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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

(As read a third time)

**A New Tax System (Tax Administration)
Bill (No. 1) 2000**

No. , 2000

**A Bill for an Act to implement A New Tax System
by amending the law about taxation, and for
related purposes**

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1 This Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 13 March 2000
9

10 **A Bill for an Act to implement A New Tax System**
11 **by amending the law about taxation, and for**
12 **related purposes**

13 The Parliament of Australia enacts:

14 **1 Short title**

15 This Act may be cited as the *A New Tax System (Tax*
16 *Administration) Act (No. 1) 2000*.

17 **2 Commencement**

18 (1) Subject to this section, this Act commences, or is taken to have
19 commenced, immediately after the commencement of section 1 of
20 the *A New Tax System (Tax Administration) Act 1999*.

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- 1 (2) Schedule 2 (except items 2, 5, 9 and 10 and subitem 11(2))
2 commences on 1 April 2000.
- 3 (3) Items 2, 5, 9 and 10, and subitem 11(2), of Schedule 2 commence
4 on 1 April 2001.
- 5 (4) Item 34 of Schedule 3 commences, or is taken to have commenced,
6 on 1 July 2000, immediately after the commencement of item 49 of
7 Schedule 11 to the *A New Tax System (Tax Administration) Act*
8 *1999*.
- 9 (5) Item 35 of Schedule 3 commences, or is taken to have commenced,
10 on 1 July 2000, immediately after the commencement of item 58 of
11 Schedule 11 to the *A New Tax System (Tax Administration) Act*
12 *1999*.
- 13 (6) Items 46 and 47 of Schedule 3 commence, or are taken to have
14 commenced:
15 (a) immediately after the commencement of item 6 of Schedule
16 2 to the *Youth Allowance Consolidation Act 2000*; or
17 (b) immediately after the commencement of section 1 of the *A*
18 *New Tax System (Tax Administration) Act 1999*;
19 whichever is the later.
- 20 (7) Item 48 of Schedule 3 commences, or is taken to have commenced:
21 (a) on 20 March 2000; or
22 (b) immediately after the commencement of section 1 of the *A*
23 *New Tax System (Tax Administration) Act 1999*;
24 whichever is the later.
- 25 (8) Item 68 of Schedule 3 commences, or is taken to have commenced,
26 immediately after the commencement of Schedule 12 to the *A New*
27 *Tax System (Tax Administration) Act 1999*.
- 28 (9) Items 39, 40, 52, 53, 73 and 74 of Schedule 3 commence, or are
29 taken to have commenced, on 1 July 2000.
- 30 (10) Item 1 of Schedule 4 to this Act commences, or is taken to have
31 commenced, on 1 July 2000, immediately before the
32 commencement of Schedule 1 to the *A New Tax System (Indirect*
33 *Tax Administration) Act 1999*.

1 (11) Items 4 to 9 of Schedule 4 to this Act commence, or are taken to
2 have commenced, on 1 July 2000, immediately after the
3 commencement of the amendments of the *Income Tax Assessment*
4 *Act 1936* made by Part 1 of Schedule 5 to the *A New Tax System*
5 *(Tax Administration) Act 1999*.

6 **3 Schedule(s)**

7 Subject to section 2, each Act that is specified in a Schedule to this
8 Act is amended or repealed as set out in the applicable items in the
9 Schedule concerned, and any other item in a Schedule to this Act
10 has effect according to its terms.

1
2
3

Schedule 1—PAYG instalments and trusts

Taxation Administration Act 1953

1 Section 45-10 in Schedule 1 (note)

6 Repeal the note, substitute:

7 Note 1: Section 45-450 provides for how this Part applies to a trustee covered
8 by any of items 6 to 12 of the table in section 9-1 of the *Income Tax*
9 *Assessment Act 1997*. In most respects, the trust is treated like a
10 company.

11 Note 2: This Part also applies to a trustee covered by item 5 of the table in
12 section 9-1 of the *Income Tax Assessment Act 1997*, but only to the
13 extent set out in section 45-455, and the rest of Subdivision 45-N, in
14 this Schedule.

2 Paragraph 45-115(1)(b) in Schedule 1

15 Omit “under subsection 45-320(5)”.

3 Subsection 45-120(1) in Schedule 1 (note 1)

18 Omit “An amount of statutory income is not”, substitute “No other
19 amount is”.

4 Subsection 45-120(1) in Schedule 1 (note 2)

21 After “the period”, insert “(except in some cases)”.

5 Subparagraph 45-215(1)(b)(ii) in Schedule 1

23 Omit “the amount notified to you by the Commissioner”, substitute
24 “worked out”.

6 At the end of section 45-260 in Schedule 1

26 Add:

27 *Exception for corporate limited partnerships*

28 (4) Your *instalment income* for the current period does *not* include an
29 amount for a partnership that is a *corporate limited partnership for
30 the income year that is or includes that period.

31 Note: Your instalment income will still include a distribution by the
32 partnership that is ordinary income. See section 45-120.

7 Subdivision 45-I in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 45-I—Trust income included in instalment income of beneficiary

8 Group heading before section 45-280 in Schedule 1

Repeal the heading.

9 Subsection 45-280(2) in Schedule 1

Repeal the subsection, substitute:

(2) For the purposes of the formula in subsection (1):

your assessable income from the trust for the last income year means so much of a share of the trust's net income for an income year as:

(a) Division 6 of Part III of the *Income Tax Assessment Act 1936* included in your assessable income for the most recent income year:

(i) that ended before the start of the current period; and

(ii) for which you have an assessment, or for which the Commissioner has notified you that you do not have a taxable income; and

(b) is *not* attributable to a *capital gain made by the trust.

