219-45 | Reversing (on tax paid basis) certain franking debits that arose before 1 July 2002 |

219-40 Reversing and replacing (on tax paid basis) certain franking credits that arose before 1 July 2002

- (1) This section applies if:
- (a) a franking credit arose before 1 July 2002 in the franking account of a life insurance company under former section 160APVJ of the *Income Tax Assessment Act 1936* in relation to a PAYG instalment in respect of an income year; and
 - (b) the company's assessment day (the **assessment day**) for that income year occurs on or after 1 July 2002; and
 - (c) the company has a franking account (the **new franking account**) under section 205-10 of the *Income Tax Assessment Act 1997*.
- (2) A franking debit of the amount worked out in accordance with the following formula is taken to have arisen in the new franking account on the assessment day:

$$\frac{\text{Amount of the 1936 Act credit}}{\text{Act credit}} \times \frac{30}{70}$$

where:

amount of the 1936 Act credit means the amount of the franking credit mentioned in paragraph (1)(a).

- (3) On the assessment day, a franking credit of the amount mentioned in item 2 of the table in section 219-15 of the *Income Tax Assessment Act 1997* arises in the new franking account in relation

to a payment of the PAYG instalment mentioned in paragraph (1)(a) of this section that was made before 1 July 2002.

- Note: On the assessment day, the franking credit mentioned in paragraph (1)(a) is therefore:
- reversed by the franking debit arising under subsection (2); and
 - replaced with a franking credit arising under subsection (3).

219-45 Reversing (on tax paid basis) certain franking debits that arose before 1 July 2002

- (1) This section applies if:
- a franking debit arose before 1 July 2002 in the franking account of a life insurance company under former section 160AQCNC of the *Income Tax Assessment Act 1936* in relation to a PAYG instalment variation credit in respect of an income year; and
 - the company's assessment day (the **assessment day**) for that income year occurs on or after 1 July 2002; and
 - the company has a franking account (the **new franking account**) under section 205-10 of the *Income Tax Assessment Act 1997*.
- (2) A franking credit of the amount worked out in accordance with the following formula is taken to have arisen in the new franking account on 1 July 2002:

$$\text{Amount of the 1936 Act debit} \times \frac{30}{70}$$

where:

amount of the 1936 Act debit means the amount of the franking debit mentioned in paragraph (1)(a).

- Note: As the effects of former sections 160AQCNC and 160APVN of the *Income Tax Assessment Act 1936* are not duplicated in the *Income Tax Assessment Act 1997*, this section ensures that a debit arising under former section 160AQCNC before 1 July 2002 is reversed on a tax paid basis on that date if it has not been reversed under former section 160APVN before that date.

Division 220—Imputation for NZ resident companies and related companies

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| 220-5 | Residency requirement for income year including 1 April 2003 |
| 220-10 | NZ franking company cannot frank before 1 October 2003 |
| 220-35 | Extended time to make NZ franking choice |
| 220-501 | Franking and exempting accounts of new former exempting entities |

220-1 Application to things happening on or after 1 April 2003

The following apply in relation to things happening on or after 1 April 2003, subject to this Division:

- (a) Division 220 of the *Income Tax Assessment Act 1997*;
- (b) the amendments of that Act made by Division 1 of Part 2 of Schedule 10 to the *Taxation Laws Amendment Act (No. 6) 2003* relating to Division 220 of the *Income Tax Assessment Act 1997*.

220-5 Residency requirement for income year including 1 April 2003

In determining whether an NZ franking company meets the residency requirement for the income year including 1 April 2003 regard may be had to things that happened in relation to the company before 1 April 2003.

220-10 NZ franking company cannot frank before 1 October 2003

An NZ franking company cannot:

- (a) frank a distribution made before 1 October 2003; or
- (b) frank with an exempting credit a distribution made before 1 October 2003.

220-35 Extended time to make NZ franking choice

- (1) A company that is an NZ resident may make an NZ franking choice that comes into force at the start of the company's income

year including 1 April 2003 by giving notice in the approved form to the Commissioner before the end of the next income year.

- (2) Subsection (1) has effect despite paragraph 220-40(1)(a) of the *Income Tax Assessment Act 1997*.

220-501 Franking and exempting accounts of new former exempting entities

- (1) This section has effect if:
- (a) a company (the **Australian company**) that is an Australian resident becomes a former exempting entity at a time (the **switch time**) because of:
 - (i) an NZ franking choice by a company (the **NZ company**); and
 - (ii) Division 220 of the *Income Tax Assessment Act 1997*; and
 - (b) the NZ franking choice comes into force at the start of the NZ company's income year including 1 April 2003; and
 - (c) at the switch time there is a franking surplus in the Australian company's franking account; and
 - (d) at the switch time the Australian company is a 100% subsidiary of a company (the **NZ parent company**) that:
 - (i) is not a 100% subsidiary of another company that is a member of the same wholly-owned group; and
 - (ii) is a post-choice NZ franking company; and
 - (e) there is a period for which all these requirements are met:
 - (i) the period must start as soon as possible after 7.30 pm by legal time in the Australian Capital Territory on 13 May 1997 and end immediately before the switch time;
 - (ii) the Australian company must have been a 100% subsidiary of the NZ parent company for the whole of the period;
 - (iii) the Australian company must meet either or both of the conditions in subsections (2) and (3) for the whole of the period;

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- (iv) the NZ parent company must meet the condition in subsection (4) for the whole of the period.

Conditions relating to the Australian company

- (2) One condition relating to the Australian company is that the company would not have been effectively owned by prescribed persons as described in sections 208-25 to 208-45 of the *Income Tax Assessment Act 1997* if:
 - (a) those sections and sections 220-505 and 220-510 of that Act had applied throughout the period; and
 - (b) an accountable membership interest or accountable partial interest in the Australian company had, at a time in the period, been held by, or indirectly for the benefit of, a post-choice NZ franking company if, at that time:
 - (i) the interest was held by, or indirectly for the benefit of, a company (the **interest holder**); and
 - (ii) the interest holder was an NZ resident or would have been one had section 220-20 of the *Income Tax Assessment Act 1997*, and section 995-1 of that Act so far as it relates to section 220-20 of that Act, applied throughout the period.
- (3) The other condition relating to the Australian company is that the company was a 100% subsidiary of a company that:
 - (a) was a listed public company; and
 - (b) was an NZ resident or would have been one had section 220-20 of the *Income Tax Assessment Act 1997*, and section 995-1 of that Act so far as it relates to section 220-20 of that Act, applied throughout the period.

Condition relating to the NZ parent company

- (4) The condition relating to the NZ parent company is that it:
 - (a) was not a 100% subsidiary of another company that was a member of the same wholly-owned group; and
 - (b) was an NZ resident or would have been one had section 220-20 of the *Income Tax Assessment Act 1997*, and

section 995-1 of that Act so far as it relates to section 220-20 of that Act, applied throughout the period.

Franking credits for the period remain franking credits

- (5) A franking credit arises in the Australian company's franking account immediately after the switch time.

Note: This franking credit will partly or fully offset the franking debit that arises under item 1 of the table in section 208-145 of the *Income Tax Assessment Act 1997* because the Australian company becomes a former exempting entity at the switch time.

Franking credits for the period do not become exempting credits

- (6) An exempting debit arises in the Australian company's exempting account immediately after the switch time.

Note: This exempting debit will partly or fully offset the exempting credit that arises under item 1 of the table in section 208-115 of the *Income Tax Assessment Act 1997* because the Australian company becomes a former exempting entity at the switch time.

Amount of franking credit and exempting debit

- (7) Work out the amount of the franking credit arising under subsection (5) and the exempting debit arising under subsection (6) using the table:

| Amount of the franking credit and the exempting debit | | |
|---|---|--|
| Item | If: | The amount of the credit and debit is: |
| 1 | The period starts immediately after 7.30 pm by legal time in the Australian Capital Territory on 13 May 1997 | The franking surplus in the Australian company's franking account at the switch time |
| 2 | Both these conditions are met: (a) item 1 does not apply; (b) the Australian company's franking account was not in surplus at the start of the period | The franking surplus in the Australian company's franking account at the switch time |
| 3 | All these conditions are met: | The difference between: |

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Amount of the franking credit and the exempting debit

| Item | If: | The amount of the credit and debit is: |
|------|--|--|
| | (a) item 1 does not apply; | (a) the franking surplus in the Australian company's franking account at the switch time; and |
| | (b) the Australian company's franking account was in surplus at the start of the period; | (b) the franking surplus in the Australian company's franking account at the start of the period |
| | (c) the surplus in the account at the switch time is greater than the surplus at the start of the period | |

No franking credit or exempting debit in some cases

- (8) Subsections (5) and (6) do not have effect if:
- (a) the start of the period is not immediately after 7.30 pm by legal time in the Australian Capital Territory on 13 May 1997; and
 - (b) the franking surplus in the Australian company's franking account at the switch time is not greater than the franking surplus in the Australian company's franking account at the start of the period.

Part 3-10—Financial transactions

Division 242—Leases of luxury cars

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| 242-10 | Application |
| 242-20 | Balancing adjustments |

242-10 Application

- (1) Division 242 of the *Income Tax Assessment Act 1997* (the **new Division**) applies to assessments for the 2010-11 income year and later years.
- (2) However, the new Division does not apply to a lease of a car if the lease was granted on or before 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996 unless the lease was extended after that time (whether the extension took effect before or after that time).
- (3) The definition of **luxury car** in subsection 995-1(1) of the *Income Tax Assessment Act 1997* applies to a reduction under former section 57AF of the *Income Tax Assessment Act 1936* or former section 42-80 of the *Income Tax Assessment Act 1997* in the same way as it applies to a reduction under section 40-230 of the *Income Tax Assessment Act 1997*.

242-20 Balancing adjustments

Sections 242-20 and 242-90 of the *Income Tax Assessment Act 1997* apply to an amount included in assessable income under former Subdivision 42-F or 42-G of the *Income Tax Assessment Act 1997* and former subsection 59(2) of the *Income Tax Assessment Act 1936* in the same way as they apply to an amount included in assessable income under section 40-285 of the *Income Tax Assessment Act 1997*.

Division 245—Forgiveness of commercial debts

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| 245-A | Application of Division 245 of the Income Tax Assessment Act 1997 |
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Subdivision 245-A—Application of Division 245 of the Income Tax Assessment Act 1997

Table of sections

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| 245-5 | Application and saving |
| 245-10 | Pre-28 June 1996 arrangements etc. |

245-5 Application and saving

- (1) Division 245 of the *Income Tax Assessment Act 1997* applies to debts forgiven in:
 - (a) the 2010-11 income year; and
 - (b) later income years.
- (2) Despite the repeal of Schedule 2C to the *Income Tax Assessment Act 1936*, that Schedule continues to apply to debts forgiven in:
 - (a) the 2009-10 income year; and
 - (b) earlier income years.
- (3) Subsection (2) does not limit the effect of section 8 of the *Acts Interpretation Act 1901* in relation to the repeal.

245-10 Pre-28 June 1996 arrangements etc.

- (1) Subdivisions 245-C to 245-G of the *Income Tax Assessment Act 1997* do not apply to a forgiveness of a debt if the forgiveness occurs in accordance with the terms of an arrangement that:
 - (a) was entered into on or before 27 June 1996; and
 - (b) is evidenced in writing otherwise than by a document evidencing the arrangement or transaction under which the debt arose.

- (2) Those Subdivisions also do not apply to reduce your expenditure:
- (a) if the asset in respect of which the expenditure was incurred was disposed of by you, or was lost or destroyed, on or before 27 June 1996; or
 - (b) to the extent (if any) to which the expenditure was recouped by you on or before 27 June 1996.

Division 247—Capital protected borrowings

Table of Subdivisions

- 247-A Interim apportionment methodology
- 247-B Other transitional provisions

Subdivision 247-A—Interim apportionment methodology

Table of sections

- 247-5 Interim apportionment methodology
- 247-10 Products listed on the Australian Stock Exchange that have explicit put options
- 247-15 Other capital protected products
- 247-20 The indicator method
- 247-25 The percentage method

247-5 Interim apportionment methodology

The methodology set out in this Subdivision must be used to work out how much of an amount that a borrower incurs under or in respect of a capital protected borrowing is reasonably attributable to the capital protection provided under the capital protected borrowing if the capital protected borrowing is entered into or extended at or after 9.30 am, by legal time in the Australian Capital Territory, on 16 April 2003 and before 1 July 2007.

Note: To work out how much of such an amount is reasonably attributable to the capital protection provided under a capital protected borrowing entered into on or after 1 July 2007, see Division 247 of the *Income Tax Assessment Act 1997*.

247-10 Products listed on the Australian Stock Exchange that have explicit put options

- (1) For a capital protected borrowing that:
 - (a) is an instalment warrant listed on the Australian Stock Exchange; and

- (b) contains an explicit put option that permits the underlying investment to be sold for at least the amount borrowed or amount of credit provided and has a separate price that reasonably reflects the market value of that option;subsection (2) applies.
- (2) If an amount is incurred:
 - (a) to acquire the capital protected borrowing in the primary market; or
 - (b) at a reset date of the borrowing under the capital protected borrowing;the amount that is reasonably attributable to the capital protection is the amount specified by the lender under the capital protected borrowing as the cost of the put option.
- (3) For a capital protected borrowing acquired on the secondary market, the amount that is reasonably attributable to the capital protection for an income year is worked out in accordance with subsection (4) or (5).
- (4) If the market value of the underlying security at the time of acquisition is greater than the amount of the borrowing, the amount that is reasonably attributable to the capital protection is:
 - (a) the sum of the market value of the instalment warrant and the amount of the borrowing or amount of credit provided; less
 - (b) the sum of the market value of the underlying security and so much of the amount incurred as is attributable to pre-paid interest.
- (5) If the market value of the underlying security at the time of acquisition is equal to or less than the amount of the borrowing or amount of credit provided, the amount that is reasonably attributable to the capital protection is:
 - (a) the market value of the instalment warrant; less
 - (b) any pre-paid interest.
- (6) If the amount worked out in accordance with subsection (4) or (5) is less than nil, the amount that is reasonably attributable to the capital protection is nil.

247-15 Other capital protected products

- (1) If section 247-10 does not apply, the total amount that is reasonably attributable to the capital protection for an income year is the greater of the amount worked out using section 247-20 (the indicator method) and section 247-25 (the percentage method). If those amounts are the same, use either one.
- (2) If an arrangement involves more than one amount incurred in an income year, the total amount that is reasonably attributable to the capital protection for the year is distributed pro-rata between those amounts incurred.

247-20 The indicator method

- (1) Work out the total amount incurred by the borrower under or in respect of the capital protected borrowing for the income year, ignoring amounts that are not in substance for capital protection or interest.

Example: Amounts that would be ignored under subsection (1) include amounts that are in substance the repayment of a loan or credit, the payment of an application fee or brokerage commission and the payment of stamp duty or other tax.
- (2) Work out the amount that would have been incurred by applying the relevant indicator rate to a borrowing or provision of credit of the same amount for the income year.
- (3) If the subsection (1) amount exceeds the subsection (2) amount, the excess is reasonably attributable to the capital protection for the income year.
- (4) The relevant indicator rate is:
 - (a) for a capital protected borrowing based on a variable interest rate, the Reserve Bank of Australia's Indicator Rate for Personal Unsecured Loans—Variable Rate at the time the first payment for the income year was incurred; and
 - (b) for another capital protected borrowing, the Reserve Bank of Australia's Indicator Rate for Personal Unsecured Loans—Fixed Rate at the time the borrowing was entered into.

247-25 The percentage method

- (1) Work out the total amount incurred by the borrower under or in respect of the capital protected borrowing for the income year, ignoring amounts that are not in substance for capital protection or interest.

Example: Amounts that would be ignored under subsection (1) include amounts that are in substance the repayment of a loan or credit, the payment of an application fee or brokerage commission and the payment of stamp duty or other tax.

- (2) The amount that is reasonably attributable to the capital protection for the income year is this percentage of the total amount incurred for the income year:
- (a) 40% if the term is 1 year or shorter; or
 - (b) 27.5% if the term is longer than 1 year but not longer than 2 years; or
 - (c) 20% if the term is longer than 2 years but not longer than 3 years; or
 - (d) 17.5% if the term is longer than 3 years but not longer than 4 years; or
 - (e) 15% if the term is longer than 4 years.

Subdivision 247-B—Other transitional provisions

Table of sections

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| 247-75 | Post-July 2007 capital protected borrowings |
| 247-80 | Capital protected borrowings in existence on 1 July 2013 |
| 247-85 | Extensions and other changes |

247-75 Post-July 2007 capital protected borrowings

- (1) For a capital protected borrowing entered into or extended:
- (a) on or after 1 July 2007; but
 - (b) at or before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008 (the **2008 Budget time**);
- work out the amount that is reasonably attributable to the capital protection using the following method statement.

Method statement

- Step 1. Work out the total amount incurred by the borrower under or in respect of the capital protected borrowing for the income year, ignoring amounts that are not in substance for capital protection or interest.
- Step 2. Work out the total interest that would have been incurred for the income year on a borrowing or provision of credit of the same amount as under the capital protected borrowing at the rate applicable under either or both of subsections (2) and (3).
- Step 3. If the step 1 amount exceeds the step 2 amount, the excess is reasonably attributable to the capital protection for the income year.

Example: Amounts that would be ignored under step 1 include amounts that are in substance the repayment of a loan or credit, the payment of an application fee or brokerage commission and the payment of stamp duty or other tax.

(2) If:

- (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
- (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year;

use the Reserve Bank of Australia's Indicator Lending Rate for Personal Unsecured Loans—Variable Rate (the ***personal unsecured loan rate***) at the first time an amount covered by step 1 of the method statement in subsection (1) was incurred, in any income year, during the term of the capital protected borrowing or that part of the term.

(3) If:

- (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
- (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year;

use the average of the personal unsecured loan rates applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

247-80 Capital protected borrowings in existence on 1 July 2013

- (1) This section applies to a capital protected borrowing (including one covered by Subdivision 247-A or section 247-75):
 - (a) entered into at or before the 2008 Budget time; and
 - (b) in existence on 1 July 2013; and
 - (c) to which section 247-85 does not apply.
- (2) Work out the amount that is reasonably attributable to the capital protection using the method statement in subsection 247-75(1) and, for step 2 in that method statement, using the rate applicable under either or both of subsections (3) and (5) on or after 1 July 2013.
- (3) If:
 - (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
 - (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year that is on or after 1 July 2013;use the rate worked out under subsection (4) at the first time an amount covered by step 1 of that method statement was incurred, in any income year, while the capital protected borrowing is at that fixed rate.
- (4) The rate (the ***adjusted loan rate***), at a particular time, is the sum of:
 - (a) the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans at that time; and
 - (b) 100 basis points.
- (5) If:
 - (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and
 - (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year that is on or after 1 July 2013;

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use the average of the adjusted loan rates applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

247-85 Extensions and other changes

- (1) This section applies to a capital protected borrowing entered into at or before the 2008 Budget time (including one covered by Subdivision 247-A or section 247-75) where, after that time, one or both of these events occurred:
 - (a) the term of the capital protected borrowing is extended;
 - (b) some other change is made to the terms and conditions of the capital protected borrowing.
- (2) Work out the amount that is reasonably attributable to the capital protection using the method statement in subsection 247-75(1) and, for step 2 in that method statement, using the rate applicable under either or both of subsections (3) and (4) from the earlier of these times:
 - (a) the time the extension or change took effect;
 - (b) the start of 1 July 2013;(the *switch-over time*).
- (3) If:
 - (a) the capital protected borrowing is at a fixed rate for all or part of the term of the capital protected borrowing; and
 - (b) that fixed rate is applicable to the capital protected borrowing for all or part of the income year that is at or after the switch-over time;use the adjusted loan rate (as described in subsection 247-80(4)) applicable at the first time an amount covered by step 1 of that method statement was incurred, in any income year, while the capital protected borrowing is at that fixed rate.
- (4) If:
 - (a) the capital protected borrowing is at a variable rate for all or part of the term of the capital protected borrowing; and

- (b) a variable rate is applicable to the capital protected borrowing for all or part of the income year that is at or after the switch-over time;
use the average of the adjusted loan rates (as described in subsection 247-80(4)) applicable during those parts of the income year when the capital protected borrowing is at a variable rate.

Division 253—Financial claims scheme for account-holders with insolvent ADIs

Table of Subdivisions

253-A Tax treatment of entitlements under financial claims scheme

Subdivision 253-A—Tax treatment of entitlements under financial claims scheme

Table of sections

253-5 Application of section 253-5 of the *Income Tax Assessment Act 1997*

253-10 Application of sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997*

253-5 Application of section 253-5 of the *Income Tax Assessment Act 1997*

Section 253-5 of the *Income Tax Assessment Act 1997* applies to amounts paid or applied before, on or after the commencement of that section to meet entitlements arising under Division 2AA of Part II of the *Banking Act 1959* after 17 October 2008.

Note: Division 2AA of Part II of the *Banking Act 1959* commenced on 18 October 2008.

253-10 Application of sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997*

Sections 253-10 and 253-15 of the *Income Tax Assessment Act 1997* apply to CGT events happening after 17 October 2008.

Part 3-25—Particular kinds of trusts

Division 275—Australian managed investment trusts

Table of Subdivisions

275-A Choice for capital treatment of MIT gains and losses

Subdivision 275-A—Choice for capital treatment of MIT gains and losses

Table of sections

275-10 Consequences of making choice—Commissioner cannot make certain amendments to previous assessments

275-10 Consequences of making choice—Commissioner cannot make certain amendments to previous assessments

- (1) This section applies if:
- (a) the trustee of a managed investment trust makes a choice under section 275-115 of the *Income Tax Assessment Act 1997* covering the trust that is in force for the 2008-09 income year; and
 - (b) the Commissioner made an assessment (the ***previous assessment***) for a previous income year for any of the following entities:
 - (i) the trustee of the managed investment trust;
 - (ii) a beneficiary of the managed investment trust;
 - (iii) an entity that holds interests in the managed investment trust indirectly, through a chain of trusts; and
 - (c) the previous assessment was made on the basis that:
 - (i) a CGT event happened at a time involving a CGT asset that was owned by the managed investment trust; and
 - (ii) a gain or loss was realised for income tax purposes because of the circumstances that gave rise to the CGT event; and

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- (d) the previous assessment was also made on the basis that:
 - (i) the gain or loss should be reflected in the net income of the managed investment trust for that previous income year; or
 - (ii) the gain or loss should be reflected in a tax loss or net capital loss of the managed investment trust for that previous income year; and
 - (e) the previous assessment was also made on one of these bases:
 - (i) the CGT asset was a revenue asset;
 - (ii) the CGT asset was *not* a revenue asset; and
 - (f) none of the provisions mentioned in subsection 275-100(2) of the *Income Tax Assessment Act 1997* would have applied at the time of the CGT event in relation to the asset, if these assumptions were made:
 - (i) Subdivision 275-B of the *Income Tax Assessment Act 1997* (and any other provision of that Act or of the *Income Tax Assessment Act 1936*, to the extent that it relates to that Subdivision) had applied in relation to the CGT event;
 - (ii) a choice under section 275-115 of the *Income Tax Assessment Act 1997* covering the entity for which the assessment was made was in force for the previous income year.
- (2) The Commissioner cannot amend the previous assessment on the basis that:
- (a) if subparagraph (1)(e)(i) applies—the CGT asset should *not* have been treated as a revenue asset; or
 - (b) if subparagraph (1)(e)(ii) applies—the CGT asset should have been treated as a revenue asset.
- (3) Subsection (2) applies despite any other provision of this Act (apart from subsection (4) of this section), the *Income Tax Assessment Act 1997* and the *Income Tax Assessment Act 1936*.
- (4) Subsection (2) does not apply in any of these cases:
- (a) if the entity for which the assessment was made gives the Commissioner a written consent to the amendment;

- (b) if the Commissioner may amend the assessment in accordance with item 5 (fraud or evasion) or 6 (review or appeal) of the table in subsection 170(1) of the *Income Tax Assessment Act 1936*;
- (c) if the amendment is made for the purpose of giving effect to a provision specified in the regulations for the purposes of this paragraph.

Part 3-30—Superannuation

Division 290—Contributions

Table of sections

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| 290-10 | Directed termination payments not deductible etc. |
| 290-15 | Early balancers—deduction limits from end of 2006-2007 income year to 1 July 2007 |

290-10 Directed termination payments not deductible etc.

Division 290 of the *Income Tax Assessment Act 1997* does not apply to a contribution that is a directed termination payment (within the meaning of section 82-10F).

290-15 Early balancers—deduction limits from end of 2006-2007 income year to 1 July 2007

- (1) This section applies if a person's 2006-2007 income year ends before the end of the 2006-2007 financial year.
- (2) The object of this section is to apply (with modifications) provisions limiting deductibility in respect of certain contributions made during the period that:
 - (a) starts when the person's 2006-2007 income year ends; and
 - (b) ends just before 1 July 2007.
- (3) The provisions are as follows:
 - (a) Subdivisions AA and AB of Division 3 of Part III of the *Income Tax Assessment Act 1936*, as in force just before they were repealed by the *Superannuation Legislation Amendment (Simplification) Act 2007*;
 - (b) any other provision of the *Income Tax Assessment Act 1936*, or of any instrument made under that Act, to the extent that it relates to the operation of those Subdivisions;
 - (c) any other provision of any other Act, or of any instrument made under any other Act, to the extent that it relates to the operation of those Subdivisions.

- (4) Those provisions apply in relation to the period mentioned in subsection (2), and do so as if:
- (a) that period were the 2007-2008 income year; and
 - (b) the deduction limit mentioned in section 82AAC for the 2006-2007 income year were the deduction limit for the income year mentioned in paragraph (a); and
 - (c) the deduction limit mentioned in section 82AAT for the 2006-2007 income year were the deduction limit for the income year mentioned in paragraph (a); and
 - (d) Division 290 of the *Income Tax Assessment Act 1997* did not apply to contributions made during the income year mentioned in paragraph (a).

Division 291—Excess concessional contributions

Table of Subdivisions

- 291-A Application of Division 291 of the *Income Tax Assessment Act 1997*
- 291-B—Excess concessional contributions
- 291-C Modifications for defined benefit interests

Subdivision 291-A—Application of Division 291 of the *Income Tax Assessment Act 1997*

Table of sections

- 291-10 Application of Division 291 of the *Income Tax Assessment Act 1997*

291-10 Application of Division 291 of the *Income Tax Assessment Act 1997*

Division 291 of the *Income Tax Assessment Act 1997* applies to the 2013-14 income year and later income years.

Subdivision 291-B—Excess concessional contributions

Table of sections

- 291-20 Concessional contributions cap for older Australians—\$35,000

291-20 Concessional contributions cap for older Australians—\$35,000

- (1) Despite section 291-20 of the *Income Tax Assessment Act 1997*, your **concessional contributions cap** is \$35,000:
- (a) for the 2013-2014 financial year—if you are 59 years or over on 30 June 2013; or
 - (b) for the 2014-2015 financial year or a later financial year—if you are 49 years or over on the last day of the previous financial year.

Note: This amount is not indexed.

- (2) This section does not apply to a financial year for which the concessional contributions cap worked out under section 291-20 of the *Income Tax Assessment Act 1997* is \$35,000 or more.
- (3) This section does not apply for the purposes of subsection 292-85(2) of that Act.

Subdivision 291-C—Modifications for defined benefit interests

Table of sections

291-170 Transitional rules for notional taxed contributions

291-170 Transitional rules for notional taxed contributions

- (1) This section applies despite section 291-170 of the *Income Tax Assessment Act 1997*.

Certain interests held on 5 September 2006

- (2) Despite subsection 291-170(1) of the *Income Tax Assessment Act 1997*, your **notional taxed contributions** for the financial year in respect of a defined benefit interest are equal to your concessional contributions cap for the financial year if:
 - (a) Subdivision 291-C of that Act applies in relation to you because you have a defined benefit interest in a financial year; and
 - (b) disregarding this subsection and subsection (4), the notional taxed contributions for the financial year in respect of the defined benefit interest exceed your concessional contributions cap for the financial year; and
 - (c) either:
 - (i) you held the defined benefit interest in a superannuation fund on 5 September 2006; or
 - (ii) all the requirements in subsection (3) are satisfied; and
 - (d) the conditions (if any) specified in the regulations are satisfied.
- (3) For the purposes of subparagraph (2)(c)(ii), the requirements are as follows:

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- (a) you held a defined benefit interest (the **original interest**) in a superannuation fund (the **original fund**) on 5 September 2006;
- (b) the defined benefit interest mentioned in paragraph (2)(a) (the **current interest**) is in a different superannuation fund (the **current fund**);
- (c) the entire value of the original interest:
 - (i) was transferred directly to the current interest after 5 September 2006; or
 - (ii) was transferred to another superannuation interest after 5 September 2006, and was later transferred to the current interest (whether directly or through a series of transfers between superannuation interests);
- (d) your rights to accrue future benefits under the current interest are equivalent to your rights to accrue future benefits under the original interest;
- (e) either:
 - (i) the notional taxed contributions mentioned in paragraph (2)(b) do not exceed what they would have been if the transfer mentioned in paragraph (c) had not taken place; or
 - (ii) the conditions (if any) specified in the regulations are satisfied;
- (f) the conditions (if any) specified in the regulations are satisfied.

Certain interests held on 12 May 2009

- (4) Despite subsection 291-170(1) of the *Income Tax Assessment Act 1997*, your **notional taxed contributions** for the financial year in respect of the defined benefit interest are equal to your concessional contributions cap for the financial year if:
 - (a) Subdivision 291-C of that Act applies in relation to you because you have a defined benefit interest in a financial year; and
 - (b) disregarding this subsection, the notional taxed contributions for the financial year in respect of the defined benefit interest

- exceed your concessional contributions cap for the financial year; and
- (c) either:
- (i) you held the defined benefit interest in a superannuation fund on 12 May 2009; or
 - (ii) all the requirements in subsection (5) are satisfied; and
- (d) the conditions (if any) specified in the regulations are satisfied; and
- (e) the financial year is the 2009-2010 financial year or a later financial year.
- (5) For the purposes of subparagraph (4)(c)(ii), the requirements are as follows:
- (a) you held a defined benefit interest (the **original interest**) in a superannuation fund (the **original fund**) on 12 May 2009;
 - (b) the defined benefit interest mentioned in paragraph (4)(a) (the **current interest**) is in a different superannuation fund (the **current fund**);
 - (c) the entire value of the original interest:
 - (i) was transferred directly to the current interest after 12 May 2009; or
 - (ii) was transferred to another superannuation interest after 12 May 2009, and was later transferred to the current interest (whether directly or through a series of transfers between superannuation interests);
 - (d) your rights to accrue future benefits under the current interest are equivalent to your rights to accrue future benefits under the original interest;
 - (e) either:
 - (i) the notional taxed contributions mentioned in paragraph (4)(b) do not exceed what they would have been if the transfer mentioned in paragraph (c) had not taken place; or
 - (ii) the conditions (if any) specified in the regulations are satisfied;
 - (f) the conditions (if any) specified in the regulations are satisfied.

Division 292—Excess non-concessional contributions tax

Table of sections

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| 292-80 | Application of excess non-concessional contributions tax from 10 May 2006 to 1 July 2007 |
| 292-80A | Transitional release authority |
| 292-80B | Giving a transitional release authority to a superannuation provider |
| 292-80C | Superannuation provider given transitional release authority must pay amount |
| 292-90 | Concessional contributions for a financial year |

292-80 Application of excess non-concessional contributions tax from 10 May 2006 to 1 July 2007

- (1) The object of this section is to apply (with modifications) provisions relating to excess non-concessional contributions tax in respect of certain contributions made during the period that:
 - (a) begins on 10 May 2006; and
 - (b) ends just before 1 July 2007.
- (2) The provisions are as follows:
 - (a) Subdivision 292-C of the *Income Tax Assessment Act 1997* (excess non-concessional contributions tax);
 - (b) any other provision of that Act, or of any instrument made under that Act, to the extent that it relates to the operation of that Subdivision;
 - (c) any other provision of any other Act, or of any instrument made under any other Act, to the extent that it relates to the operation of that Subdivision.

Example: Section 390-65 in Schedule 1 to the *Taxation Administration Act 1953*.
- (3) Those provisions apply in relation to that period, and do so as if:
 - (a) that period were the 2006-2007 financial year; and
 - (b) the amount of a person's non-concessional contributions for that financial year:
 - (i) did not include the amount of the person's excess concessional contributions for that financial year; and

- (ii) if subsection (6) applies—included the amount mentioned in that subsection; and
- (iii) included each contribution covered under subsection (7) in respect of the person; and
- (c) the person's non-concessional contributions cap for that financial year were \$1,000,000; and
- (d) subsections 292-85(3) and (4) of the *Income Tax Assessment Act 1997* were omitted; and
- (e) the person's CGT cap amount at the start of that financial year were \$1,000,000; and
- (ea) in a case where paragraph 292-95(1)(b) of that Act would have allowed the contribution mentioned in that paragraph to be made at a time within that period—that paragraph allowed the contribution to be made on or before 30 June 2007; and
- (f) paragraph 292-95(1)(d) of that Act allowed the notification mentioned in that paragraph to be made on or before 31 July 2007; and
- (fa) in a case where subsection 292-100(2), (4), (7) or (8) of that Act would have allowed the contribution mentioned in that subsection to be made at a time within that period—that subsection allowed the contribution to be made on or before 30 June 2007; and
- (g) paragraph 292-100(9)(b) of that Act allowed the choice mentioned in that paragraph to be given on or before 31 July 2007; and
- (h) contributions made during that period that are covered under section 292-100 of that Act reduce the person's CGT cap amount for the 2007-2008 financial year in accordance with subsection 292-105(2) of that Act (and despite subsection (1) of that section); and
- (i) if the conditions in subsection (4) are satisfied—the person's excess non-concessional contributions for that financial year were reduced by the amount paid as mentioned in paragraph (4)(d); and
- (j) the reference in subsection 307-220(1) of that Act to 30 June 2007 were a reference to 9 May 2006.

(4) For the purposes of paragraph (3)(i), the conditions are:

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- (a) the person gives the Commissioner an application under subsection 292-80A(1) before 1 July 2007; and
 - (b) the Commissioner gives the person a transitional release authority under subsection 292-80A(2) in response to the application; and
 - (c) the person gives the transitional release authority to a superannuation provider that holds a superannuation interest for the person (other than a defined benefit interest) in accordance with section 292-80B within 21 days after the date of the release authority; and
 - (d) the superannuation provider pays the person the amount required under section 292-80C in relation to the transitional release authority.
 - (5) Subsection (6) applies if:
 - (a) contributions are made in respect of a person (the **first person**) in either or both of the following periods:
 - (i) 10 May 2006 to 30 June 2006;
 - (ii) 1 July 2006 to 30 June 2007; and
 - (b) those contributions are allowable as a deduction for another person under subsection 82AAC(1) of the *Income Tax Assessment Act 1936* (apart from subsection 82AAC(2) of that Act).
 - (6) The amount to be included in the first person's amount of non-concessional contributions under subparagraph (3)(b)(ii) is the sum of:
 - (a) the amount of those contributions made in the period mentioned in subparagraph (5)(a)(i), to the extent that they exceed the first person's deduction limit (within the meaning of subsection 82AAC(2A) of the *Income Tax Assessment Act 1936*) for the income year of the other person in which the contributions were made; and
 - (b) the amount of those contributions made in the period mentioned in subparagraph (5)(a)(ii), to the extent that they exceed the first person's deduction limit (within the meaning of subsection 82AAC(2A) of the *Income Tax Assessment Act 1936*) for the income year of the other person in which the contributions were made.
-

- (7) A contribution is covered under this subsection if:
- (a) the contribution is made in respect of the person mentioned in subparagraph (3)(b)(iii) by another entity; and
 - (b) the person is *not* an employee of the other entity; and
 - (c) under Division 295 of the *Income Tax Assessment Act 1997* (as that Division applies for the purposes of subsection (3)), the contribution is included in the assessable income of the superannuation provider in relation to the superannuation plan to which the contribution is made; and
 - (d) the contribution is made after 6 December 2006.
- (8) For the purposes of paragraph (7)(b), treat the person as an employee of the other entity if the person would be treated as an employee of the other entity under Division 290 of the *Income Tax Assessment Act 1997* (as that Division applies for the purposes of subsection (3)).

292-80A Transitional release authority

- (1) A person may apply to the Commissioner in the approved form for a transitional release authority under subsection (2). The application can only be made before 1 July 2007.
- (2) The Commissioner must give the person a transitional release authority if the Commissioner considers that, apart from subparagraph 292-80(3)(b)(i), the person would have excess non-concessional contributions for the financial year mentioned in paragraph 292-80(3)(a).
- (3) The transitional release authority must:
- (a) state the amount of excess non-concessional contributions mentioned in subsection (2); and
 - (b) be dated; and
 - (c) contain any other information that the Commissioner considers relevant.
- (4) For the purposes of this section, disregard contributions made in respect of the person after 6 December 2006 in working out:
- (a) whether the person has excess non-concessional contributions as mentioned in subsection (2); and

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- (b) the amount of those excess non-concessional contributions.

292-80B Giving a transitional release authority to a superannuation provider

The person may give the transitional release authority to a superannuation provider that holds a superannuation interest (other than a defined benefit interest) for the person in a complying superannuation plan within 21 days after the date of the release authority.

292-80C Superannuation provider given transitional release authority must pay amount

- (1) A superannuation provider that has been given a transitional release authority in accordance with section 292-80B must pay to the person within 30 days after receiving the release authority the least of the following amounts:
- (a) if the person requests the provider in writing to pay a specified amount in relation to the release authority—that amount;
 - (b) the amount of excess non-concessional contributions stated in the release authority;
 - (c) the sum of the values of every superannuation interest (other than a defined benefit interest) held by the superannuation provider for the person in complying superannuation plans.

Note 1: Section 288-95 in Schedule 1 to the *Taxation Administration Act 1953* provides for an administrative penalty for failing to comply with this subsection.

Note 2: Section 288-100 in Schedule 1 to the *Taxation Administration Act 1953* provides that the person giving the release authority to the superannuation provider can be liable to an administrative penalty if excess amounts are paid in relation to the release authority.

Note 3: For reporting obligations on the superannuation provider in these circumstances, see section 390-65 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 4: For the taxation treatment of the payment, see section 304-15 of the *Income Tax Assessment Act 1997*.

- (2) The payment must be made out of one or more superannuation interests (other than a defined benefits interest) held by the superannuation provider for the person in complying superannuation plans.
- (3) Section 307-125 of the *Income Tax Assessment Act 1997* (the proportioning rule) does not apply to a payment made as required under this section.

292-90 Non-concessional contributions for a financial year

The tax free component of a directed termination payment (within the meaning of section 82-10F) made in a financial year on behalf of you is not included in your non-concessional contributions (see section 292-90 of the *Income Tax Assessment Act 1997*) for the financial year.

Division 293—Sustaining the superannuation contribution concession

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293-A Application of Division 293 tax rules

Subdivision 293-A—Application of Division 293 tax rules

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293-10 Application of Division 293 of the *Income Tax Assessment Act 1997*

293-10 Application of Division 293 of the *Income Tax Assessment Act 1997*

Division 293 of the *Income Tax Assessment Act 1997* applies to the 2012-13 income year and later income years.

Division 295—Taxation of superannuation entities

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Subdivision 295-B—Modifications of the Income Tax Assessment Act 1997 for 30 June 1988 assets

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| 295-90 | Market value of stock exchange listed assets |
| 295-95 | Adjustment of cost base as at 30 June 1988—return of capital |
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295-75 Application of Subdivision

This Subdivision applies to an entity that is the trustee of a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust.

295-80 Meaning of 30 June 1988 asset

For the purposes of this Subdivision, an asset is a **30 June 1988 asset** of a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust if the entity owned it at the end of 30 June 1988.

Note: Section 295-90 of the *Income Tax Assessment Act 1997* treats these assets as having been acquired on 30 June 1988.

295-85 Cost base of 30 June 1988 asset

- (1) The first element of the cost base of each 30 June 1988 asset of the entity's is the greater of the asset's market value (at the end of 30 June 1988) and its cost base (on that day).
- (2) The first element of the reduced cost base of each 30 June 1988 asset of the entity's is the lesser of the asset's market value (at the end of 30 June 1988) and its cost base (on that day).

295-90 Market value of stock exchange listed assets

- (1) If:
 - (a) a 30 June 1988 asset of the entity's was listed on an Australian stock exchange on 30 June 1988; and
 - (b) on that day, identical assets were:
 - (i) computer traded on a national market; or
 - (ii) traded on a State capital city market;the market value of the asset as at the end of 30 June 1988 is the average of the highest and lowest trade prices for identical assets recorded on 30 June 1988 in whichever of the following markets is applicable:
 - (c) if, on that date, identical assets were computer traded on a national market—that national market;
 - (d) if, on that date, there was a State capital city market (other than the Sydney market) that recorded a higher volume of trading than the Sydney market in identical assets—that State capital city market;
 - (e) in any other case—the Sydney market.
- (2) For the purposes of this section, an asset is taken to have been listed on an Australian stock exchange on 30 June 1988 if, and only if, on that day the asset had the status of having been granted official quotation by a securities exchange within the meaning of the former *Securities Industry Act 1980* or the law of a State or Territory corresponding to that former Act.

295-95 Adjustment of cost base as at 30 June 1988—return of capital

(1) If:

- (a) 30 June 1988 assets of the entity's consist of shares in a company; and
- (b) at any time during the period commencing at the time when the shares were acquired and ending at the end of 30 June 1988, the company paid an amount that was not a dividend to the entity in respect of the shares;

the cost base to the entity of the shares as at 30 June 1988 is reduced by that amount.

(2) If:

- (a) a 30 June 1988 asset of the entity's consists of an interest or unit in a trust; and
- (b) at any time during the period commencing at the time when the interest or unit was acquired and ending at the end of 30 June 1988, the trustee of the trust paid an amount to the entity in respect of the interest or unit, being:
 - (i) in a case where the entity was exempt from tax for the year of income in which the payment was made—an amount that, if the entity had not been exempt from tax, would not have been the entity's assessable income; or
 - (ii) in any other case—an amount that would not have been the entity's assessable income;

the cost base to the entity of the interest or unit as at 30 June 1988 is reduced by so much of the amount as is not attributable to a deduction allowed under former Division 10C or 10D of the *Income Tax Assessment Act 1936*.

295-100 Exercise of rights

- (1) Despite section 130-40 of the *Income Tax Assessment Act 1997*, the modifications in subsections (2) and (3) of this section apply if an entity exercises rights or options as mentioned in that section to acquire:
 - (a) shares in a company, or options to acquire shares in a company; or

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- (b) units in a unit trust, or options to acquire units in a unit trust; and those rights or options are 30 June 1988 assets of the entity.
- (2) The first element of the cost base of the shares, units or options is the sum of:
 - (a) the amount paid to exercise the rights or options; and
 - (b) the greater of the market value of the rights or options (at the end of 30 June 1988) and the cost base of the rights or options (on that day).
- (3) The first element of the reduced cost base of the shares, units or options is the sum of:
 - (a) the amount paid to exercise the rights or options; and
 - (b) the lesser of the market value of the rights or options (at the end of 30 June 1988) and the cost base of the rights or options (on that day).
- (4) The payment referred to in subsection (2) or (3) can include giving property. To the extent that the payment does, use the market value of the property in working out the amount of the payment.
- (5) For indexation purposes, the amount referred to in paragraph (2)(b) is taken to have been incurred on 30 June 1988.

Subdivision 295-C—Notices relating to contributions

Table of sections

295-190 Deductions for personal contributions

295-190 Deductions for personal contributions

- (1) A notice given under subsection 82AAT(1A) or (1CB) of the *Income Tax Assessment Act 1936* in relation to the 2006-07 income year or an earlier year has effect, after 1 July 2007, as if it were a notice under section 290-170 of the *Income Tax Assessment Act 1997*.
- (2) A notice given under subsection 82AAT(1C) or (1CD) of the *Income Tax Assessment Act 1936* in relation to the 2006-07 income year or an earlier year has effect, after 1 July 2007, as if it were a

notice under section 290-180 of the *Income Tax Assessment Act 1997*.

Subdivision 295-F—Exempt income

Table of sections

295-390 Fixed interest complying ADFs—exemption of income attributable to certain 25 May 1988 deposits

295-390 Fixed interest complying ADFs—exemption of income attributable to certain 25 May 1988 deposits

- (1) A proportion of the ordinary income and statutory income of a continuously complying fixed interest ADF of an income year that would otherwise be assessable income is exempt from income tax under this section. The proportion is worked out under subsection (3).
- (2) Subsection (1) does not apply to:
 - (a) non-arm's length income; or
 - (b) amounts included in assessable income under Subdivision 295-C of the *Income Tax Assessment Act 1997*.
- (3) The proportion is:

$$\frac{\text{Aggregate of current 25 May balances}}{\text{Aggregate current balance}}$$

where:

Aggregate current balance is the total amount deposited with the fund (together with accumulated earnings), as at the reckoning time in relation to the income year.

Aggregate of current 25 May balances is the aggregate of the current 25 May balances of eligible depositors, as at the reckoning time in relation to the income year.

- (4) A choice for the purposes of the definition of **reckoning time** in subsection (5) must be made on or before the date of lodgment of

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the income tax return of the ADF for the income year to which the choice relates, or before a later day allowed by the Commissioner.

