



# **Income Tax (Consequential Amendments) Act 1997**

**Act No. 39 of 1997 as amended**

This compilation was prepared on 5 August 2002

**[This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]**

## **Amendment from Act No. 95 of 1997**

[Schedule 1 (item 24) repealed and substituted item 238 of Schedule 1  
Schedule 1 (item 24) commenced on 1 July 1997]

## **Amendment from Act No. 121 of 1997**

[Schedule 12 (item 24) repealed item 20 of Schedule 1  
Schedule 12 (item 25) repealed items 35 and 36 of Schedule 1  
Schedule 12 (item 26) repealed items 37 and 38 of Schedule 1  
Schedule 12 (item 27) amended heading to item 39 of Schedule 1  
Schedule 12 (item 28) repealed items 40, 41, 42, 47, 53, 55, 56, 57, 66, 67 and 196 of Schedule 1  
Schedule 12 (item 29) repealed items 253 and 254 of Schedule 1  
Schedule 12 (item 30) repealed items 117, 118, 121, 122, 135 and 136 of Schedule 3  
Schedule 12 (items 24 to 30) commenced on 1 July 1997]

## **Amendment from Act No. 147 of 1997**

[Schedule 14 (item 61) repealed items 236 and 237 of Schedule 1  
Schedule 14 (item 62) repealed items 241 and 242  
Schedule 14 (item 63) repealed and substituted item 248 of Schedule 1  
Schedule 14 (items 61 to 63) commenced on 1 July 1997]

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**Amendment from Act No. 16 of 1998**

[Schedule 8 (item 1) amended heading to item 98 of Schedule 1  
Schedule 8 (item 2) amended heading to item 99 of Schedule 1  
Schedule 8 (item 3) amended heading to item 1 of Schedule 3  
Schedule 8 (item 4) repealed item 88 of Schedule 3  
Schedule 8 (items 1 to 4) commenced on 1 July 1997]

**Amendment from Act No. 57 of 2002**

[Schedule 12 (item 43) amended Item 30 of Schedule 1  
Schedule 12 (item 43) commenced on 1 July 1997]

**Amendments from Act No. 63 of 2002**

[Schedule 2 (item 13) repealed Heading before Item 53 of Schedule 3;  
Schedule 2 (item 14) repealed Item 53 of Schedule 3  
Schedule 2 (items 13 and 14) commenced on 1 July 1997]

Prepared by the Office of Legislative Drafting,  
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# **An Act to amend various Acts because of the enactment of the *Income Tax Assessment Act 1997***

[Assented to 17 April 1997]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Income Tax (Consequential Amendments) Act 1997*.

## **2 Commencement**

This Act commences on 1 July 1997.

## **3 Schedules**

The Acts specified in the Schedules to this Act are amended as set out in the applicable items. The other items in the Schedules have effect according to their terms.

## Schedule 1—Consequential amendments of the Income Tax Assessment Act 1936

### 1 Before subsection 6(1)

Insert:

- (1AA) So far as a provision of the *Income Tax Assessment Act 1936* gives an expression a particular meaning, the provision does *not* also have effect for the purposes of the *Income Tax Assessment Act 1997* (the *1997 Act*), except as provided in the 1997 Act.

### 2 Subsection 6(1) (definitions of *assessable income*, *exempt income*, *income tax* or *tax*, *taxable income* and *this Act*)

Repeal the definitions, substitute:

*assessable income* has the meaning given by Division 6 of the *Income Tax Assessment Act 1997*.

*exempt income* has the meaning given by section 6-20 of the *Income Tax Assessment Act 1997*.

*income tax* or *tax* means income tax imposed as such by any Act, as assessed under this Act.

*taxable income* has the same meaning as in the *Income Tax Assessment Act 1997*.

*this Act* includes:

- (a) the *Income Tax Assessment Act 1997*; and
- (b) Part IVC of the *Taxation Administration Act 1953*, so far as that Part relates to this Act or the *Income Tax Assessment Act 1997*.

Note: Subsection (1AA) of this section prevents definitions in the *Income Tax Assessment Act 1936* from affecting the interpretation of the *Income Tax Assessment Act 1997*.

### 3 Subsection 6(1)

Insert:

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*loss year* has the same meaning as in the *Income Tax Assessment Act 1997*.

*tax loss* has the same meaning as in the *Income Tax Assessment Act 1997*.

#### **4 Subsection 6C(2)**

Omit “and section 25,”, substitute “of this Act and sections 6-5 and 6-10 of the *Income Tax Assessment Act 1997*,”.

#### **5 Subsection 6CA(3)**

Omit “sections 25 and 255”, substitute “section 255 of this Act and sections 6-5 and 6-10 of the *Income Tax Assessment Act 1997*”.

#### **6 Section 17**

Add at the end:

- (2) This section does not apply to the 1997-98 year of income or a later year of income.

Note: Section 4-10 of the *Income Tax Assessment Act 1997* sets out how an entity works out the amount of income tax payable on its taxable income for the 1997-98 year of income and later years of income.

#### **7 Subsection 18(1)**

Omit “His”, substitute “For the purposes of this Act, the person’s”.

#### **8 Section 19**

Add at the end:

- (2) This section does not apply to the 1997-98 year of income or a later year of income.

Note: Subsections 6-5(4) and 6-10(3) of the *Income Tax Assessment Act 1997* treat an entity as having received an amount if the amount has been applied or dealt with on the entity’s behalf in the 1997-98 year of income or later years of income.

#### **9 Paragraph 21A(3)(b)**

Omit “Division 3”, substitute “Division 3 of this Part, of this Act, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*”.

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**10 Subsection 21A(5) (definition of *non-deductible entertainment expenditure*)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**11 Paragraph 23(pa)**

After “income derived by a person”, insert “before the 1997-98 year of income”.

**12 Paragraph 23(pa)**

Add at the end:

Note: Subdivision 330-B of the *Income Tax Assessment Act 1997* gives a genuine prospector an exemption from paying income tax on income derived in the 1997-98 year of income or a later year of income from the sale, transfer or assignment of rights to mine on a mining tenement in Australia.

**13 Paragraph 23(r)**

Repeal the paragraph, substitute:

- (r) income derived by a non-resident from sources wholly out of Australia (except income that a provision of this Act includes in a taxpayer’s assessable income on some basis other than having an Australian source);

**14 Section 24AW**

Repeal the section, substitute:

**24AW Body ceasing to be an STB**

If a body ceases to be an STB in a year of income (the *cessation year*), this Act applies to the body as if:

- (a) the cessation were a change which requires a company to calculate its taxable income and tax loss under Subdivision 165-B of the *Income Tax Assessment Act 1997*; and
- (b) the references in that Subdivision to “company” were references to “body”; and



- (c) if the body is not a company—there were no further requirement for the body to calculate its taxable income for the year of income under that Subdivision; and
- (d) the amount of any notional loss of the body calculated under section 165-50 of that Act for the period before the cessation were nil; and
- (e) the body’s deductions for tax losses were attributed under section 165-55 of that Act to the period before the cessation and not to any other period; and
- (f) those deductions were taken not to be full year deductions under section 165-55 of that Act; and
- (g) the application of Part IIIA of this Act were modified, for the purposes of that Subdivision, in accordance with section 24AX of this Act.

**15 Section 24AX**

Omit “relevant period” (wherever occurring), substitute “period”.

**16 Subsection 24AY(1)**

Omit “loss (within the meaning of section 79E or 79F), the loss”, substitute “tax loss, the tax loss”.

**17 Subsection 24AY(2)**

Omit “losses”, substitute “a tax loss”.

**18 Section 24AZ (definition of *relevant period*)**

Repeal the definition, substitute:

*period* means any of the periods into which the cessation year is divided under section 165-45 of the *Income Tax Assessment Act 1997*.

Note: The heading to section 24AZ is replaced by the heading “**Meaning of *period* and prescribed excluded STB**”.

**19 Before subsection 25(1)**

Insert :

(1A) Subsection (1) does not apply to the 1997-98 year of income or a later year of income.

Note: Sections 6-5, 6-10 and 6-15 of the *Income Tax Assessment Act 1997* set out rules for working out what amounts are included in an entity's assessable income for the 1997-98 year of income and later years of income.

**21 Paragraph 26AJ(2)(b)**

Omit "Division 3", substitute "Division 3 of this Part, of this Act, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*".

**22 Paragraph 26AJ(2)(d)**

Omit "Subdivision F of Division 3,", substitute "Subdivisions F and GA of Division 3 of this Part, of this Act, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,".

**23 Paragraph 26AJ(3)(b)**

Omit "Subdivision F of Division 3,", substitute "Subdivisions F and GA of Division 3 of this Part, of this Act, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,".

**24 Subsection 46(6A)**

Repeal.

**25 After subsection 46A(3)**

Insert:

(3A) If this section applies to a shareholder that is a company that must work out its taxable income for the year of income under Subdivision 165-B (Working out the taxable income and tax loss for the income year of the change) of the *Income Tax Assessment Act 1997*, this section applies to the shareholder as if:

- (a) that Subdivision did not apply to the shareholder; and
- (b) the shareholder were instead required to work out its taxable income under section 4-15 (How to work out your taxable income) of that Act.

**26 Subsections 46A(8A) and (8B)**

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Repeal.

**27 Subsection 46A(10A)**

Omit “subsections (8A) and”, substitute “subsection”.

**28 Subsections 46A(11), (12) and (12A)**

Omit “subsection (8A) or”.

**29 Subsection 46A(13)**

Omit “subsection (8A) or in”.

**30 Paragraph 46A(14)(b)**

Omit “subsection (8A), or”.

**31 Section 48**

Add at the end:

- (2) This section does not apply to the 1997-98 year of income or a later year of income.

Note: Section 4-15 of the *Income Tax Assessment Act 1997* sets out rules for working out an entity’s taxable income for the 1997-98 year of income and later years of income.

**32 Subsection 50A(1)**

Omit “a year of income”, substitute “the 1996-97 year of income or an earlier year of income”.

**33 Subsection 50A(1)**

Add at the end:

Note: Subdivision 165-B of the *Income Tax Assessment Act 1997* sets out special rules for working out a company’s taxable income and tax loss for the 1997-98 year of income and later years of income. Those rules may apply if there has been a change in the ownership or control of the company in those years of income.

**34 Before subsection 51(1)**

Insert :

(1AA) Subsection (1) does not apply to the 1997-98 year of income or a later year of income.

Note: Section 8-1 of the *Income Tax Assessment Act 1997* sets out rules for working out what losses or outgoings an entity can deduct for the 1997-98 year of income and later years of income.

### 39 Subsections 51(8) and (9)

Omit “subsection (1)”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

### 43 Subsection 51AF(2) (definitions of *car* and *car expense*)

Repeal the definitions, substitute:

*car* has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997*, but does not include a car covered by section 28-165 of that Act.

*car expense* has the meaning given by section 28-13 of the *Income Tax Assessment Act 1997*, but does not include a car expense covered by section 28-165 of that Act.