Note: For exceptions to paragraph (b), see section 45-290.

10 At the end of section 45-280 in Schedule 1

Add:

Exception for corporate unit trusts and public trading trusts

(4) Your *instalment income* for the current period does *not* include an amount for a trust if the trustee is liable to be assessed, and to pay tax, under section 102K or 102S of the *Income Tax Assessment Act 1936* for the income year that is or includes that period.

Note: Your instalment income will still include a distribution by the trust that is ordinary income. See section 45-120.

11 After section 45-280 in Schedule 1

1 Insert:

2 **45-290 Exceptions to exclusion of trust capital gains from**
3 **beneficiary's instalment income**

4 (1) This section sets out cases where paragraph (b) of the definition of
5 *your assessable income from the trust for the last income year* in
6 subsection 45-280(2) does *not* apply.

7 (2) It does not apply in the case of:

8 (a) an eligible ADF (as defined in section 267 of the *Income Tax*
9 *Assessment Act 1936*) for the income year that is or includes
10 the current period; or

11 (b) an eligible superannuation fund (as defined in that section)
12 for that year; or

13 (c) a pooled superannuation trust (as defined in that section) for
14 that year.

15 (3) It does not apply in the case of a *life insurance entity or
16 *registered organisation to the extent that the share of the trust's net
17 income is included in the *CS/RA class of its assessable income for
18 the income year that is or includes the current period.

19 Note: The CS/RA class relates to the Complying Superannuation/Roll-over
20 Annuity aspect of the entity's business.

21 **12 Group heading before section 45-300 in Schedule 1**

22 Repeal the heading.

23 **13 Section 45-300 in Schedule 1**

24 Repeal the section.

25 **14 Subsection 45-405(1) in Schedule 1**

26 Omit "under Subdivision 45-J".

27 **15 Subsection 45-405(2) in Schedule 1**

28 Omit "in applying Subdivision 45-J".

29 **16 At the end of Division 45 in Schedule 1**

30 Add:

1 **Subdivision 45-N—How this Part applies to the trustee of a**
2 **trust**

3 **Table of sections**

4 **Trustees to whom this Part applies**

5	45-450	Trustees to whom a single instalment rate is given
6	45-455	Trustees to whom several instalment rates are given
7	45-460	Rest of Subdivision applies only to multi-rate trustees
8	45-465	Meaning of <i>instalment income</i>
9	45-468	Multi-rate trustee may pay quarterly instalments on the basis of
10		GDP-adjusted notional tax

11 **How Commissioner works out instalment rate and notional tax for a**
12 **multi-rate trustee**

13	45-470	Working out instalment rate
14	45-473	Commissioner must notify you of notional tax
15	45-475	Working out your <i>notional tax</i>
16	45-480	Working out your <i>adjusted taxable income</i>
17	45-483	Meaning of <i>reduced beneficiary's share</i> and <i>reduced no beneficiary's share</i>
18	45-485	Working out your <i>adjusted withholding income</i>

19 **How Commissioner works out benchmark instalment rate and**
20 **benchmark tax for a multi-rate trustee**

21	45-525	When Commissioner works out benchmark instalment rate and benchmark
22		tax
23	45-530	How Commissioner works out <i>benchmark instalment rate</i>
24	45-535	Working out your <i>benchmark tax</i>

25 **Trustees to whom this Part applies**

26 **45-450 Trustees to whom a single instalment rate is given**

27 (1) This Part (except Subdivision 45-D) applies to a trustee covered by
28 any of items 6 to 12 of the table in section 9-1 of the *Income Tax*
29 *Assessment Act 1997*.

30 Note: Subdivision 45-D is about quarterly payers who pay on the basis of
31 GDP-adjusted notional tax.

32 (2) Such a trustee is called a *single-rate trustee*.

- 1 (3) This Part (except Subdivision 45-D) applies to the trustee of a trust
2 that is a *corporate unit trust, or a *public trading trust, for an
3 income year as if the trustee had a taxable income for the income
4 year equal to the net income of the trust for the income year.

5 **45-455 Trustees to whom several instalment rates are given**

6 *Trustee previously assessed in respect of beneficiary*

- 7 (1) This Part also applies for an income year (the **current year**), to the
8 trustee of a trust, in respect of a beneficiary of the trust, if for a
9 previous income year the trustee of the trust was liable to be
10 assessed, and to pay tax, under subsection 98(1) or (2) of the
11 *Income Tax Assessment Act 1936* in respect of that beneficiary.
- 12 (2) However, this Part does not apply for the current year to the trustee
13 in respect of that beneficiary if:
- 14 (a) for that previous income year the trustee was liable to be
15 assessed, and to pay tax, under subsection 98(1) of the
16 *Income Tax Assessment Act 1936* in respect of that
17 beneficiary; and
- 18 (b) that beneficiary will no longer be under a legal disability, or
19 it is reasonable to expect that he or she will no longer be
20 under a legal disability, at the end of the current year.

21 *Trustee previously assessed under section 99 or 99A*

- 22 (3) This Part also applies for an income year to the trustee of a trust if
23 for a previous income year the trustee was liable to be assessed,
24 and to pay tax, under section 99 or 99A of the *Income Tax*
25 *Assessment Act 1936*.