(5) In this section:

continuously complying fixed interest ADF, in relation to an income year (the ***current year***), means a fund that is a fixed interest complying ADF in relation to each of the following years:

- (a) the current year;
- (b) the income year in which 1 July 1988 occurred;
- (c) each income year later than the year mentioned in paragraph (b) and earlier than the current year.

current 25 May balance, in relation to an eligible depositor as at the reckoning time, is the balance as at that time determined by varying the original 25 May balance, in accordance with the following rules, during the period from 26 May 1988 to the reckoning time:

- (a) the balance from time to time is not to exceed the original 25 May balance and is not to be less than nil;
- (b) subject to paragraph (a), an amount deposited with the ADF by the depositor before 1 September 1989 is to be added to the balance;
- (c) subject to paragraph (a), an amount repaid to the depositor from the ADF is to be deducted from the balance.

eligible depositor, in relation to an ADF, means:

- (a) a depositor whose 55th birthday occurred on or before 25 May 1988; or
- (b) a depositor whose 50th birthday occurred on or before 25 May 1988 and who, on or before that day, made a deposit with the ADF that consisted wholly or partly of the roll-over (as defined in Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936* as in force on that day) of an eligible termination payment as so defined, being an eligible termination payment that included a concessional component (as so defined).

fixed interest complying ADF, in relation to a year of income, means a complying ADF where both of the following conditions are satisfied:

- (a) not less than 90% of the amount that, apart from this section, would be the assessable income of the ADF of the income year (other than non-arm's length income or amounts included in assessable income under Subdivision 295-C of the *Income Tax Assessment Act 1997*) consists of any one or more of the following:
 - (i) interest or a payment in the nature of interest;
 - (ii) any profit arising on the disposal, redemption, cancellation or maturity of a CGT asset referred to in paragraph 295-85(3)(b) of the *Income Tax Assessment Act 1997*;
 - (iii) an amount included in assessable income under Division 16E of Part III of the *Income Tax Assessment Act 1936* (or would be so included if Division 230 of the *Income Tax Assessment Act 1997* did not apply);
- (b) at no time during the year of income did the assets of the fund consist of or include any of the following:
 - (i) units in a PST;
 - (ii) virtual PST life insurance policies (as defined in the *Income Tax Assessment Act 1997*) issued by a life insurance company.

original 25 May balance, in relation to an eligible depositor, means the amount of the deposits (together with accumulated earnings) standing to the credit of the depositor as at the end of 25 May 1988.

reckoning time, in relation to an ADF in relation to an income year, means the beginning of the income year, or such other time during the income year as the ADF chooses in accordance with subsection (4).

- (6) This section does not apply to an ADF in relation to an income year unless the whole of the benefit that would accrue to the ADF from the application of this section in relation to the income year

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has been, or can reasonably expected to be, passed on to eligible depositors.

Subdivision 295-G—Deductions

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| 295-465 | Complying funds—deductions for insurance premiums |
| 295-466 | Complying funds—deductions for insurance premiums for disability superannuation benefits |
| 295-467 | Complying funds—deductions for self-insurance for disability superannuation benefits |
| 295-485A | Meaning of <i>spouse</i> and <i>child</i> for 2008-2009 income year |
| 295-485 | Deductions for increased amount of superannuation lump sum death benefit |

295-465 Complying funds—deductions for insurance premiums

An election made by the trustee of a complying superannuation fund under subsection 279(4) of the *Income Tax Assessment Act 1936* that had effect for the income year of the fund in which 30 June 2007 occurs continues to have effect as if it had been made under section 295-465 of the *Income Tax Assessment Act 1997*.

295-466 Complying funds—deductions for insurance premiums for disability superannuation benefits

Scope

- (1) This section applies if:
- (a) a complying superannuation fund pays a premium for an insurance policy during:
 - (i) the 2007-08 income year; or
 - (ii) the 2008-09 income year; or
 - (iii) the 2009-10 income year; or
 - (iv) the 2010-11 income year; and
 - (b) the policy is (wholly or partly) for current or contingent liabilities of the fund to provide superannuation benefits for members of the fund (whether the policy covers the whole or parts of the liabilities).

Note: For premiums paid during the 2004-05 to 2006-07 income years, see Part 1 of Schedule 2 to the *Superannuation Legislation Amendment Act 2010*.

Entitlement to deduction

- (2) Treat the superannuation benefits mentioned in paragraph (1)(b) as being **disability superannuation benefits**, to the extent that:
- (a) the superannuation benefits are conditional on the disability of the members mentioned in that paragraph; and
 - (b) the disability is described as a permanent disability in regulations made for the purposes of this section.

Note: Other events might have to occur after the event of the disability of the members before the fund pays the benefits to the members. For example, the members might have to satisfy a condition of release of benefits specified in a standard made under paragraph 31(2)(h) of the *Superannuation Industry (Supervision) Act 1993*, such as by reaching a certain age.

- (3) Subsection (2) applies:
- (a) for the purposes of applying:
 - (i) subsection 295-465(1) of the *Income Tax Assessment Act 1997*; and
 - (ii) paragraph 295-460(b) of that Act, to the extent that it relates to subsection 295-465(1) of that Act;to the payment mentioned in paragraph (1)(a) of this section; and
 - (b) without limiting subsection 295-465(1) and paragraph 295-460(b) of that Act.

Amendment of assessments

- (4) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:
- (a) the assessment was made before the commencement of this section; and
 - (b) the amendment is made within 2 years after that commencement; and
 - (c) the amendment is made for the purpose of giving effect to this section.

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Note: This section will be repealed on 1 January 2017: see Division 2 of Part 2 of Schedule 2 to the *Superannuation Legislation Amendment Act 2010*.

295-467 Complying funds—deductions for self-insurance for disability superannuation benefits

Scope

- (1) This section applies if:
- (a) during an income year, a complying superannuation fund is subject to current or contingent liabilities to provide superannuation benefits for members of the fund; and
 - (b) the income year is:
 - (i) the 2007-08 income year; or
 - (ii) the 2008-09 income year; or
 - (iii) the 2009-10 income year; or
 - (iv) the 2010-11 income year.

Note: For liabilities during the 2004-05 to 2006-07 income years, see item 8 of Schedule 3 to the *Tax Laws Amendment (2011 Measures No. 4) Act 2011*.

Entitlement to deduction

- (2) Treat the superannuation benefits mentioned in paragraph (1)(a) as being **disability superannuation benefits**, to the extent that:
- (a) the superannuation benefits are conditional on the disability of the members mentioned in that paragraph; and
 - (b) the disability is described as a permanent disability in regulations made for the purposes of section 295-466.

Note: Other events might have to occur after the event of the disability of the members before the fund pays the benefits to the members. For example, the members might have to satisfy a condition of release of benefits specified in a standard made under paragraph 31(2)(h) of the *Superannuation Industry (Supervision) Act 1993*, such as by reaching a certain age.

- (3) Subsection (2) applies:
- (a) for the purposes of applying:

- (i) subsection 295-465(2) of the *Income Tax Assessment Act 1997*; and
 - (ii) paragraph 295-460(b) of that Act, to the extent that it relates to subsection 295-465(2) of that Act;
- to the liabilities mentioned in paragraph (1)(a) of this section; and
- (b) without limiting subsection 295-465(2) and paragraph 295-460(b) of that Act.

Amendment of assessments

- (4) Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:
 - (a) the assessment was made before the commencement of this section; and
 - (b) the amendment is made within 2 years after that commencement; and
 - (c) the amendment is made for the purpose of giving effect to this section.

Note: This section will be repealed on 1 January 2017: see Division 2 of Part 2 of Schedule 3 to the *Tax Laws Amendment (2011 Measures No. 4) Act 2011*.

295-485A Meaning of *spouse* and *child* for 2008-2009 income year

- (1) This section applies only for the 2008-2009 income year.
- (2) For the purposes of section 295-485 of the *Income Tax Assessment Act 1997*, paragraph 295-485(1)(a) of that Act applies as if:
 - (a) the reference to a spouse or former spouse of the deceased were a reference to:
 - (i) a spouse of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*; or
 - (ii) an individual who was formerly such a spouse; and

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- (b) the reference to a child of the deceased were a reference to a child of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*.

295-485 Deductions for increased amount of superannuation lump sum death benefit

Paragraph 295-485(1)(b) of the *Income Tax Assessment Act 1997* has effect as if the reference in that paragraph to amounts included in assessable income under Subdivision 295-C of that Act included a reference to amounts included in assessable income under former section 274 (taxable contributions) of the *Income Tax Assessment Act 1936*.

Subdivision 295-I—No-TFN contributions income

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295-610 No-TFN contributions income

295-610 No-TFN contributions income

Subdivisions 295-I (no-TFN contributions) and 295-J (Tax offset for no-TFN contributions income (TFN quoted within 4 years)) of the *Income Tax Assessment Act 1997* apply to an entity whose 2006-2007 income year ends on a day (the **end day**) after 1 July 2007 as if:

- (a) the period starting on 1 July 2007 and ending on the end day were part of the entity's 2007-2008 income year; and
- (b) the entity's no-TFN contributions income for the entity's 2007-2008 income year included contributions made during that period that would have been income of that kind for the entity's 2007-2008 income year if the contributions concerned had been made in the entity's 2007-2008 income year.

Division 301—Superannuation member benefits paid from complying plans etc.

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| 301-5 | Extended application to certain foreign superannuation funds |
| 301-85 | Extended meaning of <i>disability superannuation benefit</i> for superannuation income stream |

301-5 Extended application to certain foreign superannuation funds

- (1) A foreign superannuation fund is covered by this section if:
 - (a) the fund has been a complying superannuation fund; and
 - (b) the fund last stopped being a complying superannuation fund after 1 July 1988 and before 1 July 1995.
- (2) Division 301 of the *Income Tax Assessment Act 1997* applies to payments to you from a foreign superannuation fund covered by this section because you are a member of the fund in the same way as it would apply if the payments were superannuation member benefits paid to you from a complying superannuation fund.

301-85 Extended meaning of *disability superannuation benefit* for superannuation income stream

For the purposes of the *Income Tax Assessment Act 1997*, a superannuation income stream benefit is taken to be a *disability superannuation benefit* if, just before 1 July 2007, the superannuation income stream from which the benefit is paid was covered by paragraph (b) of the definition of death or disability annuity/pension in section 159SJ of the *Income Tax Assessment Act 1936*.

Division 302—Superannuation death benefits paid from complying plans etc.

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| 302-5 | Extended application to certain foreign superannuation funds |
| 302-195 | Extended meaning of <i>death benefits dependant</i> for superannuation income stream |
| 302-195A | Meaning of <i>death benefits dependant</i> for 2008-2009 income year |

302-5 Extended application to certain foreign superannuation funds

- (1) A foreign superannuation fund is covered by this section if:
 - (a) the fund has been a complying superannuation fund; and
 - (b) the fund last stopped being a complying superannuation fund after 1 July 1988 and before 1 July 1995.
- (2) Division 302 of the *Income Tax Assessment Act 1997* applies to payments to you from a foreign superannuation fund covered by this section after another person's death, because the other person was a member of that fund, in the same way as it would apply if the payments were superannuation death benefits paid to you from a complying superannuation fund.

302-195 Extended meaning of *death benefits dependant* for superannuation income stream

For the purposes of Division 302 of the *Income Tax Assessment Act 1997*, treat a person who receives a superannuation income stream benefit as a *death benefits dependant* in relation to the benefit if:

- (a) the benefit is a superannuation death benefit; and
- (b) just before 1 July 2007, the superannuation income stream from which the benefit is paid was covered by paragraph (a) of the definition of death or disability annuity/pension in section 159SJ of the *Income Tax Assessment Act 1936*.

302-195A Meaning of *death benefits dependant* for 2008-2009 income year

- (1) This section applies only for the 2008-2009 income year.
- (2) For the purposes of Subdivision 82-B of Division 82, Division 302 and section 303-5 of the *Income Tax Assessment Act 1997*, the definition of ***death benefits dependant*** in section 302-195 of that Act applies as if paragraphs (a) and (b) of the definition were replaced with the following paragraphs:
 - (a) a spouse of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* or a person who was formerly such a spouse; or
 - (b) a child of the deceased within the meaning of the *Superannuation Industry (Supervision) Act 1993* as in force immediately after the commencement of Schedule 4 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*, who is aged less than 18.

Division 303—Superannuation benefits paid in special circumstances

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| 303-10 | Superannuation lump sum paid to member having a terminal medical condition |
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303-10 Superannuation lump sum member benefit paid to member having a terminal medical condition

- (1) This section applies to a superannuation member benefit that you receive during the 2007-08 financial year and that:
 - (a) is a superannuation lump sum; and
 - (b) is:
 - (i) paid from a complying superannuation plan; or
 - (ii) a superannuation guarantee payment, a small superannuation account payment, an unclaimed money payment, a superannuation co-contribution benefit payment or a superannuation annuity payment.
- (2) The lump sum is not assessable income and is not exempt income if a terminal medical condition exists in relation to you at a time in the period:
 - (a) starting when you receive the lump sum; and
 - (b) ending at the later of:
 - (i) 90 days after you receive it; and
 - (ii) 30 June 2008.

Division 304—Superannuation benefits in breach of legislative requirements etc.

Table of sections

304-15 Excess payments from release authorities

304-15 Excess payments from release authorities

- (1) This section applies to a superannuation benefit that you receive, paid in relation to a release authority given in relation to you in accordance with section 292-80B.
- (2) The superannuation benefit is not assessable income and is not exempt income to the extent that it does not exceed the amount mentioned in subsection (3).
- (3) The amount is the amount of excess non-concessional contributions stated in the release authority in accordance with paragraph 292-80A(3)(a), reduced (but not below zero) by the amount of any superannuation benefit that was not assessable income and not exempt income under a previous operation of subsection (2) in relation to the release authority.
- (4) The superannuation benefit is assessable income to the extent (if any) that it exceeds the amount mentioned in subsection (3).
- (5) This section applies despite Divisions 301, 302 and 303 of the *Income Tax Assessment Act 1997*.

Division 305—Superannuation benefits paid from non-complying superannuation plans

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305-B Superannuation benefits from foreign superannuation funds

Subdivision 305-B—Superannuation benefits from foreign superannuation funds

Table of sections

305-80 Lump sums paid into complying superannuation plans post-FIF abolition

305-80 Lump sums paid into complying superannuation plans post-FIF abolition

- (1) You are entitled to a deduction for an income year (the *deduction year*) if:
 - (a) you have an interest in a FIF (within the meaning of Part XI of the *Income Tax Assessment Act 1936*, as in force just before the commencement of item 37 of Schedule 1 to the *Tax Laws Amendment (Foreign Source Income Deferral) Act (No. 1) 2010*) (the *paying fund*); and
 - (b) Subdivision 305-B of the *Income Tax Assessment Act 1997* applies in relation to the paying fund (see section 305-55 of that Act); and
 - (c) the paying fund transfers an amount to a complying superannuation fund in respect of you during the deduction year; and
 - (d) you choose under section 305-80 of the *Income Tax Assessment Act 1997* that the amount, or part of the amount, is to be treated as assessable income of the complying superannuation fund; and
 - (e) immediately before the transfer happens, there is a post-FIF abolition surplus (within the meaning of the *Income Tax Assessment Act 1936*) for the paying fund in relation to you; and

- (f) the deduction year is the 2010-11 income year or a later income year.
- (2) The amount of the deduction is the lesser of:
 - (a) the post-FIF abolition surplus; and
 - (b) the amount covered by your choice mentioned in paragraph (1)(d).

Division 306—Roll-overs etc.

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306-10 Roll-over superannuation benefit—directed termination payment

306-10 Roll-over superannuation benefit—directed termination payment

For the purposes of the definition of *specified roll-over amount* in the *Income Tax Assessment Act 1997*, treat the taxable component of a directed termination payment (within the meaning of section 82-10F) as the element untaxed in the fund of a superannuation benefit that is a roll-over superannuation benefit.

Division 307—Key concepts relating to superannuation benefits

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| 307-125 | Treatment of tax free component of existing pension payments etc. |
| 307-290 | Taxed and untaxed elements of death benefit superannuation lump sums |
| 307-345 | Low rate component—Effect of rebate under the <i>Income Tax Assessment Act 1936</i> |

307-125 Treatment of tax free component of existing pension payments etc.

- (1) This section applies to a superannuation income stream from which at least one superannuation income stream benefit has been paid before 1 July 2007.
- (2) Despite subsection 307-125(2) of the *Income Tax Assessment Act 1997*, work out the tax free component of superannuation income stream benefits paid from the superannuation income stream in an income year beginning on or after 1 July 2007 as follows:
 - (a) first, work out the deductible amount in relation to the superannuation income stream for the income year including 30 June 2007 in accordance with section 27H of the *Income Tax Assessment Act 1936* (as in force just before 1 July 2007);
 - (b) next, allocate the deductible amount worked out under paragraph (a) to each of those benefits in proportion to the amount of those benefits.

The amount allocated to a superannuation income stream benefit under paragraph (b) is the **tax free component** of the benefit. The **taxable component** of the benefit is the remainder of the benefit.
- (3) Subsection (2) does not apply to the payment of a superannuation income stream benefit after at least one of the following events has happened:
 - (a) the superannuation income stream has been wholly or partially commuted;
 - (b) the holder of the superannuation interest has died, if:

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- (i) none of the superannuation income stream benefits paid from the superannuation interest after 30 June 2007 consist of, or include, an element untaxed in the fund; or
 - (ii) where no superannuation income stream benefits have been paid from the superannuation interest after 30 June 2007—all payments from the interest on or before that day would have satisfied the requirement in subparagraph (i) if they had been paid after that day;
- (ba) the holder of the superannuation interest is aged 60 or above on 1 July 2007, if none of the superannuation income stream benefits paid from the superannuation interest after 30 June 2007 consist of, or include, an element untaxed in the fund;
- (c) the holder of the superannuation interest turns 60, if:
 - (i) none of the superannuation income stream benefits paid from the superannuation interest after 30 June 2007 consist of, or include, an element untaxed in the fund; or
 - (ii) where no superannuation income stream benefits have been paid from the superannuation interest after 30 June 2007—all payments from the interest on or before that day would have satisfied the requirement in subparagraph (i) if they had been paid after that day.

Continuing payments of superannuation income stream after subsection (3) event

- (4) If subsection (2) does not apply to the payment of a superannuation income stream benefit because of subsection (3):
 - (a) treat the time mentioned in subsection (5) as the applicable time for the purposes of subsection 307-125(3) of the *Income Tax Assessment Act 1997* in relation to the benefit; and
 - (b) work out the tax free component of the superannuation interest for the purposes of section 307-125 of the *Income Tax Assessment Act 1997* under subsections (6) and (6A).
- (5) For the purposes of subsection (4), the time is:
 - (a) the time just before the event mentioned in subsection (3) happens; or
 - (b) if there are 2 or more such events—the time just before the earliest of those events happens.

- (6) For the purposes of paragraph (4)(b), work out the tax free component of the superannuation interest as follows:
- (a) first, assume that:
 - (i) an eligible termination payment had been made in respect of the holder of the interest just before the time mentioned in subsection (5); and
 - (ii) the amount of the eligible termination payment had been equal to the value of the superannuation interest at that time;
 - (b) next, work out the unused undeducted purchase price (within the meaning of paragraph (a) of the definition of that term in subsection 27A(1) of the *Income Tax Assessment Act 1936* just before the commencement of this section, and disregarding paragraphs (b) and (c) of that definition) of the superannuation income stream, reduced by the tax free components (worked out under subsection (2)) of any benefits paid from the superannuation income stream after 30 June 2007;
 - (c) next, work out the pre-July 83 component (within the meaning of section 27A of the *Income Tax Assessment Act 1936* just before the commencement of this section) of the eligible termination payment.

The tax free component is equal to the sum of the amounts worked out under paragraphs (b) and (c).

- (6A) Despite subsection (6), if:
- (a) at least one superannuation income stream benefit was paid from the superannuation income stream before 1 July 1994; or
 - (b) section 27AAAA of the *Income Tax Assessment Act 1936* (as in force just before 1 July 2007) applied to the superannuation income stream just before 1 July 2007;
- for the purposes of paragraph (4)(b), the tax free component is equal to the amount worked out under paragraph (6)(b).
- (7) For the purposes of paragraph (6)(c), disregard the value of the interest to the extent that it would consist, apart from this subsection, of the element untaxed in the fund of the taxable

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component of a superannuation benefit constituted by the eligible termination payment.

Commutation of superannuation income stream

- (8) If the superannuation income stream has been wholly or partially commuted as mentioned in paragraph (3)(a), treat the applicable time for the purposes of subsection 307-125(3) of the *Income Tax Assessment Act 1997* in relation to a superannuation benefit arising from the commutation as:
- (a) the time just before the commutation; or
 - (b) if 1 or more other events mentioned in subsection (3) happened before the commutation—the time just before the earliest of those events happens.

307-290 Taxed and untaxed elements of death benefit superannuation lump sums

For the purposes of section 307-290 of the *Income Tax Assessment Act 1997*:

- (a) treat a deduction made under former section 279 of the *Income Tax Assessment Act 1936* as having been made under section 295-465 of the *Income Tax Assessment Act 1997* instead; and
- (b) treat a deduction made under former section 279B of the *Income Tax Assessment Act 1936* as having been made under section 295-470 of the *Income Tax Assessment Act 1997* instead.

307-345 Low rate component—Effect of rebate under the *Income Tax Assessment Act 1936*

If you have become entitled to a rebate under section 159SA of the *Income Tax Assessment Act 1936*, your **low rate cap amount** for the 2007-2008 income year is, despite subsection 307-345(1), the total of:

- (a) your closing balance for the 2006-2007 income year (worked out under subsection 159SF(2) of that Act); and

- (b) the amount by which \$140,000 exceeds the upper limit for the 2006-2007 income year (worked out under section 159SG of that Act).

Part 3-32—Co-operatives and mutual entities

Division 316—Demutualisation of friendly society health or life insurers

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316-A Application

Subdivision 316-A—Application

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316-1 Application of Division 316 of the *Income Tax Assessment Act 1997*

316-1 Application of Division 316 of the *Income Tax Assessment Act 1997*

Division 316 of the *Income Tax Assessment Act 1997* applies in relation to demutualisations occurring on or after 1 July 2008.

Part 3-35—Insurance business

Division 320—Life insurance companies

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| 320-C | Deductions and capital losses |
| 320-D | Taxable income and tax loss of life insurance companies |
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Subdivision 320-A—Preliminary

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| 320-5 | Life insurance companies that are friendly societies |
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320-5 Life insurance companies that are friendly societies

If:

- (a) any assets held by the benefit funds of a life insurance company that is a friendly society for the purpose of providing superannuation benefits to its members are transferred before 1 July 2001 to a complying superannuation fund; and
- (b) the persons who had interests in those assets immediately before the transfer had substantially the same interests in the assets after the transfer;

the transfer is disregarded for any purposes of the *Income Tax Assessment Act 1997* or the *Income Tax Assessment Act 1936*.

Subdivision 320-C—Deductions and capital losses

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| 320-85 | Deduction for increase in value of liabilities under risk components of life insurance policies |
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320-85 Deduction for increase in value of liabilities under risk components of life insurance policies

- (1) In working out the amount that a life insurance company can deduct, in respect of life insurance policies that are disability policies (other than continuous disability policies) under subsection 320-85(1) of the *Income Tax Assessment Act 1997* for the income year in which 1 July 2000 occurs, the value of the company's liabilities under the net risk components of the policies at the end of the previous income year is taken to be the value of the liabilities as at the end of 30 June 2000 relating to those policies that was used by the company for the purposes of its return of income.
- (2) In working out the amount that a life insurance company can deduct, in respect of life insurance policies (other than policies to which subsection (1) applies) under subsection 320-85(1) of the *Income Tax Assessment Act 1997* for the income year in which 1 July 2000 occurs, the value of the company's liabilities under the net risk components of the policies at the end of the previous income year is taken to be the value of the company's liabilities as at the end of 30 June 2000 under the net risk components relating to those policies as calculated under subsection 320-85(4) of that Act.

Subdivision 320-D—Taxable income and tax loss of life insurance companies

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| 320-100 | Savings—tax losses of previous income years |
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320-100 Savings—tax losses of previous income years

If:

- (a) a life insurance company has a tax loss for an income year ending before 1 July 2000; and
- (b) all or a part of that tax loss is carried forward to the income year that includes that date;

so much of that tax loss as is so carried forward has effect as if it were a tax loss of the ordinary class.

Subdivision 320-F—Virtual PST

Table of sections

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| 320-170 | Transfer of part of an asset to a virtual PST |
| 320-175 | Transfers of assets to virtual PST |
| 320-180 | Deferred annuities purchased before 1 July 2007 |

320-170 Transfer of part of an asset to a virtual PST

- (1) This section applies to an asset (an *approved asset*) of a life insurance company if:
 - (a) the asset was acquired by the company before 1 July 2000; and
 - (b) the asset is held in an Australian fund or an Australian/overseas fund of the company; and
 - (c) the market value of the asset at that date exceeds whichever is the lesser of:
 - (i) \$50,000,000; or
 - (ii) whichever is the greater of 2% of the value of that fund at that date or \$5,000,000.
- (2) If the life insurance company wishes to include a part of an approved asset in its virtual PST before 1 October 2000, the company must, before that date, certify in writing the part (if any) of the asset to be included in the virtual PST.
- (3) If the life insurance company so certifies, the part of the asset stated in the certificate is to be treated as a separate asset of the company.

320-175 Transfers of assets to virtual PST

(1) If:

- (a) a life insurance company had a liability before 1 July 2000 under a life insurance policy; and
- (b) the liability or a part of the liability is to be discharged out of the company's virtual PST assets; and
- (c) there is a transfer of the company's assets to the virtual PST to meet that liability or that part of the liability;

then, to the extent to which the assets are transferred to meet that liability or that part of the liability:

- (d) if the transfer occurs before 1 October 2000—the transfer is to be disregarded for the purposes of the *Income Tax Assessment Act 1997*; or
- (e) if the transfer occurs on or after 1 October 2000—the transfer is to be disregarded for the purposes of that Act, except:
 - (i) section 320-200 of that Act; and
 - (ii) any other provisions that rely on the operation of that section (for example, paragraph 320-15(1)(e) of that Act).

Note: This means, amongst other things, that a life insurance company to which this subsection applies will not be able to claim a deduction in respect of the transfer under subsection 320-87(2) of that Act.

(1A) If subsection (1) has applied to a life insurance company in respect of a transfer of assets to meet a liability or a part of a liability, that subsection does not apply again in respect of another transfer of assets to meet that liability or that part of the liability.

(2) If a life insurance company that is a friendly society establishes a virtual PST in the 2000-01 income year, the calculation of the transfer values of the company's virtual PST assets as at the end of that income year is to be made not later than 90 days after the end of that income year.

320-180 Deferred annuities purchased before 1 July 2007

(1) Subsection (3) applies for the purposes of subparagraph (b)(i) of the definition of *virtual PST life insurance policy* in

subsection 995-1(1) of the *Income Tax Assessment Act 1997*, as in force just after the commencement of item 259 of Schedule 1 to the *Superannuation Legislation Amendment (Simplification) Act 2007*.

- (2) Subsection (3) also applies for the purposes of subparagraph (b)(i) of the definition of ***complying superannuation/FHSA life insurance policy*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, as in force just after the commencement of item 47 of Schedule 7 to the *First Home Saver Accounts (Consequential Amendments) Act 2008*.
- (3) Treat an annuity as having been purchased out of a superannuation lump sum or an employment termination payment, if the annuity was purchased:
 - (a) before 1 July 2007; and
 - (b) out of an eligible termination payment (within the meaning of the *Income Tax Assessment Act 1997*, as in force just before the commencement mentioned in subsection (1) of this section).

Subdivision 320-H—Segregation of assets for the purpose of discharging exempt life insurance policies

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| 320-225 | Transfer of part of an asset to segregated exempt assets |
| 320-230 | Transfers of assets to segregated exempt assets |

320-225 Transfer of part of an asset to segregated exempt assets

- (1) This section applies to an asset (an ***approved asset***) of a life insurance company if:
 - (a) the asset was acquired by the company before 1 July 2000; and
 - (b) the asset is held in an Australian fund or an Australian/overseas fund of the company; and
 - (c) the market value of the asset at that date exceeds whichever is the lesser of:
 - (i) \$50,000,000; or

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- (ii) whichever is the greater of 2% of the value of that fund at that date or \$5,000,000.
- (2) If the life insurance company wishes to include a part of an approved asset in its segregated exempt assets before 1 October 2000, the company must, before that date, certify in writing the part (if any) of the asset to be included in the segregated exempt assets.
- (3) If the life insurance company so certifies, the part of the asset stated in the certificate is to be treated as a separate asset of the company.

320-230 Transfers of assets to segregated exempt assets

- (1) If:
 - (a) a life insurance company had a liability before 1 July 2000 under a life insurance policy where the income of the company attributable to the liability was exempt from tax before that date; and
 - (b) the liability or a part of the liability is to be discharged out of the company's segregated exempt assets; and
 - (c) there is a transfer of the company's assets to the segregated exempt assets to meet that liability or that part of the liability; then, to the extent to which the assets are transferred to meet that liability or that part of the liability:
 - (d) if the transfer occurs before 1 October 2000—the transfer is to be disregarded for the purposes of the *Income Tax Assessment Act 1997*; or
 - (e) if the transfer occurs on or after 1 October 2000—the transfer is to be disregarded for the purposes of that Act, except:
 - (i) section 320-255 of that Act; and
 - (ii) any other provisions that rely on the operation of that section (for example, paragraph 320-15(1)(g) of that Act).

Note: This means, amongst other things, that a life insurance company to which this subsection applies will not be able to claim a deduction in respect of the transfer under subsection 320-105(1) of that Act.

- (1A) If subsection (1) has applied to a life insurance company in respect of a transfer of assets to meet a liability or a part of a liability, that subsection does not apply again in respect of another transfer of assets to meet that liability or that part of the liability.
- (2) If a life insurance company that is a friendly society segregates any of its assets in accordance with section 320-225 of the *Income Tax Assessment Act 1997* in the 2000-01 income year, the calculation of the transfer values of the company's segregated exempt assets as at the end of that income year is to be made not later than 90 days after the end of that income year.

Division 322—Assistance for policyholders with insolvent general insurers

Table of Subdivisions

322-B Tax treatment of entitlements under financial claims scheme

Subdivision 322-B—Tax treatment of entitlements under financial claims scheme

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322-25 Application of section 322-25 of the *Income Tax Assessment Act 1997*

322-30 Application of section 322-30 of the *Income Tax Assessment Act 1997*

322-25 Application of section 322-25 of the *Income Tax Assessment Act 1997*

Section 322-25 of the *Income Tax Assessment Act 1997* applies to amounts paid or applied before, on or after the commencement of that section to meet entitlements arising under Part VC of the *Insurance Act 1973* after 17 October 2008.

Note: Part VC of the *Insurance Act 1973* commenced on 18 October 2008.

322-30 Application of section 322-30 of the *Income Tax Assessment Act 1997*

Section 322-30 of the *Income Tax Assessment Act 1997* applies to CGT events happening after 17 October 2008.

Part 3-45—Rules for particular industries and occupations

Division 328—Small business entities

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| 328-110 | Working out whether you are a small business entity for the 2007-08 or 2008-09 income year—turnover for earlier income years |
| 328-111 | Access to certain small business concessions for former STS taxpayers that are winding up a business |
| 328-112 | Working out whether you are a small business entity for certain small business concessions—entities connected with you |
| 328-115 | When you stop using the STS accounting method |
| 328-120 | Continuing to use the STS accounting method |
| 328-125 | Meaning of STS accounting method |
| 328-175 | Choices made in relation to depreciating assets used in primary production business |
| 328-185 | Depreciating assets allocated to STS pools |
| 328-195 | Opening pool balances for 2007-08 income year |
| 328-200 | General small business pool for the 2012-13 income year |
| 328-440 | Taxpayers who left the STS on or after 1 July 2005 |

328-1 Definitions

In this Division:

general STS pool means a general STS pool under old Subdivision 328-D.

long life STS pool means a long life STS pool under old Subdivision 328-D.

new Subdivision 328-D means Subdivision 328-D of the *Income Tax Assessment Act 1997*, as in force after the commencement of this section.

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old Subdivision 328-D means Subdivision 328-D of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this section.

STS taxpayer means an STS taxpayer within the meaning of Division 328 of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this section.

328-110 Working out whether you are a small business entity for the 2007-08 or 2008-09 income year—turnover for earlier income years

- (1) This section applies for the purpose of working out whether you are a small business entity (other than because of subsection 328-110(4) of the *Income Tax Assessment Act 1997*) for the 2007-08 or 2008-09 income year.
- (2) You work out your aggregated turnover for the 2005-06 or 2006-07 income year as if the amendments made by Schedule 1 to the *Tax Laws Amendment (Small Business) Act 2007* had been in force in relation to that year.
- (3) However, your aggregated turnover for the 2005-06 income year is taken to be less than \$2 million if:
 - (a) your aggregated turnover for the 2005-06 income year (worked out in accordance with subsection (2)) is \$2 million or more; but
 - (b) your STS group turnover for that year (worked out under Subdivision 328-F of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this section) is less than \$2 million.

328-111 Access to certain small business concessions for former STS taxpayers that are winding up a business

- (1) This section applies if:
 - (a) in the 2007-08 income year or a later income year you are winding up a business you previously carried on; and
 - (b) you were an STS taxpayer for the income year in which you stopped carrying on that business.

- (2) The following provisions apply as if you are a small business entity for the income year in which you are winding up the business:
- (a) Subdivision 328-D of the *Income Tax Assessment Act 1997* (simpler rules for depreciating assets);
 - (b) Subdivision 328-E of the *Income Tax Assessment Act 1997* (simplified trading stock rules);
 - (d) sections 82KZM and 82KZMD of the *Income Tax Assessment Act 1936* (deducting certain prepaid expenses immediately);
 - (e) section 170 of the *Income Tax Assessment Act 1936* (standard 2-year period for amending assessments).

328-112 Working out whether you are a small business entity for certain small business concessions—entities connected with you

- (1) For the purpose of working out whether you are a small business entity for the 2007-08, 2008-09, 2009-10 or 2010-11 income year (each a **relevant income year**) for the purposes of a provision to which subsection (3) applies:
- (a) subsection 328-125(4) of the *Income Tax Assessment Act 1997* does not apply; and
 - (b) the following subsection applies instead.
- (2) An entity (the **first entity**) controls a discretionary trust for a relevant income year if, for any of the 4 income years (a **previous income year**) before that year:
- (a) if the previous income year is before the 2007-08 income year—the trustee of the trust made a distribution of \$100,000 or more to the first entity, any of its affiliates, or the first entity and any of its affiliates; or
 - (b) if the previous income year is the 2007-08 income year or a later income year:
 - (i) the trustee of the trust paid to, or applied for the benefit of, the first entity, any of the first entity's affiliates, or the first entity and any of its affiliates, any of the income or capital of the trust; and

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- (ii) the percentage (the **control percentage**) of the income or capital paid or applied is at least 40% of the total amount of income or capital paid or applied by the trustee for that year.
- (3) This subsection applies to the following provisions:
 - (a) Subdivision 328-D of the *Income Tax Assessment Act 1997* (simpler rules for depreciating assets);
 - (b) Subdivision 328-E of the *Income Tax Assessment Act 1997* (simplified trading stock rules);
 - (d) sections 82KZM and 82KZMD of the *Income Tax Assessment Act 1936* (deducting certain prepaid expenses immediately);
 - (e) section 170 of the *Income Tax Assessment Act 1936* (standard 2-year period for amending assessments).

328-115 When you stop using the STS accounting method

- (1) This section sets out what happens to your ordinary income and general deductions, and deductions under section 25-5 or 25-10 of the *Income Tax Assessment Act 1997*, if:
 - (a) you are a small business entity for an income year and for the following income year (the **changeover year**); and
 - (b) you were using the STS accounting method for the income year before the changeover year; and
 - (c) you change to an accruals accounting method for the changeover year.
- (2) This section also sets out what happens to your ordinary income and general deductions, and deductions under section 25-5 or 25-10 of the *Income Tax Assessment Act 1997*, if:
 - (a) you are not a small business entity for an income year (also the **changeover year**); and
 - (b) you were using the STS accounting method for the income year before the changeover year; and
 - (c) you change to an accruals accounting method for the changeover year.

- (3) Any ordinary income that, apart from paragraph 328-105(1)(a) of the *Income Tax Assessment Act 1997* (as in force immediately before its repeal by Schedule 2 to the *Tax Laws Amendment (2004 Measures No. 7) Act 2005*), you would have derived before the changeover year (while you were using the STS accounting method) and you have not included in your assessable income because you have not received it is included in your assessable income for the changeover year.
- (4) Any general deductions, and deductions under section 25-5 or 25-10 of the *Income Tax Assessment Act 1997*, that, apart from paragraph 328-105(1)(b) of that Act (as in force immediately before its repeal by Schedule 2 to the *Tax Laws Amendment (2004 Measures No. 7) Act 2005*), you would have incurred before the changeover year (while you were using the STS accounting method) and that you have not deducted because you have not paid them can be deducted for the changeover year.

328-120 Continuing to use the STS accounting method

- (1) This section applies if:
 - (a) you were an STS taxpayer for the most recent income year that started before 1 July 2005; and
 - (b) you continued to be an STS taxpayer until the end of the 2006-07 income year; and
 - (c) you used the STS accounting method for the 2005-06 and 2006-07 income years; and
 - (d) you are a small business entity for the 2007-08 income year.
- (2) You can continue to use the STS accounting method:
 - (a) for the 2007-08 income year; and
 - (b) for any later income year for which you are a small business entity but only if you used the STS accounting method for the income year before that later year.

Example: You are a small business entity for the 2007-08 and 2008-09 income years and you continue to use the STS accounting method for those years. You are not a small business entity for the 2009-10 income year so you cannot continue to use the STS accounting method for that year. Because you cannot use the STS accounting method for the

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2009-10 income year, you will not be able to use it again for a later income year even if you are a small business entity for that later year.

328-125 Meaning of *STS accounting method*

In sections 328-115 and 328-120, *STS accounting method* means the accounting method that was required by the *Income Tax Assessment Act 1997* to be used by STS taxpayers for the 2004-05 income year.

328-175 Choices made in relation to depreciating assets used in primary production business

- (1) This section applies if:
 - (a) you were an STS taxpayer for an income year; and
 - (b) you made a choice under subsection 328-175(3) of old Subdivision 328-D in relation to a depreciating asset you use to carry on a primary production business and for which you could deduct amounts under Subdivision 40-F or 40-G of the *Income Tax Assessment Act 1997*.
- (2) The choice has effect for the purposes of subsection 328-175(3) of new Subdivision 328-D.

Note: This means you cannot change the choice: see subsection 328-175(4) of new Subdivision 328-D.

328-185 Depreciating assets allocated to STS pools

Assets allocated to general STS pool

- (1) A depreciating asset of yours that had been allocated to your general STS pool is treated as being allocated to your general small business pool.

Assets allocated to long life STS pool

- (2) A depreciating asset of yours that had been allocated to your long life STS pool is treated as being allocated to your long life small business pool.

Choice not to allocate assets to long life STS pool

- (3) If you made a choice, under subsection 328-185(5) of old Subdivision 328-D, not to have a depreciating asset allocated to your long life STS pool, the choice has effect for the purposes of subsection 328-185(5) of new Subdivision 328-D.

Note: This means you cannot change the choice: see subsection 328-185(6) of new Subdivision 328-D.

328-195 Opening pool balances for 2007-08 income year

- (1) This section applies if a depreciating asset of yours is treated as being allocated to your general small business pool or long life small business pool under section 328-185.
- (2) The opening pool balance of your general small business pool or long life small business pool for the 2007-08 income year is taken to be the closing pool balance of your general STS pool or long life STS pool, as the case requires, for the 2006-07 income year, reduced or increased by any adjustment required under section 328-225 of new Subdivision 328-D (about change in the business use of an asset).
- (3) However, if:
- (a) you were not an STS taxpayer for the 2006-07 income year (because you stopped being an STS taxpayer before that time); but
 - (b) you are a small business entity for the 2007-08 income year or a later income year and you choose to use new Subdivision 328-D to deduct amounts for your depreciating assets for that income year;
- the opening pool balance of your general small business pool or long life small business pool includes the sum of the taxable purpose proportions of the adjustable values of depreciating assets allocated to the pool under subsection 328-185(3) of new Subdivision 328-D for that year.

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328-200 General small business pool for the 2012-13 income year

- (1) This section applies for the purposes of applying Subdivision 328-D of the *Income Tax Assessment Act 1997* for the 2012-13 income year and later income years.
- (2) A depreciating asset that had been allocated to your long life small business pool is treated as being allocated to your general small business pool.
- (3) The opening pool balance of your general small business pool for the 2012-13 income year is taken to be the sum of:
 - (a) the closing pool balance of your general small business pool for the 2011-12 income year, reduced or increased by any adjustment required under section 328-225 of that Act; and
 - (b) the closing pool balance of your long life small business pool for the 2011-12 income year, reduced or increased by any adjustment required under that section.

328-440 Taxpayers who left the STS on or after 1 July 2005

- (1) This section applies if you chose to stop being an STS taxpayer for the 2005-06 income year or the 2006-07 income year.
- (2) You cannot choose to use new Subdivision 328-D to deduct amounts for your depreciating assets until at least 5 years after the income year for which you chose to stop being an STS taxpayer.

Note: Subdivision 328-D of the *Income Tax Assessment Act 1997* continues to apply to depreciating assets that have been allocated to your small business pools even if you are not a small business entity, or do not choose to use that Subdivision, for an income year: see section 328-220 of that Subdivision.

Division 355—Research and Development

Table of Subdivisions

- 355-D Registration for activities before 2011-12 income year
- 355-E Balancing adjustments for decline in value deductions for assets used in R&D activities
- 355-F Integrity rules
- 355-K Modified application of the old R&D law
- 355-M Undeducted core technology expenditure

Subdivision 355-D—Registration for activities before 2011-12 income year

Table of sections

- 355-200 Registration for activities before 2011-12 income year

355-200 Registration for activities before 2011-12 income year

A reference in each of the following provisions of the *Income Tax Assessment Act 1997* to a registration under section 27A of the *Industry Research and Development Act 1986* includes a reference to a registration under former section 39J of that Act:

- (a) paragraph 43-35(a);
- (b) subparagraph 355-205(1)(a)(i);
- (c) subparagraph 355-215(b)(ii);
- (d) subparagraph 355-220(1)(b)(ii);
- (e) subparagraph 355-480(1)(a)(i);
- (f) paragraph 355-580(1)(b).

Subdivision 355-E—Balancing adjustments for decline in value deductions for assets used in R&D activities

Table of sections

- 355-320 Balancing adjustment—assets only used for R&D activities

Section 355-320

355-325 Balancing adjustment—R&D partnership assets only used for R&D activities

355-340 Balancing adjustment—tax exempt entities that become taxable

355-320 Balancing adjustment—assets only used for R&D activities

R&D entity has old law R&D decline in value deductions

- (1) This section applies to an R&D entity if:
- (a) a balancing adjustment event happens in an income year (the **event year**) commencing on or after 1 July 2011 for an asset held by the R&D entity; and
 - (b) the R&D entity cannot deduct an amount under section 40-25 of the *Income Tax Assessment Act 1997* (the **new Act**), as that section applies apart from:
 - (i) Division 355 of that Act; and
 - (ii) former section 73BC of the *Income Tax Assessment Act 1936* (the **old Act**);for the asset for an income year; and
 - (c) either or both of the following subparagraphs apply:
 - (i) the R&D entity can deduct (the **old law deductions**) under former section 73BA or 73BH of the old Act an amount for one or more income years for the asset;
 - (ii) the R&D entity chooses tax offsets under former section 73I of the old Act instead of deductions (also the **old law deductions**) under those former sections for one or more income years for the asset; and
 - (d) the R&D entity is registered under section 27A of the *Industry Research and Development Act 1986* for one or more R&D activities for the event year; and
 - (e) if Division 40 of the new Act applied as described in subsection (2) of this section:
 - (i) the R&D entity could deduct for the event year an amount under subsection 40-285(2) of that Act for the asset and the balancing adjustment event; or
 - (ii) an amount would be included in the R&D entity's assessable income for the event year under

subsection 40-285(1) of that Act for the asset and the balancing adjustment event.

- Note 1: This section applies even if the R&D entity is entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions (the *new law deductions*) under section 355-305 of that Act for the asset.
- Note 2: Section 40-292 of this Act may apply if paragraph (c), but not paragraph (b), of this subsection is satisfied.

Changed application of Division 40

- (2) For the purposes of paragraph (1)(e), assume that Division 40 of the new Act applied with the changes described in section 355-310 of that Act, but with these changes to that section:

| Changes to be made to section 355-310 of the new Act | | |
|---|---|--|
| Item | For a reference in section 355-310 to... | substitute a reference to... |
| 1 | section 355-315 | this section |
| 2 | the purpose of conducting one or more of the R&D activities to which the R&D deductions (within the meaning of that section) relate | both: (a) the purpose of conducting one or more of the research and development activities (within the meaning of former section 73B of the old Act) to which the old law deductions relate; and (b) the purpose of conducting one or more of the R&D activities to which the new law deductions (if any) relate |

Notional deduction

- (3) If the R&D entity could deduct for the event year an amount under subsection 40-285(2) of the new Act for:
- (a) the asset; and
 - (b) the event;
- if Division 40 of that Act applied as described in subsection (2) of this section, the R&D entity is taken to be able to deduct under subsection 355-315(2) of the new Act that amount for the event year.

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Note: The R&D entity may be entitled to a tax offset under section 355-100 (about R&D) of the new Act for the deduction.

Amount to be included in assessable income

- (4) If an amount (the **section 40-285 amount**) would be included in the R&D entity's assessable income for the event year under subsection 40-285(1) of the new Act for the asset and the event if Division 40 of that Act applied as described in subsection (2) of this section, the sum of:

- (a) that amount; and
- (b) the following amount;

is taken to be included in the R&D entity's assessable income for the event year under subsection 355-315(3) of the new Act:

$$\text{Adjusted section 40-285 amount} \times \left(\left(\frac{\text{Old law 1.25 rate deductions}}{\text{Total decline in value}} \times \frac{1}{4} \right) + \left(\frac{\text{Sum of new law deductions}}{\text{Total decline in value}} \times \frac{1}{3} \right) \right)$$

where:

adjusted section 40-285 amount means so much of the section 40-285 amount as does not exceed the total decline in value.

old law 1.25 rate deductions means the sum of the R&D entity's notional Division 40 deductions, and notional Division 42 deductions, (if any) for the asset that were multiplied by 1.25 in working out the old law deductions.

total decline in value means the asset's cost, less its adjustable value, worked out under Division 40 of the new Act as it applies as described in subsection (2).