### 44 Subsections 51AG(1) and 52A(1)

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

### 45 Subsection 57AK(7)

Repeal the subsection, substitute:

(7) Subsection 330-590(3) of the *Income Tax Assessment Act 1997* applies in relation to a unit of property to which this section applies as if a reference in that subsection to section 56 included a reference to this section.

### 46 Subsection 59AAA(8)

Repeal the subsection, substitute:

(8) The *car expense deduction and substantiation rules* are:  
(a) Divisions 28 and 900 of the *Income Tax Assessment Act 1997*; or

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(b) Subdivision GA of this Division and Schedules 2A and 2B to this Act; or

(c) Subdivision F of this Division;  
as appropriate.

#### **48 Subsection 63A(10)**

Omit “in a year before the year of income is to be taken into account”, substitute “is to be taken into account in the 1996-97 year of income”.

#### **49 After section 63C**

Insert:

#### **63CA When tax losses resulting from bad debts cannot be deducted**

(1) If:

- (a) a company can deduct a debt that is written off as bad in a year of income; and
- (b) because of a change in the beneficial ownership of shares in the company or another company, the debt would not have been deductible in the year of income apart from subsection 63C(1); and
- (c) the change occurred before the debt was written off as bad; and
- (d) because the debt was deductible, the company has a tax loss, or there was an increase in the amount of its tax loss, for the year of income; and
- (e) the Commissioner is satisfied that the company carried on a business during the year of income for the purpose (or for purposes including the purpose) of securing a deduction for the debt because of subsection 63C(1);

the company cannot deduct the tax loss, or cannot deduct it to the extent of the increase in the amount of the tax loss, in a later year of income unless:

- (f) the company carried on, at all times during the later year of income, the same business as it carried on immediately before the change; and

- (g) the company did not, at any time during the later year of income, derive income from a business of a kind that it did not carry on before the change, or from a transaction of a kind that it had not entered into in the course of business operations before the change.
- (2) If a part of a debt is written off as bad, subsection (1) applies as if the part were an entire debt that is written off as bad.
- (3) This section has the same effect in relation to an allowable deduction under section 63E for the whole or part of a debt that is extinguished as it has in relation to an allowable deduction under section 63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997* for the whole or part of a debt that is written off as bad.

**50 Subparagraph 63D(1)(a)(i)**

Omit “section 51 or 63”, substitute “section 63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**51 Paragraph 63E(3)(b)**

Omit “section 51 or 63”, substitute “section 63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**52 Subparagraph 63F(1)(a)(i)**

Omit “section 51 or 63”, substitute “section 63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**54 Subsection 67AA(2)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**58 Before subsection 72A(1)**

Insert:

- (1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-350 of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for petroleum resource rent tax, or an instalment

of petroleum resource rent tax, paid in the 1997-98 year of income or a later year of income.

## **59 Before subsection 72A(2)**

Insert:

(2AA) A deduction is not allowable under subsection (2) for the 1997-98 year of income or any later year of income.

Note: Section 330-350 of the *Income Tax Assessment Act 1997* gives a taxpayer as agent or trustee a deduction for petroleum resource rent tax, or an instalment of petroleum resource rent tax, paid in the 1997-98 year of income or a later year of income.

## **60 Subsection 73B(1) (paragraph (d) of the definition of aggregate research and development amount)**

After “Division 10D”, insert “of this Part, or Division 43 of the *Income Tax Assessment Act 1997*,”.

## **61 Paragraph 73B(27)(c)**

After “Division 10D” (wherever occurring), insert “of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*,”.

## **62 Subsection 73B(30)**

Repeal the subsection, substitute:

(30) If:

- (a) subsection (28) applies to expenditure incurred by an eligible company in the acquisition or construction of a building or an extension, alteration or improvement to a building; and
- (b) deductions would, apart from this section, have been allowable to the company under section 75B or 124JA of this Act, or Division 10, 10AAA, 10AA or 10D of this Part, or Division 43 or Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997*, in respect of that expenditure;

section 75B or 124JA of this Act, or Division 10, 10AAA, 10AA or 10D of this Part, or Division 43 or Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997*, as the case may be,

applies to that expenditure as if this section had never applied to that expenditure.

**63 Subparagraphs 73F(10)(d)(i) and (ii) and (e)(ii)**

Omit “or Division 10, 10AAA, 10AA or 10D”, substitute “of this Act, or Division 10, 10AAA, 10AA or 10D of this Part, or Division 43 or Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997*”.

**64 Paragraph 73F(10)(e)**

Omit “or Division 10, 10AAA, 10AA or 10D”, substitute “of this Act, or Division 10, 10AAA, 10AA or 10D of this Part, or Division 43 or Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997*”.

**65 Subsection 73F(11)**

After “Division 10D” (wherever occurring), insert “of this Part, or Division 43 of the *Income Tax Assessment Act 1997*”.

**68 Section 79C**

Add at the end:

- (2) This section does not apply to the 1997-98 year of income or a later year of income.

Note: Section 26-55 of the *Income Tax Assessment Act 1997* sets out a limit on the total amount deductible under the following provisions of this Act:

- section 78 (Deductions for gifts, pensions etc);
- section 78B (Promoters recoupment tax);
- Subdivision B (Development allowance) of Division 3 of Part III;
- section 82AAT (Deductions for superannuation contributions by eligible persons);
- Division 3 of Part XII (Drought investment allowance).

**69 After section 79D**

Insert:

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**79DA Tax losses not deductible from foreign income unless taxpayer so elects**

- (1) A tax loss is not allowable as a deduction from a taxpayer's assessable foreign income (as defined in section 160AFD) of the year of income, except so far as the taxpayer so elects.
- (2) An election must be made on or before the day of lodgment of the taxpayer's return of income for the year of income, or within such further period as the Commissioner allows.

**70 Before subsection 79E(1)**

Insert:

- (1A) This section does not apply to the 1997-98 year of income or a later year of income.

Note 1: To work out the amount of a tax loss for the 1997-98 year of income or a later year of income: see Division 36 of the *Income Tax Assessment Act 1997*.

Note 2: To find out how much of a loss incurred in a post-1989 year of income you can deduct for the 1997-98 year of income or a later year of income: see section 36-105 of the *Income Tax (Transitional Provisions) Act 1997*.

Note 3: For the rules about deducting tax losses from assessable foreign income for the 1997-98 year of income or a later year of income: see section 79DA.

Note: The heading to section 79E is replaced by the heading "**General domestic losses of 1989-90 to 1996-97 years of income**".

**71 Subsection 79EA(1)**

Omit "a year of income", substitute "the 1996-97 year of income or an earlier year of income".

**72 Subsection 79EA(1)**

Add at the end:

Note: To work out whether a PDF can deduct a tax loss in the 1997-98 year of income or a later year of income: see Subdivision 195-A of the *Income Tax Assessment Act 1997*.

**73 Before subsection 79EB(1)**

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Insert:

(1A) This section does not apply to the 1997-98 year of income or a later year of income.

Note: To work out whether a PDF can deduct a tax loss in the 1997-98 year of income or a later year of income: see Subdivision 195-A of the *Income Tax Assessment Act 1997*.

#### **74 Before subsection 79F(1)**

Insert:

(1A) This section does not apply to the 1997-98 year of income or a later year of income.

Note 1: To work out the amount of a film loss for the 1997-98 or a later income year: see Subdivision 375-G of the *Income Tax Assessment Act 1997*.

Note 2: To find out how much of a film loss incurred in a post-1989 year of income you can deduct for the 1997-98 or a later year of income: see section 36-105 of the *Income Tax (Transitional Provisions) Act 1997*.

Note: The heading to section 79F is replaced by the heading “**Film losses of 1989-90 to 1996-97 years of income**”.

#### **75 Before subsection 80AA(1)**

Insert:

(1AA) This section does not apply to the 1997-98 year of income or a later year of income.

Note: To find out how much of a primary production loss incurred before the 1989-90 year of income you can deduct for the 1997-98 or a later year of income: see section 36-110 of the *Income Tax (Transitional Provisions) Act 1997*.

#### **76 Before subsection 80F(1)**

Insert:

(1A) This section does not apply to the 1997-98 year of income or a later year of income.

Note: To work out the deductibility of a tax loss that results from a debt being written off as bad in the 1997-98 year of income or a later year of income: see section 63CA.

### **77 Before subsection 80G(1)**

Insert:

- (1A) The right to a deduction for an amount of a loss cannot be transferred under this section in the 1997-98 year of income or a later year of income.

Note: To work out whether a company can transfer its tax loss to another company in the 1997-98 year of income or a later year of income: see Subdivision 170-A of the *Income Tax Assessment Act 1997*.

### **78 Before subsection 82(1)**

Insert:

- (1A) Subsection (1) does not apply to the 1997-98 year of income or a later year of income.

Note 1: Section 8-10 of the *Income Tax Assessment Act 1997* prevents you from getting double deductions for any of the years of income after 1996-97.

Note 2: Section 8-10 of the *Income Tax (Transitional Provisions) Act 1997* prevents you from getting double deductions for a year of income before 1997-98 and a year of income after 1996-97.

### **79 Subsection 82A(1)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

### **80 Section 82AC**

Add at the end:

- (2) This section does not apply to the 1997-98 year of income or a later year of income.

### **81 Subsection 82AD(4)**

Omit “section 82AC”, substitute “section 26-55 of the *Income Tax Assessment Act 1997*”.

### **82 Subsection 82AM(1)**

Omit “section 82, 122N, 123E or 124AN”, substitute “section 8-10 or 330-590 of the *Income Tax Assessment Act 1997*”.

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**83 Subsection 82AM(1)**

After “this Act”, insert “or the *Income Tax Assessment Act 1997*”.

**84 Subsection 82AM(2)**

Omit “75B, 75D, 122J, 122JF or 124AH”, substitute “75B or 75D of this Act or section 330-15 of the *Income Tax Assessment Act 1997*”.

**85 Subsection 82BB(2)**

Omit “(including a provision of section 51, other than subsection 51(1))”.

**86 Subsection 82BB(2)**

Omit “section 51” (second occurring), substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**87 Subsection 82BK(2)**

Omit “(including a provision of section 51, other than subsection 51(1))”.

**88 Subsection 82BK(2)**

Omit “section 51” (second occurring), substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**89 Subsection 82KH(1) (definition of *relevant expenditure*)**

Omit “section 51” (wherever occurring), substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**90 Subsection 82KH(1) (paragraph (f) of the definition of *relevant expenditure*)**

Omit “63”, substitute “section 63 of this Act”.

**91 Subsection 82KH(1) (paragraph (o) of the definition of *relevant expenditure*)**

Omit “64”, substitute “section 64 of this Act”.

**92 Subsection 82KH(1ABA)**

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Omit “51 or 63”, substitute “63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**93 Subsection 82KH(1BA)**

Omit everything after “otherwise)”, substitute:

would:

- (a) have a tax loss for a year of income that the person would not have; or
- (b) have a greater tax loss for a year of income than the person would have;

if a tax benefit were not allowable in respect of any part of that eligible relevant expenditure, apply Division 36 and Subdivision 375-G of the *Income Tax Assessment Act 1997* as if the amount were relevant expenditure but not eligible relevant expenditure.