26 *Multiple applications of this Part to the same trustee for the same*
27 *income year*

- 28 (4) The application of this Part for an income year, to the trustee of a
29 trust, in respect of a beneficiary of the trust, because of subsection
30 (1), is distinct from, and additional to, each of the following:
- 31 (a) the application of this Part for that income year, to the trustee
32 of the trust, in respect of another beneficiary;

- 1 (b) the application of this Part for that income year, to the trustee
2 of the trust, because of subsection (3);
3 (c) the application of this Part for that income year to a
4 beneficiary of the trust.
- 5 (5) The application of this Part for an income year, to the trustee of a
6 trust, because of subsection (3), is distinct from, and additional to,
7 each of the following:
8 (a) the application of this Part for that income year, to the trustee
9 of the trust, in respect of a beneficiary of the trust, because of
10 subsection (1);
11 (b) the application of this Part for that income year to a
12 beneficiary of the trust.
- 13 (6) A *multi-rate trustee* is a trustee to whom this Part applies because
14 of this section.

15 **45-460 Rest of Subdivision applies only to multi-rate trustees**

16 The rest of this Subdivision applies to you if, and only if, you are a
17 *multi-rate trustee. (It applies instead of Subdivisions 45-J and
18 45-K.)

19 Note: Except as provided in the rest of this Subdivision or elsewhere, this
20 Part applies according to its terms to a multi-rate trustee. For example,
21 a multi-rate trustee can become an annual payer under Subdivision
22 45-E.

23 **45-465 Meaning of instalment income**

24 Your *instalment income* for a period is the whole of the trust's
25 *instalment income for that period.

26 **45-468 Multi-rate trustee may pay quarterly instalments on the 27 basis of GDP-adjusted notional tax**

28 Subdivision 45-D (about quarterly payers who pay on the basis of
29 GDP-adjusted notional tax) applies to you in the same way as it
30 applies to an individual.

1 **How Commissioner works out instalment rate and notional tax**
2 **for a multi-rate trustee**

3 **45-470 Working out instalment rate**

- 4 (1) An instalment rate that the Commissioner gives you must be the
5 percentage worked out to 2 decimal places (rounding up if the third
6 decimal place is 5 or more) using the formula:

7
$$\frac{\text{Your *notional tax}}{\text{Base assessment instalment income}} \times 100$$

8 However, the instalment rate must be a nil rate if either component
9 of the formula is nil.

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

11 **base assessment instalment income** means so much of the
12 assessable income of the trust, as worked out for the purposes of
13 the *base assessment, as the Commissioner determines is
14 *instalment income of the trust for the *base year.

- 15 (3) The **base assessment** is the latest assessment for the most recent
16 income year for which an assessment has been made of the tax
17 payable by you:

18 (a) under subsection 98(1) or (2) of the *Income Tax Assessment*
19 *Act 1936* in respect of the same beneficiary; or

20 (b) under section 99 or 99A of the *Income Tax Assessment Act*
21 *1936*;

22 as appropriate.

- 23 (4) However, if the Commissioner is satisfied that there is a later
24 income year for which no tax is payable as mentioned in
25 subsection (3), the **base assessment** is the latest return or other
26 information from which an assessment of tax so payable for that
27 income year would have been made.

- 28 (5) The **base year** is the income year to which the *base assessment
29 relates.

45-473 Commissioner must notify you of notional tax

- (1) When the Commissioner gives you the instalment rate, he or she must also notify you of the amount of your *notional tax, as worked out for the purposes of working out the instalment rate.
- (2) The Commissioner may incorporate notice of the instalment rate and the amount of your *notional tax in notice of your assessment.

45-475 Working out your notional tax

Notional tax if no withholding income

- (1) Your **notional tax** is your *adjusted tax (worked out under section 45-340) on your *adjusted taxable income (worked out under section 45-480) for the *base year.

Notional tax if trust has withholding income

- (2) However, your **notional tax** (as worked out under subsection (1)) is reduced if the trust's assessable income for the *base assessment includes amounts in respect of *withholding payments (except *non-quotations withholding payments).
- (3) It is reduced (but not below nil) by your *adjusted tax (worked out under section 45-340) on your *adjusted withholding income (worked out under section 45-485) for the *base year.

Commissioner may take into account actual and proposed changes to the law

- (4) Subsections 45-325(4) and (5) apply for the purposes of working out your *notional tax under this section.

45-480 Working out your adjusted taxable income

- (1) Your **adjusted taxable income** for the *base year is worked out using the formula:

$$\text{Adjusted net income of the trust} \times \frac{\text{Relevant share}}{\text{Reduced net income of the trust}}$$

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

1 **adjusted net income of the trust** means the net income of the trust,
2 as worked out for the purposes of the *base assessment and:

- 3 (a) reduced by any *net capital gain included in the trust's
4 assessable income as so worked out; and
5 (b) increased by any deductions for *tax losses that were made in
6 so working out that net income; and
7 (c) reduced by the amount of any tax loss, to the extent that it
8 can be carried forward for working out the trust's net income
9 for the next income year.

10 **reduced net income of the trust** means the net income of the trust,
11 as worked out for the purposes of the *base assessment and reduced
12 by any *net capital gain included in the trust's assessable income as
13 so worked out.

14 **relevant share** means the *reduced beneficiary's share, or the
15 *reduced no beneficiary's share, as appropriate, of the net income
16 of the trust, as worked out for the purposes of the *base assessment.

17 **45-483 Meaning of reduced beneficiary's share and reduced no**
18 **beneficiary's share**

- 19 (1) If the trustee of a trust is liable to be assessed, and to pay tax, for
20 an income year under subsection 98(1) or (2) of the *Income Tax*
21 *Assessment Act 1936* in respect of a particular beneficiary, the
22 **reduced beneficiary's share** of the net income is the amount on
23 which the trustee is so liable to be assessed and to pay tax, except
24 so much of that amount as is attributable to a *net capital gain
25 included in the trust's assessable income for that income year.
- 26 (2) If the trustee of a trust is liable to be assessed, and to pay tax, for
27 an income year under section 99 or 99A of the *Income Tax*
28 *Assessment Act 1936*, the **reduced no beneficiary's share** of the
29 net income is the amount on which the trustee is so liable to be
30 assessed and to pay tax, except so much of that amount as is
31 attributable to a *capital gain made by the trust during that income
32 year.