Normal rules do not apply for the asset and the event

- (5) Neither of the following sections:
- (a) section 355-315 of the new Act;

- (b) former section 73BF of the old Act (as that section applies because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*);

to the extent that they would otherwise apply apart from this section to the R&D entity for the event, do so apply to the R&D entity for the event.

Note 1: Section 355-315 of the new Act would otherwise apply for the event in a case where the R&D entity had new law deductions.

Note 2: Former section 73BF of the old Act would otherwise apply for the event in respect of the old law deductions.

355-325 Balancing adjustment—R&D partnership assets only used for R&D activities

Partner has old law R&D decline in value deductions

- (1) This section applies to an R&D entity (the **partner**) if:
- (a) a balancing adjustment event happens in an income year (the **event year**) commencing on or after 1 July 2011 for an asset held by an R&D partnership; and
 - (b) the R&D partnership cannot deduct an amount under section 40-25, as that section applies apart from:
 - (i) Division 355 of the *Income Tax Assessment Act 1997* (the **new Act**); and
 - (ii) former section 73BC of the *Income Tax Assessment Act 1936* (the **old Act**);for the asset for an income year; and
 - (c) either or both of the following subparagraphs apply:
 - (i) the partner can deduct (the **old law deductions**) under former section 73BA or 73BH of the old Act an amount for one or more income years for the asset;
 - (ii) the partner chooses tax offsets under former section 73I of the old Act instead of deductions (also the **old law deductions**) under those former sections for one or more income years for the asset; and
 - (d) the partner is registered under section 27A of the *Industry Research and Development Act 1986* for one or more R&D activities for the event year; and

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- (e) if Division 40 of the new Act applied as described in subsection (2) of this section:
- (i) the R&D partnership could deduct for the event year an amount under subsection 40-285(2) of that Act for the asset and the balancing adjustment event; or
 - (ii) an amount would be included in the R&D partnership's assessable income for the event year under subsection 40-285(1) of that Act for the asset and the balancing adjustment event.

Note 1: This section applies even if the partner is entitled under section 355-100 of the new Act to tax offsets for one or more income years for deductions (the *new law deductions*) under section 355-520 of that Act for the asset.

Note 2: Section 40-293 of this Act may apply if paragraph (c), but not paragraph (b), of this subsection is satisfied.

Changed application of Division 40

- (2) For the purposes of paragraph (1)(e), assume that Division 40 of the new Act applied with the changes described in section 355-310 of that Act, but with these changes to that section:

| Changes to be made to section 355-310 of the new Act | | |
|---|---|--|
| Item | For a reference in section 355-310 to... | substitute a reference to... |
| 1 | section 355-315 | this section |
| 2 | the purpose of conducting one or more of the R&D activities to which the R&D deductions (within the meaning of that section) relate | both: (a) the purpose of conducting one or more of the research and development activities (within the meaning of former section 73B of the old Act) to which the old law deductions relate; and (b) the purpose of conducting one or more of the R&D activities to which the new law deductions (if any) relate |
| 3 | R&D entity | R&D partnership |

Notional deduction

- (3) If the R&D partnership could deduct for the event year an amount under subsection 40-285(2) of the new Act for:
- (a) the asset; and
 - (b) the event;
- if Division 40 of that Act applied as described in subsection (2) of this section, the partner is taken to be able to deduct under subsection 355-525(2) of the new Act the partner's proportion of that amount for the event year.

Note: The partner may be entitled to a tax offset under section 355-100 (about R&D) of the new Act for the deduction.

Amount to be included in assessable income

- (4) If an amount (the **section 40-285 amount**) would be included in the R&D partnership's assessable income for the event year under subsection 40-285(1) of the new Act for the asset and the event if Division 40 of that Act applied as described in subsection (2) of this section, the sum of:
- (a) the partner's proportion of that amount; and
 - (b) the following amount;
- is taken to be included in the partner's assessable income for the event year under subsection 355-525(3) of the new Act:

$$\text{Adjusted section 40-285 amount} \times \left(\left(\frac{\text{Old law 1.25 rate deductions}}{\text{Total decline in value}} \times \frac{1}{4} \right) + \left(\frac{\text{Sum of all new law deductions}}{\text{Total decline in value}} \times \frac{1}{3} \right) \right)$$

where:

adjusted section 40-285 amount means so much of the section 40-285 amount as does not exceed the total decline in value.

old law 1.25 rate deductions means the sum of the partner's notional Division 40 deductions, and notional Division 42

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deductions, (if any) for the asset that were multiplied by 1.25 in working out the old law deductions.

total decline in value means the asset's cost, less its adjustable value, worked out under Division 40 of the new Act as it applies as described in subsection (2).

Amount to be included in assessable income may be reduced if notional deductions exceeded \$100 million

- (4A) For the purposes of subsection (4), the partner may choose to reduce the adjusted section 40-285 amount in that subsection if:
- (a) subsection 355-100(3) of the *Income Tax Assessment Act 1997* applied to the partner for an earlier income year or the event year (the **excess year**); and
 - (b) the partner's deductions for the excess year included deductions covered by paragraph (1)(c) of this section for the asset.
- (4B) Subsection 355-720(3) of the *Income Tax Assessment Act 1997* applies to the partner as if a reduction under subsection (2) of that section for the present year included a reduction under subsection (4A) of this section for the event year.
- (4C) The way the partner prepares its income tax returns is sufficient evidence of the making of a choice under subsection (4A).
- (4D) A choice under subsection (4A) is irrevocable.

Normal rules do not apply for the asset and the event

- (5) Neither of the following sections:
- (a) section 355-525 of the new Act;
 - (b) former section 73BF of the old Act (as that section applies because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*);
- to the extent that they would otherwise apply apart from this section to the partner for the event, do so apply to the partner for the event.

Note 1: Section 355-525 of the new Act would otherwise apply for the event in a case where the partner had new law deductions.

Note 2: Former section 73BF of the old Act may otherwise apply for the event in respect of the old law deductions.

355-340 Balancing adjustment—tax exempt entities that become taxable

Item 7 of the table in subsection 57-110(2) in Schedule 2D to the *Income Tax Assessment Act 1936* applies as if the deduction rules set out in the final column of that item also included former sections 73BA and 73BH of the *Income Tax Assessment Act 1936*.

Subdivision 355-F—Integrity rules

Table of sections

355-415 Expenditure reduced to reflect group mark-ups

355-415 Expenditure reduced to reflect group mark-ups

For the purposes of step 1 of the method statement in subsection 355-415(2) of the *Income Tax Assessment Act 1997*, also disregard amounts that have already been taken into account under former subsection 73B(14AA) of the *Income Tax Assessment Act 1936* for the R&D entity, the grouped entity and the R&D activities for an earlier income year.

Subdivision 355-K—Modified application of the old R&D law

Table of sections

355-550 Prepayments of R&D expenditure extending into the 2011-12 income year

355-550 Prepayments of R&D expenditure extending into the 2011-12 income year

Advance R and D expenditure

- (1) This section applies if, apart from former paragraph 73B(10)(a) of the *Income Tax Assessment Act 1936*, an eligible company could deduct advance R and D expenditure in one or more income years commencing on or after 1 July 2011.

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Note: That deduction would be under former section 73B of that Act as that former section applies because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*.

Other prepayments of R&D expenditure

- (2) This section also applies if:
- (a) apart from Subdivision H (prepaid expenditure) of Division 3 of Part III of the *Income Tax Assessment Act 1936*, an eligible company can deduct an amount under former section 73B, 73BA, 73BH, 73QA, 73QB or 73Y of that Act for an income year commencing before 1 July 2011; and
 - (b) that Subdivision applies to the calculation of that amount; and
 - (c) apart from former paragraph 73B(10)(a) of that Act, the eligible company could deduct an amount, as a result of that application of that Subdivision, for an income year commencing on or after 1 July 2011.

Note: That deduction would be under that Act as it applies because of Part 2 of Schedule 4 to the *Tax Laws Amendment (Research and Development) Act 2011*.

Changed registration requirement

- (3) Former paragraph 73B(10)(a) of that Act is taken to apply to those income years commencing on or after 1 July 2011 as if the reference in that former paragraph to section 39J of the *Industry Research and Development Act 1986* were a reference to section 27A of that Act.

Meaning of expressions

- (4) An expression used in this section that is also used in former section 73B of the *Income Tax Assessment Act 1936* has the same meaning in this section as it has in that former section.

Subdivision 355-M—Undeducted core technology expenditure

Table of sections

355-600 Scope

- 355-605 Core technology that is a depreciating asset
355-610 Core technology that is not a depreciating asset

355-600 Scope

This Subdivision applies to core technology (within the meaning of former section 73B of the *Income Tax Assessment Act 1936*) if:

- (a) you incurred core technology expenditure (within the meaning of that former section) in an income year commencing before 1 July 2011 in relation to the core technology under one or more contracts entered into at or after the time referred to in former subsection 73B(12) of that Act; and
- (b) that expenditure (the ***undeducted expenditure***) cannot be deducted for the last income year commencing before 1 July 2011.

355-605 Core technology that is a depreciating asset

This section only applies for deductions under Division 40

- (1) This section applies for the purposes of Division 40 of the *Income Tax Assessment Act 1997*, other than sections 40-292 and 40-293 of that Act, if the core technology (the ***asset***) is a depreciating asset.
- (2) Disregard this section, including its effect on the amount you can deduct under section 40-25 of that Act for the asset, for the purposes of working out:
 - (a) a deduction under any other Division of that Act for any income year; and
 - (b) a tax offset under any other Division of that Act for any income year.

Changes made by this section

- (3) The asset's opening adjustable value for the first income year that commences on or after 1 July 2011 (the ***first new income year***) is equal to the amount of the undeducted expenditure.

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- (4) Subsection 40-75(2) of the *Income Tax Assessment Act 1997* applies to the asset as if the first new income year were a change year (within the meaning of that subsection).

355-610 Core technology that is not a depreciating asset

If the core technology is not a depreciating asset, you can deduct the undeducted expenditure in equal proportions over a period of 5 income years starting in the first income year commencing on or after 1 July 2011.

Subdivision 355-W—Other matters

Table of sections

355-720 Certain related amounts may be reduced if notional deductions exceeded \$100 million

355-720 Certain related amounts may be reduced if notional deductions exceeded \$100 million

Section 355-720 of the *Income Tax Assessment Act 1997* also applies as if the table in subsection (1) of that section included the following item:

| | | | |
|----|--|---|---|
| 1A | any amount to include in the *R&D entity's assessable income for the present year because of a *balancing adjustment event happening for an asset it *held | (a) paragraph 40-292 (1)(b) of the <i>Income Tax (Transitional Provisions) Act 1997</i> ; or (b) paragraph 355-320(1)(c) of that Act | its adjusted section 40-285 amount (see subsection 40-292(3) or 355-320(4) of that Act) for the present year, the asset and the *balancing adjustment event |
|----|--|---|---|

Division 375—Australian films

Table of Subdivisions

375-G Film losses

Subdivision 375-G—Film losses

Table of sections

375-100 Film component of tax loss for 1997-98 or later income years
375-105 Film component of tax loss for 1989-90 to 1996-97 income years
375-110 Film loss for 1989-90 or later income year

375-100 Film component of tax loss for 1997-98 or later income year

To work out the *film component* (if any) of your tax loss for the 1997-98 income year or a later income year, apply former section 375-805 of the *Income Tax Assessment Act 1997*.

375-105 Film component of tax loss for 1989-90 to 1996-97 income years

If you incurred a film loss for the purposes of former section 79F (Film losses of 1989-90 to 1996-97 years of income) of the *Income Tax Assessment Act 1936* in any of the 1989-90 to 1996-97 income years, that film loss is the *film component* of your tax loss for that income year.

375-110 Film loss for 1989-90 or later income year

- (1) To work out your *film loss* (if any) for the purposes of the *Income Tax Assessment Act 1997* for the 1989-90 or a later income year, apply former section 375-810 of that Act.
- (2) You can deduct in the 1997-98 or a later income year your film loss for any of the 1989-90 to 1996-97 income years only to the extent that it has not already been deducted.

Division 392—Long-term averaging of primary producers' tax liability

Table of sections

| | |
|--------|---|
| 392-1 | Application of Division 392 of the <i>Income Tax Assessment Act 1997</i> |
| 392-25 | Transitional provision—election under section 158A of the <i>Income Tax Assessment Act 1936</i> |

392-1 Application of Division 392 of the *Income Tax Assessment Act 1997*

- (1) Division 392 of the *Income Tax Assessment Act 1997* applies to assessments for the 1998-99 income year and later income years.
- (2) It applies to your assessment as if:
 - (a) it had applied to your assessment for each income year before the 1998-99 income year for which Division 16 of Part III of the *Income Tax Assessment Act 1936* applied in relation to your income; and
 - (b) you had carried on a primary production business during each income year before the 1998-99 income year when you carried on a business of primary production; and
 - (c) for each income year before the 1998-99 income year you had a basic taxable income equal to your taxable income for the income year for the purposes of Division 16 of Part III of the *Income Tax Assessment Act 1936*.

Note: Section 149A of the *Income Tax Assessment Act 1936* identifies what your taxable income for an income year is for the purposes of Division 16 of Part III of that Act.

392-25 Transitional provision—election under section 158A of the *Income Tax Assessment Act 1936*

Division 392 of the *Income Tax Assessment Act 1997* does not apply to your assessment for the 1998-99 income year or a later income year if you made an election under section 158A (Election that Division not apply) of the *Income Tax Assessment Act 1936* relating to an income year before the 1998-99 income year.

Division 393—Farm management deposits

Table of Subdivisions

- 393-A Tax consequences of farm management deposits
- 393-B Meaning of farm management deposit and owner

Subdivision 393-A—Tax consequences of farm management deposits

Table of sections

- 393-1 Application of Division 393 of the *Income Tax Assessment Act 1997*
- 393-5 Unrecouped FMD deduction
- 393-10 Unrecouped FMD deduction for deposits made as a result of section 25B of the *Loan (Income Equalization Deposits) Act 1976*
- 393-27 Trustee may choose that a beneficiary is a chosen beneficiary of the trust
- 393-30 Unclaimed moneys

393-1 Application of Division 393 of the *Income Tax Assessment Act 1997*

Division 393 of the *Income Tax Assessment Act 1997* (about farm management deposits) applies to assessments for:

- (a) the 2010-11 income year; and
- (b) later income years.

393-5 Unrecouped FMD deduction

A reference in Division 393 of the *Income Tax Assessment Act 1997* to a deduction under section 393-5 of that Act for making a farm management deposit is taken to include a reference to a deduction under section 393-10 in Schedule 2G to the *Income Tax Assessment Act 1936*, as in force just before the commencement of this section, if the deposit was made before the 2010-11 income year.

Section 393-10

393-10 Unrecouped FMD deduction for deposits made as a result of section 25B of the *Loan (Income Equalization Deposits) Act 1976*

Despite subsection 393-10(2) of the *Income Tax Assessment Act 1997*, if:

- (a) no part of a farm management deposit has been repaid before a particular time; and
- (b) the deposit was made with an FMD provider as a result of a request to which section 25B of the *Loan (Income Equalization Deposits) Act 1976*, as in force on 21 February 2005, applied;

the **unrecouped FMD deduction** in respect of the deposit at that time is equal to the amount of the unrecouped deduction (within the meaning of the former subsection 159GA(3) of the *Income Tax Assessment Act 1936*) in respect of the deposit immediately before it ceased to be a deposit under the *Loan (Income Equalization Deposits) Act 1976*.

Note: This means that the unrecouped deduction relating to the deposit under the *Loan (Income Equalization Deposits) Act 1976* continues to apply (by becoming an unrecouped FMD deduction) when the deposit is transferred to an FMD provider as a farm management deposit. The *Loan (Income Equalization Deposits) Act 1976* was repealed on 22 February 2005.

393-27 Trustee may choose that a beneficiary is a chosen beneficiary of the trust

If a beneficiary of a trust was covered by paragraph (c) of the definition of **primary producer** in section 393-25 in Schedule 2G to the *Income Tax Assessment Act 1936* in the 2009-10 income year, treat subsection 393-25(3) of the *Income Tax Assessment Act 1997* as having applied to the beneficiary for the purpose of determining the maximum number of choices that the trustee may make under subsection 393-27(2) of that Act for the 2010-11 income year.

393-30 Unclaimed moneys

- (1) Subsection (2) applies if:
-

- (a) a farm management deposit of an owner was unclaimed moneys for the purposes of section 69 of the *Banking Act 1959*; and
 - (b) the unclaimed moneys were paid to the Commonwealth under that section; and
 - (c) the unclaimed moneys were repaid as a result of subsection 69(7) of that Act.
- (2) For the purpose of subsection 393-10(1) of the *Income Tax Assessment Act*, treat the repaid unclaimed moneys as a repayment of the deposit of the owner.
- (3) To avoid doubt, the payment of unclaimed moneys to the Commonwealth under section 69 of the *Banking Act 1959* is not a repayment of the deposit of the owner for the purposes of Division 393 of the *Income Tax Assessment Act 1997*.

Subdivision 393-B—Meaning of farm management deposit and owner

Table of sections

- 393-40 The day the deposit was made for deposits made as a result of section 25B of the *Loan (Income Equalization Deposits) Act 1976*

393-40 The day the deposit was made for deposits made as a result of section 25B of the *Loan (Income Equalization Deposits) Act 1976*

If a farm management deposit was made with an FMD provider as a result of a request under section 25B of the *Loan (Income Equalization Deposits) Act 1976*, as in force on 21 February 2005, then:

- (a) subsections 393-40(1) to (4) of the *Income Tax Assessment Act 1997* apply as if the day the deposit was made was the day on which the deposit was originally made under the *Loan (Income Equalization Deposits) Act 1976*; and
- (b) subsection 393-40(6) does not apply to the deposit.

Note: The *Loan (Income Equalization Deposits) Act 1976* was repealed on 22 February 2005.

Division 410—Copyright collecting societies

Table of sections

410-1 Application of section 51-43 of the *Income Tax Assessment Act 1997*

410-1 Application of section 51-43 of the *Income Tax Assessment Act 1997*

- (1) A copyright collecting society to which section 51-43 of the *Income Tax Assessment Act 1997* applies, may elect that, from 1 July 2004, the section apply to all ordinary income, and statutory income, collected or derived by the society on or after 1 July 2004.
- (2) A society makes a valid election if:
 - (a) the election is in writing; and
 - (b) the election is given to the Commissioner within 28 days after the day on which this section commences.

Division 415—Designated infrastructure projects

Table of Subdivisions

415-B Application of Subdivision 415-B of the Income Tax
Assessment Act 1997

Subdivision 415-B—Application of Subdivision 415-B of the Income Tax Assessment Act 1997

Table of sections

415-10 Application of Subdivision 415-B of the *Income Tax Assessment Act 1997*

415-10 Application of Subdivision 415-B of the *Income Tax Assessment Act 1997*

Subdivision 415-B of the *Income Tax Assessment Act 1997* applies
to:

- (a) a tax loss for the 2012-13 income year or a later income year;
or
- (b) a debt incurred in the 2012-13 income year or a later income
year.

Part 3-50—Climate change

Division 420—Registered emissions units

Table of Subdivisions

420-A General application provision

Subdivision 420-A—General application provision

Table of sections

420-1 Application of Division 420 of the *Income Tax Assessment Act 1997*

420-1 Application of Division 420 of the *Income Tax Assessment Act 1997*

Division 420 of the *Income Tax Assessment Act 1997* does not apply to a registered emissions unit held by you unless you became the holder of the unit after the commencement of that Division.

Part 3-80—Roll-overs applying to assets generally

Division 615—Roll-overs for business restructures

Table of Subdivisions

615-A Modifications for roll-overs between the 2011 and 2012
Budget times

Subdivision 615-A—Modifications for roll-overs between the 2011 and 2012 Budget times

Table of sections

615-5 Roll-overs between the 2011 and 2012 Budget times
615-10 Modifications—when additional consequences can apply
615-15 Modifications—trading stock
615-20 Modifications—revenue assets

615-5 Roll-overs between the 2011 and 2012 Budget times

Subdivision 615-C of the *Income Tax Assessment Act 1997* applies to you with the modifications set out in this Subdivision if you chose to obtain a roll-over involving *shares or units that:

- (a) were disposed of, redeemed or cancelled during the period:
 - (i) starting at 7.30 pm, by legal time in the Australian Capital Territory, on 10 May 2011; and
 - (ii) ending immediately before 7.30 pm, by legal time in the Australian Capital Territory, on 8 May 2012; and
- (b) were your trading stock, or revenue assets, at the time immediately before that disposal, redemption or cancellation.

615-10 Modifications—when additional consequences can apply

- (1) Disregard subparagraph 615-45(a)(ii), and paragraph 615-45(b), of the *Income Tax Assessment Act 1997* if the roll-over relates to *shares that were disposed of, redeemed or cancelled.
- (2) Disregard paragraph 615-45(d) of that Act.

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615-15 Modifications—trading stock

Substitute the following for subsection 615-50(2) of that Act:

- (2) For each of the *shares in the interposed company that you acquired in return for those of your shares or units in the original entity that were your *trading stock at the time mentioned in paragraph 615-45(c), you are taken to have paid:

Total included in your assessable income under subsection (1)
for those *shares or units in the original entity

Number of those shares in the interposed company

615-20 Modifications—revenue assets

Substitute the following for subsection 615-55(2) of that Act:

- (2) For the purpose of calculating any profit or loss on a future disposal, cessation of ownership, or other realisation of a *share in the interposed company that you acquired in return for those of your shares or units in the original entity that were *revenue assets at the time mentioned in paragraph 615-45(c), you are taken to have paid:

Total worked out under subsection (1)
for those *shares or units in the original entity

Number of those shares in the interposed company

**Division 620—Assets of wound-up corporation passing to
corporation with not significantly different
ownership**

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620-A Corporations covered by Subdivision 124-I

Subdivision 620-A—Corporations covered by Subdivision 124-I

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620-10 Application of Subdivision 620-A of the *Income Tax Assessment Act 1997*

**620-10 Application of Subdivision 620-A of the *Income Tax
Assessment Act 1997***

Subdivision 620-A of the *Income Tax Assessment Act 1997* applies
in relation to the cessation of existence of bodies corporate
occurring after 7.30 pm (by legal time in the Australian Capital
Territory) on 11 May 2010.

Part 3-90—Consolidated groups

Division 700—Application of Part 3-90 of Income Tax Assessment Act 1997

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700-1 Application of Part 3-90 of *Income Tax Assessment Act 1997*

700-1 Application of Part 3-90 of *Income Tax Assessment Act 1997*

- (1) Part 3-90 of the *Income Tax Assessment Act 1997*, as inserted by the *New Business Tax System (Consolidation) Act (No. 1) 2002* and amended by:
 - (a) the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002*; and
 - (b) the *New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002*; and
 - (c) the *New Business Tax System (Consolidation and Other Measures) Act 2003*; and
 - (d) the *Taxation Laws Amendment Act (No. 6) 2003*;applies on and after 1 July 2002.
- (2) Section 713-50 of the *Income Tax Assessment Act 1997* (about factors to consider in determining destination of distribution by non-fixed trust) applies for the purposes of this Part in the same way as it applies for the purposes of Part 3-90 of that Act.

Division 701—Modified application of provisions of Income Tax Assessment Act 1997 for certain consolidated groups formed in 2002-3 and 2003-4 financial years

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Subdivision 701-A—Preliminary

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| 701-5 | Chosen transitional entity |
| 701-7 | Working out the cost base or reduced cost base of a pre-CGT asset after certain roll-overs |
| 701-10 | Interpretation |

701-1 Transitional group and transitional entity

Group formed on 1 July 2002

- (1) If a consolidated group came into existence on 1 July 2002:
- (a) the group is a **transitional group**; and
 - (b) each entity that became a subsidiary member of the group on the day it came into existence is a **transitional entity**.

Group formed after 1 July 2002 but before 1 July 2003

- (2) If a consolidated group came into existence after 1 July 2002 but before 1 July 2003:
- (a) the group is a **transitional group** if at least one entity that became a subsidiary member of the group on the day the group came into existence is a **transitional entity**; and
 - (b) an entity is a transitional entity if:

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- (i) at no time after 1 July 2002 and before the group came into existence was the entity a wholly-owned subsidiary of the entity (the **future head company**) that became the head company of the group; or
- (ii) at some time during that period, the entity was a wholly-owned subsidiary of the future head company and it remained such from the earliest time after 1 July 2002 when it was a wholly-owned subsidiary of the future head company until the group came into existence.

Group formed during financial year starting on 1 July 2003

- (3) If a consolidated group came into existence during the financial year starting on 1 July 2003:
 - (a) the group is a **transitional group** if at least one entity that became a subsidiary member of the group on the day the group came into existence is a transitional entity; and
 - (b) an entity is a **transitional entity** if:
 - (i) just before 1 July 2003, it was a wholly-owned subsidiary of the future head company; and
 - (ii) it remained such from the earliest time after 1 July 2002 when it was a wholly-owned subsidiary of the future head company until the group came into existence.

701-5 Chosen transitional entity

- (1) If a group is a transitional group, its head company may, subject to subsection (3), choose that the group's transitional entity is a **chosen transitional entity**, or one or more of the group's transitional entities are **chosen transitional entities**.

Period for making choice

- (2) The choice must be made by the later of:
 - (a) the day on which the head company must give the notice under section 703-58 of the *Income Tax Assessment Act 1997* (notice of choice to consolidate); and
 - (b) the end of 31 December 2005.

Agreement of other entities required in certain cases

- (3) If the choice is to be made after the end of the period mentioned in paragraph (2)(a) and before the end of the day mentioned in paragraph (2)(b), it cannot be made unless each entity in relation to which the conditions in subsection (5) are satisfied has agreed to it being made.

Choice is irrevocable in certain circumstances

- (4) The choice cannot be revoked unless:
- (a) the revocation takes place before the end of 31 December 2005; and
 - (b) each entity in relation to which the conditions in subsection (5) are satisfied has agreed to the revocation.
- (5) For the purposes of subsections (3) and (4), the conditions are that:
- (a) the entity (the **leaving entity**) ceased to be a subsidiary member of the group before the choice was made (in a subsection (3) case) or before the revocation took place (in a subsection (4) case); and
 - (b) an asset became that of the leaving entity because section 701-1 (the single entity rule) of the *Income Tax Assessment Act 1997* ceased to apply when the leaving entity ceased to be a subsidiary member; and
 - (c) the asset had become that of the head company because that section applied when a chosen transitional entity (whether or not the same entity as the leaving entity) became a subsidiary member.

701-7 Working out the cost base or reduced cost base of a pre-CGT asset after certain roll-overs

Section 716-855 applies for the purposes of this Division in the same way as that section applies for the purposes of Part 3-90 of the *Income Tax Assessment Act 1997*.

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701-10 Interpretation

A reference in this Division to:

- (a) a provision of the *Income Tax Assessment Act 1997*; or
- (b) a consolidated group's allocable cost amount for an entity;

is a reference to that provision as it applies to the group, or to the allocable cost amount as it is worked out for the entity, in accordance with Subdivision 705-B of that Act and with this Division.

Subdivision 701-B—Modified application of provisions

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| 701-20 | Working out allocable cost amount on formation for subsidiary members other than chosen transitional entities |
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| 701-40 | When entity leaves transitional group, head company may choose, for purposes of transitional group's allocable cost amount, to increase terminating values of over-depreciated assets |
| 701-45 | When entity leaves transitional group, head company may choose, for purposes of transitional group's allocable cost amount, to use formation time market values, instead of terminating values, for certain pre-CGT assets |
| 701-50 | Increased allocable cost amount for leaving entity if it takes privatised asset brought into group by chosen transitional entity |

701-15 Tax cost and trading stock value not set for assets of chosen transitional entities

Section 701-10 (cost to head company of assets of joining entity) and subsection 701-35(4) (setting value of trading stock at tax-neutral amount) of the *Income Tax Assessment Act 1997* do not apply to the assets of a chosen transitional entity.

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Note: The fact that the head company inherits the entity's history under section 701-5 of that Act when the entity becomes a subsidiary member of the group means that the entity's assets would be treated as having the same cost as they would for the entity at that time.

701-20 Working out allocable cost amount on formation for subsidiary members other than chosen transitional entities*When section applies*

- (1) This section applies if any of the transitional entities in the transitional group is a chosen transitional entity.

Allocable cost amount to be worked out in special way

- (2) If this section applies, the group's allocable cost amount for each of the entities, other than a chosen transitional entity, that become subsidiary members when the group comes into existence (each of which is a **non-chosen subsidiary**) is worked out in a special way.

How to work out allocable cost amount

- (3) The allocable cost amount for each non-chosen subsidiary is the sum of:
- (a) the head company adjusted allocable amount for the non-chosen subsidiary (see subsection (4)); and
 - (b) for each sub-group (see subsection (6)) that exists in relation to the non-chosen subsidiary—the sub-group's notional allocable cost amount (see subsection(5)) for the non-chosen subsidiary.

Head company adjusted allocable amount

- (4) The **head company adjusted allocable amount** for the non-chosen subsidiary is the amount that would be the transitional group's allocable cost amount for that entity if;
- (a) the holding of all sub-group membership interests were disregarded; and

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- (b) only the following proportion of each of the step 2 to step 7 amounts in the table in section 705-60 of the *Income Tax Assessment Act 1997* was taken into account:

$$\frac{\text{Market value of head company's direct and indirect membership interests in non-chosen subsidiary}}{\text{Market value of all membership interests in non-chosen subsidiary}}$$

where:

market value of all membership interests in non-chosen subsidiary means the market value, at the time the group comes into existence, of all membership interests in the non-chosen subsidiary that are held by entities that become members of the group at that time.

market value of head company's direct and indirect membership interests in non-chosen subsidiary means the market value, at the time the group comes into existence, of all membership interests in the non-chosen subsidiary that the head company holds directly or indirectly through interposed entities that become subsidiary members of the group at that time and are not included in any sub-group in relation to the non-chosen subsidiary.

Sub-group's notional allocable cost amount

- (5) For each sub-group that exists in relation to the non-chosen subsidiary, there is a **sub-group's notional allocable cost amount**. That amount is the amount that would be a consolidated group's allocable cost amount for the non-chosen subsidiary if:
- (a) the consolidated group came into existence at the same time as the transitional group and consisted only of the non-chosen subsidiary and the entities comprising the sub-group; and
 - (b) the chosen transitional entity in the sub-group were the head company of the consolidated group; and
 - (c) the only membership interests that any entity held at or before that time in any other entity that became a member of the consolidated group were the sub-group membership interests (see subsection (6)) in relation to the sub-group, and

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any such entity held those membership interests during the period when it actually held them; and

- (d) only the following proportion of each of the step 2 to step 7 amounts in the table in section 705-60 of the *Income Tax Assessment Act 1997* was taken into account:

$$\frac{\text{Market value of chosen transitional entity's direct and indirect membership interests in non-chosen subsidiary}}{\text{Market value of all membership interests in non-chosen subsidiary}}$$

where:

market value of all membership interests in non-chosen subsidiary means the market value, at the time the group comes into existence, of all membership interests in the non-chosen subsidiary that are held by entities that become members of the group at that time.

market value of chosen transitional entity's direct and indirect membership interests in non-chosen subsidiary means the market value, at the time the group comes into existence, of all membership interests in the non-chosen subsidiary that the chosen transitional entity holds directly or indirectly through interposed entities that are included in the sub-group.

Sub-group and sub-group membership interests

- (6) If a chosen transitional entity holds membership interests in a non-chosen subsidiary, either directly or indirectly through one or more other entities, each of which is a non-chosen subsidiary:
- (a) the chosen transitional entity and each interposed non-chosen subsidiary comprise a **sub-group** in relation to the non-chosen subsidiary (unless the non-chosen subsidiary is included in a sub-group in relation to another non-chosen subsidiary); and
 - (b) the following membership interests are the **sub-group membership interests** in relation to the sub-group:
 - (i) the membership interests that the chosen transitional entity holds directly in the non-chosen subsidiary or in any of the interposed non-chosen subsidiaries;

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- (ii) the membership interests that each interposed non-chosen subsidiary holds directly in the non-chosen subsidiary or in any of the other interposed non-chosen subsidiaries.

701-25 No operation of value shifting and loss transfer provisions to membership interests in chosen transitional entities

If any provision of the *Income Tax Assessment Act 1997* would, because of events that happened before the time the transitional group came into existence, apply to a CGT event that happens after that time to change the cost base or reduced cost base of the members' membership interests in a chosen transitional entity, the provision does not so apply.

Note: For example, such a provision could otherwise apply where a loss transfer or value shift involving the entity has occurred.

701-32 No adjustment of amount of liabilities required in working out allocable cost amount

- (1) This section has effect for the purposes of applying section 705-70 (step 2 of allocable cost amount) of the *Income Tax Assessment Act 1997* in relation to a transitional entity.
- (2) In spite of subsection 705-70(1A) of that Act, if the amount of an accounting liability of the transitional entity would be different when it becomes an accounting liability of the transitional group, that difference is not taken into account in working out the amount of the liability.

701-35 Act, transaction or event giving rise to CGT event for pre-formation roll-over after 16 May 2002 to be disregarded if cost base etc. would be different

- (1) If:
 - (a) after 16 May 2002 and before the transitional group came into existence, a CGT event happened in relation to an asset (the *roll-over asset*) for which there was:

-
- (i) a roll-over under Subdivision 126-B of the *Income Tax Assessment Act 1997*; or
 - (ii) roll-over relief under section 40-340 of that Act in a case covered by item 4 of the table in subsection (1) of that section; and
 - (b) the cost base or reduced cost base of the roll-over asset or any other asset that:
 - (i) became an asset of the head company when the transitional group came into existence because subsection 701-1(1) (the single entity rule) of that Act applies; or
 - (ii) was otherwise an asset of the head company at that time;differs at that time from what it would have been if the act, transaction or event that gave rise to the CGT event had not occurred in relation to the roll-over asset;
then the provisions mentioned in subsection (2) apply as if the act, transaction or event had not occurred in relation to the roll-over asset.
 - (2) The provisions are:
 - (a) Division 705 of the *Income Tax Assessment Act 1997*; and
 - (b) provisions of this Act modifying the effect of that Division.
 - (2A) Subsection (1) does not apply if:
 - (a) the act, transaction or event mentioned in subsection (1) happened before a demerger and in connection with the demerger; and
 - (b) before the transitional group came into existence, at least one of the following entities ceased to be a member of the demerger group because of the demerger:
 - (i) the originating company in relation to the roll-over, or the transferor in relation to the roll-over relief;
 - (ii) the recipient company, or the transferee in relation to the roll-over relief; and
 - (c) when the transitional group came into existence, at least one of those entities was *not* a member of that group.

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- (3) Subsection (1) does not apply if:
- (a) the roll-over asset is a membership interest in an entity (the **test entity**); and
 - (b) when the CGT event happened:
 - (i) the originating company in relation to the roll-over, or the transferor in relation to the roll-over relief, was a foreign resident; and
 - (ii) the recipient company, or the transferee in relation to the roll-over relief, was an Australian resident; and
 - (c) when the transitional group came into existence, the test entity was a subsidiary member of the group, other than as a transitional foreign-held subsidiary of the group.

701-40 When entity leaves transitional group, head company may choose, for purposes of transitional group's allocable cost amount, to increase terminating values of over-depreciated assets

- (1) This section applies if an entity ceases to be a subsidiary member of the transitional group and the requirements of subsections (2) to (4) are satisfied.

Asset held at leaving time

- (2) Just before the entity ceases to be a subsidiary member, it must, disregarding subsection 701-1(1) (the single entity rule) of the *Income Tax Assessment Act 1997*, hold an asset.

Reduction of asset's tax cost setting amount for over-depreciation

- (3) When the transitional group came into existence:
- (a) the asset must have become that of the head company of the transitional group because subsection 701-1(1) of that Act applied in relation to a transitional entity; and
 - (b) former section 705-50 of that Act must have reduced by an amount (the **reduction amount**) the tax cost setting amount for the asset.

Asset held continuously within group

- (4) The asset must, disregarding subsection 701-1(1) of that Act, have been held at all times by the head company or a subsidiary member of the transitional group from when the transitional group came into existence until the entity ceases to be a subsidiary member of the transitional group.

Head company's choice

- (6) If this section applies, the head company may, in relation to the entity's ceasing to be a subsidiary member, choose that the terminating value for the asset, that is to be used in applying step 1 of the table in section 711-20 of the *Income Tax Assessment Act 1997*, is increased by so much of the reduction amount as the head company chooses.

701-45 When entity leaves transitional group, head company may choose, for purposes of transitional group's allocable cost amount, to use formation time market values, instead of terminating values, for certain pre-CGT assets

- (1) This section applies if:
- (a) an entity ceases to be a subsidiary member of the transitional group; and
 - (b) just before the transitional group came into existence, the entity that became the head company held a pre-CGT asset; and
 - (c) that holding of the asset did not occur as a result of a CGT event:
 - (i) for which there was a roll-over under Subdivision 126-B of the *Income Tax Assessment Act 1997*; and
 - (ii) that occurred after 11.45 am by legal time in the Australian Capital Territory on 21 September 1999; and
 - (d) just before the entity ceases to be a subsidiary member of the group, the asset is still a pre-CGT asset and is held by the head company only because the entity is taken by subsection 701-1(1) (the single entity rule) of the *Income Tax Assessment Act 1997* to be a part of the head company.

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- (2) If this section applies, the head company may, in relation to the entity's ceasing to be a subsidiary member, choose that the terminating value for the asset, that is to be used in applying step 1 of the table in section 711-20 of the *Income Tax Assessment Act 1997*, is equal to its market value just before the transitional group came into existence.

701-50 Increased allocable cost amount for leaving entity if it takes privatised asset brought into group by chosen transitional entity

Application

- (1) This section provides for an addition to the step 1 amount for working out under section 711-20 of the *Income Tax Assessment Act 1997* the allocable cost amount for an entity (the **leaving entity**) that ceases to be a subsidiary member of the transitional group at a time (the **leaving time**), if:
- (a) the head company of the group holds an asset at the leaving time because the leaving entity is taken by subsection 701-1(1) of that Act to be a part of the head company; and
 - (b) the head company started to hold the asset because of that subsection when a chosen transitional entity became a subsidiary member of the group.

If entity sale situation affected asset's cost for chosen transitional entity

- (2) If:
- (a) at a time before the chosen transitional entity became a subsidiary member of the transitional group:
 - (i) all of that entity's ordinary income and statutory income was not assessable income; and
 - (ii) that entity held the asset; and
 - (b) just after that time, some or all of that entity's ordinary income and statutory income became assessable income because another entity that later became a member of the

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transitional group purchased all the membership interests in the entity; and

- (c) the amount of the purchase price reasonably attributable to the asset exceeded the amount worked out under subsection (3);

the excess is added to the step 1 amount.

- (3) Work out the amount for the purposes of paragraph (2)(c) using the following table:

| Amount for paragraph (2)(c) | | |
|------------------------------------|---|--|
| | If, because of the circumstances described in paragraphs (2)(a) and (b): | The amount is: |
| 1 | One of the following provisions applied to the entity: (a) former section 61A of the <i>Income Tax Assessment Act 1936</i> ; (b) former Subdivision 57-I in Schedule 2D to the <i>Income Tax Assessment Act 1936</i> ; (c) former subsection 58-20(4) of the <i>Income Tax Assessment Act 1997</i> | The difference between: (a) the amount treated as being the cost of the asset under that provision; and (b) the total amount treated under that provision as being the deductions for depreciation of the asset before the transition time mentioned in that provision |
| 2 | One of the following subsections of the <i>Income Tax Assessment Act 1997</i> applied to the entity: (a) former subsection 58-20(5); (b) 58-70(3) | The amount treated as being the cost, or the first element of the cost, of the asset under that subsection |

If asset sale situation affected asset's cost for chosen transitional entity

- (4) If:
- (a) on or after 4 August 1997, an entity (whether the chosen transitional entity or another entity) acquired the asset in connection with the acquisition of a business from the tax exempt vendor (within the meaning of those terms given by Division 58 of the *Income Tax Assessment Act 1997*, as that Division applied to the acquisition); and

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- (b) because of the acquisition, that Division directly or indirectly affected how much the chosen transitional entity could deduct for the asset; and
 - (c) that effect was partly due to the amount described in an item of the table being worked out for that entity directly or indirectly by reference to a provision of that Division specified in the item; and
 - (d) that amount is less than it would have been apart from that provision;
- the difference is added to the step 1 amount.

Amounts and provisions for different dates of acquisition

| Date of the acquisition | Amount | Provision of Division 58 of the <i>Income Tax Assessment Act 1997</i> applying to the acquisition and the working out of the amount |
|-------------------------|--|---|
| 1 Before 1 July 2001 | Cost of the asset | Former section 58-160 |
| 2 Before 1 July 2001 | Cost of the asset | Former section 58-220 |
| 3 After 30 June 2001 | First element of the cost of the asset | Subsection 58-70(5) |

Note 1: As originally enacted, Division 58 of the *Income Tax Assessment Act 1997* applied to acquisitions on or after 4 August 1997. That Act was later amended to replace Division 58, with the replacement Division 58 applying to acquisitions on or after 1 July 2001.

Note 2: Division 58 of the *Income Tax Assessment Act 1997* may, for example, have *indirectly* affected how much the chosen transitional entity could deduct for the asset because:

- (a) that Division affected the amount that could be deducted by an entity that held the asset before the chosen transitional entity; and
- (b) that effect extended to the chosen transitional entity because of roll-over relief.

Division 701A—Modified application of provisions of Income Tax Assessment Act 1997 for entities with continuing majority ownership from 27 June 2002 until joining a consolidated group

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701A-1 Continuing majority-owned entity, designated group etc.

Continuing majority-owned entity and designated group

- (1) If:
- (a) an entity becomes a subsidiary member of a consolidated group at any time on or after 1 July 2002; and
 - (b) a person or persons continued to be the majority owners (see subsection (2)) of the entity from the start of 27 June 2002 until the entity became a subsidiary member of the group;
- the entity is a ***continuing majority-owned entity*** and the group is the entity's ***designated group***.

Majority owners of an entity

- (2) A person or persons are the ***majority owners*** of an entity if they beneficially own, directly or indirectly through one or more interposed entities, membership interests in the entity whose market value is more than 50% of the market value of all of the membership interests in the entity.

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Interposed non-fixed trust to be treated as fixed trust

- (3) For the purposes of subsection (2), if the interposed entity or any of the interposed entities is a trust that is not a fixed trust:
- (a) it is treated as if it were a fixed trust; and
 - (b) all of its objects are treated as if they were beneficiaries of that trust with equal interests in it.

701A-5 Modified application of Part 3-90 of *Income Tax Assessment Act 1997* to trading stock of continuing majority-owned entity

- (1) The operation of Part 3-90 of the *Income Tax Assessment Act 1997* is modified in accordance with this section in relation to each asset of a continuing majority-owned entity that is trading stock just before the entity becomes a subsidiary member of the entity's designated group.

Continuing majority-owned entity to revalue its trading stock under normal provisions

- (2) For the entity core purposes:
- (a) subsection 701-35(4) of the *Income Tax Assessment Act 1997* does not apply in relation to the asset; and
 - (b) instead, the value of the asset at the end of the income year that ends, or, if section 701-30 of that Act applies, of the income year that is taken by subsection (3) of that section to end, is the value determined in accordance with sections 70-45 to 70-70 of that Act.

For head company, trading stock to be retained cost base asset with tax cost setting amount equal to entity's year-end valuation

- (3) For the head company core purposes when the continuing majority-owned entity becomes a subsidiary member of the designated group, the asset is a retained cost base asset whose tax cost setting amount is equal to the value applicable in accordance with paragraph (2)(b).

701A-7 Modified application of Part 3-90 of *Income Tax Assessment Act 1997* to registered emissions units of continuing majority-owned entity

- (1) The operation of Part 3-90 of the *Income Tax Assessment Act 1997* is modified in accordance with this section in relation to each asset of a continuing majority-owned entity that is a registered emissions unit just before the entity becomes a subsidiary member of the entity's designated group.

Continuing majority-owned entity to revalue its registered emissions units under normal provisions

- (2) For the entity core purposes:
- (a) subsection 701-35(5) of the *Income Tax Assessment Act 1997* does not apply in relation to the asset; and
 - (b) instead, the value of the asset at the end of the income year that ends, or, if section 701-30 of that Act applies, of the income year that is taken by subsection (3) of that section to end, is the value determined in accordance with sections 420-51 to 420-58 of that Act.

For head company, registered emissions units to be retained cost base asset with tax cost setting amount equal to entity's year-end valuation

- (3) For the head company core purposes when the continuing majority-owned entity becomes a subsidiary member of the designated group, the asset is a retained cost base asset whose tax cost setting amount is equal to the value applicable in accordance with paragraph (2)(b).

701A-10 Modified application of Part 3-90 of *Income Tax Assessment Act 1997* to certain internally generated assets of continuing majority-owned entity

- (1) This section applies if:

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- (a) because subsection 701-1(1) (the single entity rule) of the *Income Tax Assessment Act 1997* applies, a depreciating asset becomes that of the head company of a continuing majority-owned entity's designated group when the entity becomes a subsidiary member of that group; and
- (b) the continuing majority-owned entity's terminating value for the asset is less than the asset's tax cost setting amount; and
- (c) the asset existed at the start of 27 June 2002; and
- (d) more than half of the expenditure incurred in constructing or creating the asset was of a revenue nature and allowable as a deduction to the entity (whether or not the continuing majority-owned entity) that constructed or created the asset; and
- (e) for every balancing adjustment event occurring for the asset before the continuing majority-owned entity became a subsidiary member of the group, there was roll-over relief under section 40-340 of the *Income Tax Assessment Act 1997*.