**94 Subsection 82KS(2)**

Omit “year of income and later”, substitute “, 1995-96 and 1996-97”.

**95 Subdivision GA of Division 3 of Part III (heading)**

Repeal the heading, substitute:

**Subdivision GA—Calculating car expense deductions, and substantiating certain expenses, of the 1994-95, 1995-96 and 1996-97 income years**

**96 Subsection 82KZBE(1)**

Omit “income year and later”, substitute “, 1995-96 and 1996-97”.

**97 Subsection 82KZBE(1)**

Add at the end:

Note: For the law applying to the 1997-98 year of income and later years of income, see Divisions 28 and 900 of the *Income Tax Assessment Act 1997*.

**98 Paragraph 82KZM(1)(c)**

After “section 51”, insert “of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**99 Subsection 82KZM(1)**

Omit “under section 51” (second occurring).

**100 Paragraph 82KZN(c)**

After “section 51”, insert “of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**101 Paragraph 82KZO(c)**

After “section 51”, insert “of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**102 Subsections 82U(2) and (3)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**103 Paragraph 82ZB(b)**

Omit all the words after “allowable”, substitute “to the taxpayer under Subdivision A of Division 3 of this Part or under Division 36 of the *Income Tax Assessment Act 1997*”.

**104 Section 90 (definitions of *net income* and *partnership loss*)**

Omit “section 79E, 80, 80AA or 82AAT”, substitute “section 82AAT of this Act or Division 36 of the *Income Tax Assessment Act 1997*”.

**105 Section 94X**

Omit “Sections 50H and 80A”, substitute “Subdivisions 165-A and 165-B of the *Income Tax Assessment Act 1997*”.

**106 Subsection 95(1) (definition of *net income*)**

Omit “section 79E, 79F, 80, 80AAA or 80AA”, substitute “Division 36 of the *Income Tax Assessment Act 1997*”.

**107 Subsection 95(1) (definition of *net income*)**

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Before “losses”, insert “tax”.

**108 Subsection 102AAZC(1)**

Omit “section 79E, 79F, 80, 80AAA or 80AA”, substitute “Division 36 of the *Income Tax Assessment Act 1997*”.

**109 Subsection 102AAZC(1)**

Before “losses”, insert “tax”.

**110 Subsection 105A(11)**

Omit “in a year before the year of income is to be taken into account”, substitute “is to be taken into account in the 1996-97 year of income”.

**111 Subsection 110(1) (definition of *modified 25/25A amount*)**

Omit “25 or 25A”, substitute “25A of this Act or section 6-5 of the *Income Tax Assessment Act 1997*”.

**112 Subsection 110(1) (definition of *modified 51/52 amount*)**

Omit “51 or 52”, substitute “52 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**113 Subsection 110(1) (definition of *ordinary 25/25A amount*)**

Omit “25 or 25A”, substitute “25A of this Act or section 6-5 of the *Income Tax Assessment Act 1997*”.

**114 Subsection 110(1) (definition of *ordinary 51/52 amount*)**

Omit “51 or 52”, substitute “52 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**115 Subsection 110(1) (definition of *prior year loss deduction*)**

Omit “section 79E, 79F, 80, 80AAA or 80AA”, substitute “Division 36 of the *Income Tax Assessment Act 1997*”.

**116 Paragraph 111AC(3)(a)**

Omit “51 or 111AD”, substitute “111AD of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

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**117 Paragraph 111AD(4)(a)**

Omit “51 or 111AC”, substitute “111AC of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**118 Paragraph 111B(1)(d)**

Omit “section 25”, substitute “section 6-5 of the *Income Tax Assessment Act 1997*”.

**119 Paragraph 111B(1)(e)**

After “52”, insert “of this Act”.

**120 Paragraph 111B(1)(f)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**121 Paragraph 111C(1)(a)**

Omit “51,”.

**122 Paragraph 111C(1)(a)**

After “113”, insert “of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**123 Subsection 113(4)**

Omit “(including a provision of section 51, other than subsection 51(1))”.

**124 Subsection 113(4)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**125 Subsection 116CH(3)**

Omit “section 80AB” (first occurring), substitute “section 36-110 of the *Income Tax (Transitional Provisions) Act 1997*”.

**126 Subsection 116CH(3)**



Omit “section 80AB” (last occurring), substitute “section 375-820 of the *Income Tax Assessment Act 1997* and section 36-110 of the *Income Tax (Transitional Provisions) Act 1997*”.

**127 Subsection 116E(1) (definition of *modified 25/25A amount*)**

Omit “25 or 25A”, substitute “25A of this Act or section 6-5 of the *Income Tax Assessment Act 1997*”.

**128 Subsection 116E(1) (definition of *modified 51/52 amount*)**

Omit “51 or 52”, substitute “52 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**129 Subsection 116E(1) (definition of *ordinary 25/25A amount*)**

Omit “25 or 25A”, substitute “25A of this Act or section 6-5 of the *Income Tax Assessment Act 1997*”.

**130 Subsection 116E(1) (definition of *ordinary 51/52 amount*)**

Omit “51 or 52”, substitute “52 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**131 Subsection 116E(1) (definition of *prior year loss deduction*)**

Omit “section 79E, 79F, 80, 80AAA or 80AA”, substitute “Division 36 of the *Income Tax Assessment Act 1997*”.

**132 Paragraph 116GC(1)(d)**

Omit “section 25”, substitute “section 6-5 of the *Income Tax Assessment Act 1997*”.

**133 Paragraph 116GC(1)(e)**

After “52”, insert “of this Act”.

**134 Paragraph 116GC(1)(f)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

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**135 Paragraph 116HAB(3)(a)**

Omit “51, 116H or 116HAC”, substitute “116H or 116HAC of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**136 Paragraph 116HAC(4)(a)**

Omit “51, 116H or 116HAB”, substitute “116H or 116HAB of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**137 Subsection 116HD(2)**

Omit “section 80AB” (first occurring), substitute “section 36-110 of the *Income Tax (Transitional Provisions) Act 1997*”.

**138 Subsection 116HD(2)**

Omit “section 80AB” (last occurring), substitute “section 375-820 of the *Income Tax Assessment Act 1997* and section 36-110 of the *Income Tax (Transitional Provisions) Act 1997*”.

**139 Subsection 121EF(7)**

Omit “section 79E, 79F, 80, 80AAA or 80AA”, substitute “Division 36 of the *Income Tax Assessment Act 1997*”.

**140 After subsection 122D(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual previous capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**141 After subsection 122DB(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual capital expenditure at the end of the

1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**142 After subsection 122DD(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual (1 May 1981 to 18 August 1981) capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**143 After subsection 122DF(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual (19 August 1981 to 19 July 1982) capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**144 Subsection 122DG(1)**

After “after 19 July 1982”, insert “and before the 1997-98 year of income”.

**145 Subsection 122DG(1)**

Add at the end:

Note: Subdivision 330-C of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for allowable capital expenditure incurred in the 1997-98 year of income or a later year of income.

**146 After subsection 122DG(2)**

Insert:

(2A) A deduction is not allowable under subsection (2) for the 1997-98 year of income or any later year of income.

Note: Section 330-5 of the *Income Tax (Transitional Provisions) Act 1997* converts the amount of unrecouped expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### 147 Subsection 122DG(7)

Add at the end:

Note: Subsection (2A) limits deductions allowable under subsection (2) to years of income before the 1997-98 year of income. Section 330-45 of the *Income Tax (Transitional Provisions) Act 1997* converts the whole or a part of a deduction disallowed in the 1996-97 year of income into an amount a taxpayer can deduct in the 1997-98 year of income.

### 148 After subsection 122J(1)

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Subdivision 330-A of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for expenditure incurred on exploration or prospecting for minerals obtainable by eligible mining operations in the 1997-98 year of income or a later year of income.

### 149 Subsection 122J(3)

Add at the end:

Note: Section 330-10 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

### 150 Subsection 122J(4)

Add at the end:

Note: Section 330-30 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

### 151 Subsection 122J(4C)

Add at the end:

Note: Section 330-40 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income

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into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

**152 Subsection 122JAA(1)**

After “property” (first occurring), insert “before the 1997-98 year of income”.

**153 Subsection 122JAA(1)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when roll-over relief is available in relation to the disposal of property in the 1997-98 year of income or a later year of income.

**154 Subsection 122JAA(2)**

After “property”, insert “before the 1997-98 year of income”.

**155 Subsection 122JAA(2)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when a joint election for roll-over relief may be made in relation to the disposal of property in the 1997-98 year of income or a later year of income.

**156 Subsection 122JE(1)**

Repeal the subsection, substitute:

- (1) If, after 15 August 1989 and before the 1997-98 year of income, a taxpayer incurs allowable capital expenditure, an amount worked out in accordance with this section is an allowable deduction in respect of that expenditure in the year of income the expenditure was incurred and in all later years of income.

Note: Subdivision 330-C of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for allowable capital expenditure incurred in the 1997-98 year of income or a later year of income.

- (1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-5 of the *Income Tax (Transitional Provisions) Act 1997* converts the amount of unrecouped expenditure at the end of the

1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**157 Subsection 122JE(9)**

Add at the end:

Note: Subsection (1A) limits deductions allowable under subsection (1) to years of income before the 1997-98 year of income. Section 330-45 of the *Income Tax (Transitional Provisions) Act 1997* converts the whole or a part of a deduction disallowed in the 1996-97 year of income into an amount a taxpayer can deduct in the 1997-98 year of income.

**158 Subsection 122JF(1)**

Repeal the subsection, substitute:

- (1) Subject to this section, expenditure incurred by the taxpayer after 15 August 1989 and before the 1997-98 year of income on exploration or prospecting for materials obtainable by eligible quarrying operations is an allowable deduction in the year of income the expenditure was incurred.

Note: Subdivision 330-A of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for expenditure incurred on exploration or prospecting for quarry materials obtainable by eligible quarrying operations in the 1997-98 year of income or a later year of income.

**159 Subsection 122JF(6)**

Add at the end:

Note: Section 330-40 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

**160 Subsection 122JG(1)**

After “property” (first occurring), insert “before the 1997-98 year of income”.

**161 Subsection 122JG(1)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when roll-over relief is available in relation to the

disposal of property in the 1997-98 year of income or a later year of income by a taxpayer to another taxpayer.

**162 Subsection 122JG(2)**

After “property”, insert “before the 1997-98 year of income”.

**163 Subsection 122JG(2)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when a joint election for roll-over relief may be made in relation to the disposal of property in the 1997-98 year of income or a later year of income.

**164 After subsection 122K(1)**

Insert:

(1A) The disposal, loss or destruction of the property, or the termination of use of the property by the taxpayer for prescribed purposes or eligible purposes, must have occurred in the 1996-97 year of income or an earlier year of income.

Note: Subdivision 330-J of the *Income Tax Assessment Act 1997* deals with balancing adjustments for the 1997-98 year of income and later years of income.