45-485 Working out your *adjusted withholding income*

- (1) Your *adjusted withholding income* for the *base year is worked out using the formula:

$$\text{Net withholding income of the trust} \times \frac{\text{Relevant share}}{\text{Reduced net income of the trust}}$$

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

net withholding income of the trust means:

- the total of the amounts included in the trust's assessable income for the *base assessment in respect of *withholding payments (except *non-quotation withholding payments);

reduced by:

- the trust's deductions for that year, as used in making that assessment, to the extent that they reasonably relate to those amounts.

reduced net income of the trust has the meaning given by subsection 45-480(2).

relevant share has the meaning given by subsection 45-480(2).

How Commissioner works out benchmark instalment rate and benchmark tax for a multi-rate trustee**45-525 When Commissioner works out benchmark instalment rate and benchmark tax**

- (1) The Commissioner may work out your *benchmark instalment rate for an income year (the *variation year*) if, under section 45-205, you choose an instalment rate to work out the amount of your instalment for an *instalment quarter in that year.
- (2) The Commissioner may work out your *benchmark tax for an income year (the *variation year*) if, under paragraph 45-112(1)(b) or (c), the amount of your instalment for an *instalment quarter in an income year is worked out on the basis of your estimate of your *benchmark tax for that income year.

- 1 (3) The Commissioner may work out your *benchmark tax for an
2 income year (the **variation year**) if, under paragraph 45-115(1)(c)
3 or 45-175(1)(b), you estimate the amount of your annual instalment
4 for that year.

5 **45-530 How Commissioner works out *benchmark instalment rate***

- 6 (1) Your **benchmark instalment rate** for the variation year is the
7 percentage worked out to 2 decimal places (rounding up if the third
8 decimal place is 5 or more) using the formula:

9
$$\frac{\text{Your *benchmark tax}}{\text{Variation year instalment income}} \times 100$$

10 However, your **benchmark instalment rate** is a nil rate if either
11 component of the formula is nil.

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

13 **variation year instalment income** means so much of the trust's
14 assessable income for the variation year as the Commissioner
15 determines is *instalment income for that year.

16 **45-535 Working out your *benchmark tax***

17 *Benchmark tax if no withholding income*

- 18 (1) Your **benchmark tax** is your *adjusted assessed tax (worked out
19 under section 45-375) on the *reduced beneficiary's share, or the
20 *reduced no beneficiary's share, as appropriate, of the net income
21 of the trust for the variation year.

22 *Benchmark tax if you had withholding income*

- 23 (2) However, your **benchmark tax** (as worked out under subsection
24 (1)) is reduced if the trust's assessable income for the variation
25 year includes amounts in respect of *withholding payments.
- 26 (3) It is reduced (but not below nil) by the total amount of the credits
27 to which you are entitled for the variation year under section 18-25
28 (for amounts withheld from the withholding payments).

1 **Schedule 2—Fringe benefits tax instalments**

2

3

4 ***Fringe Benefits Tax Assessment Act 1986***

5 **1 Section 105**

6 Repeal the section, substitute:

7 **105 Credit for instalments payable**

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

12 Note: The employer's first return for the year of tax is treated as an

13 assessment: see section 72.

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

21 Note: An employer can claim a credit under section 112A in some cases

22 where the amount by reference to which an instalment is worked out

23 reduces during the year of tax.

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

26 Note: How the credit is applied is set out in Division 3 of Part IIB of the

27 *Taxation Administration Act 1953*.

28 **2 Subsections 110(1), (2) and (3)**

29 Repeal the subsections, substitute:

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

Schedule 2 Fringe benefits tax instalments

Working out an employer's notional tax amount

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

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

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

(b) if the notional tax amount would otherwise be worked out under item 2 or 3 of the table in subsection (1)—nil.

3 Subsection 111(1)

Repeal the subsection, substitute:

(1) The amount of an instalment of tax of an employer for a year of tax that becomes due and payable on the 21st day after the end of a quarter is the amount worked out using this formula, if the amount is positive:

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

Otherwise, the amount of the instalment is nil.

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

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

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

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

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

4 Subsection 111(2)

After "year of tax" (first occurring), insert "that would otherwise become due and payable by an employer on the 21st day after the end of a quarter".

5 Paragraph 111(2)(a)

Omit "or (2)".

6 At the end of subsection 111(2)

Add:

1 ; and (c) unless that quarter is the first quarter in the year of tax—
2 because of one or more previous applications of this
3 subsection, the instalment that would otherwise have become
4 due and payable by the employer on the 21st day after the
5 end of the previous quarter is not payable.

6 **7 Subsections 112(4), (4A) and (5)**

7 Repeal the subsections.

8 **8 After section 112**

9 Insert:

10 **112A Credit in certain cases where amount of instalment is nil**

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

14 Note: This will happen if the notional tax amount has reduced since the end
15 of an earlier quarter because, for example, the employer has made an
16 estimate under section 112 of its tax for the current year.

17 (2) A claim for a credit must be made in the approved form on or
18 before the 21st day after the end of the quarter.