Reduced depreciation deductions etc. for head company

- (2) If this section applies, for the head company core purposes:
 - (a) while the asset is, because subsection 701-1(1) of that Act applies, that of the head company of the designated group, for the purpose of working out deductions for the asset's decline in value under Division 40 of the *Income Tax Assessment Act 1997*, its tax cost setting amount is taken to be equal to the continuing majority-owned entity's terminating value for the asset; and
 - (b) if a balancing adjustment event occurs for the asset, or the head company ceases to hold the asset because an entity ceases to be a subsidiary member of the group, and:
 - (i) the deductions for its decline in value up to that time worked out on the basis in paragraph (a);are less than:
 - (ii) the deductions that would have been worked out using its actual tax cost setting amount;

then:

- (iii) if a balancing adjustment event occurs for the asset—the shortfall is allowable as a deduction to the head company for the income year in which it ceases to hold the asset; or
- (iv) if the head company ceases to hold the asset because an entity ceases to be a subsidiary member of the group—the group's allocable cost amount worked out under section 711-30 of the *Income Tax Assessment Act 1997* for the entity is increased by the shortfall.

Note: The asset's actual tax cost setting amount would be used for the purpose of working out any balancing adjustment for a balancing adjustment event or for working out the terminating value of the asset under Division 711 of the *Income Tax Assessment Act 1997*.

Reduced depreciation deductions etc. for acquirer from head company

- (3) If:
 - (a) the asset is acquired by another entity (a **new asset holder**) from the head company; and
 - (b) at the time of the acquisition:
 - (i) either party to the acquisition controls (for value shifting purposes) the other; or
 - (ii) a third entity controls (for value shifting purposes) the parties to the acquisition; and
 - (c) the following amount:
 - (i) the asset's adjustable value (the **roll-over adjustable value**) just before the acquisition, worked out on the assumption that the head company had acquired the asset for an amount equal to the continuing majority-owned entity's terminating value for the asset; is less than:
 - (ii) the asset's cost to the new asset holder;
 then the consequences in subsection (4) occur.

- (4) The consequences are as follows:

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Division 701A Modified application of provisions of Income Tax Assessment Act 1997 for entities with continuing majority ownership from 27 June 2002 until joining a consolidated group

Section 701A-10

- (a) while the asset is held by the new asset holder, for the purpose of working out deductions for the asset's decline in value under Division 40 of the *Income Tax Assessment Act 1997*, the acquisition by the new asset holder is taken to have been for an amount equal to the asset's roll-over adjustable value;
- (b) if a balancing adjustment event occurs for the asset and:
 - (i) the deductions for its decline in value up to that time, worked out on the basis in paragraph (a);are less than:
 - (ii) the deductions that would otherwise have been worked out;then the shortfall is allowable as a deduction to the new asset holder for the income year in which it ceases to hold the asset.

Reduced depreciation deductions etc. for entity that ceases to be a subsidiary member

- (5) If:
 - (a) the asset becomes that of an entity (a **new asset holder**) other than the head company because subsection 701-1(1) of the *Income Tax Assessment Act 1997* ceases to apply when the entity ceases to be a subsidiary member of the designated group as a result of a third entity (the **buyer of the new asset holder**) acquiring some or all of the membership interests in the new asset holder; and
 - (b) at the time of the acquisition:
 - (i) the buyer of the new asset holder controls (for value shifting purposes) the head company of the designated group, or vice versa; or
 - (ii) a third entity controls (for value shifting purposes) the head company of the designated group and the buyer of the new asset holder; and
 - (c) the following amount:
 - (i) the asset's adjustable value (the **roll-over adjustable value**) just before the cessation, worked out on the

assumption that the head company had acquired the
asset for an amount equal to the continuing
majority-owned entity's terminating value for the asset;
is less than:

- (ii) the asset's cost to the new asset holder;

then the consequences in subsection (6) occur.

(6) The consequences are as follows:

- (a) while the asset is held by the new asset holder, for the
purpose of working out deductions for the asset's decline in
value under Division 40 of the *Income Tax Assessment Act*
1997, the acquisition by the new asset holder is taken to have
been for an amount equal to the asset's roll-over adjustable
value; and

- (b) if a balancing adjustment event occurs for the asset and:

- (i) the deductions for its decline in value up to that time
worked out on the basis in paragraph (a);

are less than:

- (ii) the deductions that would otherwise have been worked
out;

then the shortfall is allowable as a deduction to the new asset
holder for the income year in which it ceases to hold the
asset.

Reduced depreciation deductions etc. for later acquirer

(7) If:

- (a) the asset is acquired by another entity (a **new asset holder**)
from an entity that is a new asset holder under subsection (3)
or (5) or a previous application of this subsection; and

- (b) an entity:

- (i) was a party to the acquisition and, at the time of the
acquisition, controlled (for value shifting purposes) the
other party; or

- (ii) was not a party to each acquisition but, at the time of the
acquisition, controlled (for value shifting purposes) the
parties to the acquisition; and

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- (c) that entity was also the entity whose control (for value shifting purposes) resulted in the control test being satisfied in respect of each previous acquisition or cessation involving a new asset holder; and
 - (d) the following amount:
 - (i) the asset's adjustable value (the ***roll-over adjustable value***) just before the acquisition, worked out on the assumption that every previous new asset holder had acquired the asset for the asset's roll-over adjustable value, worked out under subsection (3) or (5) or this subsection, just before it did so;
is less than:
 - (ii) the asset's cost to the new asset holder;then the consequences in subsection (8) occur.
- (8) The consequences are as follows:
- (a) while the asset is held by the new asset holder, for the purpose of working out deductions for the asset's decline in value under Division 40 of the *Income Tax Assessment Act 1997*, the acquisition by the new asset holder is taken to have been for an amount equal to the asset's roll-over adjustable value asset just before the acquisition; and
 - (b) if a balancing adjustment event occurs for the asset and:
 - (i) the deductions for its decline in value up to that time worked out on the basis in paragraph (a);
are less than:
 - (ii) the deductions that would otherwise have been worked out;then the shortfall is allowable as a deduction to the new asset holder for the income year in which it ceases to hold the asset.

Division 701B—Modified application of provisions of Income Tax Assessment Act 1997 relating to CGT event L1

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701B-1 Modified application of CGT Consolidation provisions to allow immediate availability of capital loss for CGT event L1

701B-1 Modified application of CGT Consolidation provisions to allow immediate availability of capital loss for CGT event L1

- (1) This section applies if:
- (a) CGT event L1 happens; and
 - (b) members of the consolidated group or the MEC group mentioned in subsection 104-500(1) of the *Income Tax Assessment Act 1997* held all of the membership interests in the entity mentioned in that subsection from the end of 30 June 2002 until the entity became a subsidiary member of the group; and
 - (c) before the end of the fourth income year of the head company of the group ending after the entity became a subsidiary member of the group, the entity ceases to be a subsidiary member; and
 - (d) all of the assets, other than those excepted under subsection (2), that the head company held when the entity became a subsidiary member, because the entity was taken by subsection 701-1(1) (the single entity principle) of the *Income Tax Assessment Act 1997* to be a part of the head company, continued to be held by the head company until the entity ceased to be a subsidiary member.

Excepted assets

- (2) For the purposes of paragraph (1)(d), excepted assets are assets that:

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- (a) the head company disposed of in the ordinary course of a business that the head company carried on by virtue of the entity being taken by subsection 701-1(1) of the *Income Tax Assessment Act 1997* to be a part of the head company; and
- (b) were minor assets, having regard to the nature and size of that business.

Immediate availability of capital loss or net capital loss

- (3) If this section applies, neither subsection 104-500(4) nor subsection 104-500(5) of the *Income Tax Assessment Act 1997* applies in relation to the head company for the income year in which the entity ceases to be a subsidiary member of any later income year.

Division 701C—Modified application etc. of provisions of Income Tax Assessment Act 1997: transitional foreign-held membership structures

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- 701C-A Overview
- 701C-B Membership rules allowing foreign holding
- 701C-C Modifications of tax cost setting rules

Subdivision 701C-A—Overview

Table of sections

- 701C-1 Overview

701C-1 Overview

This Division:

- (a) sets out, for the purposes of item 2, column 4 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997*, rules that allow certain entities to be subsidiary members of consolidatable groups or consolidated groups where other entities are interposed between them and the head company of the group (see Subdivision 701C-B); and
- (b) modifies certain rules in Part 3-90 of the *Income Tax Assessment Act 1997* relating to setting the tax cost of assets to take account of those membership rules (see Subdivision 701C-C).

Note: This Division has effect in relation to a MEC group in the same way in which it has effect in relation to a consolidated group (see sections 719-2 and 719-10 of this Act).

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Subdivision 701C-B—Membership rules allowing foreign holding

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| 701C-10 | Additional membership rules where entities are interposed between the head company and a subsidiary member—case where an interposed entity is a foreign resident and the subsidiary member is a company |
| 701C-15 | Additional membership rules where entities are interposed between the head company and a subsidiary member—case where an interposed entity is a foreign resident and the subsidiary member is a trust or partnership |
| 701C-20 | Transitional foreign-held subsidiaries and transitional foreign-held indirect subsidiaries |

701C-10 Additional membership rules where entities are interposed between the head company and a subsidiary member—case where an interposed entity is a foreign resident and the subsidiary member is a company

- (1) This section describes, for the purposes of item 2, column 4 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997*, a set of requirements that must be met for an entity (the **test entity**) to be a subsidiary member of a consolidated group or a consolidatable group at a particular time (the **test time**).

Note: This subsection applies in relation to a MEC group as if the reference to item 2, column 4 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997* were a reference to subparagraph 719-10(1)(b)(ii) of that Act (see subsection 719-2(3) of this Act).

Test entity must be company

- (2) At the test time, the test entity must be a company.

At least one interposed entity must be a non-resident company or non-resident trust

- (3) At the test time, at least one of the interposed entities must be:
- (a) a company (a **non-resident company**) that is a foreign resident; or

- (b) a trust (a ***non-resident trust***) that does not meet the requirements in any item of the table in section 703-25 of the *Income Tax Assessment Act 1997*.

The interposed entities must all be of a particular kind

- (4) At the test time, each of the interposed entities must be:
- (a) a subsidiary member of the group; or
 - (b) a non-resident company; or
 - (c) a non-resident trust; or
 - (d) an entity that holds membership interests in an entity interposed between it and the test entity, or in the test entity, only as a nominee of one or more entities each of which is a member of the group, a non-resident company or a non-resident trust; or
 - (e) a partnership, each of the partners in which is a non-resident company or a non-resident trust.

Test entity must be a subsidiary member on assumption that non-resident companies and non-resident trusts were subsidiary members

- (5) At the test time, it must be the case that the test entity would be a subsidiary member of the group if each interposed entity that is a non-resident company or non-resident trust were a subsidiary member of the group.

Additional requirement for consolidatable groups

- (6) If the group is a consolidatable group, the test time must be before 1 July 2004.

Additional requirement for consolidated groups at formation

- (7) If the group is a consolidated group and the test time is the time at which the group comes into existence as a consolidated group, the test time must be before 1 July 2004.

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Additional requirement for consolidated groups after formation

(8) If:

- (a) the group is a consolidated group; and
- (b) the test time is after the group comes into existence; and
- (c) at the test time, one or more of the membership interests in the test entity are held by:
 - (i) a non-resident company; or
 - (ii) a non-resident trust; or
 - (iii) an entity that holds the membership interests only as a nominee of one or more entities each of which is a non-resident company or a non-resident trust; or
 - (iv) a partnership, each of the partners in which is a non-resident company or a non-resident trust;

then:

- (d) from the time the group came into existence as a consolidated group until the test time, the test entity must have been a subsidiary member of the group; and
- (e) at the time the group came into existence as a consolidated group, one or more of the membership interests in the test entity must have been held by an entity of a kind mentioned in subparagraph (c)(i), (ii), (iii) or (iv).

701C-15 Additional membership rules where entities are interposed between the head company and a subsidiary member—case where an interposed entity is a foreign resident and the subsidiary member is a trust or partnership

- (1) This section describes, for the purposes of item 2, column 4 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997*, a set of requirements that must be met for an entity (the **test entity**) to be a subsidiary member of a consolidated group or a consolidatable group at a particular time (the **test time**).

Note: This subsection applies in relation to a MEC group as if the reference to item 2, column 4 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997* were a reference to subparagraph 719-10(1)(b)(iii) of that Act (see subsection 719-2(3) of this Act).

Test entity must be a trust or partnership

- (2) At the test time, the test entity must be a trust or partnership.

At least one interposed entity must be a company that is a subsidiary member because of section 701C-10

- (3) At the test time, one or more of the interposed entities must be companies that are subsidiary members of the group because the set of requirements in section 701C-10 are met.

Test entity must be a subsidiary member on assumption that head company beneficially owned all membership interests beneficially owned by subsection (3) companies

- (4) At the test time, it must be the case that the test entity would be a subsidiary member of the group if the head company beneficially owned all the membership interests beneficially owned by each company described in subsection (3).

701C-20 Transitional foreign-held subsidiaries and transitional foreign-held indirect subsidiaries

If:

- (a) an entity is a subsidiary member of a consolidated group in a case where the set of requirements described in section 701C-10 are met; and
- (b) one or more of the membership interests in the entity are held by:
 - (i) a non-resident company; or
 - (ii) a non-resident trust; or
 - (iii) an entity that holds the membership interests only as a nominee of one or more entities each of which is a non-resident company or a non-resident trust; or
 - (iv) a partnership, each of the partners in which is a non-resident company or a non-resident trust;

then:

- (c) the entity is a ***transitional foreign-held subsidiary*** of the group; and

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(d) if:

- (i) the transitional foreign-held subsidiary; or
- (ii) an entity that is a transitional foreign-held indirect subsidiary of the group because of another application of this paragraph;

holds one or more membership interests in another entity that:

- (iii) is a subsidiary member of the group; and
- (iv) is not a transitional foreign-held subsidiary of the group; that other member is a ***transitional foreign-held indirect subsidiary*** of the group.

Note: In order to be a subsidiary member of the group as required by subparagraph (d)(iii), the transitional foreign-held indirect subsidiary would need to have satisfied the set of requirements in either section 701C-10 or 701C-15

Subdivision 701C-C—Modifications of tax cost setting rules

Table of sections

Application and object

701C-25 Application and object of this Subdivision

Basic modification

701C-30 Transitional foreign-held subsidiary to be treated as part of head company

Other modifications

701C-35 Trading stock value not set for assets of transitional foreign-held subsidiaries

701C-40 Cost setting rules for exit cases—modification of core rules

701C-50 Cost setting rules for exit cases—reference to modification of core rule

Application and object

701C-25 Application and object of this Subdivision

Application

- (1) This Subdivision applies if an entity (the ***transitional foreign-held joining entity***) that is a transitional foreign-held subsidiary or a transitional foreign-held indirect subsidiary becomes a subsidiary member of a consolidated group at the time (the ***formation time***) the group comes into existence.

Object

- (2) The object of this Subdivision is to ensure that, on becoming a subsidiary member at the formation time, the tax cost of the assets of any transitional foreign-held subsidiary is not set and that the tax cost setting amount for assets of any transitional foreign-held indirect subsidiary that becomes a subsidiary member at that time takes account of this.

Basic modification

701C-30 Transitional foreign-held subsidiary to be treated as part of head company

The following provisions:

- (a) section 701-10 of the *Income Tax Assessment Act 1997* (about setting the tax cost of assets that an entity brings into the group);
- (b) Subdivision 705-A of that Act, in its application in accordance with Subdivision 705-B of that Act;

apply, for the purposes of setting the tax cost of an asset of the transitional foreign-held joining entity at the formation time, as if each subsidiary member of the group that is a transitional foreign-held subsidiary at the formation time were a part of the head company of the group, rather than a separate entity.

Note 1: This section means that references in those provisions to matters internal to the group operate as if transitional foreign-held subsidiaries

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in the group were parts of the head company of the group. For example:

- (a) provisions operating if the head company holds (whether directly or indirectly) membership interests in another entity operate even if a transitional foreign-held subsidiary actually holds those interests; and
- (b) provisions operating if the head company owns or controls another entity operate even if one or more transitional foreign-held subsidiaries actually own or control that other entity; and
- (c) provisions operating if an entity is interposed between the head company and another entity operate even if the first entity is actually interposed between a transitional foreign-held subsidiary and the other entity.

Note 2: If the transitional foreign-held joining entity is a transitional foreign-held subsidiary, this section means the assets of the entity do not have their tax cost reset at the formation time. This is because Subdivision 705-A of the *Income Tax Assessment Act 1997*, in its application in accordance with Subdivision 705-B of that Act, resets the tax cost of assets of *subsidiary* members of a group, but not assets of the head company.

Other modifications

701C-35 Trading stock value not set for assets of transitional foreign-held subsidiaries

Subsection 701-35(4) of the *Income Tax Assessment Act 1997* (setting value of trading stock at tax-neutral amount) does not apply to the assets of the transitional foreign-held joining entity if it is a transitional foreign-held subsidiary.

701C-40 Cost setting rules for exit cases—modification of core rules

Section 701-15 of the *Income Tax Assessment Act 1997* applies as if the following subsection were added at the end of the section:

Application to transitional foreign-held subsidiaries

- (4) If an entity that ceases to be a subsidiary member is a transitional foreign-held subsidiary when it does so:
 - (a) this section applies to each membership interest in the transitional foreign-held subsidiary that is held by an entity

(an **eligible non-resident**) of a kind mentioned in subparagraph 701C-20(b)(i), (ii), (iii) or (iv) of the *Income Tax (Transitional Provisions) Act 1997* in the same way as it applies to a membership interest in the transitional foreign-held subsidiary that is held by the head company; and

- (b) for that purpose, the definition of **head company core purposes** in subsection 701-1(2) of the *Income Tax Assessment Act 1997* applies to the eligible non-resident in the same way as it applies to the head company.

701C-50 Cost setting rules for exit cases—reference to modification of core rule

Section 711-5 of the *Income Tax Assessment Act 1997* applies as if the following note were added at the end of the section:

Note: If the leaving entity is a transitional foreign-held subsidiary (within the meaning of section 701C-20 of the *Income Tax (Transitional Provisions) Act 1997*), this Division will, in accordance with subsection 701-15(4) of this Act (see section 701C-40 of the first-mentioned Act), apply to membership interests that an eligible non-resident mentioned in that subsection holds in the entity in the same way as it applies to membership interests that the head company holds in the entity.

Division 701D—Transitional foreign loss makers

Table of Subdivisions

- 701D-A Object of this Division
- 701D-B Membership rules allowing transitional foreign loss makers to remain outside consolidated group

Subdivision 701D-A—Object of this Division

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- 701D-1 Object of this Division

701D-1 Object of this Division

- (1) The object of this Division is to allow an entity that is a potential subsidiary member of a consolidated group to utilise an overall foreign loss (as defined in former section 160AFD of the *Income Tax Assessment Act 1936*) during a transitional period, rather than have the head company utilise the loss subject to the restrictions in Subdivision 707-C of the *Income Tax Assessment Act 1997*.
- (2) Therefore, this Division allows the head company to prevent the entity from being a subsidiary member of the group, for a transitional period.

Subdivision 701D-B—Rules allowing transitional foreign loss makers to remain outside consolidated group

Table of sections

- 701D-10 Transitional foreign loss maker not member of group if certain conditions satisfied
- 701D-15 Choice to apply transitional rules to entity

701D-10 Transitional foreign loss maker not member of group if certain conditions satisfied

- (1) The *Income Tax Assessment Act 1997* and this Act have effect as if an entity (the **transitional foreign loss maker**) is not a subsidiary member of a consolidated group at a particular time (the **transitional time**) if:
- (a) the group came into existence at a particular time (the **formation time**) before 1 July 2004; and
 - (b) apart from this section, the transitional foreign loss maker would be a subsidiary member of the group at the transitional time; and
 - (c) the transitional time is not later than 3 years after the formation time; and
 - (d) the head company of the group has made a choice under section 701D-15 to apply this section to the transitional foreign loss maker; and
 - (e) the continuous ownership condition in subsection (2) is satisfied; and
 - (f) the foreign loss condition in subsection (3) is satisfied; and
 - (g) the no-subsidiary condition in subsection (4) is satisfied.

Continuous ownership condition

- (2) The continuous ownership condition is satisfied if the transitional foreign loss maker was a wholly-owned subsidiary of the entity that became the head company of the group throughout the period:
- (a) beginning at the start of 1 July 2002; and
 - (b) ending at the transitional time.

Foreign loss condition

- (3) The foreign loss condition is satisfied if:
- (a) the transitional foreign loss maker incurred an overall foreign loss (as defined in former section 160AFD of the *Income Tax Assessment Act 1936*) in respect of the 2001-02 income year or an earlier income year; and
 - (b) the amount of the overall foreign loss has not been fully taken into account under one or more applications of former

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section 160AFD of the *Income Tax Assessment Act 1936* to the transitional foreign loss maker in relation to an income year or income years ending before the transitional time; and

- (c) assuming that the transitional foreign loss maker had become a subsidiary member of a consolidated group at the formation time, as a result all or part of the overall foreign loss would have been transferred at that time to the head company of the group under Division 707 of the *Income Tax Assessment Act 1997*.

No-subsidiary condition

- (4) The no-subsidiary condition is satisfied if, at the transitional time:
- (a) the transitional foreign loss maker does not hold any membership interests in any other entity; or
 - (b) both of the following conditions are satisfied:
 - (i) the transitional foreign loss maker holds one or more membership interests in one or more other entities;
 - (ii) assuming that the head company of the group (rather than the transitional foreign loss maker) held that interest or those interests, none of those other entities would be a subsidiary member of the group.

Transitional foreign loss maker stays in consolidatable group

- (5) To avoid doubt, subsection (1) does not prevent the transitional foreign loss maker from being a member of a consolidatable group at the transitional time for the purposes of:
- (a) subsection 126-50(6) of the *Income Tax Assessment Act 1997*; and
 - (b) paragraphs 170-5(2A)(b) and 170-105(2A)(b) of that Act; and
 - (c) subparagraph 820-599(1)(b)(iii) of that Act.

701D-15 Choice to apply transitional rules to entity

- (1) The head company of a consolidated group may make a choice in the approved form to apply section 701D-10 to another entity.

- (2) However, the head company cannot make that choice if subsection 701D-10(1) previously prevented the entity from being a subsidiary member of a consolidated group.
- (3) The choice must be made by the later of:
 - (a) the day on which the head company must give the notice under section 703-58 of the *Income Tax Assessment Act 1997* (notice of choice to consolidate); and
 - (b) 30 days after the *Taxation Laws Amendment Act (No. 1) 2004* received the Royal Assent.
- (4) The choice cannot be revoked.

Division 702—Modified application of this Act to assets that an entity brings into a consolidated group

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| 702-4 | Extended operation of subsection 40-285(3) |
| 702-5 | Modified application of subsection 40-285(6) of this Act after entity brings assets into consolidated group |

702-1 Modified application of section 40-77 of this Act to assets that an entity brings into a consolidated group

- (1) This section applies if:
- (a) an entity becomes a subsidiary member of a consolidated group; and
 - (b) just before it does so, section 40-77 of this Act applies to an asset that it holds.
- (2) For so long as the asset continues to be:
- (a) an asset of the head company because subsection 701-1(1) (the single entity rule) of the *Income Tax Assessment Act 1997* applies; or
 - (b) an asset of another entity, where it became such an asset as a result of that subsection ceasing to apply on the entity ceasing to be a subsidiary member of the group;
- then, despite certain provisions of that Act applying, in accordance with subsection 701-55(2) of that Act, as if the asset were acquired for a payment equal to its tax cost setting amount:
- (c) subsection 40-77(1) continues to apply to the asset; and
- Note: This means that Division 40 of the *Income Tax Assessment Act 1997* continues not to apply to an asset that is a mining, quarrying or prospecting right.
- (d) subsection 40-77(2) continues to apply to the asset, but applies as if the reference in that subsection to the cost of the asset were a reference to the cost worked out on the basis that

the asset were acquired for a payment equal to its tax cost setting amount; and

- (e) subsection 40-77(3) continues to apply to the asset, but applies as if the reference in that subsection to the amount included in assessable income under subsection 40-285(1) of that Act were a reference to the amount so worked out on the basis that the asset were acquired for a payment equal to its tax cost setting amount.

702-4 Extended operation of subsection 40-285(3)

- (1) This section applies in relation to a balancing adjustment event that occurs:

- (a) for a depreciating asset held by an entity (the *final entity*); and
 - (b) after the asset became an asset of the head company of a consolidated group because of section 701-1 (the single entity rule) of the *Income Tax Assessment Act 1997* applying when an entity became a subsidiary member of the group.

It does not matter whether or not the final entity is the same as the head company or the entity mentioned in paragraph (b).

Note: The final entity will be different from the head company if an entity (the *leaving entity*) took the asset with it when leaving the group, whether or not the leaving entity brought the asset into another consolidated group before the asset came to be held by the final entity.

- (2) The final entity is entitled to a further deduction under subsection 40-285(3) of this Act for the balancing adjustment event if the final entity would have been entitled to the deduction apart from paragraph 701-55(2)(a) of the *Income Tax Assessment Act 1997* operating at any time before the event occurred.

Note: The final entity will be entitled to the deduction apart from paragraph 701-55(2)(a) of the *Income Tax Assessment Act 1997* only if the entity is treated as having depreciated the asset under former Division 42 of that Act, because of section 701-5 (the entry history rule) of that Act and perhaps also section 701-40 (the exit history rule) of that Act.

- (3) However, the final entity is not entitled to the deduction if, at a time before the balancing adjustment event occurred:

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- (a) the asset became the asset of the head company of a consolidated group because of section 701-1 (the single entity rule) of the *Income Tax Assessment Act 1997* applying when an entity (the *joining entity*) became a subsidiary member of the group; and
- (b) the tax cost setting amount for the asset was more than the joining entity's terminating value for the asset.

It does not matter whether or not the change in status of the asset described in paragraph (a) of this subsection is the same change as the change in status of the asset described in paragraph (1)(b).

Note: In some cases, section 705-47 of the *Income Tax Assessment Act 1997* reduces the tax cost setting amount for a depreciating asset to the joining entity's terminating value for the asset, so that subsection (3) of this section will not prevent the final entity from getting the further deduction under subsection 40-285(3) of this Act.

702-5 Modified application of subsection 40-285(6) of this Act after entity brings assets into consolidated group

If:

- (a) an entity becomes a subsidiary member of a consolidated group; and
- (b) because subsection 701-1(1) (the single entity rule) of the *Income Tax Assessment Act 1997* applies, an asset of the entity becomes an asset of the head company of the group; and
- (c) a balancing adjustment event happens in relation to the asset while it is an asset of the head company;

subsection 40-285(6) of this Act (about reducing the amount included in assessable income for a balancing adjustment event) applies as if the cost of the asset were equal to the tax cost setting amount applicable in relation to the asset for the purposes of having its tax cost set by section 701-10 (cost to head company of assets that entity brings into group) of the *Income Tax Assessment Act 1997*.

Note: The tax cost setting amount applicable in relation to the asset for that purpose is worked out in accordance with Division 705 of the *Income Tax Assessment Act 1997*.

Division 703—Consolidated groups and their members

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703-30 Debt interests that are not membership interests

- (1) For the purposes of Part 3-90 of the *Income Tax Assessment Act 1997*, this section affects whether an interest or right that is held by an entity on or after 1 July 2002 and relates to another entity is a membership interest of the entity in the other entity.
- (2) Apply Division 974 of the *Income Tax Assessment Act 1997* in determining under Subdivision 960-G of that Act whether the interest or right is a membership interest of the entity in the other entity.

Note: Under Subdivision 960-G of the *Income Tax Assessment Act 1997*, a debt interest relating to an entity is not a membership interest in the entity. Division 974 of that Act explains what a debt interest is.
- (3) This section has effect whether or not the debt and equity test amendments (as defined in item 118 of Schedule 1 to the *New Business Tax System (Debt and Equity) Act 2001*) apply to transactions in relation to the interest or right at the relevant time.

703-35 Employee share schemes

Despite the amendments of section 703-35 of the *Income Tax Assessment Act 1997* made by Schedule 1 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009*, subsection (4) of that section continues to apply, from the commencement of that Schedule, to each share and membership interest that it applied to just before that commencement.

Division 705—Tax cost setting amount for assets where entities become members of consolidated groups

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705-E Expenditure relating to exploration, mining or quarrying

Subdivision 705-E—Expenditure relating to exploration, mining or quarrying

Table of sections

705-300 Application and object of this Subdivision

705-305 Rules affecting depreciating assets

705-310 Adjustable value of head company's notional assets

705-300 Application and object of this Subdivision

- (1) If an entity (the *joining entity*) to which section 40-75 of this Act applied becomes a subsidiary member of a consolidated group at a time (the *joining time*), this Subdivision applies in relation to:
 - (a) depreciating assets that:
 - (i) caused section 40-75 of this Act to apply to the joining entity; and
 - (ii) became assets of the head company of the group at the joining time because of section 701-1 (Single entity rule) of the *Income Tax Assessment Act 1997* operating in relation to the joining entity; and
 - (b) notional assets that sections 40-35, 40-37, 40-40 and 40-43 of this Act treat an entity as holding because of expenditure relating to such depreciating assets;
to affect the operation of Division 40, section 701-55 and Division 705 of that Act.
- (2) The main object of this Subdivision is to ensure that entities are allowed only an appropriate amount of deductions in connection with such depreciating assets and such expenditure.

705-305 Rules affecting depreciating assets

- (1) The main object of this section is to ensure that a depreciating asset's tax cost is set, and other matters relevant to working out the deductions of the head company of the consolidated group for the decline in value of the asset are dealt with, so as to:
- (a) ensure that the head company does not get excessive deductions on account of expenditure (by any entity) relating to the asset; and
 - (b) reflect the deductions of an entity for a period ending before the joining time for expenditure relating to the asset; and
 - (c) ensure that the effective life of the asset for the head company reflects the rate or rates at which the joining entity was able to deduct expenditure relating to the asset (whether or not the expenditure formed part of the cost of the asset).

Prime cost method of working out decline in value of asset

- (2) If the joining entity could not deduct an amount under Subdivision 40-B of the *Income Tax Assessment Act 1997* for the income year that includes the joining time for the decline in value of a depreciating asset, subsection 701-55(2) of that Act has effect as if the prime cost method for working out the decline in value of the asset applied just before the joining time.

Note: This may affect both the method of working out the decline in value of the asset and the asset's effective life.

Adjustable value of asset

- (3) Division 705 of the *Income Tax Assessment Act 1997* has effect as if the adjustable value of a depreciating asset just before and at the joining time were increased by the amount described in subsection (4), if section 40-35, 40-37, 40-40 or 40-43 treated the joining entity as holding a notional asset.

Note: This affects not only the adjustable value of the depreciating asset but also the joining entity's terminating value for the asset (which section 705-30 of that Act defines as being equal to the asset's adjustable value just before the joining time).

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- (4) The amount of the increase is so much of the adjustable value of the notional asset just before the joining time as reasonably relates to the depreciating asset.

Cost of asset

- (5) Division 705 of the *Income Tax Assessment Act 1997* has effect as if the cost of a depreciating asset were increased by expenditure incurred that did not form part of the asset's cost worked out under Division 40 of that Act but would have if it had been incurred just before the joining time under a contract entered into after 30 June 2001.

Earlier deductions for decline in value of asset

- (6) Division 705 of the *Income Tax Assessment Act 1997* has effect as if deductions relating to expenditure described in subsection (5) were deductions for the decline in value of the depreciating asset.

Example: Such deductions include:

- (a) deductions under former Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997*, or a corresponding previous law, for the expenditure; and
- (b) deductions under Division 40 of that Act for the decline in value of a notional asset that section 40-35, 40-37, 40-40 or 40-43 of this Act treated an entity as holding because of the expenditure.

Effective life of asset

- (7) If a depreciating asset's tax cost setting amount does not exceed the joining entity's terminating value for the asset, Division 40 of the *Income Tax Assessment Act 1997* has effect as if the effective life of the asset were such period as is reasonable, having regard to the following:
- (a) the remainder of the effective life of the asset, worked out just before the joining time;
 - (b) the remainder of the effective life, worked out just before the joining time, of each notional asset (which section 40-35, 40-37, 40-40 or 40-43 of this Act treats an entity as holding wholly or partly because of expenditure relating to the depreciating asset);
 - (c) any other relevant matters.
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Subsection 701-55(2) of that Act has effect subject to this subsection.

Note 1: The effective life of the depreciating asset was set on 1 July 2001 by subsection 40-75(4) of this Act, but may have been reset since under Subdivision 40-B of the *Income Tax Assessment Act 1997*.

Note 2: The effective life of a notional asset is specified by whichever one of sections 40-35, 40-37, 40-40 and 40-43 of this Act is relevant to the notional asset.

Choosing to reduce tax cost setting amount of asset

(8) If:

- (a) a depreciating asset's tax cost setting amount would be greater than the joining entity's terminating value for the asset; and
- (b) the head company of the consolidated group chooses to apply this subsection to the asset;

the asset's tax cost setting amount is reduced so that it equals the terminating value.

Note 1: A consequence of the choice is that subsection (7) applies to the asset.

Note 2: The amount of the reduction is not re-allocated among other assets.

(9) Section 705-55 of the *Income Tax Assessment Act 1997* has effect as if subsection (8) of this section were included in section 705-45 of that Act.

Note: This affects the order of reductions in the asset's tax cost setting amount under subsection (8) of this section and section 705-40 of the *Income Tax Assessment Act 1997*.

705-310 Adjustable value of head company's notional assets

Application

(1) If:

- (a) section 40-35, 40-37, 40-40 or 40-43 of this Act treats the head company of the consolidated group as holding a notional asset at the joining time because expenditure is taken under section 701-5 (Entry history rule) of the *Income*

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Tax Assessment Act 1997 to be expenditure of the head company; and

- (b) section 40-35, 40-37, 40-40 or 40-43 of this Act treated the joining entity as holding a notional asset just before the joining time because of the expenditure;

this section affects the adjustable value of the head company's notional asset.

Object

- (2) The object of this section is to ensure, by reducing the adjustable value of a notional asset of the head company, that the head company cannot get both:
- (a) a deduction for the notional asset reflecting the amount of the expenditure relating to depreciating assets; and
 - (b) a deduction for that amount because of the decline in value of those depreciating assets.

Reduction at joining time for expenditure on depreciating assets

- (3) The opening adjustable value of the head company's notional asset for the income year that includes the joining time is so much of the adjustable value of the joining entity's notional asset just before the joining time as does not reasonably relate to any depreciating asset.

Note: This offsets the increases in adjustable value of the head company's depreciating assets under subsection 705-305(3).

Division 707—Losses for head companies when entities become members etc.

Table of Subdivisions

- 707-A Transfer of losses to head company
- 707-C Amount of transferred losses that can be utilised
- 707-D Special rules about losses

Subdivision 707-A—Transfer of losses to head company

Table of sections

- 707-145 Certain choices to cancel the transfer of a loss may be revoked

707-145 Certain choices to cancel the transfer of a loss may be revoked

Subsection 707-145(3) of the *Income Tax Assessment Act 1997* does not apply if:

- (a) the revocation of the choice mentioned in that subsection takes place before 1 January 2006; and
- (b) each entity in relation to which the following conditions are satisfied has agreed to the revocation:
 - (i) the entity (the **leaving entity**) ceased to be a subsidiary member of the group before the revocation took place;
 - (ii) an asset became that of the leaving entity because section 701-1 (the single entity rule) of the *Income Tax Assessment Act 1997* ceased to apply when the leaving entity ceased to be a subsidiary member;
 - (iii) the asset had become that of the head company because that section applied when the joining entity to which Subdivision 707-A of that Act applies (whether or not the same entity as the leaving entity) became a subsidiary member.

Subdivision 707-C—Amount of transferred losses that can be utilised

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| 707-325 | Increasing the available fraction for a bundle of losses by increasing the real loss-maker's modified market value |
| 707-326 | Events involving only value donor and real loss-maker not covered by rule against inflation of modified market value |
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707-325 Increasing the available fraction for a bundle of losses by increasing the real loss-maker's modified market value

Conditions for increasing real loss-maker's modified market value

- (1) This section affects the working out of the available fraction for a bundle of losses under subsection 707-320(1) of the *Income Tax Assessment Act 1997* if:
 - (a) the transferee mentioned in that subsection chooses under subsection (5) of this section to work out the available fraction using a percentage of the modified market value of a company (the **value donor**) other than the real loss-maker mentioned in subsection 707-315(1) of that Act for the bundle; and
 - (b) both the real loss-maker and the value donor became members of the group mentioned in subsection 707-315(1) of that Act in connection with the bundle at the time (which is the initial transfer time mentioned in that subsection in connection with the bundle) the group became a consolidated group; and
 - (c) the initial transfer time is before 1 July 2004; and

- (ca) neither the real loss-maker nor the value donor has been, at any time before the initial transfer time, a transitional foreign loss maker prevented by subsection 701D-10(1) from being a subsidiary member of a consolidated group; and
 - (d) the bundle includes a loss that is *not*:
 - (i) an overall foreign loss (as defined in former section 160AFD of the *Income Tax Assessment Act 1936*); or
 - (ii) a loss whose utilisation is affected by section 707-350 (about utilisation of certain losses originally made for an income year ending on or before 21 September 1999); and
 - (e) the value donor would have been able to transfer the loss to the transferee under Subdivision 707-A of the *Income Tax Assessment Act 1997* at the initial transfer time had the value donor:
 - (i) made the loss for the income year for which the real loss-maker made it; and
 - (ii) not utilised it; and
 - (ea) neither of these sections applies in relation to the value donor as joining entity at the time the group became a consolidated group:
 - (i) section 713-535 (Losses of entities whose membership interests are virtual PST assets of life insurance company);
 - (ii) section 713-540 (Losses of entities whose membership interests are segregated exempt assets of life insurance company); and
 - (f) the requirement in subsection (2) is met.
- (2) It must have been possible for the real loss-maker to have transferred the loss to the value donor under Subdivision 170-A or 170-B of the *Income Tax Assessment Act 1997* for an income year consisting of the period described in section 707-328 had the conditions in that section existed.

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Adding to the modified market value of the real loss-maker

- (3) Work out the available fraction for the bundle of losses as if there were added to the modified market value of the real loss-maker at the initial transfer time the amount worked out using the formula:

$$\frac{\text{Value donor's modified market value at initial transfer time}}{\text{Value donor's modified market value at initial transfer time}} \times \frac{\text{Percentage chosen by transferee}}{\text{Percentage chosen by transferee}} \times \frac{\text{Total of real loss-maker's Division 170 losses in bundle}}{\text{Total of real loss-maker's non-foreign losses in bundle}}$$

Note: The amount worked out using the formula will be nil if the value donor's modified market value at the initial transfer time is nil. Even if the amount is nil, section 707-327 may treat losses transferred by the value donor to the transferee as if they were included in the bundle of losses transferred by the real loss-maker to the transferee.

- (4) In subsection (3):

total of real loss-maker's Division 170 losses in bundle is the total of the amount of each loss:

- (a) that is covered by paragraphs (1)(d) and (e); and
- (b) in relation to which the requirements in subsection (2) are met.

total of real loss-maker's non-foreign losses in bundle is the total of the amount of each loss that is described in paragraph (1)(d).

Choice to work out available fraction using this section

- (5) The transferee may choose to use a fixed percentage (greater than 0% and not more than 100%) of the value donor's modified market value to work out the available fraction for the bundle. The transferee may do so only by the later of:
- (a) the day on which it lodges its income tax return for the first income year for which it utilises (except in accordance with section 707-350) losses transferred to it under Subdivision 707-A of the *Income Tax Assessment Act 1997*; and
 - (b) the end of 31 December 2005.

Note: For the purposes of paragraph (5)(a), ignore losses to which section 713-535 (Losses of entities whose membership interests are

virtual PST assets of life insurance companies) of the *Income Tax Assessment Act 1997* applies. See section 707-355 of this Act.

- (6) The choice cannot be amended, or revoked, after 31 December 2005.

If this section applies more than once for the same value donor

- (7) If subsection (3) applies 2 or more times in relation to the same value donor but different real loss-makers, the transferee cannot choose for those applications percentages of the value donor's modified market value at the initial transfer time that result in the total of the amounts worked out under those applications exceeding that value.

Increase in real loss-maker's value reduces value donor's value

- (8) Work out the available fraction for a bundle of losses transferred under Subdivision 707-A of the *Income Tax Assessment Act 1997* from the value donor at the initial transfer time as if the value donor's modified market value at the time were reduced by the amount worked out under subsection (3).

This section does not affect utilisation of overall foreign losses

- (9) This section has effect for working out the available fraction of a bundle of losses only so far as it affects the utilisation of a tax loss, film loss or net capital loss. It does not affect the utilisation of an overall foreign loss (as defined in former section 160AFD of the *Income Tax Assessment Act 1936*) included in a bundle of losses:
- (a) transferred from the real loss-maker under Subdivision 707-A of the *Income Tax Assessment Act 1997*; or
 - (b) transferred from the value donor under that Subdivision.

Note: If a bundle of losses includes an overall foreign loss and a loss of another sort:

- (a) utilisation of the overall foreign loss is limited by the available fraction for the bundle worked out apart from this section; and
- (b) utilisation of the loss of the other sort is limited by the available fraction for the bundle as affected by this section, if applicable.

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707-326 Events involving only value donor and real loss-maker not covered by rule against inflation of modified market value

- (1) This section affects the calculation of the modified market value of the real loss-maker mentioned in subsection 707-315(1) of the *Income Tax Assessment Act 1997* for a bundle of losses. This section affects the calculation:
 - (a) only if section 707-325 of this Act applies for the purposes of working out the available fraction for the bundle; and
 - (b) only for the purposes of working out the available fraction for the bundle to affect the utilisation of tax losses, film losses and net capital losses in the bundle (and not any overall foreign losses, as defined in former section 160AFD of the *Income Tax Assessment Act 1936*, in the bundle).

Note: This section does not affect the calculation of the real loss-maker's modified market value for other purposes (such as the real loss-maker being a value donor for the purposes of another application of section 707-325 of this Act).
- (2) Disregard for the purposes of subsection 707-325(2) of the *Income Tax Assessment Act 1997* an event:
 - (a) that is described in subsection 707-325(4) of that Act; and
 - (b) that meets the condition in subsection (3) or (4) of this section.
- (3) One condition is that the event was an injection of capital directly into the real loss-maker by the value donor mentioned in section 707-325 of this Act.
- (4) The other condition is that the event was a transaction:
 - (a) that did not take place at arm's length; and
 - (b) that involved only the real loss-maker and the value donor mentioned in section 707-325 of this Act; and
 - (c) that would have caused subsection 707-325(2) of the *Income Tax Assessment Act 1997* to operate in working out the real loss-maker's modified market value (even if no other events described in subsection 707-325(4) of that Act had occurred), apart from this section.

- (5) Subsection (2) of this section does not apply if subsection 707-325(2) of the *Income Tax Assessment Act 1997*:
- (a) operates for the purposes of working out the value donor's modified market value because of an event that involved an entity other than the value donor and the real loss-maker (whether or not the event also involved either the value donor or the real loss-maker); or
 - (b) would operate for those purposes because of such an event apart from another application of this section.

707-327 Choosing available fraction to apply to value donor's loss

Conditions for choosing available fraction for value donor's loss

- (1) This section has effect for the purposes of working out under Subdivision 707-C of the *Income Tax Assessment Act 1997* how much of a tax loss, film loss or net capital loss can be utilised if:
- (a) the available fraction for a bundle of other losses is worked out, because of section 707-325, as if there were added to the modified market value of the real loss-maker of the other losses an amount worked out under that section by reference to the value donor's modified market value; and
 - (b) the loss was transferred under Subdivision 707-A of that Act at the initial transfer time *from the value donor*; and
 - (c) the loss is *not* a loss whose utilisation is affected by section 707-350 (about utilisation of certain losses originally made for an income year ending on or before 21 September 1999); and
 - (d) each company covered by subsection (2) would have been able to transfer the loss under Subdivision 707-A of that Act at the initial transfer time had the company:
 - (i) made the loss for the income year for which the value donor made it; and
 - (ii) not utilised it; and
 - (e) the requirement in subsection (3) is met.

Note: This section has effect even if the amount added to the real loss-maker's modified market value under section 707-325 is nil because the value donor's modified market value is nil.

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- (2) This subsection covers:
- (a) the real loss-maker; and
 - (b) each other company (if any) for which it is the case that the available fraction for the bundle is worked out, because of another application of section 707-325, as if there were added to the real loss-maker's modified market value an amount worked out by reference to the company.
- (3) It must have been possible for the value donor to have transferred an amount (greater than a nil amount) of the loss to each company covered by subsection (2) under Subdivision 170-A or 170-B of the *Income Tax Assessment Act 1997* for an income year consisting of the period described in section 707-328 had the conditions in that section existed.

Treating value donor's loss as included in bundle

- (4) If the transferee mentioned in subsection 707-325(1) chooses, sections 707-310, 707-335 (except paragraph 707-335(2)(a)) and 707-340 of the *Income Tax Assessment Act 1997* (and subsections 707-315(3) and (4) of that Act, so far as they relate to those sections) operate as if, at the initial transfer time:
- (a) the bundle of losses included the loss; and
 - (b) the loss was not included in any other bundle of losses.

Note: This section has the effect that the utilisation of the loss will be affected by the available fraction for the bundle of losses.

Choice to treat value donor's loss as included in bundle

- (5) A choice for the purposes of subsection (4):
- (a) may be made only by the later of:
 - (i) the day on which the transferee lodges its income tax return for the first income year for which it utilises (except in accordance with section 707-350) losses transferred to it under Subdivision 707-A of the *Income Tax Assessment Act 1997*; and
 - (ii) the end of 31 December 2005; and
 - (b) cannot be revoked after 31 December 2005.

Note: For the purposes of subparagraph (5)(a)(i), ignore losses to which section 713-535 (Losses of entities whose membership interests are virtual PST assets of life insurance companies) of the *Income Tax Assessment Act 1997* applies. See section 707-355 of this Act.