**165 Subsection 123A(1)**

After “1 July 1961”, insert “and before the 1997-98 year of income”.

**166 Subsection 123A(1)**

Add at the end:

Note: Subdivision 330-H of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for transport capital expenditure incurred in the 1997-98 year of income or a later year of income.

**167 Subsection 123A(1A)**

After “by a taxpayer”, insert “before the 1997-98 year of income”.

**168 Subsection 123A(1A)**

Add at the end:

Note: Subdivision 330-H of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for transport capital expenditure incurred in the 1997-98 year of income or a later year of income.

**169 Paragraph 123A(1C)(a)**

After “17 August 1976”, insert “and before the 1997-98 year of income”.

**170 Subsection 123A(1C)**

Add at the end:

Note: Subdivision 330-H of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for transport capital expenditure incurred in the 1997-98 year of income or a later year of income.

**171 Subsection 123A(1E)**

After “9 March 1984”, insert “and before the 1997-98 year of income”.

**172 Subsection 123A(1E)**

Add at the end:

Note: Subdivision 330-H of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for transport capital expenditure incurred in the 1997-98 year of income or a later year of income.

**173 After subsection 123B(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-60 of the *Income Tax (Transitional Provisions) Act 1997* converts any capital expenditure to which this Subdivision applies that is undeducted at the end of the 1996-97 year of income into transport capital expenditure incurred by a taxpayer in the 1997-98 year of income.

**174 Subsection 123BBA(1)**

After “property” (first occurring), insert “before the 1997-98 year of income”.

**175 Subsection 123BBA(1)**

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Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when roll-over relief is available in relation to the disposal of property in the 1997-98 year of income or a later year of income by a taxpayer to another taxpayer.

### **176 Subsection 123BBA(2)**

After “property”, insert “before the 1997-98 year of income”.

### **177 Subsection 123BBA(2)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when a joint election for roll-over relief may be made in relation to the disposal of property in the 1997-98 year of income or a later year of income.

### **178 Paragraphs 123BD(1)(a) and (b)**

After “15 August 1989”, insert “and before the 1997-98 year of income”.

### **179 Subsection 123BD(1)**

Add at the end:

Note: Subdivision 330-H of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for transport capital expenditure incurred in the 1997-98 year of income or a later year of income.

### **180 After subsection 123BE(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-60 of the *Income Tax (Transitional Provisions) Act 1997* converts any capital expenditure to which this Subdivision applies that is undeducted at the end of the 1996-97 year of income into transport capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **181 Subsection 123BF(1)**

After “property” (first occurring), insert “before the 1997-98 year of income”.

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**182 Subsection 123BF(1)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when roll-over relief is available in relation to the disposal of property in the 1997-98 year of income or a later year of income by a taxpayer to another taxpayer.

**183 Subsection 123BF(2)**

After “property”, insert “before the 1997-98 year of income”.

**184 Subsection 123BF(2)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when a joint election for roll-over relief may be made in relation to the disposal of property in the 1997-98 year of income or a later year of income.

**185 After subsection 123C(1)**

Insert:

(1A) The disposal, loss or destruction of the property, or the termination of use of the property by the taxpayer primarily and principally for a purpose referred to in section 123A or 123BD, must have occurred in the 1996-97 year of income or an earlier year of income.

Note: Subdivision 330-J of the *Income Tax Assessment Act 1997* deals with balancing adjustments for the 1997-98 year of income and later years of income.

**186 Paragraph 124AA(1)(b)**

After “1 July 1976”, insert “and before the 1997-98 year of income”.

**187 Subsection 124AA(1)**

Add at the end:

Note: Subdivision 330-C of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for allowable capital expenditure incurred in the 1997-98 year of income or a later year of income.

**188 After subsection 124AD(1)**

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Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual previous capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **189 After subsection 124ADB(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **190 After subsection 124ADD(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual (1 May 1981 to 18 August 1981) capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **191 After subsection 124ADF(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Section 330-1 of the *Income Tax (Transitional Provisions) Act 1997* converts any undeducted residual (19 August 1981 to 19 July 1982) capital expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **192 Subsection 124ADG(1)**

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After “after 19 July 1982”, insert “and before the 1997-98 year of income”.

### **193 Subsection 124ADG(1)**

Add at the end:

Note: Subdivision 330-C of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for allowable capital expenditure incurred in the 1997-98 year of income or a later year of income.

### **194 After subsection 124ADG(2)**

Insert:

(2A) A deduction is not allowable under subsection (2) for the 1997-98 year of income or any later year of income.

Note: Section 330-5 of the *Income Tax (Transitional Provisions) Act 1997* converts the amount of unrecouped expenditure at the end of the 1996-97 year of income into allowable capital expenditure incurred by a taxpayer in the 1997-98 year of income.

### **195 Subsection 124ADG(7)**

Add at the end:

Note: Subsection (2A) limits deductions allowable under subsection (2) to years of income before the 1997-98 year of income. Section 330-45 of the *Income Tax (Transitional Provisions) Act 1997* converts the whole or a part of a deduction disallowed in the 1996-97 year of income into an amount a taxpayer can deduct in the 1997-98 year of income.

### **197 After subsection 124AH(1)**

Insert:

(1A) A deduction is not allowable under subsection (1) for the 1997-98 year of income or any later year of income.

Note: Subdivision 330-A of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for expenditure incurred on exploration or prospecting for petroleum obtainable by eligible mining operations in the 1997-98 year of income or a later year of income.

### **198 Subsection 124AH(4)**

Add at the end:

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Note: Section 330-35 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

### **199 Subsection 124AH(4B)**

Add at the end:

Note: Section 330-40 of the *Income Tax (Transitional Provisions) Act 1997* converts any excess amount at the end of the 1996-97 year of income into exploration or prospecting expenditure incurred by the taxpayer in the 1997-98 year of income.

### **200 After subsection 124AM(1)**

Insert:

(1A) The disposal, loss or destruction of the property, or the termination of use of the property by the taxpayer for purposes of carrying on prescribed petroleum operations or of exploration or prospecting for petroleum, must have occurred in the 1996-97 year of income or an earlier year of income.

Note: Subdivision 330-J of the *Income Tax Assessment Act 1997* deals with balancing adjustments for the 1997-98 year of income and later years of income.

### **201 Subsection 124AMAA(1)**

After “property” (first occurring), insert “before the 1997-98 year of income”.

### **202 Subsection 124AMAA(1)**

Add at the end:

Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when roll-over relief is available in relation to the disposal of property in the 1997-98 year of income or a later year of income by a taxpayer to another taxpayer.

### **203 Subsection 124AMAA(2)**

After “property”, insert “before the 1997-98 year of income”.

### **204 Subsection 124AMAA(2)**

Add at the end:

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Note: Common rule 1 in Subdivision 41-A of the *Income Tax Assessment Act 1997* sets out when a joint election for roll-over relief may be made in relation to the disposal of property in the 1997-98 year of income or a later year of income.

**205 Subsection 124BA(1)**

After “1 July 1991”, insert “and before the 1997-98 year of income”.

**206 Subsection 124BA(1)**

Add at the end:

Note: Subdivision 330-I of the *Income Tax Assessment Act 1997* gives a taxpayer a deduction for expenditure incurred on rehabilitation in the 1997-98 year of income or a later year of income.

**207 Before section 124ZA**

Insert in Division 10C of Part III:

**124ZAPA Division to cease to have effect**

This Division does not have effect for the 1997-98 year of income or a later year of income.

Note: See instead Division 43 of the *Income Tax Assessment Act 1997*.

**208 Before section 124ZF**

Insert in Division 10D of Part III:

**124ZEB Division to cease to have effect**

This Division does not have effect for the 1997-98 year of income or a later year of income.

Note: See instead Division 43 of the *Income Tax Assessment Act 1997*.

**209 Subdivision B of Division 10E of Part III (heading)**

Repeal the heading, substitute:

**Subdivision B—The taxable income of PDFs**

**210 After section 124ZS**

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Insert:

**124ZTA Taxable income in first year as PDF if PDF component is nil**

- (1) This section applies if:
- (a) a company becomes a PDF during a year of income and is still a PDF at the end of the year of income; and
  - (b) the PDF component for the year of income is a nil amount; and
  - (c) the year of income is the 1997-98 year of income or a later one.
- (2) The company's taxable income of the year of income is the amount that, if the period (the *notional year*) beginning at the start of the year of income and ending immediately before the company becomes a PDF were a year of income of the company, would be the company's taxable income of the notional year.

**211 Subsection 159GE(1) (definition of *capital expenditure deduction*)**

After "10D", insert "of this Part or Division 43 or Subdivision 330-C or 330-H of the *Income Tax Assessment Act 1997*".

**212 Subsection 159GE(1) (paragraph (a) of the definition of *Division 10, 10AA or 10A property*)**

After "10AA", insert "of this Part or Subdivision 330-C of the *Income Tax Assessment Act 1997*".

**213 Subsection 159GE(1) (definition of *Division 10AAA property*)**

Omit "applies", substitute "of this Part applies or transport capital expenditure within the meaning of Subdivision 330-H of the *Income Tax Assessment Act 1997*".

**214 Subsection 159GE(1) (definition of *Division 10C or 10D property*)**

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After “10D”, insert “or for which there is a pool of construction expenditure within the meaning of Division 43 of the *Income Tax Assessment Act 1997*”.

**215 Paragraph 159GF(3)(e)**

Repeal the paragraph, substitute:

- (e) so much as is unrecouped of an amount of allowable (post-19 July 1982) capital expenditure within the meaning of Division 10 or 10AA;
- (f) so much as is unrecouped of an amount of allowable capital expenditure within the meaning of Subdivision 330-C of the *Income Tax Assessment Act 1997*;

**216 Subsection 159GF(4)**

After “under Division 10AAA”, insert “of this Part or Subdivision 330-H of the *Income Tax Assessment Act 1997*”.

**217 Subsection 159GF(5)**

Omit “, as the case may be”, substitute “of this Part, or to the undeducted construction expenditure within the meaning of Division 43 of the *Income Tax Assessment Act 1997*, as appropriate”.

**218 Paragraph 159GJ(2)(a)**

After “10A” (first occurring), insert “of this Part or Subdivision 330-C of the *Income Tax Assessment Act 1997*”.

**219 Paragraph 159GJ(2)(c)**

After “10A” (first occurring), insert “of this Part or Subdivision 330-C of the *Income Tax Assessment Act 1997*”.

**220 Paragraph 159GJ(2)(c)**

After “Divisions”, insert “and Subdivision”.

**221 Paragraph 159GJ(3)(a)**

After “10AAA” (first occurring), insert “of this Part or Subdivision 330-H of the *Income Tax Assessment Act 1997*”.



**222 Paragraph 159GJ(3)(c)**

After “10AAA” (first and third occurring), insert “of this Part or Subdivision 330-H of the *Income Tax Assessment Act 1997*”.

**223 Paragraph 159GJ(3)(c)**

After “that Division”, insert “or Subdivision”.