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

21 **112B Liability to GIC on shortfall in quarterly instalment worked 22 out on the basis of estimated tax**

23 (1) An employer is liable to pay the general interest charge under this
24 section if:

25 (a) in order to determine the amount of an instalment of tax (the
26 *underpaid instalment*) of the employer for a year of tax, an
27 amount (whether positive, negative or nil) (the *actual*
28 *amount*) was worked out using the formula in subsection
29 111(1); and

30 (b) because of subsection 110(5), the notional tax amount used in
31 working out the actual amount was an estimate by the
32 employer under subsection 112(1); and

33 (c) that notional tax amount is less than 90% of the employer's
34 tax assessed for the year of tax; and

1 (d) that assessed tax has become due and payable.

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

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

$$10 \left[\begin{array}{l} \text{Minimum} \\ \text{tax amount} \end{array} \times \begin{array}{l} \text{Relevant} \\ \text{fraction} \end{array} \right] - \left[\begin{array}{l} \text{Previous} \\ \text{instalments} \end{array} - \begin{array}{l} \text{Previous} \\ \text{credits} \end{array} \right]$$

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

12 ***minimum tax amount*** means the lesser of:

13 (a) the amount that, apart from subsection 110(5), would have
14 been the notional tax amount used in working out the actual
15 amount; and

16 (b) the employer's tax assessed for the year of tax.

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

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

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

28 **9 Subsection 112A(1) (note)**

29 Repeal the note, substitute:

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

- 32 • the employer has made an estimate under section 112 of its tax
33 for the current year; or

1
2 **Schedule 3—Consequential amendments**
3 **relating to collection and recovery**
4 **rules**
5

6 ***A New Tax System (Family Assistance) (Administration) Act***
7 ***1999***

8 **1 Section 225**

9 Omit “for the purpose of enabling the collection of tax”, substitute “or
10 Subdivision 260-A in Schedule 1 to the *Taxation Administration Act*
11 *1953*, for the purpose of enabling the collection of an amount”.

12 ***A New Tax System (Luxury Car Tax) Act 1999***

13 **2 Section 13-20 (note)**

14 Renumber as note 1.

15 **3 At the end of section 13-20**

16 Add:

17 Note 2: For provisions about collection and recovery of luxury car tax on
18 taxable importations of luxury cars, see Part 4-15 in Schedule 1 to the
19 *Taxation Administration Act 1953* and Division 3 of Part VI of that
20 Act.

21 ***A New Tax System (Tax Administration) Act 1999***

22 **4 After subitem 2(4) of Schedule 2**

23 Insert:

24 (4A) Despite subitems (2), (3) and (4), nothing can be done under
25 Subdivision 255-B, 255-C or 260-A in Schedule 1 to the *Taxation*
26 *Administration Act 1953* before 1 July 2000.

27 ***A New Tax System (Wine Equalisation Tax) Act 1999***

28 **5 Section 23-5 (note)**

29 Renumber as note 1.

1 **6 At the end of section 23-5**

2 Add:

3 Note 2: For provisions about collection and recovery of wine tax on customs
4 dealings, see Part 4-15 in Schedule 1 to the *Taxation Administration*
5 *Act 1953* and Division 3 of Part VI of that Act.

6 ***Fringe Benefits Tax Assessment Act 1986***

7 **7 Subsection 101(1)**

8 Omit “92, 93, 94, 95, 100, 129, 130 and 131”, substitute “93, 100 and
9 129”.

10 **8 Subsection 101(2)**

11 Omit “94, 95, 100, 129, 130 and 131”, substitute “100 and 129”.

12 **9 Saving**

13 A reference to section 92, 94, 130 or 131 of the *Fringe Benefits Tax*
14 *Assessment Act 1986* (the ***FBTA Act***) in an item in Part 3 of Schedule 2
15 to the *A New Tax System (Tax Administration) Act 1999* includes a
16 reference to that section as it had effect, before its repeal, because of
17 section 101 of the *FBTA Act*.

18 **10 At the end of section 103**

19 Add:

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

23 ***Higher Education Funding Act 1988***

24 **11 Subsection 106U(1)**

25 After “(*Assessment Act*)”, insert “, and Part 4-15 in Schedule 1 to the
26 *Taxation Administration Act 1953*,”.

27 **12 Subsection 106U(1)**

28 Omit “that Act”, substitute “the *Assessment Act*”.

29 **13 At the end of subsection 106U(1)**

30 Add:

1 Note: Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* deals
2 with collection and recovery of amounts on and after 1 July 2000,
3 replacing some provisions in Division 1 of Part VI of the *Income Tax*
4 *Assessment Act 1936*.

5 Note: The heading to section 106U is altered by omitting “**Income Tax Assessment Act**” and
6 substituting “**tax legislation**”.

7 ***Income Tax Assessment Act 1936***

8 **14 After subsection 128C(1)**

9 Insert:

10 *Application*

11 (1A) The Commissioner must not exercise his or her power under
12 subsection (1) on or after 1 July 2000.

13 (1B) Subsections (2) and (5) do not apply in relation to withholding tax
14 that becomes due and payable on or after 1 July 2000.

15 Note: For provisions about collection and recovery of withholding tax and
16 other amounts on or after 1 July 2000, see Part 4-15 in Schedule 1 to
17 the *Taxation Administration Act 1953*.

18 **15 Subsection 128C(9)**

19 Repeal the subsection.

20 **16 After subsection 128NB(3)**

21 Insert:

22 *Application*

23 (3A) The Commissioner must not exercise his or her power under
24 paragraph (3)(b) on or after 1 July 2000.

25 Note: For provisions about collection and recovery of tax on or after 1 July
26 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act*
27 *1953*.