Loss already in bundle with increased available fraction

- (6) Subsection (4) does not apply in relation to the loss if it was covered by paragraphs 707-325(1)(d) and (e) and subsection 707-325(2) in an application of section 707-325 separate from the application of that section mentioned in paragraph (1)(a) of this section.

Note: This means that a loss that provided a basis for section 707-325 to apply in relation to the working out of the available fraction for a bundle of losses cannot be treated under this section as if it were included in another bundle of losses.

707-328 Income year and conditions for possible transfer under Division 170 of the *Income Tax Assessment Act 1997*

- (1) This section sets out the period and conditions referred to:
- (a) in subsections 707-325(2) and 707-327(3); and
 - (b) in connection with the requirement that it must have been possible for a company (the *notional transferor*) to transfer to another company (the *notional transferee*) for an income year a loss under Subdivision 170-A or 170-B of the *Income Tax Assessment Act 1997*.

Period to be treated as income year for transfer

- (2) The period:
- (a) starts at the *later* of these times:
 - (i) the start of the trial year;
 - (ii) the start of the income year for which the loss was made; and
 - (b) ends immediately after the initial transfer time mentioned in subsection 707-320(1) of the *Income Tax Assessment Act 1997*.

Note: For the purposes of identifying the trial year using the definition in section 707-120 of the *Income Tax Assessment Act 1997*, the notional

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transferor mentioned in this section is the same as the joining entity mentioned in that section, and the initial transfer time mentioned in this section is the same as the joining time mentioned in that section.

Conditions

- (3) The first condition is that neither the notional transferor nor the notional transferee became a subsidiary member of a consolidated group before, at or after the initial transfer time mentioned in the relevant subsection.
- (4) The second condition is that neither of those Subdivisions had been amended to provide only for transfers involving an Australian branch (as defined in section 160ZZV of the *Income Tax Assessment Act 1936*) of a foreign bank.
- (5) The third condition is that the notional transferee's income or gains for the income year were great enough not to prevent the transfer.
- (6) The fourth condition is that those Subdivisions operated as if the notional transferor had made the loss for the income year if the notional transferor had actually made it for an income year ending just before the initial transfer time.

707-328A Some events involving only group members not covered by rule against inflation of modified market value

Overview

- (1) Subsection (3) of this section affects the calculation, under section 707-325 of the *Income Tax Assessment Act 1997* and section 707-325 of this Act, of the modified market value of the real loss-maker mentioned in subsection 707-315(1) of that Act for a bundle of losses, but only if:
 - (a) the requirement in subsection (2) of this section is met in relation to each other company that became a member of the group mentioned in subsection 707-315(1) of that Act in connection with the bundle at the time (the *formation time*) the group became a consolidated group; and
 - (b) the provisions described in subsection 707-327(4) of this Act operate (because of that subsection) in relation to each loss of

- such a company that is covered by paragraphs 707-327(1)(b) and (c) of this Act as if the bundle included the loss; and
- (c) all members of the group at the formation time were companies; and
 - (d) subsection 707-325(2) of that Act does not operate, for the purposes of working out the modified market value of an entity that became a member of the group at the formation time, because of an event that involved an entity that did not become a member of the group then; and
 - (e) the transferee mentioned in subsection 707-325(1) of this Act chooses that this section apply in relation to the real loss-maker.
- (2) Section 707-325 of this Act must apply in relation to the other company (as value donor) so that the available fraction for the bundle is to be worked out as if there were added to the real loss-maker's modified market value an amount worked out by reference to the other company's modified market value at the initial transfer time.

Disregarding events for purposes of anti-inflation rule

- (3) Disregard for the purposes of subsection 707-325(2) of the *Income Tax Assessment Act 1997* an event that is described in subsection 707-325(4) of that Act and was either:
- (a) an injection of capital into an entity that became a member of the group at the formation time by another such entity; or
 - (b) a transaction that involved only entities that became members of the group at the formation time.

- Note: Disregarding such an event could have a direct or indirect effect on the real loss-maker's modified market value for the purposes of working out the available fraction for the bundle in one of these ways:
- (a) it could directly affect the real loss-maker's modified market value calculated under section 707-325 of the *Income Tax Assessment Act 1997*, if the real loss-maker was involved in the event;
 - (b) it could have an indirect effect by affecting the value donor's modified market value calculated under that section and used under section 707-325 of this Act to add an amount to the real loss-maker's modified market value for those purposes.

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Choice

- (4) A choice for the purposes of paragraph (1)(e):
- (a) may be made only by the later of:
 - (i) the day on which the transferee lodges its income tax return for the first income year for which it utilises (except in accordance with section 707-350) losses transferred to it under Subdivision 707-A of the *Income Tax Assessment Act 1997*; and
 - (ii) the end of 31 December 2005; and
 - (b) cannot be amended, or revoked, after 31 December 2005.

Note: For the purposes of subparagraph (4)(a)(i), ignore losses to which section 713-535 (Losses of entities whose membership interests are virtual PST assets of life insurance companies) of the *Income Tax Assessment Act 1997* applies. See section 707-355 of this Act.

Scope of this section

- (5) This section affects the modified market value of an entity that became a member of the group at the formation time only for the purposes of calculating the real loss-maker's modified market value for the purposes of working out the available fraction for the bundle.
- (6) This section has effect for working out the available fraction of the bundle only so far as it affects the utilisation of a tax loss, film loss or net capital loss. It does not affect the utilisation of an overall foreign loss (as defined in former section 160AFD of the *Income Tax Assessment Act 1936*) that:
- (a) is included in the bundle; or
 - (b) was transferred under Subdivision 707-A of the *Income Tax Assessment Act 1997* from an entity other than the real loss-maker.

Note: If the bundle includes an overall foreign loss and a loss of another sort:

- (a) utilisation of the overall foreign loss is limited by the available fraction for the bundle worked out apart from this section; and
- (b) utilisation of the loss of the other sort is limited by the available fraction for the bundle as affected by this section, if applicable.

- (7) This section can operate in relation to only one bundle of losses transferred to the transferee under Subdivision 707-A of the *Income Tax Assessment Act 1997*.

707-329 Modified market value at a time before 8 December 2004

Disregard an event that is described in subsection 707-325(4) of the *Income Tax Assessment Act 1997* and occurred on or before 8 December 2000 in working out under section 707-325 of that Act the modified market value of an entity at the time it becomes a member of a consolidated group on a day before 8 December 2004.

707-350 Alternative loss utilisation regime to Subdivision 707-C of the *Income Tax Assessment Act 1997*

- (1) This section affects the way in which one or more losses of one particular sort in a bundle of losses transferred under Subdivision 707-A of the *Income Tax Assessment Act 1997* before 1 July 2004 can be utilised by the transferee if:
- (a) they were actually made (disregarding that Subdivision) by a company (the **real loss-maker**) for an income year ending on or before 21 September 1999; and
 - (b) they were transferred at the time (the **initial transfer time**) the transferee became the head company of a consolidated group; and
 - (c) they were transferred to the transferee from the real loss-maker because:
 - (i) the real loss-maker met the conditions in section 165-12 of that Act; and
 - (ii) the conditions in one or more of paragraphs 165-15(1)(a), (b) and (c) did not exist in relation to the real loss-maker; and
 - (d) none of them had been transferred under that Subdivision before the initial transfer time; and
 - (da) the real loss-maker has not been, at any time before the initial transfer time, a transitional foreign loss maker prevented by subsection 701D-10(1) from being a subsidiary member of a consolidated group; and

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- (e) the transferee has made a choice under subsection (5).

Losses to be utilised only after non-transferred losses

- (2) The transferee may utilise for an income year the losses only *after* utilising for the year losses (the ***non-transferred losses***) of the same sort that the transferee made without a transfer under Subdivision 707-A of the *Income Tax Assessment Act 1997* (even if the income year for which the transferee made the losses is earlier than an income year for which the transferee made any of the non-transferred losses).

Further limit on utilising the losses

- (3) The amount of the losses that the transferee may utilise for an income year *cannot exceed* the amount worked out for the year using the table.

| Limit on utilising the losses | | |
|--------------------------------------|--|---|
| Item | For this income year: | The amount of the losses that the transferee may utilise cannot exceed: |
| 1 | The first income year ending after the initial transfer time | $\frac{1}{3}$ of the total of the amounts of the losses that were transferred to the transferee |
| 2 | The second income year ending after the initial transfer time | The difference between: (a) $\frac{2}{3}$ of the total of the amounts of the losses that were transferred to the transferee; and (b) the amount of the losses utilised for the income year mentioned in item 1 |
| 3 | The third income year ending after the initial transfer time, or a later income year | The difference between: (a) the total of the amounts of the losses that were transferred to the transferee; and (b) the total of the amounts of the losses utilised for earlier income years ending after the initial transfer time |

Subdivision 707-C of Income Tax Assessment Act 1997 disappplied

- (4) Subdivision 707-C of the *Income Tax Assessment Act 1997* operates as if the losses had been made by the transferee *without* being transferred under Subdivision 707-A of that Act.

Note: This has 2 effects. First, Subdivision 707-C of that Act does not limit utilisation of the losses. Secondly, it affects the limit that Subdivision sets on utilising other losses in any bundle (because that limit depends on the transferee's income and gains remaining after utilisation of losses that have not been transferred under Subdivision 707-A of that Act).

Making choice

- (5) The transferee may choose that this section apply to the utilisation for any income year of all losses (of any sort) in the bundle that meet the conditions in paragraphs (1)(a), (b), (c) and (d). The transferee may do so only by the later of:
- (a) the day on which it lodges its income tax return for the first income year for which it could utilise any losses transferred to it under Subdivision 707-A of the *Income Tax Assessment Act 1997* (as described in subsection (1) or otherwise); and
 - (b) the end of 31 December 2005.

Note: For the purposes of paragraph (5)(a), ignore losses to which section 713-535 (Losses of entities whose membership interests are virtual PST assets of life insurance companies) of the *Income Tax Assessment Act 1997* applies. See section 707-355 of this Act.

When choice has effect

- (6) The choice has effect for that income year and all later income years (and cannot be revoked after 31 December 2005).

Future transfer of the losses not affected

- (7) This section does not limit the transfer under Subdivision 707-A of the *Income Tax Assessment Act 1997* of any of the losses from the transferee to another company.

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707-355 Ignore certain losses in working out when a choice can be made under this Subdivision

In working out when a choice may be made under subsection 707-325(5), 707-327(5), 707-328A(4) or 707-350(5), ignore losses to which section 713-535 of the *Income Tax Assessment Act 1997* applies.

Note: That section deals with losses transferred under Subdivision 707-A of that Act from certain wholly-owned subsidiaries of life insurance companies that are members of a consolidated group.

Subdivision 707-D—Special rules about losses

Table of sections

707-405 Special rules about losses referable to part of income year

707-405 Special rules about losses referable to part of income year

Section 707-405 of the *Income Tax Assessment Act 1997* has effect in relation to this Division, and Division 170 of that Act as it has effect for the purposes of this Division, in the same way as that section has effect in relation to Division 707 of that Act.

Division 709—Other rules applying when entities become subsidiary members etc.

Table of Subdivisions

709-D Deducting bad debts

Subdivision 709-D—Deducting bad debts

Table of sections

709-200 Application of Subdivision 709-D of the *Income Tax Assessment Act 1997*

709-200 Application of Subdivision 709-D of the *Income Tax Assessment Act 1997*

Subdivision 709-D of the *Income Tax Assessment Act 1997* applies on and after 1 July 2002.

Division 712—Certain rules for where entities cease to be subsidiary members of consolidated groups

Table of Subdivisions

712-E Expenditure relating to exploration, mining or quarrying

Subdivision 712-E—Expenditure relating to exploration, mining or quarrying

Table of sections

712-305 Reducing adjustable value of head company's notional asset

712-305 Reducing adjustable value of head company's notional asset

- (1) This section reduces the adjustable value of a notional asset that section 40-35, 40-37, 40-38, 40-40 or 40-43 treats the head company of a consolidated group as holding, if:

- (a) an entity (the *leaving entity*) ceases to be a subsidiary member of the group at a time (the *leaving time*); and
- (b) that section treats the leaving entity as holding a notional asset because of section 701-40 (Exit history rule) of the *Income Tax Assessment Act 1997*.

Note: Section 701-40 (Exit history rule) of the *Income Tax Assessment Act 1997* treats as expenditure of the leaving entity certain expenditure incurred before the leaving time in relation to an asset or business that was an asset or business of the leaving entity at the leaving time.

- (2) The adjustable value of the head company's notional asset is reduced at the leaving time by the adjustable value of the leaving entity's notional asset at that time.

Division 713—Rules for particular kinds of entities

Table of Subdivisions

- 713-L Transitional relief for certain transactions relating to life insurance companies
- 713-M General insurance companies

Subdivision 713-L—Transitional relief for certain transactions relating to life insurance companies

Table of sections

- 713-500 Object of Subdivision
- 713-505 When this Subdivision applies (first case)
- 713-510 When this Subdivision applies (second case)
- 713-515 Entities must choose the relief
- 713-520 Conditions
- 713-525 Time of transfer
- 713-530 What the relief is
- 713-535 Subsequent consequences
- 713-540 Requirement to notify happening of new event
- 713-545 Discount capital gain in certain cases

713-500 Object of Subdivision

The object of this Subdivision is to give an opportunity to a group of entities that includes a life insurance company to rearrange the assets of the group for the purposes of one or more of them becoming members of a consolidated group in a way that does not attract any immediate taxation consequences.

713-505 When this Subdivision applies (first case)

- (1) This Subdivision provides for a deferral of the taxation consequences that would occur because of an event (the *deferral event*) happening involving an entity (the *originating entity*) and another entity (the *recipient entity*) if:

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- (a) the event occurs in connection with a life insurance company (the *member life insurance company*) becoming a member of a consolidated group; and
 - (b) the relevant conditions in section 713-520 are met.
- (2) If the originating entity is a company, the deferral event referred to in subsection (1) is a CGT event referred to in subsection (4) happening to a CGT asset (the *original asset*) where, apart from this Subdivision, the happening of the event would have resulted in:
 - (a) an amount (other than a capital gain) being included in the originating entity's assessable income; or
 - (b) the originating entity making a capital gain.
- (3) If the originating entity is a trust, the deferral event referred to in subsection (1) is a CGT event referred to in subsection (4) happening to a CGT asset (also the *original asset*) where, apart from this Subdivision, the happening of the event would have resulted in:
 - (a) an amount (other than a capital gain) being included in the net income of the trust; or
 - (b) the trustee making a capital gain.
- (4) The CGT events are:
 - (a) CGT events A1, B1, D1, D2, D3, E2, F1 and F2; and
 - (b) CGT event C2, but only if the CGT asset that ends is a unit in a unit trust that is replaced by an equivalent membership interest (the *replacement interest*) in a company or in another trust.

713-510 When this Subdivision applies (second case)

- (1) This Subdivision also provides for a deferral of the taxation consequences that would occur if:
 - (a) a life insurance company transfers an asset (also the *original asset*) to its virtual PST or from its virtual PST where, apart from this Subdivision, section 320-200 of the *Income Tax Assessment Act 1997* would apply to the transfer; or

- (b) a life insurance company transfers an asset (also the *original asset*) to its segregated exempt assets where, apart from this Subdivision, section 320-255 of the *Income Tax Assessment Act 1997* would apply to the transfer;
where the transfer (also the *deferral event*) is made in connection with the life insurance company (also the *member life insurance company*) becoming a member of a consolidated group.
- (2) The relevant conditions in section 713-520 must be met.

713-515 Entities must choose the relief

- (1) This Subdivision applies only if the originating entity (for a section 713-505 case) or the life insurance company (for a section 713-510 case) chooses that it apply.
- (2) The choice must be made:
 - (a) by the day the originating entity or the life insurance company, or the head company of the consolidated group of which it is a member, lodges its income tax return for the income year in which the deferral event happened; or
 - (b) within a further time allowed by the Commissioner.

713-520 Conditions

- (1) For a section 713-505 case:
 - (a) the originating entity must be:
 - (i) a life insurance company that has virtual PST assets or segregated exempt assets and that is a member of a consolidatable group; or
 - (ii) an entity that is unable to be a member of the same consolidatable group as a life insurance company because of section 713-510 of the *Income Tax Assessment Act 1997*; or
 - (iii) an entity that is, directly or indirectly, a subsidiary of a life insurance company and is a member of the same consolidated group as the life insurance company; and
 - (b) the originating entity and the recipient entity must be members of the same consolidatable group or consolidated

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- group or, if they are not, they would have been apart from section 713-510 of the *Income Tax Assessment Act 1997*; and
- (c) any asset transferred by the originating entity must be transferred to the recipient entity at its transfer value.
- (2) For both a section 713-505 case and a section 713-510 case:
- (a) the total transfer values of the virtual PST assets of the member life insurance company just before a transfer of assets to which this Subdivision applies must be the same as the total transfer values of those assets just after the transfer; and
- (b) the total transfer values of the segregated exempt assets of the member life insurance company just before a transfer of assets to which this Subdivision applies must be the same as the total transfer values of those assets just after the transfer.
- (3) Any transfer of an asset under the deferral event must happen on or before the later of:
- (a) 30 June 2004; and
- (b) if the head company of the consolidated group of which the member life insurance company is a member has a substituted accounting period—the end of the head company’s income year in which 30 June 2004 occurs.

713-525 Time of transfer

This Act, and the *Income Tax Assessment Act 1997*, apply to the transfer of an asset to which this Subdivision applies as if the asset had been transferred just before the member life insurance company became a member of the consolidated group.

713-530 What the relief is

- (1) For a section 713-505 case:
- (a) if the originating entity is a company:
- (i) any amount (other than a capital gain) that would have been included in the originating entity’s assessable income (the *deferred amount*) as a result of the deferral event is not so included; and

- (ii) any capital gain (the **deferred gain**) that the originating entity would have made as a result of the deferral event is disregarded; and
- (b) if the originating entity is a trust:
 - (i) any amount (other than a capital gain) that would have been included in the member life insurance company's assessable income (also the **deferred amount**) as a result of the deferral event is not so included; and
 - (ii) any capital gain (also the **deferred gain**) that the member life insurance company would have made as a result of the deferral event is disregarded.
- (2) For a section 713-510 case:
 - (a) any amount that would have been included in the member life insurance company's assessable income (also the **deferred amount**) under paragraph 320-15(e) or (g) of the *Income Tax Assessment Act 1997* as a result of the deferral event is not so included; and
 - (b) any capital gain (also the **deferred gain**) that the member life insurance company would have made as a result of the deferral event is disregarded.

713-535 Subsequent consequences

- (1) This section operates if, after the deferral event happens, another event (the **new event**) happens where the new event is:
 - (a) a CGT event happening to:
 - (i) the original asset; or
 - (ii) if the deferral event was CGT event C2—the replacement asset; or
 - (b) the recipient entity ceasing to be a member of the consolidated group of which the member life insurance company is a member; or
 - (c) if the recipient entity is a life insurance company:
 - (i) the original asset being transferred to or from the company's virtual PST under section 320-180, 320-185 or 320-195 of the *Income Tax Assessment Act 1997*; or

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- (ii) the original asset being transferred to or from the company's segregated exempt assets under section 320-235, 320-240 or 320-250 of that Act; or
 - (d) if the originating entity is a company—the originating entity ceasing to exist.
 - (2) For a section 713-505 case where the originating entity is a company:
 - (a) the originating entity must include the deferred amount in its assessable income for the income year in which the new event happens; or
 - (b) the originating entity is taken, just before the new event happened, to have made a capital gain equal to the deferred gain.
- Note: If the originating entity is a subsidiary member of a consolidated group, the head company of the group will have the amount included in its assessable income or will make the capital gain.
- (3) For a section 713-505 case where the originating entity is a trust:
 - (a) the member life insurance company must include the deferred amount in its assessable income for the income year in which the new event happens; or
 - (b) the member life insurance company is taken, just before the new event happened, to have made a capital gain equal to the deferred gain.
 - (4) For a section 713-505 case where the originating entity is a life insurance company or a trust and the deferred amount or the deferred gain relates to an asset that was a virtual PST asset at the time when the deferral event happened, an amount equal to the deferred amount or deferred gain is taken to be an amount of assessable income to which subsection 320-205(3) of the *Income Tax Assessment Act 1997* applies for the relevant entity.
 - (5) For a section 713-510 case:
 - (a) the member life insurance company must include the deferred amount in its assessable income for the income year in which the new event happens; or

- (b) the member life insurance company is taken, just before the new event happened, to have made a capital gain equal to the deferred gain.
- (6) In addition, if the deferral event involved the transfer of assets from the member life insurance company's virtual PST, an amount equal to the deferred amount or deferred gain is taken to be an amount of assessable income to which subsection 320-205(3) of the *Income Tax Assessment Act 1997* applies for the relevant entity.

713-540 Requirement to notify happening of new event

- (1) For a section 713-505 case, the recipient entity must, if it is not a member of the same consolidated group as the originating entity when the new event happens, notify the originating entity in the approved form of the happening of the new event within 60 days after the new event happens.
- (2) Subsection (1) does not apply if the new event is the originating entity ceasing to exist.

713-545 Discount capital gain in certain cases

The *Income Tax Assessment Act 1997* applies as if the capital gain referred to in paragraph 713-535(2)(b), (3)(b) or (5)(b) were a discount capital gain if:

- (a) the asset to which the deferral event happened is a virtual PST asset; and
- (b) the asset was acquired less than 12 months before the deferral event happened; and
- (c) the new event happens at least 12 months after the asset was acquired.

Subdivision 713-M—General insurance companies

Table of sections

713-700 Application

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713-700 Application

Subdivision 713-M of the *Income Tax Assessment Act 1997* applies on and after 1 July 2002.

Division 715—Interactions between the consolidation rules and other areas of the income tax law

Table of Subdivisions

- 715-F Interactions with Division 230 (financial arrangements)
- 715-J Entry history rule and choices
- 715-K Exit history rule and choices

Subdivision 715-F—Interactions with Division 230 (financial arrangements)

Table of sections

- 715-380 Exit history rule not to affect certain matters related to Division 230
financial arrangements

715-380 Exit history rule not to affect certain matters related to Division 230 financial arrangements

Transitional balancing adjustments

- (1) Subsection (2) applies if:
 - (a) an entity (the ***leaving entity***) ceases to be a subsidiary member of a consolidated group at a time (the ***leaving time***); and
 - (b) but for the cessation of membership and section 701-40 of the *Income Tax Assessment Act 1997* (the exit history rule), the head company of the group would be subject to a balancing adjustment under item 104 of Schedule 1 to the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009* for an income year ending after the leaving time.
- (2) Despite section 701-40 of the *Income Tax Assessment Act 1997* (the exit history rule), the head company of the consolidated group continues to be subject to the balancing adjustment for income years ending after the leaving time.

Section 715-658

Subdivision 715-J—Entry history rule and choices

Table of sections

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| 715-658 | Application |
| 715-659 | Extension of time for making choice if joining time was before commencement |

715-658 Application

Subdivision 715-J of the *Income Tax Assessment Act 1997* applies on and after 1 July 2002.

715-659 Extension of time for making choice if joining time was before commencement

- (1) This section extends the time given by each of the following provisions of the *Income Tax Assessment Act 1997* for making a choice because an entity becomes a member of a consolidated group, if, before the commencement of the provision, the Commissioner is given notice under Division 703 that the entity has become a member of the group:
 - (a) subsection 715-660(4);
 - (b) subsection 715-665(5);
 - (c) paragraph 715-675(1)(c).
- (2) A reference in each of those provisions to the end of 90 days after the Commissioner is given notice under Division 703 that the entity has become a member of the group has effect as if it were a reference to the end of 90 days after the commencement of the provision.

Subdivision 715-K—Exit history rule and choices

Table of sections

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| 715-698 | Application |
| 715-699 | Extension of time for making choice if leaving time was before commencement |

715-698 Application

Subdivision 715-K of the *Income Tax Assessment Act 1997* applies on and after 1 July 2002.

715-699 Extension of time for making choice if leaving time was before commencement

- (1) This section extends the time given by each of the following provisions of the *Income Tax Assessment Act 1997* for making a choice because an entity ceases to be a subsidiary member of a consolidated group at the leaving time, if the leaving time is before the commencement of the provision:
 - (a) subsection 715-700(5);
 - (b) subsection 715-705(6).
- (2) A reference in each of those provisions to the end of 90 days after the leaving time has effect as if it were a reference to the end of 90 days after the commencement of the provision.

Division 716—Miscellaneous special rules

Table of Subdivisions

716-G Software development pools

Subdivision 716-G—Software development pools

Table of sections

716-340 Expenditure incurred before 1 July 2001 and allocated to a software pool

716-340 Expenditure incurred before 1 July 2001 and allocated to a software pool

Sections 716-340 and 716-345 of the *Income Tax Assessment Act 1997* operate in relation to a thing mentioned in column 1 of an item of the table in the same way as they operate in relation to a thing mentioned in column 2 of the item.

| Extended operation of sections of the <i>Income Tax Assessment Act 1997</i> | |
|---|--|
| Column 1 Sections 716-340 and 716-345 of the <i>Income Tax Assessment Act 1997</i> operate in relation to: | Column 2 In the same way as they operate in relation to: |
| 1 Former section 46-90 of that Act | Section 40-455 of that Act |
| 2 A software pool created under former Subdivision 46-D of that Act | A software development pool |
| 3 Expenditure in a software pool under former Subdivision 46-D of that Act | Expenditure allocated to a software development pool |
| 4 Software, expenditure on which was in a software pool under former Subdivision 46-D of that Act | In-house software, expenditure on the development of which is allocated to a software development pool |

Division 719—MEC rules

Table of Subdivisions

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| 719-A | Modified application of Part 3-90 to MEC groups |
| 719-B | MEC groups and their members |
| 719-C | Cost setting |
| 719-F | Losses |
| 719-I | Bad debts |

Subdivision 719-A—Modified application of Part 3-90 to MEC groups

Table of sections

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| 719-2 | Modified application of Part 3-90 to MEC groups |
|-------|---|

719-2 Modified application of Part 3-90 to MEC groups

- (1) This Part (other than Division 701B, Division 703 and this Division) has effect in relation to a MEC group in the same way in which it has effect in relation to a consolidated group.
- (2) However, that effect is subject to the modifications set out in this Division.
- (3) For the purposes of subsection (1), a reference in this Part (other than in Division 703 and this Division) to a provision in:
 - (a) Division 703 of this Act; or
 - (b) Division 703 of the *Income Tax Assessment Act 1997*;applies as if it referred instead to the corresponding provision in:
 - (c) Division 719 of this Act; or
 - (d) Division 719 of the *Income Tax Assessment Act 1997*.

Subdivision 719-B—MEC groups and their members

Table of sections

Section 719-5

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| 719-5 | Debt interests that are not membership interests |
| 719-10 | Effect of Division 701C |
| 719-15 | Modified effect of subsection 701D-10(2) |
| 719-30 | Employee share schemes |

719-5 Debt interests that are not membership interests

Section 703-30 of this Act has effect in relation to a MEC group in the same way in which it has effect in relation to a consolidated group.

719-10 Effect of Division 701C

- (1) This section applies if the consolidated group mentioned in section 701C-10 or 701C-15 is a MEC group.
- (2) To avoid doubt, for the purposes of those sections, the test entity cannot be a subsidiary member of the group if the group came into existence on or after 1 July 2004.

719-15 Modified effect of subsection 701D-10(2)

- (1) This section applies if the group mentioned in subsection 701D-10(2) of this Act is a MEC group.
- (2) For the purposes of that subsection, in determining whether an entity was at a particular time (the *ownership time*) a wholly-owned subsidiary of the entity that became the head company of the group (the *head entity*), make the assumption in subsection (3).
- (3) The assumption is that the head entity owned at the ownership time each membership interest covered by subsection (4).
- (4) A membership interest is covered by this subsection if it was beneficially owned at the ownership time by any entity that became an eligible tier-1 company of the group at the formation time.

719-30 Employee share schemes

Despite the amendment of section 719-30 of the *Income Tax Assessment Act 1997* made by Schedule 1 to the *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009*, subsection (2) of that section continues to apply, from the commencement of that Schedule, to each share and membership interest that it applied to just before that commencement.

Subdivision 719-C—Cost setting

Table of sections

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| 719-160 | Transitional cost setting rules on joining have effect with modifications |
| 719-161 | Modified effect of section 701-1 |
| 719-163 | Modified effect of section 701-35 |
| 719-165 | Modified effect of paragraph 701-45(1)(b) |

719-160 Transitional cost setting rules on joining have effect with modifications

- (1) Section 719-160 of the *Income Tax Assessment Act 1997* has effect in relation to the provisions of this Act mentioned in subsection (2) in the same way as that section has effect in relation to the provisions mentioned in subsection 719-160(3) of the *Income Tax Assessment Act 1997*.
- (2) The provisions are Divisions 701, 701A and 702 of this Act, other than:
 - (a) section 701-5; and
 - (b) section 701-40; and
 - (c) section 701-45.
- (3) However, that effect of section 719-160 of the *Income Tax Assessment Act 1997* is subject to modifications set out in this Division.

719-161 Modified effect of section 701-1

- (1) This section applies if a consolidated group mentioned in section 701-1 of this Act is a MEC group.

Section 719-161

- (2) Paragraphs 701-1(2)(b) and (3)(b) of this Act have effect as if a reference in those paragraphs to the future head company were a reference to any entity that became a member of the group as an eligible tier-1 company at the time the MEC group came into existence.
- (3) An entity is a **transitional entity** for the purposes of paragraph 701-1(3)(b) of this Act if:
- (a) the entity and one or more other entities were members of a potential MEC group as eligible tier-1 companies, throughout the period:
 - (i) beginning just before 1 July 2003; and
 - (ii) ending just before a time (the **rolldown time**) before the MEC group came into existence; and
- Note: The other entity (or one of the other entities) could be the future head company.
- (b) the entity satisfied either of these conditions at the rolldown time:
 - (i) the entity was a wholly-owned subsidiary of any of those other entities;
 - (ii) the entity would be covered by subparagraph (i), if it were assumed that all of the membership interests that were beneficially owned by any of those other entities at that time were owned by a single one of those other entities; and
 - (c) the entity continued to satisfy either of the conditions mentioned in paragraph (b) at all times throughout the period:
 - (i) beginning just after the rolldown time; and
 - (ii) ending when the MEC group came into existence; and
 - (d) the other entities remained members of the potential MEC group as eligible tier-1 companies, throughout the period:
 - (i) beginning just before 1 July 2003; and
 - (ii) ending when the MEC group came into existence; and
 - (e) the other entities were members of the MEC group when it came into existence, as eligible tier-1 companies.

719-163 Modified effect of section 701-35

- (1) This section applies if the transitional group mentioned in section 701-35 of this Act is a MEC group.
- (2) That section has effect as if paragraph 701-35(3)(c) were repealed and the following paragraph were substituted:
 - (c) when the transitional group came into existence, the test entity was a subsidiary member of the group, other than as:
 - (i) a transitional foreign-held subsidiary of the group (see section 701C-20); or
 - (ii) an eligible tier-1 company of the group.

719-165 Modified effect of paragraph 701-45(1)(b)

- (1) This section applies if the transitional group mentioned in paragraph 701-45(1)(b) of this Act is a MEC group.
- (2) That paragraph applies as if the reference in that paragraph to the entity that became the head company were a reference to any entity that became a member of the group, and that was an eligible tier-1 company, at the time the transitional group came into existence.

Subdivision 719-F—Losses

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| 719-305 | Available fraction for bundle of losses not affected by concessional rules |
| 719-310 | Certain choices may be revoked |

719-305 Available fraction for bundle of losses not affected by concessional rules

To avoid doubt, sections 707-325 and 707-327 do not apply for the purposes of working out the available fraction for the bundle of losses that are taken under subsection 719-305(2) of the *Income Tax Assessment Act 1997* to be transferred under Subdivision 707-A of that Act.

Section 719-310

719-310 Certain choices may be revoked

Subsection 719-325(7) of the *Income Tax Assessment Act 1997* does not apply if the revocation of the choice mentioned in that subsection takes place before 1 January 2006.

Subdivision 719-I—Bad debts

Table of sections

719-450 Application of Subdivision 719-I of the *Income Tax Assessment Act 1997*

719-450 Application of Subdivision 719-I of the *Income Tax Assessment Act 1997*

Subdivision 719-I of the *Income Tax Assessment Act 1997* applies on and after 1 July 2002.

Division 721—Liability for payment of tax where head company fails to pay on time

Table of Subdivisions

721-A Application of Division

Subdivision 721-A—Application of Division

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721-25 References in tax sharing agreements to former table item 25

721-25 References in tax sharing agreements to former table item 25

- (1) A reference in an agreement to item 25 of the table in subsection 721-10(2) of the *Income Tax Assessment Act 1997* is taken, from the commencement of this section, to be a reference to item 3 of that table, if:
 - (a) paragraph 721-25(1)(a) of that Act applies to the agreement; and
 - (b) the agreement was in force just before the commencement of this section.
- (2) This section applies in relation to tax to which Division 5 of the *Income Tax Assessment Act 1997* applies.

Part 3-95—Value shifting

Division 723—Direct value shifting by creating right over non-depreciating asset

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723-1 Application of Division 723

723-1 Application of Division 723

- (1) Division 723 applies to a realisation event happening on or after 1 July 2002 to a CGT asset that, at the time of the event:
 - (a) is not a depreciating asset; or
 - (b) is an item of trading stock; or
 - (c) is a revenue asset.
- (2) Paragraph 723-10(1)(b) or 723-15(1)(b) applies to a right created on or after 1 July 2002.

Division 725—Direct value shifting affecting interests in companies and trusts

Table of sections

725-1 Application of Division 725

725-1 Application of Division 725

Division 725 applies to a scheme entered into on or after 1 July 2002. It also applies to a scheme entered into on or after 27 June 2002, but only if:

- (a) the decrease times for down interests of which entities are affected owners are all on or after 1 July 2002; and
- (b) the increase times for up interests of which entities are affected owners are all on or after 1 July 2002.

Division 727—Indirect value shifting affecting interests in companies and trusts, and arising from non-arm's length dealings

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| 727-1 | Application of Division 727 |
| 727-230 | Transitional exclusion for certain indirect value shifts relating mainly to services |
| 727-470 | Affected interests do not include equity or loan interests owned by entity that is eligible to be an STS taxpayer |

727-1 Application of Division 727

- (1) Division 727, as inserted by the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* and amended by the *New Business Tax System (Consolidation and Other Measures) Act 2003*, applies to a scheme entered into on or after 1 July 2002.
- (2) It also applies to a scheme entered into on or after 27 June 2002, but only in relation to:
 - (a) an indirect value shift that happens under the scheme on or after 1 July 2002; or
 - (b) a presumed indirect value shift that happens under the scheme and affects a realisation event that happens on or after 1 July 2002.
- (3) Subsection (2) does not apply to an indirect value shift, or a presumed indirect value shift, if:
 - (a) the economic benefits taken into account in determining that the scheme has resulted in that indirect value shift or presumed indirect value shift include economic benefits provided by:
 - (i) an act referred to in Division 138 of the *Income Tax Assessment Act 1997* as the trigger event; or
 - (ii) an event or act referred to in Division 139 of the *Income Tax Assessment Act 1997* as the trigger event; and

- (b) the act was done, or the event happened, on or after 27 June 2002 and before 1 July 2002.

Note: In that case, the consequences of the trigger event are worked out under Division 138 or 139 of the *Income Tax Assessment Act 1997*: see items 13 and 14 of Schedule 15 to the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002*.

727-230 Transitional exclusion for certain indirect value shifts relating mainly to services

- (1) An indirect value shift does not have consequences under Division 727 of the *Income Tax Assessment Act 1997* if, to the extent of at least 95% of their total market value, the greater benefits consist entirely of:
- (a) a right to have services that are covered by section 727-240 of that Act provided directly by the losing entity to the gaining entity; or
 - (b) services that are covered by that section and have been, are being, or are to be, so provided;
- or both, and the IVS time for the scheme that results in the indirect value shift is before:
- (c) unless paragraph (d) applies—the start of the losing entity's 2003-2004 income year; or
 - (d) if the losing entity's 2002-2003 income year ends before 30 June 2003—the start of the losing entity's 2004-2005 income year.

How subsection (1) applies to a presumed indirect value shift

- (2) For the purposes of section 727-850 (about a presumed indirect value shift affecting a realisation event) of the *Income Tax Assessment Act 1997*, subsection (1) of this section applies to the presumed indirect value shift:
- (a) on the assumptions set out in subsection 727-865(3) of that Act; and
 - (b) as if the exclusion in subsection (1) of this section were an exclusion in Subdivision 727-C of that Act.

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727-470 Affected interests do not include equity or loan interests owned by entity that is eligible to be an STS taxpayer

- (1) This section applies to an indirect value shift if:
 - (a) the indirect value shift happens in the 2007-08 income year or a later income year; and
 - (b) the scheme that results in the indirect value shift was entered into before the start of the 2007-08 income year.
- (2) Paragraph 727-470(2)(a) of the *Income Tax Assessment Act 1997* (as in force immediately before the commencement of this section) continues to have effect in relation to the indirect value shift as if the repeals and amendments made by Schedule 1, Parts 1 and 2 of Schedule 3 and Schedule 8 to the *Tax Laws Amendment (Small Business) Act 2007* had not been made.

Chapter 4—International aspects of income tax

Part 4-5—General

Division 815—Cross-border transfer pricing

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815-A Cross-border transfer pricing

Subdivision 815-A—Cross-border transfer pricing

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| 815-15 | Application of Subdivisions 815-B, 815-C and 815-D of the <i>Income Tax Assessment Act 1997</i> |

815-1 Application of Subdivision 815-A of the *Income Tax Assessment Act 1997*

- (1) Subdivision 815-A of the *Income Tax Assessment Act 1997* applies to income years starting on or after 1 July 2004.
- (2) However, Subdivision 815-A does not apply to an income year to which Subdivisions 815-B and 815-C of that Act apply.

Note: For the income years to which Subdivisions 815-B and 815-C apply, see section 815-15 of this Act.

815-5 Cross-border transfer pricing guidance

Despite section 815-20 of the *Income Tax Assessment Act 1997*, the documents covered by that section for an income year that starts before 1 July 2012 are taken to be as follows:

- (a) the Model Tax Convention on Income and on Capital, and its Commentaries, as adopted by the Council of the Organisation for Economic Cooperation and Development and last amended before the start of the income year;

- (b) the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, as approved by that Council and last amended before the start of the income year.

815-10 Scheme penalty applies in pre-commencement period as if only the old law applied

- (1) This section applies if:
 - (a) a determination under subsection 815-30(1) of the *Income Tax Assessment Act 1997* has effect in relation to an entity in an income year; and
 - (b) the income year starts before 1 July 2012.
- (2) Subdivision 284-C in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to the entity and the income year as if:
 - (a) Subdivision 815-A of the *Income Tax Assessment Act 1997* had not been enacted; and
 - (b) each other provision of a taxation law applied in relation to the entity in the way it would have if that Subdivision had not been enacted.

815-15 Application of Subdivisions 815-B, 815-C and 815-D of the *Income Tax Assessment Act 1997*

- (1) Subdivisions 815-B, 815-C and 815-D of the *Income Tax Assessment Act 1997* apply:
 - (a) in respect of tax other than withholding tax—in relation to income years starting on or after the date mentioned in subsection (2); and
 - (b) in respect of withholding tax—in relation to income derived, or taken to be derived, in income years starting on or after that date.

Start date for transfer pricing amendments

- (2) The date is the earlier of:
 - (a) 1 July 2013; and

- (b) the day the *Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Act 2013* receives the Royal Assent.

Division 820—Application of the thin capitalisation rules

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820-10 Application of Division 820 of the *Income Tax Assessment Act 1997*

- (1) Subject to this section, Division 820 of the *Income Tax Assessment Act 1997* applies in relation to an income year that begins on or after 1 July 2001.
- (1A) Subdivisions 820-FA and 820-FB of that Act apply on and after 1 July 2002.
- (2) Subdivision 820-L of that Act, to the extent that it relates to the requirements under section 820-960 of that Act, applies only in relation to an income year that begins on or after 1 July 2002.

820-12 Application of Division 974 of the *Income Tax Assessment Act 1997* for the purposes of Division 820 of that Act

- (1) Division 974 of the *Income Tax Assessment Act 1997* applies for the purposes of determining whether, for the purposes of Division 820 of that Act, an interest is a debt interest or an equity interest at any time on or after 1 July 2001 (whether or not the debt and equity test amendments apply to transactions in relation to that interest at that time).
- (2) In this section, ***debt and equity test amendments*** has the same meaning as in Part 4 of Schedule 1 to the *New Business Tax System (Debt and Equity) Act 2001*.

820-45 Transitional provision—accounting standards and prudential standards

- (1) This section applies to 4 consecutive income years of an entity beginning on or after 1 January 2005.
- (2) Subject to subsection (3), the entity may choose, for any or all of those income years, to use the accounting standards in force under the *Corporations Act 2001* immediately before 1 January 2005 (rather than the current accounting standards) for the purpose of calculating amounts applicable to the entity under Division 820 of the *Income Tax Assessment Act 1997*.
 - Note 1: Making the choice for an income year does not require the entity to maintain a full set of accounts based on those old accounting standards.
 - Note 2: The choice is only for the purposes of calculating amounts for the purposes of the thin capitalisation regime.
- (3) If the entity makes a choice under subsection (2) for an income year but an associate entity of that entity does not, the entity may, in working out its associate entity excess amount so far as it relates to that associate entity at a time in that year, use either the accounting standards in force under the *Corporations Act 2001* immediately before 1 January 2005 or the current accounting standards.
- (4) If an ADI makes a choice under subsection (2) for an income year, the ADI must also choose to use for that year the prudential standards in force under the *Banking Act 1959* immediately before 1 January 2005 (rather than the current prudential standards) for the purpose of calculating amounts applicable to the ADI under Division 820 of the *Income Tax Assessment Act 1997*.
 - Note 1: Making the choice for an income year does not require the entity to maintain capital adequacy calculations based on those old prudential standards.
 - Note 2: The choice is only for the purposes of calculating amounts for the purposes of the thin capitalisation regime.
- (5) For an income year for which an entity does not make a choice under subsection (2), the current accounting standards will be used

for the purpose of calculating amounts applicable to the entity under Division 820 of the *Income Tax Assessment Act 1997*.

- (6) For an income year for which an ADI does not make a choice under subsection (2), the current prudential standards will be used for the purpose of calculating amounts applicable to the ADI under Division 820 of the *Income Tax Assessment Act 1997*.

Division 830—Application of the foreign hybrid rules

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830-1 Standard application

Foreign hybrids

- (1) Division 830 of the *Income Tax Assessment Act 1997* applies to assessments for the 2003-2004 income year, and each later income year, of a taxpayer who will as a result be a partner in an entity that is a foreign hybrid in relation to that income year.

CFCs that are, directly or indirectly, partners in foreign hybrids

- (2) Division 830 of the *Income Tax Assessment Act 1997* applies for the purpose of working out the attributable income, in relation to an attributable taxpayer, for:
 - (a) the statutory accounting period that starts on 1 July 2003 or on the day on which, as a result of an election under subsection 319(2) of the *Income Tax Assessment Act 1936*, the statutory accounting period that would otherwise start on 1 July 2003 starts; and
 - (b) each later statutory accounting period;of a CFC that:
 - (c) will as a result be a partner in an entity that is a foreign hybrid in relation to that statutory accounting period; or
 - (d) has, directly or indirectly through one or more other entities, an interest in another entity that will, as a result, be a foreign hybrid in relation to that statutory accounting period.

830-15 Modified version of income tax law to apply for certain past income years

Basic rule

- (1) Subject to subsection (3), if:
- (a) an income year (the ***past income year***) of a taxpayer started before:
 - (i) if section 830-5 of this Act does not apply to the taxpayer—the 2003-2004 income year; or
 - (ii) if that section applies to the taxpayer—the 2002-2003 income year; and
 - (b) either:
 - (i) a statutory accounting period of a CFC, in relation to which the taxpayer was an attributable taxpayer at the end of that period and had an attribution percentage greater than nil, ended in the past income year; or
 - (ii) the taxpayer had an interest in a FIF at the end of the past income year; and
 - (c) the CFC or FIF would have been a foreign hybrid in relation to the past income year under:
 - (i) section 830-10 of the *Income Tax Assessment Act 1997* (disregarding paragraph (1)(e) of that section); or
 - (ii) section 830-15 of that Act (disregarding paragraph (1)(d) and subsection (3) of that section);if that section had been in force in the past income year;
- then, for the purposes mentioned in subsection (2) of this section, the *Income Tax Assessment Act 1936* applies with the modifications set out in section 830-20 of this Act in working out:
- (d) the attributable income of the CFC for the statutory accounting period that ended in the past income year; or
 - (e) the notional income of the FIF for the notional accounting period that ends in the past income year.

Purposes

- (2) The purposes are:

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- (a) any amendment of an assessment of the taxpayer for the past income year made before the commencement of this section; and
- (b) the making of an assessment of the taxpayer for the past income year between the commencement of this section and the end of 30 June 2004; and
- (c) any amendment of such an assessment; and
- (d) the making of any assessment of the taxpayer for the past income year that takes place after 30 June 2004 and before the end of the time within which, if that assessment had been made on 1 July 2004, the Commissioner could amend the assessment under paragraph 170(2)(b), (c) or (d) of the *Income Tax Assessment Act 1936* (as in force before the day on which the *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005* received the Royal Assent); and
- (e) any amendment of such an assessment.

Exception

- (3) If:
- (a) apart from this subsection, subsection (1) would apply to a taxpayer in relation to a CFC for a past income year; and
 - (b) before the commencement of this section, the taxpayer lodged its income tax return for the past income year; and
 - (c) the taxpayer prepared the income tax return on the basis that, for the purposes of Part X of the *Income Tax Assessment Act 1936*, the CFC was a resident of no particular unlisted country;
- then subsection (1) does not apply to the taxpayer in relation to the CFC for the past income year unless:
- (d) if there is only one past income year to which paragraphs (a) to (c) of this subsection apply—the taxpayer elects that the subsection applies for the past income year; or
 - (e) if there is more than one past income year to which paragraphs (a) to (c) of this subsection apply—the taxpayer elects that the subsection applies for all of those past income years.