**224 Paragraph 159GJ(4)(a)**

After “under Division 10C or 10D”, insert “of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*,”.

**225 Subparagraph 159GJ(4)(b)(i)**

Omit “as the case requires,”, substitute “of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*, as appropriate”.

**226 Subparagraph 159GJ(4)(b)(ii)**

Omit “under Division 10C or 10D”, substitute “under Division 10C or 10D of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*,”.

**227 Sub-subparagraph 159GJ(4)(b)(iii)(B)**

Omit “,as the case requires”, substitute “of this Part, or the undeducted construction expenditure within the meaning of Division 43 of the *Income Tax Assessment Act 1997*, as appropriate”.

**228 Sub-subparagraph 159GJ(4)(b)(iii)(C)**

Omit “,as the case requires”, substitute “of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*, as appropriate”.

**229 Paragraph 159GJ(4)(d)**

Omit “of Division 10C or 10D” (wherever occurring), substitute “of Division 10C or 10D of this Part, or of Division 43 of the *Income Tax Assessment Act 1997*,”.

**230 Paragraph 159GL(2)(a)**

After “under Division 10C or 10D”, insert “of this Part, or under Division 43 of the *Income Tax Assessment Act 1997*,”.

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**231 Subsection 159GT(2)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**232 Subsection 159GZZT(1)**

Repeal the subsection, substitute:

- (1) A company cannot transfer under Subdivision 170-A of the *Income Tax Assessment Act 1997* so much of a tax loss as is attributable to an amount of deemed gold exploration or prospecting expenditure unless that company, and the income company referred to in that Subdivision, were members of the same wholly-owned group (within the meaning of that Act) during the whole or part of each of the following years of income when the companies were in existence (within the meaning of that Act):
  - (a) the year of income in which the eligible gold exploration or prospecting expenditure that gave rise to that deemed gold exploration or prospecting expenditure was incurred;
  - (b) each later year of income before the loss year referred to in that Subdivision.

**233 Subsection 160AF(8) (paragraph (b) of the definition of net foreign income)**

Omit “subsection 79E(6), 80AA(5B) or 80(2C)”, substitute “section 79DA”.

**234 Subsection 160D(3)**

Omit “section 19”, substitute “subsections 6-5(4) and 6-10(3) of the *Income Tax Assessment Act 1997*”.

**235 Subsection 160L(7)**

Omit “paragraph 23(pa)”, substitute “section 330-60 of the *Income Tax Assessment Act 1997*”.

**238 Subsection 160ZC(5)**

Omit everything after “year of income” (second occurring), substitute “if, had the net capital loss been a tax loss, Subdivision 165-A or 175-A of the *Income Tax Assessment Act 1997* would have prevented the taxpayer from deducting it in that later income year.”.

### **239 Subsection 160ZK(1A)**

Repeal the subsection, substitute:

- (1A) The reference in paragraph (1)(a) to any part of the consideration, of the costs or of the expenditure that has been allowed or is allowable as a deduction to the taxpayer in respect of any year of income includes:
- (a) an amount that, apart from subsections 124ZB(4) and 124ZG(5), would have been so allowed or allowable under Division 10C or 10D of Part III this Act; and
  - (b) an amount that, apart from paragraph 43-70(2)(h) of the *Income Tax Assessment Act 1997*, would have been so allowed or allowable under Division 43 of that Act.

### **240 Subsection 160ZM(3A)**

After “Part III”, insert “or under Division 43 of the *Income Tax Assessment Act 1997*”.

### **243 Paragraph 160ZZE(a)**

Repeal the paragraph, substitute:

- (a) a taxpayer who:
- (i) is carrying on or has carried on eligible mining operations within the meaning of Subdivision 330-B of the *Income Tax Assessment Act 1997*, or has incurred transport capital expenditure within the meaning of Subdivision 330-H of that Act; or
  - (ii) has carried on prescribed mining operations within the meaning of Division 10 of Part III of this Act or prescribed petroleum operations within the meaning of Division 10AA of that Part, or has incurred expenditure to which Division 10AAA of that Part applied;
- disposes of an asset in respect of which, or in respect of the acquisition of which, the taxpayer has incurred expenditure
-

of a capital nature to which Subdivision 330-A, 330-C or 330-H of the *Income Tax Assessment Act 1997* applies or Division 10, 10AAA or 10AA of Part III of this Act applied; and

**244 Subsection 160ZZZB(1)**

Omit “subsection 51(1)”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**245 Subsection 160ZZZB(1)**

Omit “that subsection”, substitute “that section”.

**246 Section 160ZZZG**

Omit “section 80G”, substitute “Subdivision 170-A of the *Income Tax Assessment Act 1997*”.

**247 After subsection 170(10)**

Insert:

- (10AA) Nothing in this section prevents the amendment, at any time, of an assessment for the purpose of giving effect to any of these provisions of the *Income Tax Assessment Act 1997*:
- (a) Division 28;
  - (m) sections 330-175 and 330-245;
  - (z) Division 900.

**248 Subsection 170(13)**

Repeal the subsection, substitute:

- (13) The Commissioner may amend an assessment within 6 years after the day when the tax became due and payable under it, if the amendment is to give effect to any of these provisions:
- (a) sections 165-180 to 165-205 and Division 175 of the *Income Tax Assessment Act 1997*;
  - (b) sections 63B, 105AAA, 160ZND and 160ZNM to 160ZNR (inclusive), and Division 3D of Part IIIA, of this Act;

(including any of those provisions as applied by any other provision of that Act or this Act).

**249 Subsection 221AZU(8)**

Omit “loss” (wherever occurring), substitute “tax loss”.

**250 Subsection 221AZU(8)**

Omit “section 80G”, substitute “Subdivision 170-A (which is about transferring tax losses within wholly-owned company groups) of the *Income Tax Assessment Act 1997*”.

**251 Subsection 221B(4A)**

After “2B”, insert “to this Act, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,”.

**252 After subsection 221B(4B)**

Insert:

- (4C) The resolution, insofar as it applies to Subdivision GA of Division 3 of Part III and Schedules 2A and 2B in relation to expenses incurred after a particular day, also applies to Divisions 28 and 900 of the *Income Tax Assessment Act 1997* in relation to expenses incurred after that day.
- (4D) The resolution, insofar as it applies to Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, applies in relation to expenses incurred after the day on which the resolution takes effect.

**255 After subsection 262A(4AJ)**

Insert:

(4AJA) If:

- (a) a person (the *transferor*) disposes of capital works within the meaning of Division 43 of the *Income Tax Assessment Act 1997*, being capital works begun after 26 February 1992, to another person (the *transferee*); and
- (b) a deduction has been allowed or is allowable under Division 10C or 10D of Part III of this Act, or under Division 43 of

the *Income Tax Assessment Act 1997*, in respect of those capital works;

then:

- (c) the transferor must give the transferee, within 6 months after the end of the year of income in which the disposal occurred or within a further period allowed by the Commissioner, a notice containing such information as will allow the transferee to work out how Division 43 of the *Income Tax Assessment Act 1997* will apply to the transferee in respect of the capital works; and
- (d) the transferee must retain the notice or a copy of it until the end of 5 years after the transferee disposes of the capital works or the capital works are destroyed, whichever is the earlier.

**256 Section 266**

After “this Act” (wherever occurring), insert “or the *Income Tax Assessment Act 1997*”.

**257 Paragraph 304(a)**

Omit “section 25”, substitute “section 6-5 of the *Income Tax Assessment Act 1997*”.

**258 Paragraph 304(b)**

After “52”, insert “of this Act”.

**259 Paragraph 304(c)**

Omit “section 51”, substitute “section 8-1 of the *Income Tax Assessment Act 1997*”.

**260 Section 317 (definition of *depreciation provision*)**

Omit “, or any provision of Divisions 10, 10AAA, 10AA, 10A, 10C and 10D of that Part”, substitute “of this Act, any provision of Divisions 10, 10AAA, 10AA, 10A, 10C and 10D of that Part, or any provision of Division 43 and Subdivisions 330-A, 330-C and 330-H of the *Income Tax Assessment Act 1997*”.

**261 Paragraph 399A(2)(a)**

Omit “51 or 63”, substitute “63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**262 Subsection 399A(5)**

Omit “51 or 63”, substitute “63 of this Act or section 8-1 of the *Income Tax Assessment Act 1997*”.

**263 Section 427**

Repeal the section, substitute:

**427 Certain provisions to be disregarded**

For the purposes of applying this Act and the *Income Tax Assessment Act 1997* in calculating the attributable income of an eligible CFC, disregard the following:

- (a) paragraph 23(q) of this Act;
- (b) sections 63CA, 79D and 79DA of this Act and Division 36 and Subdivisions 165-A, 170-A and 175-A of the *Income Tax Assessment Act 1997* (except for the purpose of a reference to any of those provisions in any other provision of this Act, as applied in accordance with this Division);
- (c) section 160AFD of this Act.

**264 Subsection 632(1)**

Omit “sections 82, 122N, 123E and 124AN”, substitute “sections 8-10 and 330-590 of the *Income Tax Assessment Act 1997*”.

**265 Subsection 632(1)**

After “this Act”, insert “or the *Income Tax Assessment Act 1997*”.

**266 Subsection 632(2)**

Omit “70A, 73B, 122J, 122JF or 124AH”, substitute “70A or 73B of this Act or section 330-15 of the *Income Tax Assessment Act 1997*”.

**267 Section 638**

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Omit “sections 639 and 640”, substitute “section 639 of this Act and section 26-55 of the *Income Tax Assessment Act 1997*”.

**268 Before subsection 640(1)**

Insert:

(1A) This section does not apply to the 1997-98 year of income or a later year of income.

**269 Paragraph 641(a)**

Omit “or 640”, substitute “of this Act or section 26-55 of the *Income Tax Assessment Act 1997*”.

**270 Subsection 642(1)**

Omit “sections 82, 122N, 123E and 124AN”, substitute “sections 8-10 and 330-590 of the *Income Tax Assessment Act 1997*”.

**271 Subsection 642(1)**

After “this Act”, insert “or the *Income Tax Assessment Act 1997*”.

**272 Subsection 642(2)**

After “70A, 73B, 122J, 122JF or 124AH”, insert “of this Act or section 330-15 of the *Income Tax Assessment Act 1997*”.

**273 Paragraphs 647(3)(a), (b) and (c)**

Repeal the paragraphs, substitute:

- (a) section 26-55 (which reduces the deduction) of the *Income Tax Assessment Act 1997*;
- (b) Subdivision B (which takes away the deduction) of this Division;
- (c) sections 663 to 666 (which take away the deduction) of this Act.

**274 Application of amendments**

The amendments made by this Schedule apply to assessments for the 1997-98 year of income and later years of income.



## **Schedule 2—Consequential amendments of the Taxation Administration Act 1953**

### **Part 1—Amendments**

#### **1 Section 14ZAAA (paragraph (a) of the definition of *income tax law*)**

After “*Income Tax Assessment Act 1936*”, insert “or of the *Income Tax Assessment Act 1997*”.