28 **17 At the end of section 160ARDZ**

29 Add:

1

Application

2

(3) The Commissioner must not exercise his or her power under paragraph (1)(b) on or after 1 July 2000.

3

4

(4) Subsection (2) does not apply in relation to untainting tax that becomes due and payable on or after 1 July 2000.

5

6

Note: For provisions about collection and recovery of untainting tax on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

7

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18 At the end of section 160ARDZB

10

Add:

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Application

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(2) Subsection (1) does not apply in relation to any untainting tax or additional tax that becomes due and payable on or after 1 July 2000.

13

14

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Note: For provisions about collection and recovery of untainting tax and additional tax on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

16

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18

19 At the end of section 204

19

Add:

20

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

21

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20 Subsection 205(3)

24

Omit “other provision of this Act”, substitute “provision of this or any other Act”.

25

26

21 Subsection 206(3)

27

Omit “other provision of this Act”, substitute “provision of this or any other Act”.

28

29

22 Paragraph 208(3)(b)

30

Omit “other provision of this Act”, substitute “provision of this or any other Act”.

31

1 **23 Paragraph 209(3)(b)**

2 Omit “other provision of this Act”, substitute “provision of this or any
3 other Act”.

4 **24 Subsection 214(3)**

5 Omit “other provision of this Act”, substitute “provision of this or any
6 other Act”.

7 **25 Subsection 215(7)**

8 Omit “other provision of this Act”, substitute “provision of this or any
9 other Act”.

10 **26 Subsection 216(4)**

11 Omit “other provision of this Act”, substitute “provision of this or any
12 other Act”.

13 **27 Subsection 218(8)**

14 Omit “other provision of this Act”, substitute “provision of this or any
15 other Act”.

16 **28 Subsection 220(9)**

17 After “section”, insert “(including the extended operation that this
18 section has because of any provision of this or any other Act)”.

19 **29 Paragraph 221AZKC(5)(a)**

20 Omit “section 206”, substitute “Subdivision 255-B in Schedule 1 to the
21 *Taxation Administration Act 1953*”.

22 **30 Paragraph 221AZKC(5)(b)**

23 Omit “section 206”, substitute “Subdivision 255-B in Schedule 1 to the
24 *Taxation Administration Act 1953*”.

25 **31 Subsection 221AZKC(8)**

26 Omit “206, 208, 209, 214, 254, 255, 258 and 259”, substitute “254 and
27 255”.

28 **32 Subsection 221R(1A)**

29 Repeal the subsection (except the note), substitute:

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Application

- (1A) Subsection (1) does not apply in relation to:
- (a) an amount payable under this Division that becomes due and payable on or after 1 July 2000; or
 - (b) an amount that becomes due and payable on or after that day, and is taken to be income tax for the purposes of this Division because of any provision of this or any other Act.

33 At the end of section 221YHZW

Add:

Application

- (2) The Commissioner must not exercise his or her power under paragraph (1)(b) on or after 1 July 2000.

Note: For provisions about collection and recovery of TFN withholding tax on or after 1 July 2000, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

34 Subsection 222AFA(5)

Omit “Part 4-10 in Schedule 1 to the *Taxation Administration Act 1953*”, substitute “Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*”.

35 Subsection 222ANA(4)

Omit “Part 4-10”, substitute “Part 4-15”.

36 Paragraph 258(3)(b)

Omit “other provision of this Act”, substitute “provision of this or any other Act”.

37 Paragraph 259(3)(b)

Omit “other provision of this Act”, substitute “provision of this or any other Act”.

Income Tax Assessment Act 1997

38 Subsection 3-5(3)

1 Omit “Division 1 (sections 204 to 220) of Part VI of the *Income Tax*
2 *Assessment Act 1936*”, substitute “sections 204, 213, 214A and 219 of
3 the *Income Tax Assessment Act 1936* and Part 4-15 in Schedule 1 to the
4 *Taxation Administration Act 1953*”.

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

6 **39 Subsection 65(5)**

7 Repeal the subsection.

8 **40 Saving**

9 Despite the repeal of subsection 65(5) of the *Petroleum Resource Rent*
10 *Tax Assessment Act 1987* by item 39, that subsection continues to have
11 effect in relation to an exercise of the Commissioner’s power under
12 section 84 of that Act before 1 July 2000.

13 **41 Subsection 65(12)**

14 Omit “83, 84, 86, 87, 88, 89, 92, 109, 110 and 111”, substitute “92 and
15 109”.

16 **42 Saving**

17 A reference to section 83, 84, 86, 88, 89, 110 or 111 of the *Petroleum*
18 *Resource Rent Tax Assessment Act 1987* (the **PRRTA Act**) in an item in
19 Part 3 of Schedule 2 to the *A New Tax System (Tax Administration) Act*
20 *1999* includes a reference to that section as it had effect, before its
21 repeal, because of subsection 65(12) of the PRRTA Act.

22 **43 Subsection 93(1)**

23 Omit “84, 85, 86, 87, 92, 109, 110 and 111”, substitute “85, 92 and
24 109”.

25 **44 Saving**

26 A reference to section 84, 86, 110 or 111 of the *Petroleum Resource*
27 *Rent Tax Assessment Act 1987* (the **PRRTA Act**) in an item in Part 3 of
28 Schedule 2 to the *A New Tax System (Tax Administration) Act 1999*
29 includes a reference to that section as it had effect, before its repeal,
30 because of subsection 93(1) of the PRRTA Act.