- (4) The taxpayer must make the election:
 - (a) on or before the day on which the taxpayer lodges its income tax return for the 2003-2004 income year; or
 - (b) within a further time allowed by the Commissioner.
- (5) The election is irrevocable.

830-20 Modifications of income tax law

- (1) This section sets out the modifications of the *Income Tax Assessment Act 1936* that, if section 830-15 of this Act so provides, apply in working out for a taxpayer:
 - (a) the attributable income of a CFC for the statutory accounting period that ended in an income year; or
 - (b) the notional income of a FIF for the notional accounting period that ended in an income year.

CFC—residence

- (2) If the CFC is not a resident of a particular listed country or a particular unlisted country for the purposes of Part X of the *Income Tax Assessment Act 1936* (including after applying section 331 of that Act), then for the purposes of that Part, the CFC is taken to be a resident of the country under whose laws it was formed.

CFC—foreign tax paid by taxpayer

- (3) For the purpose of subsection 393(1) of the *Income Tax Assessment Act 1936*, if the taxpayer paid foreign tax (within the meaning of that Act) (the **actual foreign tax**) on its interest in an amount included in the notional assessable income of the CFC for the statutory accounting period, then the CFC is taken to have paid foreign tax (within the meaning of that Act) in respect of the amount equal to the actual foreign tax divided by the taxpayer's direct attribution interest in the CFC at the end of the statutory accounting period.

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CFC—foreign tax paid by another CFC

- (4) For the purpose of subsection 393(1) of the *Income Tax Assessment Act 1936*, if:
- (a) on the assumption in paragraph 830-15(1)(c) of this Act, another CFC (the **tracing CFC**) would have been a partner in the foreign entity that the CFC mentioned in subsection (1) of this section (the **foreign hybrid CFC**) would have been; and
 - (b) the taxpayer had an attribution tracing interest in the tracing CFC that was taken into account in calculating the taxpayer's attribution percentage for the foreign hybrid CFC at the end of the statutory accounting period; and
 - (c) the tracing CFC paid foreign tax (within the meaning of that Act) (the **actual foreign tax**) on its interest in an amount included in the notional assessable income of the foreign hybrid CFC for the statutory accounting period;

then the foreign hybrid CFC is taken to have paid foreign tax, (within the meaning of that Act) in respect of the amount included in its notional assessable income, equal to the actual foreign tax divided by the tracing CFC's direct attribution interest in the foreign hybrid CFC at the end of the statutory accounting period.

FIF—foreign tax paid by taxpayer

- (5) For the purpose of section 573 of the *Income Tax Assessment Act 1936*, if the taxpayer paid foreign tax (within the meaning of that Act) (the **actual foreign tax**) on its interest in an amount included in the notional income of the FIF for the notional accounting period, then the FIF is taken to have paid foreign tax (within the meaning of that Act) in respect of that amount equal to the actual foreign tax divided by the attribution percentage applicable under section 581 of that Act to the taxpayer in respect of the taxpayer's interests in the FIF at the end of the notional accounting period.

Division 840—Withholding taxes**Table of Subdivisions**

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840-805 Managed investment trust amounts

- (1) This section has effect for amounts represented by or reasonably attributable to fund payments made in relation to the first income year starting on or after the first 1 July after the day on which the *Tax Laws Amendment (Election Commitments No. 1) Act 2008* receives the Royal Assent by a trust that is a managed investment trust in relation to that year.
- (2) If you are a resident of an information exchange country, subsection 840-805(1) of the *Income Tax Assessment Act 1997* does not apply to the amounts to the extent that it would otherwise apply to you.
- (3) An entity is a resident of an information exchange country if:
 - (a) the entity is a resident of that country for the purposes of the taxation laws of that country; or
 - (b) if there are no taxation laws of that country applicable to the entity or the entity's residency status cannot be determined under those laws:
 - (i) for an individual—the individual is ordinarily resident in that country; or
 - (ii) for another entity—the entity is incorporated or formed in that country and is carrying on a business in that country.

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- (4) Instead, you are liable to pay income tax on the amounts (reduced as mentioned in subsection (5)) at the rate declared by the Parliament.

Note: The tax is imposed by the *Income Tax (Managed Investment Trust Transitional) Act 2008*.

- (5) The amounts are reduced by any loss or outgoing of yours to the extent that:
- (a) it is incurred in gaining or producing the amounts; or
 - (b) it is necessarily incurred in carrying on a business for the purpose of gaining or producing the amounts.

840-810 Payment of tax under section 840-805

- (1) Income tax under section 840-805 is due and payable by you at the end of 21 days after:
- (a) if subsection 840-805(2) or (3) of the *Income Tax Assessment Act 1997* would apply to you apart from section 840-805 of this Act—the end of the month in which the relevant amount is paid, applied or dealt with; or
 - (b) if subsection 840-805(4) of that Act would so apply to you—the end of the month in which you become presently entitled to the relevant amount.
- (2) Subsections 840-810(2) to (5) of the *Income Tax Assessment Act 1997* apply to income tax payable under this section.

**Subdivision 840-S—Seasonal Labour Mobility Program
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840-905 Application of Subdivision 840-S of the *Income Tax Assessment Act 1997*

Subdivision 840-S of the *Income Tax Assessment Act 1997* applies to income derived on or after 1 July 2012.

Division 842—Exempt Australian source income and gains of foreign residents

Subdivision 842-I—Investment manager regime

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| 842-230 | <i>Pre-2012 IMR deduction</i> |
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842-210 Treatment of IMR foreign fund that is a corporate tax entity

Objects

- (1) The object of this section is to disregard, for the purpose of calculating the assessable income of a corporate tax entity that is an IMR foreign fund, certain gains and losses that arise in the 2010-11 income year, or an earlier income year, in respect of certain kinds of financial arrangements.

Application

- (2) This section applies to a corporate tax entity that is an IMR foreign fund in relation to an income year if:
 - (a) the income year is the 2010-11 income year or an earlier income year; and
 - (b) the corporate tax entity has pre-2012 IMR income, a pre-2012 IMR deduction, a pre-2012 IMR capital gain or a pre-2012 IMR capital loss in relation to the income year; and

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- (c) the corporate tax entity has not lodged an income tax return in relation to the 2010-11 income year, or any earlier income year, before the day that item 1 of Schedule 1 to the *Tax Laws Amendment (Investment Manager Regime) Act 2012* commences; and
- (d) the Commissioner did not, before 18 December 2010, make an assessment of the taxable income of the corporate tax entity for any income year.

Note 1: For the purposes of this Act, **pre-2012 IMR income** is defined in subsections 842-270(1) and (2) of the *Income Tax Assessment Act 1997* and **pre-2012 IMR capital gain** is defined in subsection 842-270(3) of that Act.

Note 2: **Pre-2012 IMR deduction** is defined in subsections 842-230(1) and (2) of this Act and **pre-2012 IMR capital loss** is defined in section 842-235 of this Act.

Certain amounts disregarded

- (3) In working out the corporate tax entity's taxable income, tax loss or net capital loss for the income year:
 - (a) treat the corporate tax entity's pre-2012 IMR income for the income year as non-assessable non-exempt income; and
 - (b) disregard the corporate tax entity's pre-2012 IMR deduction for the income year; and
 - (c) disregard the corporate tax entity's pre-2012 IMR capital gain for the income year; and
 - (d) disregard the corporate tax entity's pre-2012 IMR capital loss for the income year.

Fraud

- (4) Subsection (3) does not apply if the Commissioner has reason to believe that there has been fraud by the corporate tax entity in relation to any income year.

Audit or compliance review

- (5) Subsection (3) does not apply if before 18 December 2010 the Commissioner notified the corporate tax entity that an audit or

compliance review would be undertaken in relation to any income year.

842-215 Treatment of foreign resident beneficiary that is not a trust or partnership

Objects

- (1) The objects of this section are to ensure that:
- (a) a foreign resident beneficiary of an IMR foreign fund in relation to the 2010-11 income year or an earlier income year is not subject to Australian income tax in respect of pre-2012 IMR income or a pre-2012 IMR capital gain of the fund (or in respect of an amount that is referable to pre-2012 IMR income or a pre-2012 IMR capital gain of the fund) for the income year; and
 - (b) the foreign resident beneficiary of the fund is not able to claim a deduction or utilise a tax loss in relation to the income year to the extent that the deduction or tax loss was incurred or made in respect of an amount that is:
 - (i) pre-2012 IMR income of the fund (or referable to pre-2012 IMR income of the fund); or
 - (ii) a pre-2012 IMR capital gain of the fund (or referable to a pre-2012 IMR capital gain of the fund); and
 - (c) this section does not provide any tax concession to an Australian resident that invests in the fund (whether directly or indirectly through one or more interposed entities).

Application

- (2) This section applies to a beneficiary of a trust in relation to the 2010-11 income year, or an earlier income year, if:
- (a) the beneficiary is not a resident of Australia at any time during the income year; and
 - (b) the beneficiary is not a trust or partnership at any time during the income year (other than a foreign superannuation fund); and
 - (c) neither the trust nor the beneficiary has lodged an income tax return in relation to the 2010-11 income year, or any earlier

income year, before the day that item 1 of Schedule 1 to the *Tax Laws Amendment (Investment Manager Regime) Act 2012* commences; and

- (d) the Commissioner did not, before 18 December 2010, make an assessment of the beneficiary for any income year.

Note: A trust that is an IMR foreign fund is generally subject to the general tax rules that apply to trusts, subject to the modifications in this Subdivision: see Division 6 of Part III of the *Income Tax Assessment Act 1936*. Also see section 842-225 of this Act, which deals with trustees of IMR foreign funds.

Adjustments to calculation of taxable income, tax loss or net capital loss

- (3) In working out the beneficiary's taxable income, tax loss or net capital loss for the income year:
- (a) for the purposes of applying Division 6 of Part III of the *Income Tax Assessment Act 1936* to the beneficiary, replace the references in that Division to share of the net income with references to share of the pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (b) for the purposes of applying subsections 98A(1) and (3) of Division 6 of Part III of the *Income Tax Assessment Act 1936* to the beneficiary, replace the references in those subsections to individual interest of the beneficiary in the net income with references to individual interest of the beneficiary in the pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (c) for the purposes of applying Division 6E of Part III of the *Income Tax Assessment Act 1936* to the beneficiary, replace the references in that Division to Division 6E net income with references to pre-2012 non-IMR Division 6E net income (within the meaning of subsection 842-240(2) of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (d) in applying subsection 115-215(3) of the *Income Tax Assessment Act 1997* to the beneficiary, replace the reference in that subsection to each capital gain of the trust estate with a reference to each capital gain of the trust estate that is a
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- pre-2012 non-IMR net capital gain (or is referable to a pre-2012 non-IMR net capital gain of the trust estate) (within the meaning of subsection 842-240(3) of the *Income Tax (Transitional Provisions) Act 1997*); and
- (e) in applying section 115-225 of the *Income Tax Assessment Act 1997* to the beneficiary:
- (i) replace references in that section to net income of the trust estate with references to pre-2012 non-IMR net income of the trust estate (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (ii) replace the reference in that section to net capital gain (if any) with a reference to pre-2012 non-IMR net capital gain (if any) (within the meaning of subsection 842-240(3) of the *Income Tax (Transitional Provisions) Act 1997*).
- (4) For the purposes of applying paragraph 115-225(1)(a) of the *Income Tax Assessment Act 1997* to the beneficiary in respect of the income year:
- (a) disregard a capital gain of the trust to the extent the capital gain is a pre-2012 IMR capital gain (or is referable to a pre-2012 IMR capital gain of the fund); and
 - (b) disregard a pre-2012 IMR capital loss of the trust for the purposes of determining the amount of the capital gain remaining after applying steps 1 to 4 of the method statement in subsection 102-5(1) of that Act; and
 - (c) disregard a net capital loss of the trust to the extent that it is attributable to a pre-2012 IMR capital loss for the purposes of determining the amount of the capital gain remaining after applying steps 1 to 4 of the method statement in subsection 102-5(1).

Fraud

- (5) Subsections (3) and (4) do not apply if the Commissioner has reason to believe that there has been fraud by the trust in relation to any income year.

Audit or compliance review

- (6) Subsections (3) and (4) do not apply if before 18 December 2010 the Commissioner notified the trust that an audit or compliance review would be undertaken in relation to any income year.

842-220 Treatment of foreign resident partner that is not a trust or partnership

Objects

- (1) The objects of this section are to ensure that:
- (a) a foreign resident partner of an IMR foreign fund in relation to the 2010-11 income year, or an earlier income year, is not subject to any Australian income tax in respect of pre-2012 IMR income or a pre-2012 IMR capital gain (or in respect of an amount that is referable to pre-2012 IMR income or a pre-2012 IMR capital gain) for the income year; and
 - (b) the foreign resident partner of the fund is not able to claim a deduction or utilise a tax loss in relation to the income year to the extent that the deduction or tax loss was incurred or made in respect of an amount that is:
 - (i) pre-2012 IMR income of the fund (or referable to pre-2012 IMR income of the fund); or
 - (ii) a pre-2012 IMR capital gain (or referable to a pre-2012 IMR capital gain); and
 - (c) this section does not provide any tax concession to an Australian resident that invests in the fund (whether directly or indirectly through one or more interposed entities).

Application

- (2) This section applies to a partner in a partnership in relation to the 2010-11 income year, or an earlier income year, if:
- (a) the partner is not an Australian resident at any time during the income year; and
 - (b) the partner is not a trust or a partnership at any time during the income year (other than a foreign superannuation fund); and

- (c) neither the partnership nor the partner has lodged an income tax return in relation to the 2010-11 income year, or any earlier income year, before the day that item 1 of Schedule 1 to the *Tax Laws Amendment (Investment Manager Regime) Act 2012* commences; and
- (d) the Commissioner did not, before 18 December 2010, make an assessment of the taxable income of the partner for any income year.

Note: A partnership that is an IMR foreign fund is generally subject to the general tax rules that apply to partnerships, subject to the modifications set out in this Subdivision: see Division 5 of Part III of the *Income Tax Assessment Act 1936*.

Adjustments to calculation of taxable income, tax loss or net capital loss

- (3) In working out the partner's taxable income, tax loss or net capital loss for the income year:
 - (a) for the purposes of applying Division 5 of Part III of the *Income Tax Assessment Act 1936* to the partner, replace the references in that Division to the individual interest of the partner in the net income of the partnership with references to the individual interest of the partner in the pre-2012 non-IMR partnership net income (within the meaning of section 842-245 of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (b) for the purposes of applying Division 5 of Part III of the *Income Tax Assessment Act 1936* to the partner, replace the references in that Division to the individual interest of the partner in the partnership loss with references to the individual interest of the partner in the pre-2012 non-IMR partnership loss (within the meaning of section 842-245 of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (c) disregard the partner's pre-2012 IMR capital gain or an amount that is referable to a pre-2012 IMR capital gain (within the meaning of subsection 842-270(3) of the *Income Tax Assessment Act 1997*) or pre-2012 IMR capital loss or an amount that is referable to a pre-2012 IMR capital loss (within the meaning of that term in section 842-235 of this Act).

Fraud

- (4) Subsection (3) does not apply if the Commissioner has reason to believe that there has been fraud by the partnership in relation to any income year.

Audit or compliance review

- (5) Subsection (3) does not apply if before 18 December 2010 the Commissioner notified the partnership that an audit or compliance review would be undertaken in relation to any income year.

842-225 Treatment of trustee of an IMR foreign fund

Objects

- (1) The object of this section is to ensure that the following provisions interact appropriately with the tax concessions mentioned in subsection 842-210(1), paragraphs 842-215(1)(a) and (b) and paragraphs 842-220(1)(a) and (b) in respect of the 2010-11 income year or an earlier income year:
- (a) subsection 115-220(2) of the *Income Tax Assessment Act 1997*;
 - (b) section 115-225 of the *Income Tax Assessment Act 1997*;
 - (c) section 98 of the *Income Tax Assessment Act 1936*;
 - (d) section 99E of the *Income Tax Assessment Act 1936*.

Note: Division 6 of Part III of the *Income Tax Assessment Act 1936*, Division 115 of the *Income Tax Assessment Act 1997*, and all other provisions of those Acts apply to the trustee of an IMR foreign fund, subject to the modifications in this section.

Application

- (2) This section applies to the 2010-11 income year or an earlier income year of a trustee of a trust that is an IMR foreign fund in relation to that income year.

Applying subsection 115-220(2) of the Income Tax Assessment Act 1997

- (3) For the purposes of applying subsection 115-220(2) of the *Income Tax Assessment Act 1997* to the beneficiary:
- (a) disregard a capital gain of the IMR foreign fund to the extent that the capital gain is a pre-2012 IMR capital gain; and
 - (b) disregard a pre-2012 IMR capital loss of the IMR foreign fund for the purposes of determining the amount of the capital gain remaining after applying steps 1 to 4 of the method statement in subsection 102-5(1); and
 - (c) disregard a net capital loss of the IMR foreign fund to the extent that it is attributable to a pre-2012 IMR capital loss for the purposes of determining how much of a capital gain that is not a pre-2012 IMR capital gain remains after applying steps 1 to 4 of the method statement in subsection 102-5(1).

Note: The effect of this subsection is that the increase to the assessable amount which occurs as a result of section 115-220 of the *Income Tax Assessment Act 1997* is calculated with reference to the capital gains of the IMR foreign fund that are not IMR capital gains or amounts referable to IMR capital gains (rather than by calculating the increase with reference to *all* capital gains of the fund).

Modifications to section 115-225 of the Income Tax Assessment Act 1997

- (4) For the purposes of applying section 115-225 of the *Income Tax Assessment Act 1997* in respect of section 115-220, make the following assumptions:
- (a) replace the references in section 115-225 to the net income of the trust estate with references to the pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*) of the trust estate;
 - (b) replace the references in section 115-225 to net capital gain (if any) with a reference to pre-2012 non-IMR net capital gain (if any) (within the meaning of subsection 842-240(3) of the *Income Tax (Transitional Provisions) Act 1997*).

Modifications to section 98 of the Income Tax Assessment Act 1936

- (5) For the purposes of applying section 98 of the *Income Tax Assessment Act 1936* in respect of an income year that is the 2010-11 income year or an earlier income year, replace references in that section to net income with references to pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*).

Note: The effect of this subsection is that where section 98 of the *Income Tax Assessment Act 1936* applies to the trustee of a trust that is an IMR foreign fund, the trustee is only assessed and made liable to pay tax in respect of pre-2012 non-IMR net income of the fund (rather than in respect of *all* net income of the fund to which section 98 would otherwise apply).

Modifications to section 99E of the Income Tax Assessment Act 1936

- (6) For the purposes of applying section 99E of the *Income Tax Assessment Act 1936* in respect of an income year that is the 2010-11 income year or an earlier income year:
- (a) replace the reference to so much of the net income with a reference to so much of the net income or pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*) as the case may be; and
 - (b) replace the reference to a part of the net income of another trust estate with a reference to a part of the pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*) of another trust estate.

Note: The effect of this subsection is that the trustee of a trust that receives a distribution of pre-2012 non-IMR net income from another trust is not required to apply section 98, 99 or 99A of the *Income Tax Assessment Act 1936* to those amounts.

Certain losses disregarded

- (7) The IMR foreign fund cannot utilise a tax loss or net capital loss in relation to the income year, or in any future income year, to the extent the loss is attributable to pre-2012 IMR income, a pre-2012

IMR capital gain, a pre-2012 IMR deduction or a pre-2012 IMR capital loss.

842-230 *Pre-2012 IMR deduction*

- (1) The ***pre-2012 IMR deduction*** of an IMR foreign fund for an income year is the amount of the fund's deductions for the income year to the extent to which they:
 - (a) are attributable to gaining the fund's pre-2012 IMR income; and
 - (b) relate to the 2011-12 income year, or an earlier income year.
- (2) Disregard the following provisions for the purposes of determining the pre-2012 IMR deduction of the fund:
 - (a) subsection 842-210(3) (which is about certain amounts of an IMR foreign fund being disregarded);
 - (b) paragraph 842-240(1)(b) (which is about pre-2012 non-IMR net income);
 - (c) paragraph 842-245(a) (which is about pre-2012 non-IMR partnership net income).

842-235 *Pre-2012 IMR capital loss*

The ***pre-2012 IMR capital loss*** of an IMR foreign fund for an income year is the sum of the fund's capital losses made in the income year that are attributable to CGT assets that are financial arrangements covered by section 842-245 of the *Income Tax Assessment Act 1997*.

842-240 *Pre-2012 non-IMR net income, pre-2012 non-IMR Division 6E net income and pre-2012 non-IMR net capital gain*

- (1) A trust's ***pre-2012 non-IMR net income*** in relation to an income year is determined by calculating the net income of the trust as follows:
 - (a) for income years prior to the 2010-11 income year—disregard the pre-2012 IMR capital gain and pre-2012 IMR capital loss;

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- (b) disregard the pre-2012 IMR income and pre-2012 IMR deduction of the trust for the income year;
- (c) disregard any amount that is included in the trust's assessable income under subsection 207-35(1) to the extent that the amount is attributable to pre-2012 IMR income of the trust for the income year;
- (d) if the trust is a beneficiary of another trust—then:
 - (i) for the purposes of applying Division 6 of Part III of the *Income Tax Assessment Act 1936* to the trust that is a beneficiary, replace the references in that Division to share of the net income with references to share of the pre-2012 non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*); and
 - (ii) for the purposes of applying Division 6E of Part III of the *Income Tax Assessment Act 1936* to the trust that is a beneficiary, replace references in that Division to Division 6E net income with references to pre-2012 non-IMR Division 6E net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*);
- (e) if the trust is a partner in a partnership—for the purposes of applying Division 5 of Part III of the *Income Tax Assessment Act 1936* to the partner, replace the references to the individual interest of the partner in the partnership net income or partnership loss with references to the individual interest of the partner in the pre-2012 non-IMR partnership net income or pre-2012 non-IMR partnership loss (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*).

Note: The net income of a trust may include a share of the net income of another trust. Where there is a chain of trusts, these calculations are applied to each trust in the chain.

Pre-2012 non-IMR Division 6E net income

- (2) A trust's **pre-2012 non-IMR Division 6E net income** in relation to an income year is determined by calculating the Division 6E net

income (within the meaning of subsection 102UY(3) of the *Income Tax Assessment Act 1936*) of the trust as follows:

- (a) disregard the pre-2012 IMR income and pre-2012 IMR deduction of the trust in relation to the income year;
- (b) disregard the things mentioned in subparagraphs 102UW(b)(i) to (iii) of the *Income Tax Assessment Act 1936* (which is about adjustments of Division 6 assessable amounts) in relation to the income year.

Pre-2012 non-IMR net capital gain

- (3) A trust's ***pre-2012 non-IMR net capital gain*** in relation to an income year is determined by calculating the net capital gain of the trust as follows:
 - (a) disregard the trust's pre-2012 IMR capital gain and pre-2012 IMR capital loss in relation to the income year;
 - (b) disregard any capital gain of the trust in relation to the income year that is referable to a pre-2012 IMR capital gain of another IMR foreign fund that is a trust.

842-245 *Pre-2012 non-IMR partnership net income and pre-2012 non-IMR partnership loss*

A partnership's ***pre-2012 non-IMR partnership net income*** or ***pre-2012 non-IMR partnership loss*** in relation to an income year is determined by calculating the net income or partnership loss of the partnership as follows:

- (a) disregard the pre-2012 IMR income and pre-2012 IMR deduction of the partnership for the income year;
- (b) disregard any amount included in the partnership's assessable income under subsection 207-35(1) to the extent that the amount is attributable to pre-2012 IMR income of the partnership for the income year;
- (c) if the partnership is a beneficiary of a trust—then:
 - (i) for the purposes of applying Division 6 of Part III of the *Income Tax Assessment Act 1936* to the beneficiary, replace the references in that Division to share of the net income with references to share of the pre-2012

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non-IMR net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*); and

- (ii) for the purposes of applying Division 6E of Part III of the *Income Tax Assessment Act 1936* to the beneficiary, replace references in that Division to Division 6E net income with references to pre-2012 non-IMR Division 6E net income (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*);
- (d) if the partnership is a partner in another partnership—for the purposes of applying Division 5 of Part III of the *Income Tax Assessment Act 1936* to the partner, replace the references in that Division to the individual interest of the partner in the partnership net income or partnership loss with references to the individual interest of the partner in the pre-2012 non-IMR partnership net income or pre-2012 non-IMR partnership loss (within the meaning of subsection 842-240(1) of the *Income Tax (Transitional Provisions) Act 1997*).

Note: The net income of a partnership may include a share of the net income of another partnership. Where there is a chain of partnerships, these calculations are applied to each partnership in the chain.

Chapter 5—Administration

Part 5-35—Miscellaneous

Division 909—Regulations

Table of sections

909-1 Regulations

909-1 Regulations

The Governor-General may make regulations prescribing matters:

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

Chapter 6—The Dictionary

Part 6-1—Concepts and topics

Division 960—General

Table of Subdivisions

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| 960-B | Utilisation of tax attributes |
| 960-E | Entities |
| 960-M | Indexation |

Subdivision 960-B—Utilisation of tax attributes

Table of sections

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| 960-20 | Utilisation—corporate loss carry back |
|--------|---------------------------------------|

960-20 Utilisation—corporate loss carry back

- (1) For the purposes of subsection 960-20(2) of the *Income Tax Assessment Act 1997*, a tax loss is **utilised** to the extent that it is carried back under former Division 160 of that Act (which provided for a corporate loss carry back tax offset).
- (2) For the purposes of subsection 960-20(4) of that Act, net exempt income for an income year is **utilised** to the extent that, because of it, an amount was reduced under step 2 of the method statement in former subsection 160-15(2) of that Act (which was about calculating a loss carry back tax offset component).

Subdivision 960-E—Entities

Table of sections

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| 960-100 | Effect of this Subdivision |
| 960-105 | Entities, and members of entities, benefiting from the application of this Subdivision |
| 960-110 | No taxation consequences to result from changes to managed investment scheme |

960-115 Certain entities treated as agents

960-100 Effect of this Subdivision

This Subdivision has effect for the purposes of the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997*, the *Taxation Administration Act 1953* and this Act.

960-105 Entities, and members of entities, benefiting from the application of this Subdivision

- (1) This Subdivision applies to an entity if, and only if:
- (a) the entity is a managed investment scheme for the purposes of the Corporations Law; and
 - (b) the scheme has been or is registered by the Australian Securities and Investments Commission under section 601EB of the Corporations Law; and
 - (c) the entity was a managed investment scheme as mentioned in paragraph (a) at all times from the commencement of 1 July 1998 until the registration of the scheme as mentioned in paragraph (b); and
 - (d) the entity was the same kind of entity immediately before, and immediately after, the scheme was so registered; and
 - (e) changes to the scheme that were necessary to be made to enable the scheme to be registered as mentioned in paragraph (b) were made during the period beginning on 1 July 1998 and ending on 30 June 2000 (the ***transition period***); and
 - (f) the membership of the scheme did not alter as a result of the changes; and
 - (g) where any other changes were or are made to the scheme during the transition period:
 - (i) the other changes were or are made only for the purpose of improving the administration or operation of the scheme; and
 - (ii) there were no increases in the values of the interests of any members of the scheme as a result of the other changes or, if there were any such increases, they

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- applied proportionately to the values of the interests of all the members of the scheme; and
 - (iii) no reductions in the values of the interests of any members of the scheme occurred as a result of the other changes; and
 - (iv) the membership of the scheme did not alter as a result of the other changes.
- (2) If this Subdivision applies to an entity under subsection (1) because of a particular change referred to in that subsection, it also applies because of the change to a member of the entity, in relation to the member's interests in the entity, if the member was a member immediately before, and immediately after, the change was made.

960-110 No taxation consequences to result from changes to managed investment scheme

Despite the changes made as mentioned in subsection 960-105(1) to the managed investment scheme constituted by an entity to which this Subdivision applies:

- (a) the entity is taken, immediately after the changes were made or, if the changes were made at different times, immediately after the last of the changes was made, to be the same entity as existed immediately before the changes were made or, if the changes were made at different times, immediately before the first of the changes was made; and
- (b) the legal ownership of the assets of the entity is taken not to have altered as a result of the changes; and
- (c) the beneficial ownership of the interests in the entity of a member of the entity to whom, because of a particular change, this Subdivision applies in relation to those interests is taken not to have altered as a result of the change; and
- (d) without limiting by implication any other effect of the above paragraphs:
 - (i) the changes are taken not to have resulted in a CGT event in respect of the entity; and
 - (ii) in so far as this Subdivision applies to a member of the entity because of a particular change, the change is taken not to have resulted in a CGT event in respect of

the member in relation to the member's interests in the entity.

960-115 Certain entities treated as agents

A declaration made by the Commissioner for the purposes of paragraph (b) of the definition of *agent* in subsection 995-1(1) of the *Income Tax Assessment Act 1997* and in force immediately before the *Tax Laws Amendment (2006 Measures No. 2) Act 2006* received the Royal Assent continues to have effect for the purposes of section 960-105 of the *Income Tax Assessment Act 1997*.

Subdivision 960-M—Indexation

Table of sections

| | |
|---------|---|
| 960-262 | Application of Subdivision 960-M of the <i>Income Tax Assessment Act 1997</i> |
| 960-275 | <i>Indexation factor</i> |

960-262 Application of Subdivision 960-M of the *Income Tax Assessment Act 1997*

- (1) Subdivision 960-M of the *Income Tax Assessment Act 1997* (about indexation) applies to assessments for the 1998-99 income year and later income years (except so far as it affects the car depreciation limit).
- (2) For the car depreciation limit (see section 42-80 of the *Income Tax Assessment Act 1997*), that Subdivision applies to the 1998-99 financial year and later financial years.

960-275 *Indexation factor*

- (1) This section applies to a CGT asset that:
 - (a) is a share in a company that was issued or allotted to you by the company or a unit in a unit trust that was issued to you by the trustee; and
 - (b) you acquired before 16 August 1989; and
 - (c) you owned just before the start of the 1998-99 income year.

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- (2) In working out the cost base of the asset, you ignore subsection 960-275(3) and use the indexation factor in subsection 960-275(2).

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

| | |
|--|--|
| A = Act | orig = original |
| ad = added or inserted | par = paragraph(s)/subparagraph(s) /sub-subparagraph(s) |
| am = amended | pres = present |
| amdt = amendment | prev = previous |
| c = clause(s) | (prev...) = previously |
| C[x] = Compilation No. x | Pt = Part(s) |
| Ch = Chapter(s) | r = regulation(s)/rule(s) |
| def = definition(s) | Reg = Regulation/Regulations |
| Dict = Dictionary | reloc = relocated |
| disallowed = disallowed by Parliament | renum = renumbered |
| Div = Division(s) | rep = repealed |
| exp = expires/expired or ceases/ceased to have effect | rs = repealed and substituted |
| F = Federal Register of Legislative Instruments | s = section(s)/subsection(s) |
| gaz = gazette | Sch = Schedule(s) |
| LI = Legislative Instrument | Sdiv = Subdivision(s) |
| LIA = <i>Legislative Instruments Act 2003</i> | SLI = Select Legislative Instrument |
| (md) = misdescribed amendment | SR = Statutory Rules |
| mod = modified/modification | Sub-Ch = Sub-Chapter(s) |
| No. = Number(s) | SubPt = Subpart(s) |
| o = order(s) | <u>underlining</u> = whole or part not commenced or to be commenced |
| Ord = Ordinance | |

Endnote 3—Legislation history

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|--|---|
| Income Tax (Transitional Provisions) Act 1997 | 40, 1997 | 17 Apr 1997 | 1 July 1997 | |
| Tax Law Improvement Act 1997 | 121, 1997 | 8 July 1997 | Schedule 2 (items 1, 2), Schedule 3 (items 1, 2), Schedule 4 (items 1–4), Schedule 5 (items 1, 2), Schedule 6 (items 1, 2), Schedule 7 (item 1), Schedule 8 (item 1), Schedule 9 (items 1, 2), Schedule 10 (item 1) and Schedule 11 (item 1): (a) | s. 4 |
| Child Care Payments (Consequential Amendments and Transitional Provisions) Act 1997 | 196, 1997 | 8 Dec 1997 | Schedule 1 (item 21): 8 Dec 1997 (b) | — |
| Taxation Laws Amendment Act (No. 1) 1998 | 16, 1998 | 16 Apr 1998 | Schedule 7: Royal Assent (c) | Sch. 7 (item 6) |
| Tax Law Improvement Act (No. 1) 1998 | 46, 1998 | 22 June 1998 | Schedule 2 (items 1–3), Schedule 3 (items 1, 2), Schedule 4 (item 1), Schedule 5 (items 1, 2), Schedule 6 (item 1), Schedule 7 (item 1), Schedule 8 (item 1) and Schedule 9 (item 1): (d) | s. 4 and Sch. 9 (item 8) |
| Taxation Laws Amendment Act (No. 6) 1999 | 54, 1999 | 5 July 1999 | Schedule 4 (items 6–10): Royal Assent (e) | Sch. 4 (item 10) |

Income Tax (Transitional Provisions) Act 1997

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Endnotes

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|--|--|
| A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999 | 83, 1999 | 8 July 1999 | Schedule 10 (items 64, 68(1)): 1 July 2000 (<i>f</i>) | Sch. 10 (item 68(1)) s. 2(2) (am. by 172, 1999, Sch. 2 [item 1]) |
| as amended by | | | | |
| Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999 | 172, 1999 | 10 Dec 1999 | Schedule 2 (item 1): (<i>fa</i>) | — |
| Taxation Laws Amendment Act (No. 2) 1999 | 93, 1999 | 16 July 1999 | Schedule 3 (items 25, 33(1)): Royal Assent (<i>g</i>) | Sch. 3 (item 33(1)) |
| Taxation Laws Amendment Act (No. 4) 1999 | 94, 1999 | 16 July 1999 | Schedule 5 (items 4, 35): Royal Assent (<i>h</i>) | Sch. 5 (item 35) |
| Taxation Laws Amendment Act (No. 7) 1999 | 117, 1999 | 22 Sept 1999 | Schedule 2 (item 1): Royal Assent (<i>i</i>) | — |
| New Business Tax System (Integrity and Other Measures) Act 1999 | 169, 1999 | 10 Dec 1999 | Schedule 1 (items 14–18): Royal Assent (<i>j</i>) Schedule 5 (items 13, 14): 22 Feb 1999 (<i>j</i>) | Sch. 1 (item 18) |
| Taxation Laws Amendment Act (No. 3) 2000 | 66, 2000 | 22 June 2000 | Schedule 1: (<i>k</i>) | — |
| New Business Tax System (Miscellaneous) Act (No. 2) 2000 | 89, 2000 | 30 June 2000 | s. 4 and Schedule 2 (items 85–88): Royal Assent (<i>l</i>) | s. 4 and Sch. 2 (item 88) |
| Taxation Laws Amendment Act (No. 4) 2000 | 114, 2000 | 5 Sept 2000 | Schedule 4 (items 43, 44): 1 July 1998 Remainder: Royal Assent | Sch. 4 (item 82) |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|---|--|
| Taxation Laws Amendment Act (No. 7) 2000 | 173, 2000 | 21 Dec 2000 | Schedule 4 (items 60–64, 65(1)): Royal Assent (<i>m</i>) | Sch. 4 (item 65(1)) |
| New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001 | 77, 2001 | 30 June 2001 | Schedule 1: Royal Assent (<i>n</i>) | — |
| New Business Tax System (Thin Capitalisation) Act 2001 | 162, 2001 | 1 Oct 2001 | Schedule 1 (items 20–22): 1 July 2001 (<i>o</i>) | — |
| Taxation Laws Amendment (Research and Development) Act 2001 | 170, 2001 | 1 Oct 2001 | Schedule 2 (item 3): Royal Assent (<i>p</i>) | — |
| New Business Tax System (Imputation) Act 2002 | 48, 2002 | 29 June 2002 | 29 June 2002 | — |
| Taxation Laws Amendment Act (No. 4) 2002 | 53, 2002 | 29 June 2002 | Schedules 3 and 4: 1 July 2002 Remainder: Royal Assent | Sch. 1 (item 46) |
| New Business Tax System (Consolidation) Act (No. 1) 2002 | 68, 2002 | 22 Aug 2002 | 24 Oct 2002 (<i>see s. 2</i>) | — |
| New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002 | 90, 2002 | 24 Oct 2002 | s. 4: Royal Assent Schedules 7–9, Schedule 14 (items 16, 19) and Schedule 15 (item 2): (<i>q</i>) | Sch. 14 (item 19) s. 4 (rep. by 75, 2010, Sch. 6 [item 15]) |
| as amended by | | | | |
| Taxation Laws Amendment Act (No. 6) 2003 | 67, 2003 | 30 June 2003 | Schedule 8 (items 2, 3): Royal Assent | Sch. 8 (item 3) |
| Tax Laws Amendment (2010 Measures No. 2) Act 2010 | 75, 2010 | 28 June 2010 | Schedule 6 (item 15): 29 June 2010 | — |

Income Tax (Transitional Provisions) Act 1997

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Endnotes

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|-------------|--|---|
| New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002 | 117, 2002 | 2 Dec 2002 | Schedule 3 (item 8): <i>(r)</i> Schedule 5 (items 13, 14): <i>(r)</i> Schedules 9 and 10, Schedule 12 (items 24–28), Schedule 13 (items 15, 16) and Schedule 15 (item 1): <i>(r)</i> Schedule 18: <i>(r)</i> | Sch. 12 (items 25, 28) |
| Taxation Laws Amendment Act (No. 5) 2002 | 119, 2002 | 2 Dec 2002 | Schedule 1 (items 1, 8): Royal Assent Schedule 3 (items 79–96): <i>(s)</i> | Sch. 1 (item 8) |
| Taxation Laws Amendment (Structured Settlements and Structured Orders) Act 2002 | 139, 2002 | 19 Dec 2002 | 19 Dec 2002 | — |
| New Business Tax System (Consolidation and Other Measures) Act 2003 | 16, 2003 | 11 Apr 2003 | Schedule 1 (items 7, 8, 27–36), Schedule 6 (item 10), Schedule 11 (item 4), Schedule 15, Schedule 16 (items 4, 5), Schedule 17 and Schedule 19 (items 4, 5): <i>(t)</i> Schedule 25 (items 11, 12), Schedule 26 (items 5–8) and Schedule 27 (item 20): <i>(t)</i> Schedule 28 (item 13): <i>(t)</i> | Sch. 26 (item 8) s. 2(1) (items 1A–1C) (ad. by 56, 2010, Sch. 5 [item 137]) |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|---|---|
| as amended by | | | | |
| Tax Laws Amendment (2010 Measures No. 1) Act 2010 | 56, 2010 | 3 June 2010 | Schedule 5 (items 137–140): (<i>see</i> 56, 2010 below) | Sch. 5 (items 139, 140) |
| Taxation Laws Amendment Act (No. 2) 2003 | 65, 2003 | 30 June 2003 | Schedule 3 (items 6–8): Royal Assent | — |
| Taxation Laws Amendment Act (No. 4) 2003 | 66, 2003 | 30 June 2003 | Schedule 2 (items 6–17) and Schedule 3 (item 132): Royal Assent Schedule 3 (item 133): (<i>u</i>) | Sch. 2 (item 17) and Sch. 3 (item 140(1)) |
| Taxation Laws Amendment Act (No. 6) 2003 | 67, 2003 | 30 June 2003 | Schedule 5 (items 4–10), Schedules 6 and 7: (<i>v</i>) Schedule 10 (item 24): Royal Assent | — |
| Taxation Laws Amendment Act (No. 3) 2003 | 101, 2003 | 14 Oct 2003 | Schedule 2 (items 13–16): Royal Assent | Sch. 2 (item 16) |
| Taxation Laws Amendment Act (No. 8) 2003 | 107, 2003 | 21 Oct 2003 | Schedule 2 (items 6, 13, 14, 35–37, 40) and Schedule 7 (item 10): Royal Assent | Sch. 2 (item 40) |
| Taxation Laws Amendment Act (No. 2) 2004 | 20, 2004 | 23 Mar 2004 | Schedule 6: 1 July 2000 Remainder: Royal Assent | Sch. 8 (item 14) |
| Tax Laws Amendment (2004 Measures No. 2) Act 2004 | 83, 2004 | 25 June 2004 | Schedule 1 (items 80–83): (<i>w</i>) Schedule 2 (items 1, 19, 34, 75, 76): Royal Assent Schedule 2 (item 9): (<i>w</i>) | Sch. 2 (item 1) |

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Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|--|---|
| Taxation Laws Amendment Act (No. 1) 2004 | 101, 2004 | 30 June 2004 | s. 4, Schedule 10 (item 38) and Schedule 11 (item 154): Royal Assent Schedule 5: (x) Schedule 7 (item 9): (x) | s. 4 (rep. by 75, 2010, Sch. 6 [item 36]) |
| as amended by | | | | |
| Tax Laws Amendment (2010 Measures No. 2) Act 2010 | 75, 2010 | 28 June 2010 | Schedule 6 (item 36): 29 June 2010 | — |
| Tax Laws Amendment (2004 Measures No. 6) Act 2005 | 23, 2005 | 21 Mar 2005 | Schedule 1 (items 1, 9, 10, 12, 20, 25, 28), Schedule 2 (item 12) and Schedule 12 (item 11): Royal Assent Schedule 12 (items 7, 8, 10): 1 July 2000 Schedule 12 (item 9): 1 July 2001 | Sch. 1 (item 1) and Sch. 12 (item 11) |
| Tax Laws Amendment (2004 Measures No. 7) Act 2005 | 41, 2005 | 1 Apr 2005 | s. 4, Schedule 2 (items 10, 11), Schedule 6 (items 1, 4, 16, 29–35) and Schedule 10 (items 222, 223, 274): Royal Assent | s. 4, Sch. 2 (item 11) and Sch. 6 (item 1) |
| New International Tax Arrangements (Foreign-owned Branches and Other Measures) Act 2005 | 64, 2005 | 26 June 2005 | Schedule 3 (items 38, 39): Royal Assent | Sch. 3 (item 39) |
| Tax Laws Amendment (2005 Measures No. 2) Act 2005 | 78, 2005 | 29 June 2005 | 29 June 2005 | — |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|---|---|
| Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005 | 147, 2005 | 14 Dec 2005 | Schedule 5 (items 15, 17, 18): Royal Assent Schedule 5 (item 16): (y) | Sch. 5 (item 20) |
| Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005 | 161, 2005 | 19 Dec 2005 | Schedule 1 (item 74): Royal Assent | — |
| Tax Laws Amendment (2005 Measures No. 5) Act 2005 | 162, 2005 | 19 Dec 2005 | Schedule 3 (items 20–33) and Schedule 4: Royal Assent | Sch. 3 (item 33) |
| Tax Laws Amendment (2006 Measures No. 1) Act 2006 | 32, 2006 | 6 Apr 2006 | 6 Apr 2006 | Sch. 2 (item 51(2)) |
| Tax Laws Amendment (Personal Tax Reduction and Improved Depreciation Arrangements) Act 2006 | 55, 2006 | 19 June 2006 | Schedules 1, 3 and 4: 1 July 2006 Remainder: Royal Assent | — |
| Tax Laws Amendment (2006 Measures No. 2) Act 2006 | 58, 2006 | 22 June 2006 | Schedule 3 (items 4–7) and Schedule 7 (items 120–124): Royal Assent Schedule 5 (items 4, 5): 1 July 2002 | Sch. 3 (item 7) |
| Tax Laws Amendment (2006 Measures No. 3) Act 2006 | 80, 2006 | 30 June 2006 | Schedule 4 (item 2) and Schedule 6 (item 8): Royal Assent | — |
| Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006 | 101, 2006 | 14 Sept 2006 | Schedules 3 and 4: 1 Jan 2008 Remainder: Royal Assent | Sch. 6 (items 1, 4, 6–11) |
| Tax Laws Amendment (2006 Measures No. 4) Act 2006 | 168, 2006 | 12 Dec 2006 | Schedule 3 (items 3–5): 13 Dec 2005 Remainder: Royal Assent | Sch. 2 (item 8) and Sch. 4 (item 112) |