#### **2 Section 14ZAAA (paragraph (b) of the definition of *income tax law*)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

#### **3 After section 14ZAAL**

Insert in Part IVAAA:

#### **14ZAAM Effect on public ruling if tax law re-enacted**

If:

- (a) the Commissioner makes a public ruling about a tax law (the *old law*); and
  - (b) that tax law is re-enacted or remade (with or without modifications, and whether or not the old law is repealed);
- the ruling is taken also to be a public ruling about the tax law as re-enacted or remade (the *new law*), but only so far as the new law expresses the same ideas as the old law.

Note: Ideas in tax laws are not necessarily different just because different forms of words are used. See:

- section 15AC of the *Acts Interpretation Act 1901*; and
- section 1-3 of the *Income Tax Assessment Act 1997*.

#### 4 After section 14ZAX

Insert:

##### **14ZAXA Effect on private ruling if tax law re-enacted**

If:

- (a) the Commissioner makes a private ruling about a tax law (the *old law*); and
  - (b) that tax law is re-enacted or remade (with or without modifications, and whether or not the old law is repealed);
- the ruling is taken also to be a private ruling about the tax law as re-enacted or remade (the *new law*), but only so far as the new law expresses the same ideas as the old law.

Note: Ideas in tax laws are not necessarily different just because different forms of words are used. See:

- section 15AC of the *Acts Interpretation Act 1901*; and
- section 1-3 of the *Income Tax Assessment Act 1997*.

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

### **5 Application of section 14ZAAM**

Section 14ZAAM applies to the re-enactment or remaking of a tax law if, and only if, the re-enacted or remade tax law commences at or after the commencement of that section. It applies to a public ruling even if the ruling was made before that commencement.

### **6 Application of section 14ZAXA**

Section 14ZAXA applies to the re-enactment or remaking of a tax law if, and only if, the re-enacted or remade tax law commences at or after the commencement of that section. It applies to a private ruling even if the ruling was made before that commencement.

## Schedule 3—Amendments of other Acts

### *Administrative Decisions (Judicial Review) Act 1977*

#### **1 Paragraph (e) of Schedule 1**

Under “*Income Tax Assessment Act 1936*”, insert “*Income Tax Assessment Act 1997*”.

### *AUSSAT Repeal Act 1991*

#### **2 After subsection 8(2)**

Insert:

(2A) AUSSAT cannot deduct from its assessable income for the 1997-98 income year or a later income year, a tax loss (or a part of a tax loss) incurred in an income year ending at or before the transition.

(2B) This section has effect despite anything in the *Income Tax Assessment Act 1997*, in particular, Division 36 of that Act.

#### **3 Subsection 8(3)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### *Australian Industry Development Corporation Act 1970*

#### **4 Section 29A (definition of *income tax*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

#### **5 Paragraph 29Z(3)(d)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

#### **6 Section 29ZA**

After “that Act”, insert “and the *Income Tax Assessment Act 1997*”.

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48 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

**7 Subsection 29ZB(1)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997* (as appropriate)”.

**8 Subsection 29ZB(1)**

Omit “that Act”, substitute “either of those Acts”.

**9 Subsection 29ZB(2)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**10 Subsection 29ZB(2)**

Omit “that Act”, substitute “either of those Acts”.

**11 Subsection 29ZB(3)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997* (as appropriate)”.

***Bank Integration Act 1991***

**12 Subsection 21(3) (paragraph (a) of the definition of tax)**

Repeal the paragraph, substitute:

- (a) any tax assessed under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*; or

**13 Paragraphs 22(2)(a) and (b)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

Note: The heading to section 22 is replaced by the heading “**Application of the Income Tax Assessment Acts**”.

**14 Subsections 22(3) and (4)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

**15 Paragraph 22(4)(c)**

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Before “losses”, insert “tax”.

**16 Paragraph 22(4)(c)**

Omit “section 46 of that Act”, substitute “section 46 of the *Income Tax Assessment Act 1936*”.

**17 Subsection 22(7)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

***Bounty and Capitalisation Grants (Textile Yarns) Act 1981***

**18 Paragraph 3(3)(h)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*, as appropriate”.

***Child Support (Assessment) Act 1989***

**19 Section 5 (definition of year of income)**

Repeal the definition, substitute:

*year of income*, in relation to a person, means:

- (a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or
- (b) an income year (within the meaning of the *Income Tax Assessment Act 1997*).

**20 Sections 38, 45 and 55**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**21 Subsection 56(1)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**22 Subsection 56(1)**

Omit “that Act”, substitute “either of those Acts”.

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50 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

**23 Subsection 56(2)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**24 Subsection 56(2)**

Omit “that Act”, substitute “either of those Acts”.

**25 Subsection 56(3)**

After “that Act” (first occurring), insert “or the *Income Tax Assessment Act 1997*”.

**26 Subsection 56(3)**

Omit “that Act” (second and third occurring), substitute “either of those Acts”.

**27 Paragraph 56(4)(b)**

After “that Act”, insert “or the *Income Tax Assessment Act 1997*”.

**28 Paragraph 56(5)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**29 Paragraph 56(5)(a)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**30 Subsection 57(1)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**31 Subsection 57(1)**

Omit “that Act” (wherever occurring), substitute “either of those Acts”.

**32 Paragraph 57(2)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**33 Paragraph 57(2)(a)**

Omit “that Act”, substitute “either of those Acts”.

**34 Subsection 57(3)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**35 Subsection 57(3)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**36 Paragraph 57(3)(a)**

Omit “that Act” (wherever occurring), substitute “either of those Acts”.

**37 Subsection 57(4)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**38 Subsection 57(4)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**39 Paragraph 57(4)(a)**

Omit “that Act” (wherever occurring), substitute “the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*”.

**40 Subsection 57(5)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*”.

**41 Paragraph 57(8)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*”.

**42 Paragraph 57(9)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.



**43 Paragraph 57(9)(a)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**44 Paragraphs 58(1)(a) and (1A)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**45 Paragraph 58(1A)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*”.

**46 Paragraphs 60(1)(a) and 64(1)(b)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**47 Paragraph 64(1)(b)**

Omit “that Act”, substitute “either of those Acts”.

**48 Paragraphs 64A(1)(b) and (4)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**49 Paragraph 64A(4)(a)**

Omit “that Act”, substitute “either of those Acts”.

**50 Paragraph 153(e)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**51 Paragraph 153(e)**

Omit “that Act” (first occurring), substitute “either of those Acts”.

**52 Paragraph 153(e)**

Omit “that Act” (last occurring), substitute “the *Income Tax Assessment Act 1936*”.

***Commonwealth Serum Laboratories Act 1961***

**54 Section 34**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

***Consular Privileges and Immunities Act 1972***

**55 Subsection 5(4)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

***Crimes (Taxation Offences) Act 1980***

**56 Section 3 (definition of the *Income Tax Assessment Act*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

***Data-matching Program (Assistance and Tax) Act 1990***

**57 Subsection 3(1) (definition of *Tax Act*)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

***Development Allowance Authority Act 1992***

**58 Paragraph 22(c)**

Omit “*Tax Act*”, substitute “*Income Tax Assessment Act 1936* and section 26-55 of the *Income Tax Assessment Act 1997*”.

**59 Paragraph 22(d)**

Omit “*Tax Act*”, substitute “*Income Tax Assessment Act 1936*”.

**60 Paragraph 22(e)**

Omit “*Tax Act*”, substitute “*Income Tax Assessment Act 1936*”.

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54 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

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***Diplomatic Privileges and Immunities Act 1967*****61 Subsection 7(4)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

***Fringe Benefits Tax Assessment Act 1986*****62 Subparagraph 19(1)(b)(i)**

Omit “have been allowable to the recipient under that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts”.

**63 Subparagraph 19(1)(b)(ii)**

Omit “that Act” (wherever occurring), substitute “the *Income Tax Assessment Act 1936*”.

**64 Subparagraph 19(1)(ba)(ii)**

Omit “and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*,”, substitute “, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,”.

**65 Subparagraph 19(1)(ba)(ii)**

Omit “under that Act”, substitute “under either of those Acts”.

**66 Sub-subparagraph 19(1)(ba)(ii)(B)**

Omit “that Act” (wherever occurring), substitute “the *Income Tax Assessment Act 1936*”.

**67 Paragraph 19(2)(b)**

Omit “car expense within the meaning of Subdivision F of Division 3 of Part III of the *Income Tax Assessment Act 1936*”, substitute “Division 28 car expense”.

**68 Paragraph 22(a)**

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Omit “car expense, as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**69 Subparagraph 24(1)(b)(iii)**

Omit “have been allowable to the recipient under that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts”.

**70 Subparagraph 24(1)(b)(iv)**

Omit “that Act” (wherever occurring), substitute “the *Income Tax Assessment Act 1936*”.

**71 Subparagraph 24(1)(ba)(ii)**

Omit “and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*,” substitute “, GA and G of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,”.

**72 Subparagraph 24(1)(ba)(ii)**

Omit “under that Act”, substitute “under either of those Acts”.

**73 Sub-subparagraph 24(1)(ba)(ii)(B)**

Omit “that Act” (wherever occurring), substitute “the *Income Tax Assessment Act 1936*”.

**74 Paragraph 34(1)(b)**

Omit “have been allowable to the recipient under that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts”.

**75 Subparagraph 34(1)(ba)(ii)**

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Omit “Subdivision F of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, have been allowable as a once-only deduction to the recipient under that Act”, substitute “Subdivisions F and GA of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable as a once-only deduction to the recipient under either of those Acts”.

**76 Paragraph 37(b)**

Omit “have been allowable to the recipient under section 51 of that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under section 51 of the *Income Tax Assessment Act 1936*, or section 8-1 of the *Income Tax Assessment Act 1997*,”.

**77 Subparagraph 37(c)(ii)**

Omit “Subdivision F of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, have been allowable to the recipient under section 51 of that Act”, substitute “Subdivisions F and GA of Division 3 of Part III, of the *Income Tax Assessment Act 1936*, and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under section 51 of the *Income Tax Assessment Act 1936*, or section 8-1 of the *Income Tax Assessment Act 1997*,”.

**78 Subparagraph 44(1)(b)(i)**

Omit “have been allowable to the recipient under that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts”.

**79 Subparagraph 44(1)(b)(ii)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**80 Subparagraph 44(1)(ba)(ii)**

After “1936,”, insert “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*,”.

**81 Subparagraph 44(1)(ba)(ii)**

Omit “under that Act”, substitute “under either of those Acts”.

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**82 Sub-subparagraph 44(1)(ba)(ii)(B)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**83 Subparagraph 52(1)(b)(i)**

Omit “have been allowable to the recipient under that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, have been allowable to the recipient under either of those Acts”.

**84 Subparagraph 52(1)(b)(ii)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**85 Subparagraph 52(1)(ba)(ii)**

After “1936,”, insert “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*”.