31 **45 At the end of section 95**

1 Add:

2 Note: For provisions about collection and recovery of an instalment of tax,
3 see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

4 ***Social Security Act 1991***

5 **46 Subsection 1061ZZFG(1)**

6 After “Part IVC of”, insert “, and Part 4-15 in Schedule 1 to,”.

7 **47 At the end of subsection 1061ZZFG(1)**

8 Add:

9 Note 1: Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* deals
10 with collection and recovery of amounts on and after 1 July 2000,
11 replacing some provisions in Division 1 of Part VI of the *Income Tax*
12 *Assessment Act 1936*.

13 Note 2: FS assessment debts are also collected through the Pay As You Go
14 (PAYG) system of collecting income tax: see Parts 2-1, 2-5 and 2-10
15 in Schedule 1 to the *Taxation Administration Act 1953*.

16 ***Social Security (Administration) Act 1999***

17 **48 Subsection 241(1)**

18 Omit “for the purpose of enabling the collection of tax”, substitute “or
19 Subdivision 260-A in Schedule 1 to the *Taxation Administration Act*
20 *1953*, for the purpose of enabling the collection of an amount”.

21 ***Student Assistance Act 1973***

22 **49 Subsection 12ZN(1)**

23 After “Part IVC of”, insert “, and Part 4-15 in Schedule 1 to,”.

24 Note: The heading to section 12ZN is altered by omitting “**the Income Tax Assessment Act**”
25 and substituting “**tax legislation**”.

26 **50 At the end of subsection 12ZN(1)**

27 Add:

28 Note 1: Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953* deals
29 with collection and recovery of amounts on and after 1 July 2000,
30 replacing some provisions in Division 1 of Part VI of the *Income Tax*
31 *Assessment Act 1936*.

1 Note 2: FS assessment debts are also collected through the Pay As You Go
2 (PAYG) system of collecting income tax: see Parts 2-1, 2-5 and 2-10
3 in Schedule 1 to the *Taxation Administration Act 1953*.

4 ***Superannuation Contributions Tax (Assessment and***
5 ***Collection) Act 1997***

6 **51 At the end of subsection 15(4)**

7 Add:

8 Note: For provisions about collection and recovery of superannuation
9 contributions surcharge and other related amounts, see Part 4-15 in
10 Schedule 1 to the *Taxation Administration Act 1953*.

11 ***Superannuation Contributions Tax (Members of***
12 ***Constitutionally Protected Superannuation Funds)***
13 ***Assessment and Collection Act 1997***

14 **52 Subsection 15(8)**

15 Omit “or within such further period as the Commissioner allows”.

16 **53 Saving**

17 Despite the amendment of subsection 15(8) of the *Superannuation*
18 *Contributions Tax (Members of Constitutionally Protected*
19 *Superannuation Funds) Assessment and Collection Act 1997* made by
20 item 52, anything done under that subsection before 1 July 2000
21 continues to have effect on and after that day as if that subsection had
22 not been so amended.

23 **54 At the end of subsection 15(8)**

24 Add:

25 Note: For provisions about collection and recovery of superannuation
26 contributions surcharge and other related amounts, see Part 4-15 in
27 Schedule 1 to the *Taxation Administration Act 1953*.

28 ***Taxation Administration Act 1953***

29 **55 Subsection 8AAZH(1)**

30 Repeal the subsection, substitute:

1 (1) If there is an RBA deficit debt on an RBA at the end of a day, the
2 tax debtor is liable to pay to the Commonwealth the amount of the
3 debt. The amount is due and payable at the end of that day.

4 Note: For provisions about collection and recovery of the amount, see Part
5 4-15 in Schedule 1.

6 Note: The heading to section 8AAZH is replaced by the heading “**Liability for RBA deficit**
7 **debt**”.

8 **56 Section 14ZQ (paragraphs (a), (d) and (eb) of the definition**
9 **of delayed administration (beneficiary) objection)**

10 Repeal the paragraphs.

11 **57 Section 14ZQ (paragraph (g) of the definition of delayed**
12 **administration (beneficiary) objection)**

13 Repeal the paragraph, substitute:

14 (g) subsection 260-145(5) in Schedule 1 (because of paragraph
15 (a) of that subsection).

16 **58 Section 14ZQ (paragraphs (a), (d) and (eb) of the definition**
17 **of delayed administration (trustee) objection)**

18 Repeal the paragraphs.

19 **59 Section 14ZQ (paragraph (g) of the definition of delayed**
20 **administration (trustee) objection)**

21 Repeal the paragraph, substitute:

22 (g) subsection 260-145(5) in Schedule 1 (because of paragraph
23 (b) of that subsection).

24 **60 Paragraph 14ZW(1)(ab)**

25 Omit “subsection 98(3) of the *Fringe Benefits Tax Assessment Act*
26 *1986*”, substitute “subsection 260-145(5) in Schedule 1 (because of
27 paragraph (a) of that subsection)”.

28 **61 Paragraph 14ZW(1)(ac)**

29 Omit “subsection 98(7) of the *Fringe Benefits Tax Assessment Act*
30 *1986*”, substitute “subsection 260-145(5) in Schedule 1 (because of
31 paragraph (b) of that subsection)”.

32 **62 Saving**

1 The amendments made by items 56 to 61 do not apply to anything done
2 under:

- 3 (a) a provision specified in a paragraph that is repealed or
4 amended by item 56, 57, 58 or 59; or
5 (b) that provision as it continues to have effect because of item
6 134 of Schedule 2 to the *A New Tax System (Tax*
7 *Administration) Act 1999*.

8 **63 Subsection 47(3)**

9 Omit “Unless the Commissioner has extended the time to pay the
10 penalty, or permitted it to be paid by instalments, the”, substitute “The”.