Income Tax (Transitional Provisions) Act 1997

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Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|---|---|
| Tax Laws Amendment (Simplified Superannuation) Act 2007 | 9, 2007 | 15 Mar 2007 | Schedule 1 (item 25) and Schedule 2 (item 3): Royal Assent | — |
| Superannuation Legislation Amendment (Simplification) Act 2007 | 15, 2007 | 15 Mar 2007 | Schedule 1 (items 261–272, 406(1)–(3)): (z) Schedule 3 (items 45–50, 66) and Schedule 4 (items 9, 11): Royal Assent Schedule 4 (item 10): (z) | Sch. 1 (item 406(1)–(3)) and Sch. 3 (item 66) |
| as amended by | | | | |
| Tax Laws Amendment (2009 Measures No. 6) Act 2010 | 19, 2010 | 24 Mar 2010 | Sch 3 (item 10): 15 Mar 2007 (s 2(1) item 8) Sch 3 (item 12): 24 Mar 2010 (s 2(1) item 9) | Sch 3 (item 12) |
| Tax Laws Amendment (2006 Measures No. 7) Act 2007 | 55, 2007 | 12 Apr 2007 | 12 Apr 2007 | Sch. 1 (item 68) and Sch. 7 (item 5) |
| Tax Laws Amendment (2007 Measures No. 3) Act 2007 | 79, 2007 | 21 June 2007 | Sch 2: 15 Mar 2007 (s 2(1) item 3) Sch 5: 21 June 2007 (s 2(1) item 4) | — |
| Tax Laws Amendment (Small Business) Act 2007 | 80, 2007 | 21 June 2007 | 21 June 2007 | Sch. 3 (item 176) and Sch. 8 (item 9) |
| Tax Laws Amendment (2007 Measures No. 4) Act 2007 | 143, 2007 | 24 Sept 2007 | Schedule 1 (items 5, 195–205, 222, 225, 226), Schedule 5 (items 18–25, 48(1), (2)) and Schedule 7 (items 97, 98): Royal Assent Sch 1 (item 227): 30 June 2014 | Sch. 1 (items 222, 225, 226) and Sch. 5 (item 48(1), (2)) |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|----------------------------|-----------------|---|--|
| Tax Laws Amendment (2007 Measures No. 5) Act 2007 | 164, 2007 | 25 Sept 2007 | Schedule 7 (items 4, 13, 14): Royal Assent Schedule 10 (items 89, 90): 1 July 2010 | Sch. 7 (item 14) (am. by 88, 2009, Sch. 5 [item 343]) |
| as amended by | | | | |
| Tax Laws Amendment (2009 Measures No. 4) Act 2009 | 88, 2009 | 18 Sept 2009 | Schedule 5 (item 343): Royal Assent | — |
| Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 | 8, 2008 | 20 Mar 2008 | Schedules 1–7: 28 Mar 2008 (F2008L00959) Remainder: Royal Assent | — |
| Tax Laws Amendment (Election Commitments No. 1) Act 2008 | 32, 2008 | 23 June 2008 | Schedule 1 (items 23, 58): Royal Assent | Sch. 1 (item 58) |
| Tax Laws Amendment (2008 Measures No. 2) Act 2008 | 38, 2008 | 24 June 2008 | Schedule 7 (items 4, 5): Royal Assent | Sch. 7 (item 5) |
| Tax Laws Amendment (2008 Measures No. 4) Act 2008 | 97, 2008 | 3 Oct 2008 | Schedule 3 (item 175): Royal Assent | — |
| Same-Sex Relationships (Equal Treatment in Commonwealth Laws— Superannuation) Act 2008 | 134, 2008 | 4 Dec 2008 | Schedule 4 (items 18, 19): 1 July 2008 | — |
| Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009 | 15, 2009 | 26 Mar 2009 | Schedule 1 (items 98, 99): Royal Assent | — |
| Tax Laws Amendment (2009 Measures No. 2) Act 2009 | 42, 2009 | 23 June 2009 | Schedule 1 (items 27–29): Royal Assent | — |

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Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|---|---|
| Fair Work (State Referral and Consequential and Other Amendments) Act 2009 | 54, 2009 | 25 June 2009 | Sch 18 (item 10): 1 July 2009 (s 2(1) item 41) | — |
| Tax Laws Amendment (2009 Budget Measures No. 1) Act 2009 | 62, 2009 | 29 June 2009 | Schedule 3 (item 11): Royal Assent | — |
| Tax Laws Amendment (2009 Measures No. 4) Act 2009 | 88, 2009 | 18 Sept 2009 | Schedule 3 (item 24) and Schedule 5 (items 205–208, 259–282): Royal Assent | Sch. 5 (item 282) |
| Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009 | 114, 2009 | 16 Nov 2009 | Sch 1 (item 13) and Sch 2: 1 Mar 2010 (s 2(1) items 2, 4) | Sch 2 |
| Tax Laws Amendment (Resale Royalty Right for Visual Artists) Act 2009 | 126, 2009 | 9 Dec 2009 | Schedule 1 (items 18, 20): 9 June 2010 (s. 2(1)) | Sch. 1 (item 20) |
| Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009 | 133, 2009 | 14 Dec 2009 | Schedule 1 (items 77, 83–87) and Schedule 2 (items 14, 15(b)): 14 Dec 2009 | Sch. 1 (items 86, 87) and Sch. 2 (item 15(b)) |
| Tax Laws Amendment (2010 Measures No. 1) Act 2010 | 56, 2010 | 3 June 2010 | s 4(2), Sch 3 (items 8, 10(1)), Sch 5 (items 54, 55, 73–78, 130, 131, 137–140, 189, 190, 193) and Sch 6 (items 156–158): 3 June 2010 (s 2(1) items 1, 7, 8, 10, 11, 23) | s 4(2), Sch 3 (item 10(1)), Sch 5 (items 55, 78, 131, 193) and Sch 6 (item 158) |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|---|-----------------|--------------|---|---|
| Tax Laws Amendment (Transfer of Provisions) Act 2010 | 79, 2010 | 29 June 2010 | Sch 1 (items 33, 54, 55), Sch 2 (item 9), Sch 3 (item 60) and Sch 4 (item 50): 1 July 2010 (s 2(1) items 2–4) | — |
| Superannuation Legislation Amendment Act 2010 | 117, 2010 | 16 Nov 2010 | s 4: 16 Nov 2010 (s 2(1) item 1) Sch 2 (items 1, 4, 5): 1 Dec 2010 (s 2(1) item 3 and F2010L03106) Sch 2 (item 7): <u>1 Jan 2017</u> (s 2(1) item 4) | s 4 and Sch 2 (item 1) |
| Tax Laws Amendment (2010 Measures No. 4) Act 2010 | 136, 2010 | 7 Dec 2010 | Schedule 7 (items 3, 4): Royal Assent | Sch. 7 (item 4) |
| Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010 | 145, 2010 | 16 Dec 2010 | Schedule 2 (item 52): 17 Dec 2010 | — |
| Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Act 2011 | 16, 2011 | 12 Apr 2011 | Sch 1 (item 3): 12 Apr 2011 Sch 2 (item 3): <u>1 July 2016</u> (s 2(1) item 3) | — |
| Tax Laws Amendment (2011 Measures No. 2) Act 2011 | 41, 2011 | 27 June 2011 | Schedule 5 (items 30–32, 397, 419): Royal Assent | — |
| Tax Laws Amendment (2011 Measures No. 4) Act 2011 | 43, 2011 | 27 June 2011 | s 4 and Sch 3 (items 8, 10, 11): 27 June 2011 (s 2(1) items 1, 7) Sch 3 (item 12): <u>1 Jan 2017</u> (s 2(1) item 8) | s 4 and Sch 3 (item 8) |

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Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|------------------------|---------------|--|--|
| Tax Laws Amendment (2011 Measures No. 3) Act 2011 | 51, 2011 | 27 June 2011 | Sch 2: 1 July 2010 (s 2(1) item 3) | Sch 2 (item 4) |
| Tax Laws Amendment (2010 Measures No. 5) Act 2011 | 61, 2011 | 29 June 2011 | s. 4(1) and Schedule 2 (items 9–12): Royal Assent | s. 4(1) |
| Tax Laws Amendment (2011 Measures No. 5) Act 2011 | 62, 2011 | 29 June 2011 | Schedule 1 (items 13, 14): Royal Assent | Sch. 1 (item 14) |
| Tax Laws Amendment (Research and Development) Act 2011 | 93, 2011 | 8 Sept 2011 | Schedule 3 (item 108) and Schedule 4 (items 1–6, 10–15): Royal Assent | Sch. 4 (items 1–6) |
| Clean Energy (Consequential Amendments) Act 2011 | 132, 2011 | 18 Nov 2011 | Schedule 2 (items 72, 72A): 2 Apr 2012 (s. 2(1)) | — |
| Tax Laws Amendment (2011 Measures No. 9) Act 2012 | 12, 2012 | 21 Mar 2012 | Sch 2 (items 24, 25) and Sch 6 (items 21, 32, 149–152): 21 Mar 2012 (s 2(1) items 3, 10, 13, 24, 25) | Sch 6 (items 150, 152) |
| Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012 | 23, 2012 | 29 Mar 2012 | Schedule 1 (items 7, 8, 10): Royal Assent Schedule 2 (items 65, 66): 29 Mar 2012 | Sch. 1 (item 10) and Sch. 2 (item 66) |
| Tax Laws Amendment (2012 Measures No. 3) Act 2012 | 58, 2012 | 21 June 2012 | Schedule 1 (item 7): 21 June 2012 (s 2(1)) | — |
| Tax Laws Amendment (Cross-Border Transfer Pricing) Act (No. 1) 2012 | 115, 2012 | 8 Sept 2012 | Schedule 1 (item 12): Royal Assent | — |
| Tax Laws Amendment (Investment Manager Regime) Act 2012 | 126, 2012 | 13 Sept 2012 | Schedule 2: Royal Assent | — |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|----------------------------|-----------------|---|--|
| Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012 | 169, 2012 | 3 Dec 2012 | Schedule 2 (item 40): 3 Dec 2012 (s 2(1)) | — |
| Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013 | 82, 2013 | 28 June 2013 | Sch 1 (item 2) and Sch 3 (items 38, 39): Royal Assent | Sch 3 (item 39) |
| Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013 | 88, 2013 | 28 June 2013 | Sch 5 (items 6, 10) and Sch 6 (items 42, 43): 29 June 2013 Sch 5 (item 21): 1 July 2013 | — |
| Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Act 2013 | 101, 2013 | 29 June 2013 | Sch 2 (items 51–54): Royal Assent | — |
| Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Act 2013 | 118, 2013 | 29 June 2013 | Sch 1 (items 12, 80, 98, 99, 110, 111): 29 June 2014 (s 2(1) items 2, 7, 8, 11) | Sch 1 (item 110) |
| Tax Laws Amendment (2013 Measures No. 2) Act 2013 | 124, 2013 | 29 June 2013 | Sch 2 (item 47): 11 July 2013 (<i>see</i> F2013L01359) Sch 11 (item 4): 3 Dec 2014 (s 2(1) item 15) Sch 11 (items 7–9): 28 June 2013 (s 2(1) item 16) | Sch 11 (item 9) |
| Tax Laws Amendment (2014 Measures No. 1) Act 2014 | 34, 2014 | 30 May 2014 | Sch 1 (items 12, 13(2)): 30 May 2014 | Sch 1 (item 13(2)) |

Income Tax (Transitional Provisions) Act 1997

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| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|--|---|
| Tax Laws Amendment (Temporary Budget Repair Levy) Act 2014 | 48, 2014 | 25 June 2014 | Sch 1 (item 2): 25 June 2014 (s 2(1)) | — |
| Minerals Resource Rent Tax Repeal and Other Measures Act 2014 | 96, 2014 | 5 Sept 2014 | Sch 2 (items 2, 42–44): 30 Sept 2014 (s 2(1) item 2 and F2014L01256) | Sch 2 (items 42, 43) |
| Tax and Superannuation Laws Amendment (2014 Measures No. 6) Act 2014 | 133, 2014 | 12 Dec 2014 | Sch 1 (item 41): 12 Dec 2014 (s 2(1) item 2) | — |
| Treasury Legislation Amendment (Repeal Day) Act 2015 | 2, 2015 | 25 Feb 2015 | Sch 2 (item 34): <u>1 July 2015 (s 2(1) item 4)</u> Sch 2 (item 73): 25 Feb 2015 (s 2(1) item 5) | Sch 2 (item 73) |
| Tax Laws Amendment (Research and Development) Act 2015 | 13, 2015 | 5 Mar 2015 | Sch 1 (items 7–9): 5 Mar 2015 (s 2(1) item 2) Sch 1 (items 15–17): <u>1 July 2024 (s 2(1) item 3)</u> | Sch 1 (item 9) and <u>Sch 1 (item 17)</u> |
| Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015 | 21, 2015 | 19 Mar 2015 | Sch 4 (items 6, 7, 9): <u>1 July 2015 (s 2(1) item 5)</u> Sch 7 (item 22): 20 Mar 2015 (s 2(1) item 15) | <u>Sch 4 (item 9)</u> |

- (a) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 2 (items 1 and 2), Schedule 3 (items 1 and 2), Schedule 4 (items 1–4), Schedule 5 (items 1 and 2), Schedule 6 (items 1 and 2), Schedule 7 (item 1), Schedule 8 (item 1), Schedule 9 (items 1 and 2), Schedule 10 (item 1) and Schedule 11 (item 1) only of the *Tax Law Improvement Act 1997*, subsections 2(2) and (3) of which provide as follows:
- (2) Schedule 1 commences on 1 July 1997 immediately after the commencement of the *Income Tax Assessment Act 1997*.
 - (3) Each of the other Schedules (except Schedule 12) commences immediately after the commencement of the immediately preceding Schedule.

Endnote 3—Legislation history

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- (b) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 1 (item 21) only of the *Child Care Payments (Consequential Amendments and Transitional Provisions) Act 1997*, subsection 2(5) of which provides as follows:
- (5) Items 11, 17, 18, 19, 20, 21 and 41 of Schedule 1 commence on the commencement of the *Child Care Payments Act 1997*.
- (c) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 7 of the *Taxation Laws Amendment Act (No. 1) 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 2 (items 1–3), Schedule 3 (items 1 and 2), Schedule 4 (item 1), Schedule 5 (items 1 and 2), Schedule 6 (item 1), Schedule 7 (item 1), Schedule 8 (item 1) and Schedule 9 (item 1) only of the *Tax Law Improvement Act (No. 1) 1998*, subsections 2(2) to (5) of which provide as follows:
- (2) Schedule 2 (except item 3 of it) commences immediately after the commencement of Schedule 1.
- (3) Schedule 3 commences immediately after the commencement of Schedule 2 (except item 4 of it).
- (4) Each of Schedules 4 to 8 commences immediately after the commencement of the immediately preceding Schedule.
- (5) Item 3 of Schedule 2 commences immediately after the commencement of Schedule 8.
- Schedule 1 commenced on Royal Assent.
- (e) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 4 (items 6–9) only of the *Taxation Laws Amendment Act (No. 6) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (f) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 10 (item 64) only of the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (Parts 1 to 5), Schedules 3 to 6, Schedule 7 (other than item 14), Schedules 8 and 9, Schedule 10 (other than items 22, 63, 66 and 67) and Schedule 11 (items 3 and 4 only) commence, or are taken to have commenced, on the commencement of Schedule 1 to the *A New Tax*
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Endnote 3—Legislation history

System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999.

- (fa) The *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999* was amended by Schedule 2 (item 1) only of the *Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999*, subsection 2(4) of which provides as follows:
- (4) Schedule 2 commences, or is taken to have commenced, immediately after the commencement of section 2 of the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*.
- Section 2 commenced on 8 July 1999.
- (g) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 3 (item 25) only of the *Taxation Laws Amendment Act (No. 2) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (h) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 5 (item 4) only of the *Taxation Laws Amendment Act (No. 4) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (i) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 2 (item 1) only of the *Taxation Laws Amendment Act (No. 7) 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (j) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 1 (items 14–17) and Schedule 5 (items 13 and 14) only of the *New Business Tax System (Integrity and Other Measures) Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Schedule 5 is taken to have commenced on 22 February 1999.
- (k) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 1 only of the *Taxation Laws Amendment Act (No. 3) 2000*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 is taken to have commenced immediately after the *Taxation Laws Amendment Act (No. 7) 1999* received the Royal Assent.

Endnote 3—Legislation history

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- The *Taxation Laws Amendment Act (No. 7) 1999* received the Royal Assent on 22 September 1999.
- (l) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 2 (items 85–87) only of the *New Business Tax System (Miscellaneous) Act (No. 2) 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (m) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 4 (items 60–64) only of the *Taxation Laws Amendment Act (No. 7) 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (n) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 1 only of the *New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (o) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 1 (items 20–22) only of the *New Business Tax System (Thin Capitalisation) Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act is taken to have commenced on 1 July 2001, immediately after the commencement of the *New Business Tax System (Debt and Equity) Act 2001*.
- (p) The *Income Tax (Transitional Provisions) Act 1997* was amended by Schedule 2 (item 3) only of the *Taxation Laws Amendment (Research and Development) Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (q) Subsection 2(1) (items 2 and 4) of the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.
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Endnote 3—Legislation history

| Commencement information | | |
|--------------------------|---|-----------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 2. Schedules 1 to 12 | Immediately after the commencement of the <i>New Business Tax System (Consolidation) Act (No. 1) 2002</i> | 24 October 2002 |
| 4. Schedules 14 and 15 | Immediately after the commencement of the <i>New Business Tax System (Consolidation) Act (No. 1) 2002</i> | 24 October 2002 |
| (r) | Subsection 2(1) (items 4, 7–9 and 11) of the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> provides as follows: (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table. | |
| Provision(s) | Commencement | Date/Details |
| 4. Schedule 3, Part 3 | Immediately after the commencement of Schedule 10 to this Act | 24 October 2002 |
| 7. Schedule 5, item 13 | Immediately after the commencement of Schedule 10 to this Act | 24 October 2002 |
| 8. Schedule 5, item 14 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i> | 24 October 2002 |
| 9. Schedules 6 to 15 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i> | 24 October 2002 |
| 11. Schedules 17 and 18 | Immediately after the commencement of the <i>New Business Tax System (Imputation) Act 2002</i> | 29 June 2002 |
| (s) | Subsection 2(1) (item 9) of the <i>Taxation Laws Amendment Act (No. 5) 2002</i> provides as follows: (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table. | |

Endnote 3—Legislation history

| Provision(s) | Commencement | Date/Details |
|---------------------------------|--|--------------|
| 9. Items 79 to 99 of Schedule 3 | Immediately after the commencement of section 2 of the <i>New Business Tax System (Capital Allowances—Transitional and Consequential) Act 2001</i> | 30 June 2001 |

- (i) Subsection 2(1) (items 1A–1C, 4, 7, 10, 11, 15 and 17) of the *New Business Tax System (Consolidation and Other Measures) Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|--------------------------------|--|-----------------|
| 1A. Schedule 1, items 1 to 27 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |
| 1B. Schedule 1, item 27A | Immediately after the commencement of the provisions covered by table item 1A | 24 October 2002 |
| 1C. Schedule 1, items 28 to 36 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |
| 4. Schedules 5 to 8 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |
| 7. Schedules 11 to 13 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |
| 10. Schedules 15 to 18 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |

Endnotes

Endnote 3—Legislation history

| Provision(s) | Commencement | Date/Details |
|--------------------------------|--|-----------------|
| 11. Schedule 19, items 1 to 6 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act (No. 1) 2002</i> | 24 October 2002 |
| 15. Schedules 25 to 27 | Immediately after the commencement of Schedule 13 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i> | 29 June 2002 |
| 17. Schedule 28, items 2 to 18 | Immediately after the commencement of Schedule 27 to this Act | 29 June 2002 |

(u) Subsection 2(1) (item 13) of the *Taxation Laws Amendment Act (No. 4) 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|--------------------------|---|---|
| 13. Schedule 3, item 133 | The later of: (a) immediately after the commencement of Schedule 3 to the <i>Taxation Laws Amendment Act (No. 2) 2003</i> ; and (b) the day on which this Act receives the Royal Assent | 30 June 2003 (paragraph (a) applies) |

(v) Subsection 2(1) (item 3) of the *Taxation Laws Amendment Act (No. 6) 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|---------------------|--|-----------------|
| 3. Schedules 3 to 7 | Immediately after the commencement of Schedule 1 to the <i>New Business Tax System (Consolidation and Other Measures) Act 2003</i> | 24 October 2002 |

(w) Subsection 2(1) (items 2 and 15) of the *Tax Laws Amendment (2004 Measures No. 2) Act 2004* provides as follows:

Endnote 3—Legislation history

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s) | Commencement | Date/Details |
|------------------------------|---|-----------------|
| 2. Schedule 1, items 1 to 84 | Immediately after the commencement of item 84 of Schedule 2 to the <i>New Business Tax System (Miscellaneous) Act (No. 2) 2000</i> . | 30 June 2000 |
| 15. Schedule 2, item 9 | The provision(s) do not commence at all unless the Bill introduced into the Parliament as the Taxation Laws Amendment Bill (No. 7) 2003 is enacted (with or without amendments), in which case the provision(s) are taken to have commenced immediately after the commencement of Schedule 5 to that Act. | 24 October 2002 |

- (x) Subsection 2(1) (items 6 and 8) of the *Taxation Laws Amendment Act (No. 1) 2004* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Provision(s) | Commencement | Date/Details |
|---------------|---|-----------------|
| 6. Schedule 5 | Immediately after the commencement of Schedule 16 to the <i>New Business Tax System (Consolidation and Other Measures) Act 2003</i> | 24 October 2002 |
| 8. Schedule 7 | Immediately after the commencement of Part 1 of Schedule 10 to the <i>Taxation Laws Amendment Act (No. 6) 2003</i> | 30 June 2003 |

- (y) Subsection 2(1) (items 3 and 4) of the *Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Endnotes

Endnote 3—Legislation history

| Provision(s) | Commencement | Date/Details |
|--|--|--|
| 3. Schedule 5, items 1 to 15 | The day on which this Act receives the Royal Assent. | 14 December 2005 |
| 4. Schedule 5, item 16 | Immediately after the commencement of the provision(s) covered by table item 3. | 14 December 2005 |
| (z) Subsection 2(1) (items 2 and 10) of the <i>Superannuation Legislation Amendment (Simplification) Act 2007</i> provides as follows: | | |
| (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms. | | |
| Provision(s) | Commencement | Date/Details |
| 2. Schedule 1 | Immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> . | 15 March 2007 |
| 10. Schedule 4, item 10 | The later of: (a) immediately after the commencement of item 2 of Schedule 7 to the <i>Tax Laws Amendment (2006 Measures No. 7) Act 2007</i> ; and (b) immediately after the commencement of item 25 of Schedule 1 to the <i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i> . | 12 April 2007 (paragraph (a) applies) |

Endnote 4—Amendment history

Endnote 4—Amendment history

| Provision affected | How affected |
|-----------------------------|------------------------|
| Chapter 1 | |
| Part 1-1 | |
| Division 1 | |
| s. 1-7 | ad. No. 97, 2008 |
| Note to s. 1-7 | ad. No. 145, 2010 |
| s. 1-10 | rs. No. 56, 2010 |
| Link note to s. 1-10 | rep. No. 41, 2005 |
| Part 1-3 | |
| Link note to Part 1-3 | rep. No. 41, 2005 |
| Division 4 | |
| s. 4-10 | ad. No. 16, 2011 |
| | <u>rep No 16, 2011</u> |
| s 4-11 | ad No 48, 2014 |
| Division 5 | |
| Division 5 | ad. No. 79, 2010 |
| Subdivision 5-A | |
| s. 5-5 | ad. No. 79, 2010 |
| | am. No. 51, 2011 |
| s. 5-7 | ad. No. 79, 2010 |
| Heading to s. 5-10 | rs. No. 51, 2011 |
| s. 5-10 | ad. No. 79, 2010 |
| s. 5-15 | ad. No. 51, 2011 |
| Division 8 | |
| Link note to s. 8-10 | rep. No. 41, 2005 |
| Chapter 2 | |
| Link note to Chapt. 2 | rep. No. 121, 1997 |
| Part 2-1 | |
| Part 2-1 | ad. No. 121, 1997 |

Income Tax (Transitional Provisions) Act 1997

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Compilation No. 72

Compilation date: 20/3/15

Registered: 8/4/15

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------------|---|
| Link note to Part 2-1 | rep. No. 41, 2005 |
| Division 15 | |
| s. 15-1..... | ad. No. 121, 1997 |
| s. 15-10..... | ad. No. 121, 1997 |
| s. 15-15..... | ad. No. 121, 1997 |
| s. 15-20..... | ad. No. 121, 1997 |
| Link note to s. 15-20 | rep. No. 41, 2005 |
| s. 15-30..... | ad. No. 121, 1997 |
| s. 15-35..... | ad. No. 121, 1997 |
| Link note to s. 15-35 | rep. No. 41, 2005 |
| Division 20 | |
| Subdivision 20-A | |
| s. 20-1..... | ad. No. 121, 1997 am. No. 101, 2006 |
| s. 20-5..... | ad. No. 121, 1997 am. No. 46, 1998; No. 54, 1999 rep. No. 101, 2006 |
| Subdivision 20-B | |
| s. 20-100..... | ad. No. 121, 1997 |
| s. 20-105..... | ad. No. 121, 1997 am. No. 101, 2006 |
| Note (2) to s. 20-105(1) | am. No. 101, 2006 |
| s. 20-110..... | ad. No. 121, 1997 am. No. 101, 2006 |
| s. 20-115..... | ad. No. 121, 1997 am. No. 101, 2006 |
| Link note to s. 20-115 | ad. No. 65, 2003 am. No. 66, 2003 rep. No. 41, 2005 |
| Division 22..... | ad. No. 65, 2003 rep. No. 66, 2003 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--|
| s. 22-5..... | ad. No. 65, 2003 rep. No. 66, 2003 |
| Part 2-5 | |
| Link note to Part 2-5 | rs. No. 121, 1997 rep. No. 65, 2003 |
| Division 25 | |
| Division 25..... | ad. No. 121, 1997 |
| s. 25-1..... | ad. No. 121, 1997 |
| Link note to s. 25-1 | rep. No. 41, 2005 |
| s. 25-40..... | ad. No. 121, 1997 |
| s. 25-45..... | ad. No. 121, 1997 |
| s. 25-50 | ad. No. 162, 2001 |
| s. 25-65 | ad. No. 101, 2006 |
| Division 26 | |
| Division 26..... | ad. No. 121, 1997 |
| s. 26-1..... | ad. No. 121, 1997 |
| Link note to s. 26-1 | rep. No. 41, 2005 |
| s. 26-30..... | ad. No. 121, 1997 |
| Link note to s. 26-30 | rep. No. 41, 2005 |
| Division 28..... | rep. No. 101, 2006 |
| s. 28-100..... | rep. No. 101, 2006 |
| Link note to s. 28-100 | rs. No. 121, 1997 rep. No. 41, 2005 |
| Division 30 | |
| Division 30..... | ad. No. 121, 1997 |
| s. 30-1..... | ad. No. 121, 1997 |
| s. 30-5..... | ad. No. 121, 1997 |
| s. 30-10..... | ad. No. 121, 1997 am. No. 88, 2009 rep. No. 12, 2012 |
| s. 30-15..... | ad. No. 121, 1997 |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|----------------------------------|
| | am. No. 88, 2009 |
| | rep. No. 12, 2012 |
| Note to s. 30-15(1) | am. No. 88, 2009 |
| | rep. No. 12, 2012 |
| s. 30-20..... | ad. No. 121, 1997 |
| | am. No. 88, 2009 |
| | rep. No. 12, 2012 |
| s. 30-25..... | ad. No. 121, 1997 |
| Link note to s. 30-25 | rep. No. 41, 2005 |
| s. 30-102..... | ad. No. 136, 2010 |
| Division 32 | |
| Division 32..... | ad. No. 121, 1997 |
| s. 32-1..... | ad. No. 121, 1997 |
| Link note to s. 32-1 | rep. No. 41, 2005 |
| Division 34 | |
| Division 34..... | ad. No. 121, 1997 |
| s. 34-1..... | ad. No. 121, 1997 |
| Heading to s. 34-5 | rs. No. 101, 2006 |
| s. 34-5..... | ad. No. 121, 1997 |
| | am. No. 101, 2006 |
| Link note to s. 34-5 | rep. No. 41, 2005 |
| Division 35 | |
| Division 35..... | ad. No. 133, 2009 |
| s. 35-10..... | ad. No. 133, 2009 |
| s. 35-20..... | ad. No. 133, 2009 |
| Division 36 | |
| Link note to s. 36-110 | rep. No. 41, 2005 |
| Part 2-10 | |
| Link note to Part 2-10..... | am. No. 121, 1997; No. 169, 1999 |
| | rep. No. 41, 2005 |
| Division 40 | |

Endnote 4—Amendment history

| Provision affected | How affected |
|-----------------------------|----------------------------------|
| Division 40 | ad. No. 77, 2001 |
| Subdivision 40-B | |
| s. 40-10..... | ad. No. 77, 2001 |
| | am. No. 119, 2002 |
| Note 2 to s. 40-10(3) | am. No. 80, 2007 |
| s. 40-12..... | ad. No. 77, 2001 |
| s. 40-13..... | ad. No. 58, 2006 |
| s. 40-15..... | ad. No. 77, 2001 |
| s. 40-20..... | ad. No. 77, 2001 |
| | am. No. 119, 2002 |
| s. 40-25..... | ad. No. 77, 2001 |
| | am. No. 119, 2002 |
| s. 40-30..... | ad. No. 77, 2001 |
| | am. No. 119, 2002 |
| s. 40-33..... | ad. No. 77, 2001 |
| s. 40-35..... | ad. No. 77, 2001 |
| | am. No. 66, 2003 |
| Note to s. 40-35(1) | ad. No. 66, 2003 |
| s. 40-37..... | ad. No. 66, 2003 |
| s. 40-38..... | ad. No. 66, 2003 |
| s. 40-40..... | ad. No. 77, 2001 |
| | am. No. 66, 2003 |
| s. 40-43..... | ad. No. 66, 2003 |
| s. 40-44..... | ad. No. 66, 2003 |
| s. 40-45..... | ad. No. 77, 2001 |
| | am. No. 119, 2002 |
| s. 40-47..... | ad. No. 78, 2005 |
| s. 40-50..... | ad. No. 77, 2001 |
| | am. No. 119, 2002; No. 101, 2006 |
| s. 40-55..... | ad. No. 77, 2001 |
| s. 40-60..... | ad. No. 77, 2001 |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------|---|
| s. 40-65..... | ad. No. 77, 2001 |
| s. 40-67..... | ad. No. 93, 2011 |
| s. 40-70..... | ad. No. 77, 2001 am. No. 101, 2006 |
| s. 40-72..... | ad. No. 55, 2006 |
| s. 40-75..... | ad. No. 77, 2001 am. No. 58, 2006 |
| s. 40-77..... | ad. No. 77, 2001 am. No. 66, 2003 |
| s. 40-80..... | ad. No. 77, 2001 |
| s. 40-85..... | ad. No. 77, 2001 rep. No. 101, 2006 |
| s. 40-95..... | ad. No. 66, 2003 rep. No. 58, 2006 |
| s. 40-100..... | ad. No. 119, 2002 |
| s. 40-105..... | ad. No. 93, 2011 |
| Subdivision 40-C | |
| s. 40-230..... | ad. No. 77, 2001 am. No. 101, 2006 |
| Subdivision 40-D | |
| s. 40-285..... | ad. No. 77, 2001 am. No. 101, 2006; No. 41, 2011 |
| s. 40-287..... | ad. No. 66, 2003 |
| s. 40-288..... | ad. No. 66, 2003 |
| s. 40-289..... | ad. No. 101, 2006 am. No. 143, 2007 |
| s. 40-290..... | ad. No. 77, 2001 |
| s. 40-292..... | ad. No. 93, 2011 |
| s. 40-293..... | ad. No. 93, 2011 |
| s. 40-295..... | ad. No. 77, 2001 |
| s. 40-340..... | ad. No. 77, 2001 |

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------|---------------------------------|
| | am. No. 119, 2002; No. 80, 2007 |
| s. 40-345..... | ad. No. 77, 2001 |
| s. 40-365..... | ad. No. 66, 2003 |
| Subdivision 40-E | |
| s. 40-420..... | ad. No. 77, 2001 |
| s. 40-425..... | ad. No. 77, 2001 |
| | rep. No. 119, 2002 |
| s. 40-430..... | ad. No. 93, 2011 |
| s. 40-450..... | ad. No. 77, 2001 |
| Subdivision 40-F | |
| s. 40-515..... | ad. No. 77, 2001 |
| s. 40-520..... | ad. No. 77, 2001 |
| s. 40-525..... | ad. No. 77, 2001 |
| | am. No. 101, 2006 |
| Subdivision 40-G | |
| s. 40-645..... | ad. No. 77, 2001 |
| | am. No. 101, 2006 |
| s. 40-650..... | ad. No. 77, 2001 |
| s. 40-670..... | ad. No. 77, 2001 |
| Subdivision 40-I | |
| s. 40-825..... | ad. No. 77, 2001 |
| s. 40-832..... | ad. No. 55, 2006 |
| Subdivision 40-J | |
| Subdivision 40-J..... | ad. No. 101, 2006 |
| s. 40-830..... | ad. No. 101, 2006 |
| Division 41 | |
| Division 41 | ad. No. 169, 1999 |
| | rep. No. 101, 2006 |
| s. 41-40..... | ad. No. 169, 1999 |
| | rep. No. 101, 2006 |
| Division 42 | ad. No. 121, 1997 |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|-----------------------------|--------------------|
| | rep. No. 101, 2006 |
| s. 42-1..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-2..... | ad. No. 121, 1997 |
| | am. No. 54, 1999 |
| | rep. No. 101, 2006 |
| s. 42-6..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-7..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-8..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-9..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-9 | rep. No. 41, 2005 |
| s. 42-18..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-18 | rep. No. 41, 2005 |
| s. 42-45..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-48..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-48 | rep. No. 41, 2005 |
| s. 42-70..... | ad. No. 121, 1997 |
| | rs. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 42-70 | rep. No. 41, 2005 |
| s. 42-80..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-80 | rep. No. 41, 2005 |
| s. 42-90..... | ad. No. 121, 1997 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--------------------|
| | rep. No. 101, 2006 |
| s. 42-95..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-95 | rep. No. 41, 2005 |
| s. 42-110..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-110 | rep. No. 41, 2005 |
| s. 42-120..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-120 | rep. No. 41, 2005 |
| s. 42-175..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Note to s. 42-175 | ad. No. 93, 1999 |
| | rep. No. 101, 2006 |
| Link note to s. 42-175 | rep. No. 41, 2005 |
| s. 42-195..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-195 | rep. No. 41, 2005 |
| s. 42-215..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-220..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-220 | rep. No. 41, 2005 |
| s. 42-235..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-235 | rep. No. 41, 2005 |
| s. 42-255..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-255 | rep. No. 41, 2005 |
| s. 42-280..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--------------------|
| Link note to s. 42-280 | rep. No. 41, 2005 |
| s. 42-290..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-290 | rep. No. 41, 2005 |
| s. 42-310..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-310 | rep. No. 41, 2005 |
| s. 42-355..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-360..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-365..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-370..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-375..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-380..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 42-380 | rep. No. 41, 2005 |
| s. 42-400..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-405..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-410..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 42-415..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Division 43 | |
| Link note to s. 43-105 | rs. No. 121, 1997 |
| | rep. No. 16, 1998 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--------------------|
| s. 43-110..... | ad. No. 16, 1998 |
| Link note to s. 43-110 | rep. No. 169, 1999 |
| Division 45 | |
| Division 45 | ad. No. 169, 1999 |
| s. 45-1..... | ad. No. 169, 1999 |
| s. 45-3..... | ad. No. 169, 1999 |
| s. 45-40..... | ad. No. 169, 1999 |
| Link note to s. 45-40 | rep. No. 41, 2005 |
| Part 2-15 | |
| hdg to Pt 2-15..... | rs No 124, 2013 |
| Part 2-15 | ad. No. 121, 1997 |
| Division 50 | |
| s. 50-1..... | ad. No. 121, 1997 |
| s. 50-50..... | ad. No. 169, 2012 |
| | am No 124, 2013 |
| Division 51 | |
| s. 51-1..... | ad. No. 121, 1997 |
| s. 51-5..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Division 52 | |
| s. 52-1..... | ad. No. 121, 1997 |
| s. 52-5..... | ad. No. 196, 1997 |
| | rep. No. 83, 1999 |
| Division 53 | |
| s. 53-1..... | ad. No. 121, 1997 |
| Link note to s. 53-1 | rep. No. 139, 2002 |
| Division 54 | |
| Division 54 | ad. No. 139, 2002 |
| s. 54-1..... | ad. No. 139, 2002 |
| | am. No. 143, 2007 |
| Division 55 | |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|-----------------------------|--------------------|
| s. 55-1..... | ad. No. 121, 1997 |
| Link note to s. 55-1 | rep. No. 41, 2005 |
| Div 59 | |
| Div 59 | ad No 124, 2013 |
| Sdiv 59-N | |
| s 59-50..... | ad No 124, 2013 |
| Part 2-20 | |
| Part 2-20 | ad. No. 80, 2006 |
| Division 61 | |
| Subdivision 61-L | |
| s. 61-575..... | ad. No. 80, 2006 |
| Div 67 | |
| Div 67 | ad No 88, 2013 |
| Sdiv 67-L | |
| s 67-100..... | ad No 88, 2013 |
| Note to s 67—100(1)..... | ad No 88, 2013 |
| s 67-105..... | ad No 88, 2013 |
| s 67-110..... | ad No 88, 2013 |
| s 67-115..... | ad No 88, 2013 |
| s 67-120..... | ad No 88, 2013 |
| s 67-125..... | ad No 88, 2013 |
| s 67-130..... | ad No 88, 2013 |
| s 67-135..... | ad No 88, 2013 |
| Part 2-25 | |
| Part 2-25 | ad. No. 121, 1997 |
| Link note to Part 2-25..... | rep. No. 41, 2005 |
| Division 70 | |
| s. 70-1..... | ad. No. 121, 1997 |
| | am. No. 101, 2006 |
| s. 70-5..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|---------------------------------|
| s. 70-10..... | ad. No. 121, 1997 |
| | rs. No. 16, 1998 |
| | am. No. 101, 2006 |
| Link note to s. 70-10 | rep. No. 41, 2005 |
| s. 70-20..... | ad. No. 121, 1997 |
| Link note to s. 70-20 | rs. No. 16, 1998 |
| | rep. No. 41, 2005 |
| s. 70-35..... | ad. No. 16, 1998 |
| | rep. No. 101, 2006 |
| s. 70-40..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 70-40 | rep. No. 119, 2002 |
| s. 70-41..... | ad. No. 119, 2002 |
| | rep. No. 101, 2006 |
| Link note to s. 70-41 | rep. No. 41, 2005 |
| s. 70-55..... | ad. No. 121, 1997 |
| | am. No. 16, 1998; No. 101, 2006 |
| Note to s. 70-55(1) | am. No. 101, 2006 |
| Note to s. 70-55(2) | am. No. 101, 2006 |
| Link note to s. 70-55 | rs. No. 16, 1998 |
| | rep. No. 41, 2005 |
| s. 70-70..... | ad. No. 121, 1997 |
| | am. No. 101, 2006 |
| Link note to s. 70-70 | rep. No. 41, 2005 |
| Heading to ss. 70-70(3) | rs. No. 101, 2006 |
| s. 70-90..... | ad. No. 121, 1997 |
| Link note to s. 70-90 | rep. No. 41, 2005 |
| s. 70-100..... | ad. No. 121, 1997 |
| s. 70-105..... | ad. No. 121, 1997 |
| Link note to s. 70-105 | rep. No. 41, 2005 |
| s. 70-115..... | ad. No. 121, 1997 |

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| Provision affected | How affected |
|----------------------------|--|
| Part 2-40 | |
| Part 2-40 | ad. No. 9, 2007 |
| Division 82 | |
| Subdivision 82-A | |
| s. 82-10..... | ad. No. 9, 2007 am. No. 8, 2008; No. 54, 2009 |
| Subdivision 82-B | |
| s. 82-10A..... | ad. No. 9, 2007 |
| s. 82-10B..... | ad. No. 9, 2007 |
| s. 82-10C..... | ad. No. 9, 2007 |
| s. 82-10D..... | ad. No. 9, 2007 am. No. 15, 2007 |
| Subdivision 82-C | |
| s. 82-10E..... | ad. No. 9, 2007 |
| Subdivision 82-D | |
| s. 82-10F..... | ad. No. 9, 2007 |
| s. 82-10G..... | ad. No. 9, 2007 |
| Subdivision 82-E | |
| s. 82-10H..... | ad. No. 9, 2007 |
| Division 83-A | |
| Division 83-A..... | ad. No. 133, 2009 |
| Subdivision 83A-A | |
| s. 83A-5..... | ad. No. 133, 2009 am. No. 41, 2011 |
| Subdivision 83A-B | |
| s. 83A-10..... | ad. No. 133, 2009 |
| s. 83A-15..... | ad. No. 133, 2009 am. No. 41, 2011 |
| Chapter 3 | |
| Link note to Chapt. 3..... | rep. No. 46, 1998 |
| Part 3-1 | |

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| Provision affected | How affected |
|--------------------------|---|
| Part 3-1 | ad. No. 46, 1998 |
| Division 102 | |
| s. 102-1..... | ad. No. 46, 1998 |
| s. 102-5..... | ad. No. 46, 1998 |
| | am. No. 114, 2000 |
| s. 102-15..... | ad. No. 46, 1998 |
| | am. No. 101, 2006 |
| s. 102-20..... | ad. No. 46, 1998 |
| | am. No. 101, 2006 |
| Division 104 | |
| Subdivision 104-B..... | rep. No. 101, 2006 |
| s. 104-15..... | ad. No. 46, 1998 |
| | am. No. 114, 2000 |
| | rep. No. 101, 2006 |
| Subdivision 104-C | |
| s. 104-25..... | ad. No. 114, 2000 |
| | am. No. 101, 2006 |
| Subdivision 104-D | |
| s. 104-40..... | ad. No. 114, 2000 |
| | am. No. 101, 2006 |
| Subdivision 104-E | |
| s. 104-70..... | ad. No. 46, 1998 |
| | am. Nos. 114 and 173, 2000; No. 101, 2006 |
| s. 104-72..... | ad. No. 46, 1998 |
| | am. No. 114, 2000 |
| | rep. No. 101, 2006 |
| Subdivision 104-G | |
| Subdivision 104-G | ad. No. 173, 2000 |
| s. 104-135..... | ad. No. 173, 2000 |
| | am. No. 101, 2006 |
| Subdivision 104-I | |

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| Provision affected | How affected |
|-------------------------------|----------------------------------|
| Subdivision 104-I..... | ad. No. 168, 2006 |
| s. 104-165..... | ad. No. 168, 2006 |
| s. 104-166..... | ad. No. 168, 2006 |
| Subdivision 104-J | |
| Heading to Subdiv. 104-J..... | rs. No. 41, 2005 |
| s. 104-175..... | ad. No. 46, 1998 |
| | am. No. 114, 2000; No. 101, 2006 |
| Heading to s. 104-185 | rs. No. 101, 2006 |
| s. 104-185..... | ad. No. 173, 2000 |
| | am. No. 101, 2006; No. 55, 2007 |
| Heading to s. 104-190 | rs. No. 101, 2006 |
| | rep. No. 55, 2007 |
| s. 104-190..... | ad. No. 173, 2000 |
| | am. No. 101, 2006 |
| | rep. No. 55, 2007 |
| Subdivision 104-K | |
| s. 104-205..... | ad. No. 173, 2000 |
| | am. No. 101, 2006 |
| s. 104-210..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| s. 104-235..... | ad. No. 93, 2011 |
| Division 108 | |
| Subdivision 108-A | |
| s. 108-5..... | ad. No. 46, 1998 |
| | am. No. 114, 2000; No. 101, 2006 |
| Subdivision 108-B | |
| s. 108-15..... | ad. No. 46, 1998 |
| Subdivision 108-D | |
| s. 108-75..... | ad. No. 46, 1998 |
| | am. No. 101, 2006 |
| s. 108-85..... | ad. No. 46, 1998 |

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| Provision affected | How affected |
|--------------------------|---------------------------------|
| Division 109 | |
| Subdivision 109-A | |
| s. 109-5..... | ad. No. 46, 1998 |
| Division 110 | |
| Subdivision 110-A | |
| s. 110-25..... | ad. No. 89, 2000 |
| | am. No. 143, 2007 |
| s. 110-35..... | ad. No. 46, 1998 |
| Division 112 | |
| Subdivision 112-A | |
| s. 112-20..... | ad. No. 46, 1998 |
| Subdivision 112-B | |
| Subdivision 112-B..... | ad. No. 101, 2006 |
| s. 112-100..... | ad. No. 101, 2006 |
| Division 114 | |
| Division 114 | ad. No. 89, 2000 |
| s. 114-5 | ad. No. 89, 2000 |
| | am. No. 32, 2006; No. 143, 2007 |
| Division 115 | ad. No. 89, 2000 |
| | rep. No. 101, 2006 |
| s. 115-10 | ad. No. 89, 2000 |
| | rep. No. 101, 2006 |
| Division 118 | |
| Subdivision 118-A | |
| s. 118-10..... | ad. No. 46, 1998 |
| | am. No. 173, 2000 |
| s. 118-24A | ad. No. 170, 2001 |
| | am. No. 143, 2007; No. 93, 2011 |
| Subdivision 118-B | |
| s. 118-195..... | ad. No. 46, 1998 |
| Subdivision 118-C | |

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| Provision affected | How affected |
|-------------------------------|---------------------------------------|
| s. 118-260..... | ad. No. 46, 1998 |
| Division 121 | |
| s. 121-15..... | ad. No. 46, 1998 am. No. 101, 2006 |
| s. 121-25..... | ad. No. 46, 1998 am. No. 101, 2006 |
| Link note to s. 121-25 | rep. No. 41, 2005 |
| Part 3-3 | |
| Part 3-3..... | ad. No. 46, 1998 |
| Division 124 | |
| Division 124..... | ad. No. 164, 2007 |
| Subdivision 124-C | |
| s. 124-140..... | ad. No. 164, 2007 |
| s. 124-141..... | ad. No. 164, 2007 |
| s. 124-142..... | ad. No. 164, 2007 |
| Subdivision 124-I | |
| Subdivision 124-I..... | ad. No. 12, 2012 |
| s. 124-510..... | ad. No. 12, 2012 |
| Division 125 | |
| Division 125..... | ad. No. 41, 2011 |
| Subdivision 125-B | |
| s. 125-75..... | ad. No. 41, 2011 |
| Division 126 | |
| Heading to Div. 126 | rs. No. 23, 2005 |
| Subdivision 126-A | |
| Heading to Subdiv. 126-A..... | ad. No. 23, 2005 |
| s. 126-100..... | ad. No. 46, 1998 am. No. 101, 2006 |
| Subdivision 126-B | |
| Subdivision 126-B..... | ad. No. 23, 2005 |
| s. 126-150..... | ad. No. 23, 2005 |