**86 Subparagraph 52(1)(ba)(ii)**

Omit “under that Act in respect of so much of that consideration as was taken into account for the purposes of section 48, 49, 50 or 51”, substitute “under either of those Acts in respect of so much of that consideration as was taken into account for the purposes of section 48, 49, 50 or 51 of the *Income Tax Assessment Act 1936*, or section 4-15 or 8-1 of the *Income Tax Assessment Act 1997*”.

**87 Sub-subparagraph 52(1)(ba)(ii)(B)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

**89 Subparagraphs 58A(c)(i), 58F(c)(i) and 58M(2)(c)(i)**

Omit “car expense, as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,”, substitute “Division 28 car expense”.

**90 Sub-subparagraph 60A(2)(b)(i)(A)**

Omit “car expense, as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,”, substitute “Division 28 car expense”.

**91 Subparagraphs 61(1)(c)(i) and 61A(2)(a)(i)**

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58 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

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Omit “car expense, as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**92 Paragraphs 61B(b), 61E(b) and 61F(b)**

Omit “car expense, as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**93 Subsection 136(1) (definition of *car expense payment benefit*)**

Omit “car expense as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**94 Subsection 136(1) (paragraph (b) of the definition of *car loan benefit*)**

Omit “car expense as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**95 Subsection 136(1) (definitions of *car property benefit* and *car residual benefit*)**

Omit “car expense as defined by section 11-2 of Schedule 2A to the *Income Tax Assessment Act 1936*,” substitute “Division 28 car expense”.

**96 Subsection 136(1) (definition of *deductible expenses*)**

Omit “would be, allowable to the employee under section 51 of that Act”, substitute “and Divisions 28 and 900 of the *Income Tax Assessment Act 1997*, would be, allowable to the employee under section 51 of the *Income Tax Assessment Act 1936* or section 8-1 of the *Income Tax Assessment Act 1997*”.

**97 Subsection 136(1) (paragraph (b) of the definition of *non-deductible entertainment expenditure*)**

After “that Act”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

**98 Subsection 136(1) (definitions of *basic car rate*,  
*documentary evidence* and *year of income*)**

Repeal the definitions, substitute:

***basic car rate***, in relation to a year of tax ending on 31 March in a year, means the rate prescribed for the purposes of:

- (a) if the year of tax ended on or after 31 March 1998—section 28-25 of the *Income Tax Assessment Act 1997*; or
- (b) if the year of tax ended on 31 March 1995, 31 March 1996 or 31 March 1997—section 3-2 of Schedule 2A to the *Income Tax Assessment Act 1936*; or
- (c) if the year of tax ended before or on 31 March 1994—paragraph 82KX(1)(a) of the *Income Tax Assessment Act 1936*;

in relation to the year of income ending on 30 June in that year.

***documentary evidence***, in relation to an expense incurred by a person, means:

- (a) if the expense was incurred on or after 1 July 1997—a document that would constitute written evidence of the expense obtained in a way described in Subdivision 900-E of the *Income Tax Assessment Act 1997* if the expense were a work expense, and Division 900 of that Act applied to the person; or
- (b) if the expense was incurred on or after 1 July 1994 and before 1 July 1997—a document that would constitute written evidence of the expense obtained in a way described in Division 5 of Schedule 2B to the *Income Tax Assessment Act 1936* if the expense were a work expense, and that Schedule applied to the person; or
- (c) if the expense was incurred before 1 July 1994—a document that would constitute documentary evidence of the expense within the meaning of subsection 82KU(1) of the *Income Tax Assessment Act 1936* (including that subsection as applied by subsections 82KU(3) and (4) of that Act) or



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subsection 82KU(5) of that Act if the person were a taxpayer within the meaning of that Act.

*year of income* means:

- (a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or
- (b) an income year (within the meaning of the *Income Tax Assessment Act 1997*).

### **99 Subsection 136(1)**

Insert:

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

### ***Higher Education Funding Act 1988***

#### **100 Subsection 106H(1) (paragraph (b) of the definition of *HEC repayment income of a person*)**

Omit “or any subsequent year of income”.

#### **101 Subsection 106H(1) (at the end of the definition of *HEC repayment income of a person*)**

Add:

- (c) in relation to the 1997-98 income year or any later income year—the sum of:
  - (i) the person’s taxable income for that income year; and
  - (ii) if the person has deducted under section 8-1 of the *Income Tax Assessment Act 1997* for that income year an amount for interest on money the person borrowed to finance rental property investments, and the total of that amount and any other amounts the person has deducted under that Act or the *Income Tax Assessment Act 1936* (otherwise than for interest on money borrowed) in respect of the rental property exceeds the rental income of the person—the amount of the excess.

### ***Insurance (Agents and Brokers) Act 1984***

#### **102 Section 9 (paragraph (b) of the definition of *accounting period*)**

After “*Income Tax Assessment Act 1936*”, insert “or as an income year for the purposes of the *Income Tax Assessment Act 1997*”.

### ***International Tax Agreements Act 1953***

#### **103 Section 3 (definition of *the Assessment Act*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Military Superannuation and Benefits Act 1991***

#### **104 Section 24**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Parliamentary Contributory Superannuation Act 1948***

#### **105 Subsection 21B(1) (definition of *assessable income*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*, as appropriate”.

#### **106 Subsection 21B(1) (paragraph (c) of the definition of *hypothetical taxpayer*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*, as appropriate”.

#### **107 Subsection 21B(1) (paragraphs (d) and (e) of the definition of *hypothetical taxpayer*)**

Omit “that Act”, substitute “either of those Acts”.

#### **108 Subsection 21B(1) (definition of *taxable income*)**

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After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*, as appropriate”.

**109 Subsection 21B(1) (definition of year of income)**

Repeal the definition, substitute:

*year of income* means:

- (a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or
- (b) an income year (within the meaning of the *Income Tax Assessment Act 1997*);

as appropriate.

***Petroleum Resource Rent Tax Assessment Act 1987***

**110 Paragraph 44(h)**

After “*Income Tax Assessment Act 1936*”, insert “, the *Income Tax Assessment Act 1997*”.

***Pooled Development Funds Act 1992***

**111 Paragraph 14(1)(l)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

***Snowy Mountains Engineering Corporation Act 1970***

**112 Section 39Q**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

***Snowy Mountains Engineering Corporation Limited Sale Act 1993***

**113 Subsection 37(2)**

Omit “This section”, substitute “Subsection (1)”.

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**114 Subsection 37(3)**

Omit “this section”, substitute “subsection (1)”.

**115 After subsection 37(3)**

Insert:

- (4) SMEC cannot deduct in the 1997-98 income year or a later income year a tax loss incurred in an income year ending before the income year in which the sale day occurs.
- (5) This section has effect despite anything and, in particular, Division 36 and Subdivision 195-A of that Act.
- (6) Unless the contrary intention appears, an expression has the same meaning in subsection (4) as in the *Income Tax Assessment Act 1997*.

***Social Security Act 1991***

**116 Subsection 23(1) (definition of *Income Tax Assessment Act*)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

***Stevedoring Industry Charge Assessment Act 1947***

**119 Before paragraph 27(3D)(a)**

Insert:

- (aa) tax assessed under the *Income Tax Assessment Act 1997*;

***Student and Youth Assistance Act 1973***

**120 Paragraph 44A(2)(c)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**123 Clause F9 of Schedule 1**

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Omit “subsection 6(1) of the Income Tax Assessment Act”, substitute “section 4-15 of the *Income Tax Assessment Act 1997*”.

### ***Superannuation Act 1976***

#### **124 Subsections 42(5) and (5A)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

#### **125 Sections 155C, 242 and 250**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Superannuation Act 1990***

#### **126 Subsection 26(1)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

#### **127 Sections 33F and 49**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Superannuation Industry (Supervision) Act 1993***

#### **128 Section 10 (definition of *Income Tax Assessment Act*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Taxation (Interest on Overpayments and Early Payments) Act 1983***

#### **129 Section 3 (definition of *Tax Act*)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Taxation (Unpaid Company Tax) Assessment Act 1982***

#### **130 Section 3 (definition of Assessment Act)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Telecommunications Act 1991***

#### **131 Subsection 87(1)**

Omit “*Income Tax Assessment Act 1936*”, substitute “*Income Tax Assessment Act 1997*”.

### ***Trust Recoupment Tax Assessment Act 1985***

#### **132 Section 3 (definition of Assessment Act)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Veterans’ Entitlements Act 1986***

#### **133 Subsection 5Q(1) (definition of *Income Tax Assessment Act*)**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

#### **134 Subsection 5Q(1) (definition of *tax year*)**

Repeal the definition, substitute:

*tax year* means:

- (a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or
- (b) an income year (within the meaning of the *Income Tax Assessment Act 1997*);

#### **137 Subparagraph 128A(4)(a)(i)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### ***Wool International Act 1993***

#### **138 Section 78**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

## **Schedule 4—Consequential amendments of the Financial Corporations (Transfer of Assets and Liabilities) Act 1993**

### **1 Paragraph 10(a)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

### **2 Section 13**

After “*Income Tax Assessment Act 1936*”, insert “and the *Income Tax Assessment Act 1997*”.

### **3 Paragraph 15(1)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

### **4 Paragraph 15(1)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or section 8-1 of the *Income Tax Assessment Act 1997*”.

### **5 Subsection 15(2)**

After “*Income Tax Assessment Act 1936*”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

### **6 Paragraph 15(3)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

### **7 Paragraph 15(3)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or section 8-1 of the *Income Tax Assessment Act 1997*”.

### **8 Paragraph 16(1)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

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**9 Paragraph 16(1)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or section 8-1 of the *Income Tax Assessment Act 1997*”.

**10 Subsection 16(2)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

**11 Paragraph 16(3)(a)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

**12 Paragraph 16(3)(b)**

Omit “that Act”, substitute “the *Income Tax Assessment Act 1936* or section 8-1 of the *Income Tax Assessment Act 1997*”.

**13 Subparagraph 17(1)(b)(i)**

After “*Income Tax Assessment Act 1936*”, insert “or section 6-5 of the *Income Tax Assessment Act 1997*”.

**14 Subparagraph 17(1)(b)(ii)**

After “*Income Tax Assessment Act 1936*”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

**15 Subsection 17(1)**

Omit “that Act has”, substitute “those Acts have”.

**16 Paragraph 17(2)(b)**

After “*Income Tax Assessment Act 1936*”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

**17 Subsection 17(2)**

Omit “that Act has”, substitute “those Acts have”.

**18 Paragraph 21(1)(d)**

After “*Income Tax Assessment Act 1936*”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

**19 Paragraph 21(2)(c)**

After “*Income Tax Assessment Act 1936*”, insert “or the *Income Tax Assessment Act 1997*”.

**20 Paragraph 21(2)(d)**

After “*Income Tax Assessment Act 1936*”, insert “or section 8-1 of the *Income Tax Assessment Act 1997*”.

**21 Before section 24 in Division 8**

Insert:

**Subdivision A—Tax losses and the Income Tax Assessment Act 1936**

**22 Before subsection 24(1)**

Insert:

- (1A) This section does not enable a right to a deduction for an amount of a loss to be transferred in the 1997-98 year of income or a later year of income.