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| Provision affected | How affected |
|----------------------------|---|
| | am. No. 23, 2005 |
| s. 126-155..... | ad. No. 23, 2005 |
| | rep. No. 41, 2011 |
| s. 126-160..... | ad. No. 23, 2005 |
| s. 126-165..... | ad. No. 23, 2005 |
| | am. No. 56, 2010 |
| Division 128 | |
| s. 128-15..... | ad. No. 46, 1998 |
| Division 130 | |
| Subdivision 130-A | |
| s. 130-20..... | ad. No. 46, 1998 |
| Subdivision 130-B | |
| s. 130-40..... | ad. No. 46, 1998 |
| Subdivision 130-C | |
| s. 130-60..... | ad. No. 46, 1998 |
| Subdivision 130-DA..... | ad. No. 101, 2003 |
| | rep. No. 133, 2009 |
| s. 130-80..... | ad. No. 101, 2003 |
| | am. No. 147, 2005 |
| | rep. No. 133, 2009 |
| Subdivision 130-D | rep. No. 133, 2009 |
| Heading to s. 130-95 | am. No. 101, 2003 |
| | rep. No. 133, 2009 |
| s. 130-95..... | ad. No. 46, 1998 |
| | am. No. 114, 2000; No. 101, 2003, No. 147, 2005 |
| | rep. No. 133, 2009 |
| s. 130-100..... | ad. No. 46, 1998 |
| | rep. No. 133, 2009 |
| s. 130-105..... | ad. No. 46, 1998 |
| | rep. No. 133, 2009 |
| s. 130-110..... | ad. No. 46, 1998 |

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| Provision affected | How affected |
|-----------------------------|----------------------------|
| | am. No. 147, 2005 |
| | rep. No. 133, 2009 |
| s. 130-115..... | ad. No. 46, 1998 |
| | rep. No. 133, 2009 |
| s. 130-120..... | ad. No. 46, 1998 |
| | rep. No. 133, 2009 |
| Division 134 | |
| s. 134-1..... | ad. No. 46, 1998 |
| | am. No. 58, 2006 |
| Division 136 | |
| Heading to Div. 136 | rs. No. 143, 2007 |
| Subdivision 136-A | |
| Heading to s. 136-25 | rs. No. 168, 2006 |
| s. 136-25..... | ad. No. 46, 1998 |
| | am. Nos. 101 and 168, 2006 |
| Division 138..... | ad. No. 94, 1999 |
| | rep. No. 101, 2006 |
| s. 138-7..... | ad. No. 94, 1999 |
| | rep. No. 101, 2006 |
| Division 140 | |
| Subdivision 140-A | |
| s. 140-7..... | ad. No. 46, 1998 |
| s. 140-15..... | ad. No. 46, 1998 |
| | am. No. 114, 2000 |
| Division 149 | |
| s. 149-5..... | ad. No. 46, 1998 |
| | am. No. 101, 2006 |
| Link note to s. 149-5 | rep. No. 41, 2005 |
| Part 3-35 relocated | No. 58, 2006 |
| Division 152 | |
| Division 152..... | ad. No. 55, 2007 |

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| Provision affected | How affected |
|-------------------------------|---------------------------------|
| s. 152-5..... | ad. No. 55, 2007 |
| s. 152-10..... | ad. No. 55, 2007 |
| s. 152-15..... | ad. No. 55, 2007 |
| Part 3-5 | |
| Part 3-5..... | ad. No. 46, 1998 |
| Link note to Part 3-5 | rep. No. 41, 2005 |
| Div 160 | ad No 88, 2013 |
| | rep No 96, 2014 |
| s 160-1..... | ad No 88, 2013 |
| | rep No 96, 2014 |
| s 160-5..... | ad No 88, 2013 |
| | rep No 96, 2014 |
| Division 165 | |
| Subdivision 165-CA | |
| s.165-95..... | ad. No. 46, 1998 |
| Subdivision 165-CB | |
| s. 165-105..... | ad. No. 46, 1998 |
| Link note to s. 165-105 | rep. No. 41, 2005 |
| Subdivision 165-CC | |
| Subdivision 165-CC..... | ad. No. 90, 2002 |
| s. 165-115E | ad. No. 90, 2002 |
| Subdivision 165-CD | |
| Subdivision 165-CD..... | ad. No. 90, 2002 |
| s. 165-115U..... | ad. No. 90, 2002 |
| s. 165-115ZC..... | ad. No. 90, 2002 |
| | am. No. 23, 2005 |
| s. 165-115ZD | ad. No. 90, 2002 |
| | am. No. 16, 2003; No. 143, 2007 |
| Subdivision 165-C | |
| s. 165-135..... | ad. No. 46, 1998 |
| Link note to s. 165-135 | rep. No. 41, 2005 |

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| Provision affected | How affected |
|--------------------------------|--------------------|
| Division 166 | |
| Link note to Div. 166 | rep. No. 41, 2005 |
| Subdivision 166-C | |
| s. 166-40..... | ad. No. 46, 1998 |
| Link note to s. 166-40 | rep. No. 41, 2005 |
| Division 170 | |
| Subdivision 170-A | |
| s. 170-45 | ad. No. 117, 2002 |
| s. 170-55 | ad. No. 117, 2002 |
| Subdivision 170-B | |
| Heading to Subdiv. 170-B | rs. No. 117, 2002 |
| s. 170-101..... | ad. No. 46, 1998 |
| s. 170-145..... | ad. No. 117, 2002 |
| s. 170-155 | ad. No. 117, 2002 |
| s. 170-175..... | ad. No. 46, 1998 |
| | rep. No. 169, 1999 |
| s. 170-180..... | ad. No. 46, 1998 |
| | rep. No. 169, 1999 |
| Subdivision 170-C | |
| Subdivision 170-C..... | ad. No. 169, 1999 |
| s. 170-220..... | ad. No. 169, 1999 |
| | am. No. 101, 2006 |
| s. 170-225..... | ad. No. 169, 1999 |
| | am. No. 101, 2006 |
| Subdivision 170-D | |
| Subdivision 170-D | ad. No. 23, 2005 |
| s. 170-300..... | ad. No. 23, 2005 |
| Link note to s. 170-300 | rep. No. 41, 2005 |
| Division 175 | |
| Subdivision 175-CA | |
| s. 175-40..... | ad. No. 46, 1998 |

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| Provision affected | How affected |
|---------------------------|---------------------------------|
| Subdivision 175-CB | |
| s. 175-55..... | ad. No. 46, 1998 |
| Subdivision 175-C | |
| Subdivision 175-C..... | rs. No. 41, 2005 |
| s. 175-40..... | ad. No. 46, 1998 |
| | rep. No. 41, 2005 |
| s. 175-78..... | ad. No. 41, 2005 |
| Division 197 | |
| Division 197 | ad. No. 80, 2006 |
| Subdivision 197-A | |
| s. 197-1..... | ad. No. 80, 2006 |
| Subdivision 197-B | |
| s. 197-5..... | ad. No. 80, 2006 |
| Subdivision 197-C | |
| s. 197-10..... | ad. No. 80, 2006 |
| s. 197-15..... | ad. No. 80, 2006 |
| s. 197-20..... | ad. No. 80, 2006 |
| s. 197-25..... | ad. No. 80, 2006 |
| Part 3-6 | |
| Part 3-6..... | ad. No. 48, 2002 |
| Division 201 | |
| s. 201-1..... | ad. No. 48, 2002 |
| | am. No. 101, 2006 |
| Division 203 | |
| Division 203 | ad. No. 117, 2002 |
| s. 203-1..... | ad. No. 117, 2002 |
| Division 205 | |
| Division 205..... | ad. No. 48, 2002 |
| s. 205-1..... | ad. No. 48, 2002 |
| | am. No. 117, 2002; 2006 No. 101 |
| s. 205-5..... | ad. No. 48, 2002 |

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| Provision affected | How affected |
|------------------------------|----------------------------------|
| | am. No. 101, 2006 |
| Note to s. 205-5 | am. No. 101, 2006 |
| Heading to s. 205-10 | rs. No. 117, 2002 |
| s. 205-10..... | ad. No. 48, 2002 |
| | am. No. 117, 2002; No. 101, 2006 |
| s. 205-15..... | ad. No. 117, 2002 |
| | am. No. 101, 2006 |
| s. 205-20..... | ad. No. 117, 2002 |
| s. 205-25..... | ad. No. 117, 2002 |
| s. 205-30..... | ad. No. 117, 2002 |
| s. 205-35..... | ad. No. 117, 2002 |
| Link note to s. 205-35 | rep. No. 41, 2005 |
| s. 205-70..... | ad. No. 107, 2003 |
| | am. No. 58, 2006; No. 143, 2007 |
| s. 205-71..... | ad. No. 58, 2006 |
| s. 205-75..... | ad. No. 107, 2003 |
| | am. No. 101, 2006 |
| Heading to s. 205-80 | rs. No. 101, 2006 |
| s. 205-80..... | ad. No. 107, 2003 |
| | am. No. 101, 2006 |
| Division 208 | |
| Division 208..... | ad. No. 101, 2004 |
| s. 208-111..... | ad. No. 101, 2004 |
| | am. No. 101, 2006 |
| Note to s. 208-111(2) | am. No. 101, 2006 |
| Note to s. 208-111(3) | am. No. 101, 2006 |
| Note to s. 208-111(4) | am. No. 101, 2006 |
| Note to s. 208-111(5) | am. No. 101, 2006 |
| Division 210 | |
| Division 210..... | ad. No. 16, 2003 |
| s. 210-1..... | ad. No. 16, 2003 |

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| Provision affected | How affected |
|---------------------|-------------------|
| | am. No. 101, 2006 |
| s. 210-5..... | ad. No. 16, 2003 |
| | am. No. 101, 2006 |
| s. 210-10..... | ad. No. 16, 2003 |
| | am. No. 101, 2006 |
| s. 210-15..... | ad. No. 16, 2003 |
| | am. No. 101, 2006 |
| Division 214 | |
| Division 214..... | ad. No. 16, 2003 |
| s. 214-1..... | ad. No. 16, 2003 |
| s. 214-5..... | ad. No. 16, 2003 |
| s. 214-10..... | ad. No. 16, 2003 |
| s. 214-15..... | ad. No. 16, 2003 |
| s. 214-20..... | ad. No. 16, 2003 |
| s. 214-25..... | ad. No. 16, 2003 |
| s. 214-30..... | ad. No. 16, 2003 |
| s. 214-35..... | ad. No. 16, 2003 |
| s. 214-40..... | ad. No. 16, 2003 |
| s. 214-45..... | ad. No. 16, 2003 |
| s. 214-50..... | ad. No. 16, 2003 |
| s. 214-55..... | ad. No. 16, 2003 |
| s. 214-60..... | ad. No. 16, 2003 |
| s. 214-65..... | ad. No. 16, 2003 |
| s. 214-70..... | ad. No. 16, 2003 |
| s. 214-75..... | ad. No. 16, 2003 |
| s. 214-80..... | ad. No. 16, 2003 |
| s. 214-85..... | ad. No. 16, 2003 |
| s. 214-90..... | ad. No. 16, 2003 |
| s. 214-95..... | ad. No. 16, 2003 |
| s. 214-100..... | ad. No. 16, 2003 |
| s. 214-105..... | ad. No. 16, 2003 |

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| Provision affected | How affected |
|------------------------------|--------------------|
| Note to s. 214-105..... | am. No. 101, 2006 |
| s. 214-110..... | ad. No. 16, 2003 |
| s. 214-115..... | ad. No. 16, 2003 |
| | rep. No. 79, 2010 |
| s. 214-120..... | ad. No. 16, 2003 |
| s. 214-125..... | ad. No. 16, 2003 |
| s. 214-130..... | ad. No. 16, 2003 |
| | rep. No. 114, 2009 |
| s. 214-135..... | ad. No. 16, 2003 |
| Division 219 | |
| Division 219..... | ad. No. 101, 2004 |
| s. 219-40..... | ad. No. 101, 2004 |
| | am. No. 101, 2006 |
| s. 219-45..... | ad. No. 101, 2004 |
| | am. No. 101, 2006 |
| Note to s. 219-45(2) | am. No. 101, 2006 |
| Division 220 | |
| Division 220..... | ad. No. 67, 2003 |
| s. 220-1..... | ad. No. 67, 2003 |
| s. 220-5..... | ad. No. 67, 2003 |
| s. 220-10..... | ad. No. 67, 2003 |
| Link note to s. 220-10 | rep. No. 41, 2005 |
| s. 220-35..... | ad. No. 67, 2003 |
| Link note to s. 220-35 | rep. No. 41, 2005 |
| s. 220-501..... | ad. No. 67, 2003 |
| Part 3-10 | |
| Part 3-10..... | ad. No. 55, 2007 |
| Division 242 | |
| Division 242..... | ad. No. 79, 2010 |
| s. 242-10..... | ad. No. 79, 2010 |
| s. 242-20..... | ad. No. 79, 2010 |

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| Provision affected | How affected |
|-------------------------------|------------------|
| Division 245 | |
| Division 245..... | ad. No. 79, 2010 |
| Subdivision 245-A | |
| s. 245-5..... | ad. No. 79, 2010 |
| s. 245-10..... | ad. No. 79, 2010 |
| Division 247 | |
| Heading to Div. 247 | rs. No. 61, 2011 |
| Subdivision 247-A | |
| Heading to Subdiv. 247-A..... | ad. No. 61, 2011 |
| s. 247-5..... | ad. No. 55, 2007 |
| | am. No. 61, 2011 |
| s. 247-10..... | ad. No. 55, 2007 |
| s. 247-15..... | ad. No. 55, 2007 |
| s. 247-20..... | ad. No. 55, 2007 |
| s. 247-25..... | ad. No. 55, 2007 |
| Subdivision 247-B | |
| Subdivision 247-B..... | ad. No. 61, 2011 |
| s. 247-75..... | ad. No. 61, 2011 |
| s. 247-80..... | ad. No. 61, 2011 |
| s. 247-85..... | ad. No. 61, 2011 |
| Division 253 | |
| Division 253..... | ad. No. 42, 2009 |
| Subdivision 253-A | |
| s. 253-5..... | ad. No. 42, 2009 |
| s. 253-10..... | ad. No. 42, 2009 |
| Part 3-25 | |
| Part 3-25..... | ad. No. 56, 2010 |
| Division 275 | |
| Subdivision 275-A | |
| s. 275-10..... | ad. No. 56, 2010 |
| Part 3-30 | |

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| Provision affected | How affected |
|---------------------|--------------------------|
| Part 3-30..... | ad. No. 9, 2007 |
| Division 290 | |
| s. 290-10..... | ad. No. 9, 2007 |
| s. 290-15..... | ad. No. 15, 2007 |
| Div 291 | |
| Div 291 | ad No 118, 2013 |
| Sdiv 291-A | |
| s 291-10..... | ad No 118, 2013 |
| Sdiv 291-B | |
| Sdiv 291-B | ad No 118, 2013 |
| s 291-20..... | ad No 118, 2013 |
| Sdiv 291-C | |
| s 291-70..... | ad No 118, 2013 |
| Division 292 | |
| hdg to Div 292..... | am No. 118, 2013 |
| s. 292-20..... | ad. No. 9, 2007 |
| | am. No. 62, 2009 |
| | rs No 82, 2013 |
| | rep No 118, 2013 |
| s. 292-25..... | ad. No. 9, 2007 |
| | am. No. 15, 2007 |
| | rep No 118, 2013 |
| s. 292-80..... | ad. No. 9, 2007 |
| | am. Nos. 15 and 79, 2007 |
| s. 292-80A..... | ad. No. 9, 2007 |
| s. 292-80B..... | ad. No. 9, 2007 |
| | am. No. 15, 2007 |
| s. 292-80C..... | ad. No. 9, 2007 |
| | am. No. 15, 2007 |
| s. 292-90..... | ad. No. 15, 2007 |
| Div 293 | |

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| Provision affected | How affected |
|-----------------------------|-------------------------|
| Div 293 | ad No 82, 2013 |
| Sdiv 293-A | |
| s 293-10..... | ad No 82, 2013 |
| Division 295 | |
| Subdivision 295-B | |
| Subdivision 295-B..... | ad. No. 15, 2007 |
| s. 295-75..... | ad. No. 15, 2007 |
| s. 295-80..... | ad. No. 15, 2007 |
| s. 295-85..... | ad. No. 15, 2007 |
| s. 295-90..... | ad. No. 15, 2007 |
| s. 295-95..... | ad. No. 15, 2007 |
| s. 295-100..... | ad. No. 15, 2007 |
| Subdivision 295-C | |
| Subdivision 295-C..... | ad. No. 15, 2007 |
| s. 295-190..... | ad. No. 15, 2007 |
| Subdivision 295-F | |
| Subdivision 295-F | ad. No. 15, 2007 |
| s. 295-390..... | ad. No. 15, 2007 |
| | am. No. 15, 2009 |
| Subdivision 295-G | |
| Subdivision 295-G | ad. No. 15, 2007 |
| Heading to s. 295-465 | rs. No. 117, 2010 |
| s. 295-465..... | ad. No. 15, 2007 |
| s. 295-466..... | ad. No. 117, 2010 |
| | <u>rep No 117, 2010</u> |
| Note to s. 295-466..... | ad. No. 43, 2011 |
| s. 295-467..... | ad. No. 43, 2011 |
| | <u>rep No 43, 2011</u> |
| s. 295-485A..... | ad. No. 134, 2008 |
| s. 295-485..... | ad. No. 143, 2007 |
| Subdivision 295-I | |

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Endnote 4—Amendment history

| Provision affected | How affected |
|---------------------------|---|
| s. 295-610..... | ad. No. 9, 2007 |
| Division 301 | |
| s. 301-5..... | ad. No. 15, 2007 |
| s. 301-85..... | ad. No. 9, 2007 |
| Division 302 | |
| s. 302-5..... | ad. No. 15, 2007 |
| s. 302-195..... | ad. No. 9, 2007 |
| s. 302-195A..... | ad. No. 134, 2008 |
| Division 303 | |
| Division 303..... | ad. No. 38, 2008 |
| s. 303-10..... | ad. No. 38, 2008 |
| Division 304 | |
| Division 304..... | ad. No. 15, 2007 |
| s. 304-15..... | ad. No. 15, 2007 |
| Division 305 | |
| Division 305..... | ad. No. 12, 2012 |
| Subdivision 305-B | |
| s. 305-80..... | ad. No. 12, 2012 |
| Division 306 | |
| Division 306..... | ad. No. 15, 2007 |
| s. 306-10..... | ad. No. 15, 2007 |
| Division 307 | |
| s. 307-125..... | ad. No. 9, 2007 |
| | am. Nos. 15 and 143, 2007; <u>No 21, 2015</u> |
| s. 307-127..... | ad <u>No 21, 2015</u> |
| s. 307-290..... | ad. No. 143, 2007 |
| s. 307-345..... | ad. No. 9, 2007 |
| Part 3-10 relocated | No. 15, 2007 |
| Part 3-32 | |
| Part 3-32..... | ad. No. 88, 2009 |

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------------|-------------------|
| Division 316 | |
| Subdivision 316-A | |
| s. 316-1..... | ad. No. 88, 2009 |
| Part 3-35 | |
| Heading to Part 3-35 | rs. No. 42, 2009 |
| Part 3-35..... | ad. No. 89, 2000 |
| Division 320 | |
| Subdivision 320-A | |
| s. 320-5..... | ad. No. 89, 2000 |
| | am. No. 143, 2007 |
| Subdivision 320-C | |
| s. 320-85..... | ad. No. 89, 2000 |
| | am. No. 143, 2007 |
| Subdivision 320-D | |
| Subdivision 320-D | ad. No. 83, 2004 |
| s. 320-100..... | ad. No. 83, 2004 |
| Subdivision 320-F | |
| Heading to Subdiv. 320-F | rs. No. 83, 2004 |
| s. 320-170..... | ad. No. 89, 2000 |
| | am. No. 143, 2007 |
| s. 320-175..... | ad. No. 89, 2000 |
| | am. No. 83, 2004 |
| s. 320-180..... | ad. No. 12, 2012 |
| | am. No. 12, 2012 |
| Subdivision 320-H | |
| s. 320-225..... | ad. No. 89, 2000 |
| | am. No. 143, 2007 |
| s. 320-230..... | ad. No. 89, 2000 |
| | am. No. 83, 2004 |
| Division 322 | |
| Division 322..... | ad. No. 42, 2009 |

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Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--------------------|
| Subdivision 322-B | |
| s. 322-25..... | ad. No. 42, 2009 |
| s. 322-30..... | ad. No. 42, 2009 |
| Part 3-45 | |
| Link note to Part 3-45 | rep. No. 41, 2005 |
| Division 328 | |
| Division 328 | ad. No. 41, 2005 |
| Heading to Div. 328 | rs. No. 80, 2007 |
| s. 328-1..... | ad. No. 80, 2007 |
| s. 328-110..... | ad. No. 80, 2007 |
| s. 328-111..... | ad. No. 80, 2007 |
| | am. No. 23, 2012 |
| s. 328-112..... | ad. No. 80, 2007 |
| | am. No. 23, 2012 |
| s. 328-115..... | ad. No. 41, 2005 |
| | am. No. 80, 2007 |
| s. 328-120..... | ad. No. 41, 2005 |
| | rs. No. 80, 2007 |
| s. 328-125..... | ad. No. 41, 2005 |
| s. 328-175..... | ad. No. 80, 2007 |
| s. 328-185..... | ad. No. 80, 2007 |
| s. 328-195..... | ad. No. 80, 2007 |
| s. 328-200..... | ad. No. 23, 2012 |
| s. 328-440..... | ad. No. 41, 2005 |
| | rs. No. 80, 2007 |
| Division 330..... | rep. No. 101, 2006 |
| Link note to Div. 330 | rep. No. 41, 2005 |
| s. 330-1..... | rep. No. 101, 2006 |
| s. 330-5..... | rep. No. 101, 2006 |
| s. 330-10..... | rep. No. 101, 2006 |
| s. 330-15..... | rep. No. 101, 2006 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--|
| s. 330-20..... | am. No. 16, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 330-20 | rep. No. 41, 2005 |
| s. 330-25..... | rep. No. 101, 2006 |
| s. 330-30..... | rep. No. 101, 2006 |
| s. 330-35..... | rep. No. 101, 2006 |
| s. 330-40..... | rep. No. 101, 2006 |
| s. 330-45..... | rep. No. 101, 2006 |
| s. 330-50..... | rep. No. 101, 2006 |
| s. 330-55..... | rep. No. 101, 2006 |
| Link note to s. 330-55 | rep. No. 41, 2005 |
| s. 330-60..... | rep. No. 101, 2006 |
| Link note to s. 330-60 | rep. No. 41, 2005 |
| s. 330-65..... | rep. No. 101, 2006 |
| s. 330-70..... | rep. No. 101, 2006 |
| s. 330-72..... | rep. No. 101, 2006 |
| Link note to s. 330-72 | rep. No. 41, 2005 |
| s. 330-75..... | am. No. 54, 1999 |
| | rep. No. 101, 2006 |
| Link note to s. 330-75 | rs. No. 46, 1998 |
| | rep. No. 41, 2005 |
| Division 355 | |
| Division 355..... | ad. No. 93, 2011 |
| Subdivision 355-D | |
| s. 355-200..... | ad. No. 93, 2011 |
| Subdivision 355-E | |
| s. 355-320..... | ad. No. 93, 2011 |
| s. 355-325..... | ad. No. 93, 2011 |
| | am. No. 13, 2015 (Sch 1 item 15) |
| s. 355-340..... | ad. No. 93, 2011 |
| Subdivision 355-F | |

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Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|------------------------|
| s. 355-415..... | ad. No. 93, 2011 |
| Subdivision 355-K | |
| s. 355-550..... | ad. No. 93, 2011 |
| Subdivision 355-M | |
| s. 355-600..... | ad. No. 93, 2011 |
| s. 355-605..... | ad. No. 93, 2011 |
| s. 355-610..... | ad. No. 93, 2011 |
| Subdivision 355-W | |
| Subdivision 355-W..... | <u>rep No 13, 2015</u> |
| s 355-720..... | ad No 13, 2015 |
| | <u>rep No 13, 2015</u> |
| Division 373 | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| s. 373-1..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 373-1 | rep. No. 41, 2005 |
| s. 373-10..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 373-10 | rep. No. 41, 2005 |
| s. 373-65..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 373-65 | rep. No. 41, 2005 |
| s. 373-100..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 373-100 | rep. No. 41, 2005 |
| Division 375 | |
| Link note to Div. 375 | rep. No. 41, 2005 |
| Subdivision 375-G | |
| s. 375-100..... | am. No. 164, 2007 |
| s. 375-105..... | am. No. 101, 2006 |
| s. 375-110..... | am. No. 164, 2007 |

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|--------------------|
| Link note to s. 375-110 | rep. No. 41, 2005 |
| Division 385 | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 385-100..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 385-100 | rep. No. 41, 2005 |
| s. 385-130..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 385-135..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 385-135 | rep. No. 41, 2005 |
| Division 387 | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 387-50..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-50 | rep. No. 41, 2005 |
| s. 387-80..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 387-85..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 387-120..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-120 | rep. No. 41, 2005 |
| s. 387-140..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-140 | rep. No. 46, 1998 |
| Subdivision 387-C..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| s. 387-160..... | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |
| Link note to s. 387-160 | rep. No. 41, 2005 |

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Compilation No. 72

Compilation date: 20/3/15

Registered: 8/4/15

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Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|---|
| s. 387-175..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 387-175 | rep. No. 41, 2005 |
| s. 387-190..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| s. 387-195..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 387-195 | rep. No. 41, 2005 |
| s. 387-205..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| s. 387-300..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| Link note to s. 387-300 | rep. No. 41, 2005 |
| s. 387-315..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| s. 387-350..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| Link note to s. 387-350 | rep. No. 41, 2005 |
| s. 387-375..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| s. 387-400..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| Link note to s. 387-400 | rep. No. 41, 2005 |
| s. 387-410..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| s. 387-415..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| s. 387-450..... | ad. No. 121, 1997 rep. No. 101, 2006 |
| Link note to s. 387-450 | rep. No. 41, 2005 |
| s. 387-470..... | ad. No. 121, 1997 |

Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|--------------------|
| | rep. No. 101, 2006 |
| s. 387-472..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-472 | rep. No. 41, 2005 |
| s. 387-485..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-485 | rep. No. 41, 2005 |
| s. 387-505..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| s. 387-507..... | ad. No. 121, 1997 |
| | rep. No. 101, 2006 |
| Link note to s. 387-507 | ad. No. 46, 1998 |
| | rep. No. 41, 2005 |
| Division 392 | |
| Division 392 | ad. No. 46, 1998 |
| s. 392-1..... | ad. No. 46, 1998 |
| Link note to s. 392-1 | rep. No. 41, 2005 |
| s. 392-25..... | ad. No. 46, 1998 |
| Link note to s. 392-25 | rep. No. 41, 2005 |
| Division 393 | |
| Division 393..... | ad. No. 79, 2010 |
| Subdivision 393-A | |
| s. 393-1..... | ad. No. 79, 2010 |
| s. 393-5..... | ad. No. 79, 2010 |
| s. 393-10..... | ad. No. 79, 2010 |
| s. 393-27..... | ad. No. 62, 2011 |
| s. 393-30..... | ad No 34, 2014 |
| Subdivision 393-B | |
| s. 393-40..... | ad. No. 79, 2010 |
| Division 400 | ad. No. 46, 1998 |
| | rep. No. 101, 2006 |

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Endnote 4—Amendment history

| Provision affected | How affected |
|-------------------------------|--|
| s. 400-10..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| s. 400-20..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 400-20 | rep. No. 41, 2005 |
| s. 400-50..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 400-50 | rep. No. 41, 2005 |
| s. 400-100..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 400-100 | rep. No. 41, 2005 |
| Division 405 | ad. No. 46, 1998 rep. No. 101, 2006 |
| s. 405-1..... | ad. No. 46, 1998 rep. No. 101, 2006 |
| Link note to s. 405-1 | am. No. 162, 2001 rs. No. 68, 2002 rep. No. 23, 2005 |
| Division 410 | |
| Division 410..... | ad. No. 23, 2005 |
| s. 410-1..... | ad. No. 23, 2005 am. No. 126, 2009 |
| Div 415 | |
| Div 415 | ad No 124, 2013 |
| Sdiv 415-B | |
| s 415-10..... | ad No 124, 2013 |
| Part 3-50 | |
| Part 3-50..... | ad. No. 132, 2011 |
| Division 420 | |
| Subdivision 420-A | |
| s. 420-1..... | ad. No. 132, 2011 |

Endnote 4—Amendment history

| Provision affected | How affected |
|--|---|
| Subdivision 420-B..... | rep No 21, 2015 |
| s 420-5..... | ad No 132, 2011 |
| | rep No 21, 2015 |
| Part 3-80 | |
| Part 3-80..... | ad. No. 12, 2012 |
| Division 615 heading | ad No 133, 2014 |
| Subdivision 615-A heading | ad No 133, 2014 |
| s 615-5..... | ad No 133, 2014 |
| s 615-10..... | ad No 133, 2014 |
| s 615-15..... | ad No 133, 2014 |
| s 615-20..... | ad No 133, 2014 |
| Division 620 | |
| Subdivision 620-A | |
| s. 620-10..... | ad. No. 12, 2012 |
| Part 3-90 | |
| Part 3-90 | ad. No. 68, 2002 |
| Division 700 | |
| s. 700-1 | ad. No. 68, 2002 |
| | rs. Nos. 90 and 117, 2002 |
| | am. No. 117, 2002; Nos. 16 and 67, 2003 |
| Link note to s. 700-1 | rep. No. 41, 2005 |
| Division 701 | |
| Division 701 | ad. No. 90, 2002 |
| Subdivision 701-A | |
| s. 701-1 | ad. No. 90, 2002 |
| s. 701-5 | ad. No. 90, 2002 |
| | am. No. 16, 2003; No. 20, 2004; No. 162, 2005; No. 56, 2010 |
| s. 701-7 | ad. No. 107, 2003 |
| s. 701-10 | ad. No. 90, 2002 |
| Subdivision 701-B | |
| s. 701-15 | ad. No. 90, 2002 |

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Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------------|--|
| | am. No. 16, 2003; No. 83, 2004 |
| Note to s. 701-15 | am. No. 16, 2003 |
| s. 701-20 | ad. No. 90, 2002 |
| | am. No. 16, 2003 |
| s. 701-25 | ad. No. 90, 2002 |
| | am. No. 16, 2003 |
| Heading to s. 701-30 | am. No. 16, 2003 |
| | rep. No. 101, 2006 |
| Subhead. to s. 701-30(4) | rs. No. 107, 2003 |
| | rep. No. 101, 2006 |
| s. 701-30 | ad. No. 90, 2002 |
| | am. No. 16, 2003 (as am. by No. 56, 2010); No. 107, 2003; No. 41, 2005 |
| | rep. No. 101, 2006 |
| Note to s. 701-30(2) | ad. No. 117, 2002 |
| | rep. No. 101, 2006 |
| s. 701-32..... | ad. No. 23, 2005 |
| s. 701-34..... | ad. No. 23, 2005 |
| | rep. No. 56, 2010 |
| Heading to s. 701-35 | am. No. 168, 2006 |
| s. 701-35 | ad. No. 90, 2002 |
| | am. No. 16, 2003; No. 168, 2006 |
| s. 701-40 | ad. No. 90, 2002 |
| | am. No. 56, 2010 |
| s. 701-45 | ad. No. 90, 2002 |
| s. 701-50..... | ad. No. 83, 2004 |
| | am. No. 101, 2006 |
| Division 701A | |
| Division 701A..... | ad. No. 117, 2002 |
| s. 701A-1 | ad. No. 117, 2002 |
| s. 701A-5 | ad. No. 117, 2002 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|-------------------|
| s. 701A-7..... | ad. No. 132, 2011 |
| s. 701A-10 | ad. No. 117, 2002 |
| Division 701B | |
| Heading to Div. 701B | rs. No. 16, 2003 |
| Division 701B | ad. No. 117, 2002 |
| s. 701B-1 | ad. No. 117, 2002 |
| | am. No. 107, 2003 |
| Division 701C | |
| Division 701C | ad. No. 16, 2003 |
| Subdivision 701C-A | |
| s. 701C-1 | ad. No. 16, 2003 |
| Note to s. 701C-1 | ad. No. 67, 2003 |
| Link note to s. 701C-1 | rep. No. 41, 2005 |
| Subdivision 701C-B | |
| Heading to s. 701C-10..... | rs. No. 143, 2007 |
| s. 701C-10 | ad. No. 16, 2003 |
| Note to s. 701C-10(1) | ad. No. 67, 2003 |
| Heading to s. 701C-15..... | rs. No. 143, 2007 |
| s. 701C-15 | ad. No. 16, 2003 |
| Note to s. 701C-15(1) | ad. No. 67, 2003 |
| s. 701C-20 | ad. No. 16, 2003 |
| Subdivision 701C-C | |
| s. 701C-25 | ad. No. 16, 2003 |
| s. 701C-30 | ad. No. 16, 2003 |
| | am. No. 67, 2003 |
| Note 2 to s. 701C-30 | am. No. 67, 2003 |
| s. 701C-35 | ad. No. 16, 2003 |
| | am. No. 67, 2003 |
| s. 701C-40 | ad. No. 16, 2003 |
| s. 701C-50 | ad. No. 16, 2003 |
| Division 701D | |

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Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|--|
| Division 701D..... | ad. No. 101, 2004 |
| Subdivision 701D-A | |
| s. 701D-1..... | ad. No. 101, 2004 am. No. 143, 2007 |
| Link note to s. 701D-1 | rep. No. 41, 2005 |
| Subdivision 701D-B | |
| s. 701D-10..... | ad. No. 101, 2004 am. No. 83, 2004; No. 64, 2005; No. 143, 2007 |
| s. 701D-15..... | ad. No. 101, 2004 am. No. 56, 2010 |
| Division 702 | |
| Division 702..... | ad. No. 90, 2002 |
| s. 702-1 | ad. No. 90, 2002 |
| s. 702-4..... | ad. No. 83, 2004 |
| s. 702-5 | ad. No. 90, 2002 |
| Division 703 | |
| s. 703-30 | ad. No. 68, 2002 |
| Link note to s. 703-30 | rep. No. 23, 2005 |
| s. 703-35..... | ad. No. 133, 2009 |
| Division 705 | |
| Division 705..... | ad. No. 23, 2005 |
| Subdivision 705-E | |
| s. 705-300..... | ad. No. 23, 2005 |
| s. 705-305..... | ad. No. 23, 2005 |
| Note to s. 705-305(9) | am. No. 56, 2010 |
| s. 705-310..... | ad. No. 23, 2005 |
| Division 707 | |
| Heading to Division 707..... | rs. No. 20, 2004 |
| Subdivision 707-A | |
| hdg to Sdiv 707-A..... | rs No 88, 2013 |
| Subdivision 707-A | ad. No. 20, 2004 |

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------------|--|
| s. 707-145 | ad. No. 20, 2004 am. No. 162, 2005 |
| Subdivision 707-C | |
| Heading to s. 707-325(3) | rs. No. 90, 2002 |
| Heading to s. 707-325(5) | rs. No. 90, 2002 |
| s. 707-325 | ad. No. 68, 2002 am. No. 90, 2002; Nos. 20 and 101, 2004; Nos. 41 and 162, 2005; No. 143, 2007 |
| Note to s. 707-325(3) | ad. No. 90, 2002 |
| Note to s. 707-325(5) | ad. No. 41, 2005 |
| s. 707-326 | ad. No. 16, 2003 am. No. 143, 2007 |
| s. 707-327 | ad. No. 68, 2002 am. No. 90, 2002; No. 20, 2004; No. 162, 2005 |
| Note to s. 707-327(1) | ad. No. 90, 2002 |
| Note to s. 707-327(5) | ad. No. 41, 2005 |
| Note to s. 707-327(6) | am. No. 90, 2002 |
| s. 707-328 | ad. No. 68, 2002 |
| s. 707-328A | ad. No. 16, 2003 am. No. 20, 2004; No. 162, 2005; No. 143, 2007 |
| Note to s. 707-328A(4) | ad. No. 41, 2005 |
| s. 707-329 | ad. No. 68, 2002 |
| Link note to s. 707-329 | rep. No. 41, 2005 |
| s. 707-350 | ad. No. 68, 2002 am. Nos. 20 and 101, 2004; No. 162, 2005 |
| Note to s. 707-350(5) | ad. No. 41, 2005 |
| s. 707-355 | ad. No. 41, 2005 |
| Subdivision 707-D | |
| s. 707-405 | ad. No. 68, 2002 |
| Link note to s. 707-405 | rs. No. 90, 2002 rep. No. 23, 2005 |

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Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------------|------------------|
| Division 709 | |
| Division 709 | ad. No. 41, 2005 |
| Subdivision 709-D | |
| s. 709-200..... | ad. No. 41, 2005 |
| Division 712 | |
| Division 712..... | ad. No. 23, 2005 |
| Subdivision 712-E | |
| s. 712-305..... | ad. No. 23, 2005 |
| Division 713 | |
| Division 713..... | ad. No. 16, 2003 |
| Subdivision 713-L | |
| s. 713-500 | ad. No. 16, 2003 |
| s. 713-505 | ad. No. 16, 2003 |
| s. 713-510 | ad. No. 16, 2003 |
| s. 713-515 | ad. No. 16, 2003 |
| s. 713-520 | ad. No. 16, 2003 |
| s. 713-525 | ad. No. 16, 2003 |
| s. 713-530 | ad. No. 16, 2003 |
| s. 713-535 | ad. No. 16, 2003 |
| s. 713-540 | ad. No. 16, 2003 |
| s. 713-545 | ad. No. 16, 2003 |
| Subdivision 713-M | |
| Subdivision 713-M..... | ad. No. 41, 2005 |
| s. 713-700..... | ad. No. 41, 2005 |
| Division 715 | |
| Division 715..... | ad. No. 23, 2005 |
| Subdivision 715-F | |
| Subdivision 715-F..... | ad. No. 15, 2009 |
| s. 715-380..... | ad. No. 15, 2009 |
| Subdivision 715-J | |
| s. 715-658..... | ad. No. 23, 2005 |

Endnote 4—Amendment history

| Provision affected | How affected |
|------------------------------|---------------------------|
| s. 715-659..... | ad. No. 23, 2005 |
| Subdivision 715-K | |
| s. 715-698..... | ad. No. 23, 2005 |
| s. 715-699..... | ad. No. 23, 2005 |
| Division 716 | |
| Division 716..... | ad. No. 23, 2005 |
| Subdivision 716-G | |
| s. 716-340..... | ad. No. 23, 2005 |
| Division 717 | ad. No. 90, 2002 |
| | rep. No. 143, 2007 |
| s. 717-15 | ad. No. 90, 2002 |
| | rep. No. 143, 2007 |
| s. 717-20 | ad. No. 90, 2002 |
| | rep. No. 143, 2007 |
| s. 717-25 | ad. No. 90, 2002 |
| | rep. No. 143, 2007 |
| Link note to s. 717-25 | rs. No. 117, 2002 |
| | rep. No. 41, 2005 |
| s. 717-30 | ad. No. 117, 2002 |
| | rep. No. 143, 2007 |
| Division 719 | |
| Division 719 | ad. No. 117, 2002 |
| Subdivision 719-A | |
| Subdivision 719-A | ad. No. 16, 2003 |
| s. 719-2 | ad. No. 16, 2003 |
| | am. Nos. 67 and 107, 2003 |
| Subdivision 719-B | |
| Subdivision 719-B..... | ad. No. 16, 2003 |
| s. 719-5 | ad. No. 16, 2003 |
| s. 719-10..... | ad. No. 67, 2003 |
| s. 719-15..... | ad. No. 101, 2004 |

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| s. 719-30..... | ad. No. 133, 2009 |
| Subdivision 719-C | |
| s. 719-160 | ad. No. 117, 2002 |
| | am. No. 107, 2003 |
| s. 719-161 | ad. No. 83, 2004 |
| s. 719-163 | ad. No. 16, 2003 |
| s. 719-165 | ad. No. 117, 2002 |
| Subdivision 719-F | |
| s. 719-305 | ad. No. 117, 2002 |
| Link note to s. 719-305 | rep. No. 41, 2005 |
| s. 719-310 | ad. No. 20, 2004 |
| | am. No. 162, 2005 |
| Subdivision 719-I | |
| Subdivision 719-I..... | ad. No. 162, 2005 |
| s. 719-450 | ad. No. 162, 2005 |
| Division 721 | |
| Division 721 | ad. No. 79, 2010 |
| Subdivision 721-A | |
| s. 721-25..... | ad. No. 79, 2010 |
| Part 3-95 | |
| Part 3-95 | ad. No. 90, 2002 |
| Division 723 | |
| s. 723-1 | ad. No. 90, 2002 |
| | am. No. 16, 2003 |
| Division 725 | |
| s. 725-1 | ad. No. 90, 2002 |
| Division 727 | |
| s. 727-1 | ad. No. 90, 2002 |
| | am. No. 16, 2003 |
| s. 727-230 | ad. No. 20, 2004 |
| s. 727-470..... | ad. No. 80, 2007 |

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| Chapter 4 | |
| Chapt. 4..... | ad. No. 162, 2001 |
| Part 4-5 | |
| Link note to Part 4-5 | rep. No. 41, 2005 |
| Division 770 | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-1..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-5..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| Heading to s. 770-10 | rs. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-10..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-15..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-20..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-25..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-30..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| Note to s 770-30(2) | am No 88, 2013 |
| | rep No 143, 2007 |
| s. 770-35..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-80..... | ad. No. 143, 2007 |

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| | rep No 143, 2007 |
| s. 770-85..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-90..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-95..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| Note to s. 770-95 | ad. No. 88, 2009 |
| | rep No 143, 2007 |
| Notes 1, 2 to s. 770-95..... | rep. No. 88, 2009 |
| s. 770-100..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-105..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-110..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-160..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-165..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| Heading to s. 770-170 | rs. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-170..... | ad. No. 143, 2007 |
| | am. No. 88, 2009 |
| | rep No 143, 2007 |
| s. 770-220..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-225..... | ad. No. 143, 2007 |

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| Provision affected | How affected |
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| | rep No 143, 2007 |
| s. 770-230..... | ad. No. 143, 2007 |
| | am. No. 56, 2010 |
| | rep No 143, 2007 |
| s. 770-285..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-290..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-295..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-300..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-305..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| s. 770-310..... | ad. No. 143, 2007 |
| | rep No 143, 2007 |
| Division 815 | |
| Division 815..... | ad. No. 115, 2012 |
| Subdivision 815-A | |
| hdg to Sdiv 815-A..... | rs No 101, 2013 |
| s. 815-1..... | ad. No. 115, 2012 |
| | am No 101, 2013 |
| s. 815-5..... | ad. No. 115, 2012 |
| s. 815-10..... | ad. No. 115, 2012 |
| s. 815-15..... | ad No 101, 2013 |
| Division 820 | |
| s. 820-10 | ad. No. 162, 2001 |
| | am. No. 117, 2002 |
| s. 820-12 | ad. No. 162, 2001 |
| s. 820-15 | ad. No. 162, 2001 |
| | rep. No. 101, 2006 |

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| Provision affected | How affected |
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| s. 820-20 | ad. No. 162, 2001 rep. No. 101, 2006 |
| s. 820-25 | ad. No. 162, 2001 rep. No. 101, 2006 |
| s. 820-30 | ad. No. 162, 2001 rep. No. 101, 2006 |
| s. 820-35 | ad. No. 162, 2001 rep. No. 101, 2006 |
| s. 820-40 | ad. No. 162, 2001 am. No. 53, 2002 rep. No. 101, 2006 |
| s. 820-45 | ad. No. 162, 2005 am. No. 79, 2007 |
| Division 830 | |
| Division 830..... | ad. No. 101, 2004 |
| s. 830-1..... | ad. No. 101, 2004 |
| s. 830-5..... | ad. No. 101, 2004 rep. No. 101, 2006 |
| s. 830-10..... | ad. No. 101, 2004 rep. No. 101, 2006 |
| s. 830-15..... | ad. No. 101, 2004 am. No. 161, 2005 |
| s. 830-20..... | ad. No. 101, 2004 am. No. 143, 2007 |
| Division 840 | |
| Division 840..... | ad. No. 32, 2008 |
| Subdivision 840-M | |
| s. 840-805..... | ad. No. 32, 2008 |
| s. 840-810..... | ad. No. 32, 2008 |
| Subdivision 840-S | |
| Subdivision 840-S..... | ad. No. 58, 2012 |

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| s. 840-905..... | ad. No. 58, 2012 |
| Division 842 | |
| Division 842..... | ad. No. 126, 2012 |
| Subdivision 842-I | |
| s. 842-210..... | ad. No. 126, 2012 |
| s. 842-215..... | ad. No. 126, 2012 |
| s. 842-220..... | ad. No. 126, 2012 |
| s. 842-225..... | ad. No. 126, 2012 |
| s. 842-230..... | ad. No. 126, 2012 |
| s. 842-235..... | ad. No. 126, 2012 |
| s. 842-240..... | ad. No. 126, 2012 |
| s. 842-245..... | ad. No. 126, 2012 |
| Chapter 5 | |
| Chapt. 5..... | ad. No. 164, 2007 |
| Part 5-35 | |
| Division 909 | |
| s. 909-1..... | ad. No. 164, 2007 |
| Chapter 6 | |
| Chapt. 6..... | ad. No. 46, 1998 |
| Part 6-1 | |
| Link note to Part 6-1 | rep. No. 41, 2005 |
| Division 960 | |
| Sdiv 960-B | |
| Sdiv 960-B | ad No 96, 2014 |
| s 960-20..... | ad No 96, 2014 |
| Subdivision 960-E | |
| Subdivision 960-E..... | ad. No. 117, 1999 |
| s. 960-100..... | ad. No. 117, 1999 |
| s. 960-105..... | ad. No. 117, 1999 |
| | am. No. 66, 2000 |
| s. 960-110..... | ad. No. 117, 1999 |

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| | am. No. 66, 2000 |
| s. 960-115..... | ad. No. 58, 2006 |
| Subdivision 960-M | |
| Subdivision 960-M..... | ad. No. 46, 1998 |
| s. 960-262..... | ad. No. 46, 1998 |
| s. 960-275..... | ad. No. 46, 1998 |