**23 Section 26**

Add at the end:

- (2) This section does not apply to assessments for the 1997-98 year of income and later years of income.

**24 After section 26**

Insert in Division 8:

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**Subdivision B—Tax losses and the Income Tax Assessment Act 1997**

**26A Application of this Subdivision**

This Subdivision applies to assessments for the 1997-98 income year or a later income year.

**26B Transfer of tax loss from transferring corporation to receiving corporation**

In addition to its effect apart from this section, the *Income Tax Assessment Act 1997* also has the effect it would have if Subdivision 170-A (which is about transferring tax losses within wholly-owned company groups) of that Act were replaced by Subdivision 170-A (which is a modified version of the rules in that Subdivision) in Schedule 1 to this Act.

**26C Deduction for tax loss—easing of restrictions on transferring corporation**

If:

- (a) this Act applies to one or more transfers by the transferring corporation to the receiving corporation; and
- (b) the transferring corporation is taken (otherwise than because of a transfer of a tax loss under section 80G of the *Income Tax Assessment Act 1936* or Subdivision 170-A of the *Income Tax Assessment Act 1997*) to have incurred a tax loss for a year of income (the *loss year*); and
- (c) the loss year is the income year in which section 26 of this Act commenced or an earlier income year; and
- (d) Subdivision 165-A or 175-A, or both, of the *Income Tax Assessment Act 1997* prevent the transferring corporation from deducting an amount of that tax loss for an income year (the *deduction year*); and
- (e) the transferring corporation did not, at any time in the deduction year, derive income from:

**Schedule 4** Consequential amendments of the Financial Corporations (Transfer of Assets and Liabilities) Act 1993

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- (i) a business of a kind that it did not carry on; or
- (ii) a transaction of a kind that it had not entered into in the course of its business operations;

before the transfer, or the earliest of the transfers, occurred; neither Subdivision 165-A nor 175-A of that Act prevents the transferring corporation from deducting that amount.

Note: Subdivision 165-A of the *Income Tax Assessment Act 1997* is about the conditions that a company needs to satisfy before it can deduct a tax loss from an earlier income year.

Subdivision 175-A of the *Income Tax Assessment Act 1997* is about the Commissioner preventing a company from getting certain tax benefits through its unused tax losses.

## **25 At the end of the Act**

Add:

# **Schedule 1—Tax losses and the Income Tax Assessment Act 1997**

## **Subdivision 170-A—Transfer of tax losses from a transferring corporation to a receiving corporation**

### **Guide to Subdivision 170-A**

#### **170-1 What this Subdivision is about**

A transferring corporation (within the meaning of the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993*) can transfer a tax loss to a receiving corporation (within the meaning of that Act) so that the receiving corporation can deduct it. The corporations must be related in such a way that that Act would apply to a transfer of assets from the transferring corporation to the receiving corporation.

### **Table of sections**

170-5 Basic principles for transferring tax losses

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72 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

**Effect of transferring a tax loss**

- 170-10 When a company can transfer a tax loss
- 170-15 Income company is taken to have incurred transferred loss
- 170-20 Who can deduct transferred loss
- 170-23 When income company must maintain same owners and control
- 170-25 Tax treatment of payment for transferred tax loss

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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*Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95,  
121 and 147 of 1997,  
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**Conditions for transfer**

170-28	The <i>Financial Corporations (Transfer of Assets and Liabilities) Act 1993</i> must apply to asset transfer from loss company to income company
170-32	The loss year
170-33	The transfer year
170-35	The loss company
170-50	Transfer by written agreement
170-55	Losses must be transferred in order they are incurred
170-60	Income company cannot transfer transferred tax loss

**Effect of agreement to transfer more than can be transferred**

170-65	Agreement transfers as much as can be transferred
170-70	Amendment of assessments

**170-5 Basic principles for transferring tax losses**

- (1) A transferring corporation (within the meaning of the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993*) can transfer a tax loss to a receiving corporation (within the meaning of that Act) so that the receiving corporation can deduct it.
- (2) The corporations must be related in such a way that that Act would apply to a transfer of assets from the transferring corporation to the receiving corporation.
- (3) The receiving corporation need not have enough assessable income to offset the transferred tax loss.
- (4) The tax loss is transferred by an agreement between the 2 corporations.

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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## **Effect of transferring a tax loss**

### **170-10 When a corporation can transfer a tax loss**

- (1) A transferring corporation within the meaning of the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993* (the **loss company**) can transfer an amount of its \*tax loss for an income year of the loss company (the **loss year**) to a receiving corporation within the meaning of that Act (the **income company**) if the conditions in this Subdivision are met.
- (2) The amount transferred can be the whole or part of the \*tax loss.  
Note: A PDF cannot transfer a tax loss, except one for a period before it became a PDF: see section 195-10.
- (3) However, the \*loss company cannot transfer so much of the \*tax loss as the loss company has deducted, or can deduct, for an income year before the one in which the amount is transferred.

### **170-15 Income company is taken to have incurred transferred loss**

- (1) If an amount of a \*tax loss is transferred, the \*amount is taken to be a tax loss incurred by the \*income company in the \*loss year.
- (2) However, if the \*loss year is the same as the income year of the \*income company for which the amount is transferred (the **transfer year**), the \*income company is taken to have incurred the \*tax loss in the income year before the loss year.  
Note: This rule is needed because Division 36 allows a tax loss to be deducted only if it was incurred in an *earlier* income year.

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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### **170-20 Who can deduct transferred loss**

- (1) If an amount of a \*tax loss is transferred, the \*income company can deduct the amount in accordance with section 36-15 (which is about how to deduct a tax loss), but only if Subdivision 165-A (as modified by section 170-23) and Subdivision 175-A do not prevent it from doing so.

Note: Subdivision 165-A is about the conditions that a company needs to satisfy before it can deduct a tax loss from an earlier income year.

Subdivision 175-A is about the Commissioner preventing a company from getting certain tax benefits through its unused tax losses.

- (2) The \*loss company can no longer deduct the transferred amount and is taken not to have incurred the \*tax loss to the extent of that amount.

### **170-23 When income company must maintain same owners and control**

- (1) Ordinarily, Subdivision 165-A prevents a company from deducting for an income year (the *deduction year*) a tax loss if there has been a change in the ownership or control of the company between the *loss year* and the deduction year.

Note: Subdivision 165-A is about the conditions that a company needs to satisfy before it can deduct a tax loss from an earlier income year.

- (2) However, subsection (3) modifies that Subdivision so that the \*income company is prevented from deducting for the deduction year a transferred amount of a \*tax loss only if there has been a change in ownership or control in the income company between the *transfer year* and the deduction year.

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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- (3) That Subdivision applies to the transferred amount as if all references to “\*loss year” in that Subdivision were references to “\*transfer year”.

### **170-25 Tax treatment of payment for transferred tax loss**

- (1) A payment received for an amount of a \*tax loss is neither assessable income nor exempt income of the \*loss company.
- (2) The \*income company cannot deduct a payment it makes for an amount of a \*tax loss.

### **Conditions for transfer**

#### **170-28 *Financial Corporations (Transfer of Assets and Liabilities) Act 1993* must apply to asset transfer from loss company to income company**

If it were assumed that:

- (a) an asset (within the meaning of the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993*) had been transferred by the \*loss company to the \*income company on the last day of a particular income year of the \*loss company (the *notional transfer year*); and
- (b) the requirements of paragraphs 7(6)(a) and (b) of that Act were satisfied in relation to that transfer;

then it must be the case that that Act would have applied to that transfer.

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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### **170-32 The loss year**

The \*loss year must be either:

- (a) the income year in which the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993* commenced; or
- (b) an earlier income year.

### **170-33 The transfer year**

(1) The \*transfer year must either:

- (a) end at the end of the \*notional transfer year; or
- (b) correspond to the income year of the \*loss company that next follows the \*notional transfer year.

(2) Also, the \*transfer year must be one of the 5 income years after the income year in which the *Financial Corporations (Transfer of Assets and Liabilities) Act 1993* commenced.

### **170-35 The loss company**

If the \*loss year and the \*transfer year are the same, it must be the case that the \*loss company was *not* required to calculate the \*tax loss under section 165-70 or 175-35.

### **170-50 Transfer by written agreement**

- (1) The transfer must be made by a written agreement between the \*loss company and the \*income company.
- (2) The agreement must:
  - (a) specify the \*transfer year (which may be earlier than the income year in which the agreement is made); and

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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- (b) specify the amount of the \*tax loss being transferred; and
- (c) be signed by the public officer of each company; and
- (d) be made on or before the day of lodgment of the \*income company's \*income tax return for the \*transfer year, or within such further time as the Commissioner allows.

Note: The agreement will usually be made in the next income year *after* the one in which the tax loss is transferred.

#### **170-55 Losses must be transferred in order they are incurred**

- (1) If the \*loss company has 2 or more \*tax losses (other than \*film losses) that it can transfer in the \*transfer year, it can transfer them only in the order in which it incurred them.
- (2) If the \*loss company has 2 or more \*film losses that it can transfer in the \*transfer year, it can transfer them only in the order in which it incurred them.

#### **170-60 Income company cannot transfer transferred tax loss**

The \*income company cannot transfer an amount of a \*tax loss transferred to it, or any part of the amount.

#### **Effect of agreement to transfer more than can be transferred**

#### **170-65 Agreement transfers as much as can be transferred**

- (1) If the amount specified in an agreement exceeds the maximum amount that the \*loss company can transfer to the \*income company in the \*transfer year, only that maximum amount is taken to have been transferred.

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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- (2) One reason why an agreement might specify more than can be transferred is that an assessment has been amended since the agreement.

### **170-70 Amendment of assessments**

The Commissioner may amend an assessment to disallow a deduction for a transferred amount of a \*tax loss:

- (a) if the agreement to transfer the tax loss is ineffective because the \*loss company did not actually incur the loss; or
- (b) to the extent that section 170-65 reduces the transferred amount of a tax loss because the loss company did not actually incur some of it.

The Commissioner may do so despite section 170 (Amendment of assessments) of the *Income Tax Assessment Act 1936*.

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[Minister's second reading speech made in—  
House of Representatives on 19 June 1996  
Senate on 31 October 1996]

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~~(60/98)~~ \*To find the definition of this term, see the Dictionary, starting at section 995-1.

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80 *Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95, 121 and 147 of 1997, No. 16 of 1998 and Nos. 57 and 63 of 2002]

I HEREBY CERTIFY that the above is a fair print of the Income Tax (Consequential Amendments) Bill 1997 which originated in the House of Representatives as the Income Tax (Consequential Amendments) Bill 1996 and has been finally passed by the Senate and the House of Representatives.

*Clerk of the House of Representatives*

IN THE NAME OF HER MAJESTY, I assent to this Act.

*Governor-General*  
1997

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\*To find the definition of this term, see the Dictionary, starting at section 995-1.

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*Income Tax (Consequential Amendments) Act 1997* [This Act was amended by Acts Nos. 95,  
121 and 147 of 1997,  
No. 16 of 1998 and Nos. 57 and 63 of 2002] 1