11 **64 Subsection 47(3) (note)**

12 Repeal the note.

13 **65 At the end of section 16-70 in Schedule 1**

14 Add:

15 Note: For provisions about collection and recovery of amounts payable to
16 the Commissioner under this Part, see Part 4-15.

17 **66 At the end of section 45-15 in Schedule 1**

18 Add:

19 Note 5: For provisions about collection and recovery of amounts you are liable
20 to pay under this Part, see Part 4-15.

21 **67 Section 45-75 in Schedule 1**

22 Omit “208, 209, 214, 254, 255, 258 and 259”, substitute “254 and 255”.

23 **68 At the end of section 298-15 in Schedule 1**

24 Add:

25 Note: For provisions about collection and recovery of the penalty, see Part
26 4-15.

27 ***Termination Payments Tax (Assessment and Collection) Act***
28 ***1997***

29 **69 At the end of subsection 11(2)**

30 Add:

1 Note: For provisions about collection and recovery of termination payments
2 surcharge and other related amounts, see Part 4-15 in Schedule 1 to
3 the *Taxation Administration Act 1953*.

4 ***Tobacco Charges Assessment Act 1955***

5 **70 Subsection 17(1)**

6 Omit “Subject to subsection (2) of this section and section 23, charge”,
7 substitute “Charge”.

8 **71 Subsection 17(1A)**

9 Omit “Subject to subsection (2) of this section and section 23,
10 additional”, substitute “Additional”.

11 ***Trust Recoupment Tax Assessment Act 1985***

12 **72 Subsection 4(6)**

13 After “Assessment Act”, insert “, or subsection 255-5(2) in Schedule 1
14 to the *Taxation Administration Act 1953*,”.

15 Note: The heading to section 4 is altered by omitting “Assessment Act” and substituting “tax
16 legislation”.

17 **73 Subsection 4(8)**

18 Repeal the subsection.

19 **74 Saving**

20 Despite the repeal of subsection 4(8) of the *Trust Recoupment Tax*
21 *Assessment Act 1985* by item 73, that subsection continues to have
22 effect in relation to a person who dies before 1 July 2000.

23 ***Veterans’ Entitlements Act 1986***

24 **75 Subsection 58J(1)**

25 Omit “for the purposes of enabling the collection of tax”, substitute “or
26 Subdivision 260-A in Schedule 1 to the *Taxation Administration Act*
27 *1953*, for the purpose of enabling the collection of an amount”.

28 **76 Subsection 58J(2)**

1 Omit “for the purposes of enabling the collection of tax”, substitute “or
2 Subdivision 260-A in Schedule 1 to the *Taxation Administration Act*
3 *1953*, for the purpose of enabling the collection of an amount”.

4 **77 At the end of section 58J**

5 Add:

6 Note: The power of the Commissioner of Taxation to issue a notice in
7 relation to collection of tax under section 218 of the *Income Tax*
8 *Assessment Act 1936* ceases on and after 1 July 2000. On and after
9 that day, he or she may issue a similar notice under Subdivision 260-A
10 in Schedule 1 to the *Taxation Administration Act 1953*.

11 Note: The heading to section 58J is altered by omitting “—**section 218 of the Income Tax**
12 **Assessment Act**”.

13 ***Wool Tax (Administration) Act 1964***

14 **78 Subsection 36(1)**

15 Omit “Subject to section 37, tax”, substitute “Tax”.

16 **79 Subsection 36(2)**

17 Omit “Subject to section 37, additional”, substitute “Additional”.

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Schedule 4—Miscellaneous amendments

A New Tax System (Indirect Tax Administration) Act 1999

1 Item 1 of Schedule 1

6 Repeal the item, substitute:

7 1 Subsection 8AAB(5) (after table item 17)

8 Insert:

9

17AA 40 *Taxation Administration Act 1953*

10 *A New Tax System (Pay As You Go) Act 1999*

11 2 Subitem 3(1) of Schedule 1

12 After “Division 12”, insert “(except section 12-190)”.

13 3 After subitem 3(1) of Schedule 1

14 Insert:

15 (1A) Section 12-190 in Schedule 1 to the *Taxation Administration Act 1953*
16 applies to a payment made on or after 1 July 2000, but only if some or
17 all of the supply is made on or after that day. (When a supply is made is
18 determined for the purposes of this subitem in the same way as for the
19 purposes of the *A New Tax System (Goods and Services Tax Transition)*
20 *Act 1999*.)

21 *Income Tax Assessment Act 1936*

22 4 Subsection 202DH(1)

23 Omit all the words after “to have”, substitute “made a TFN declaration
24 in relation to the trustee that has effect under Division 3.”.

25 5 Application

26 The amendment made by item 4 applies to a person who quotes his or
27 her tax file number before, at or after the item’s commencement.

6 Section 202DI

Omit all the words after “to have”, substitute “made a TFN declaration in relation to the provider of the RSA that has effect under Division 3.”.

Note: The heading to section 202DI is altered by inserting “of” after “**taxation**”.

7 Application

The amendment made by item 6 applies to a person who quotes his or her tax file number before, at or after the item’s commencement.

8 Subsection 202DJ(1)

Omit “has quoted his or her tax file number as mentioned in subregulation 98(8) or regulation 100 of the Income Tax Regulations,” substitute “has made a TFN declaration in relation to the trustee of the entity, scheme or fund, or the RSA provider, that states his or her tax file number, and has effect under Division 3 (except a declaration that includes a statement mentioned in subsection 202CB(2)),”.

9 Saving

The amendment made by item 8 applies to a person who, immediately before that item’s commencement, is taken to have quoted his or her tax file number to a trustee or an RSA provider because of subsection 202DJ(1) of the *Income Tax Assessment Act 1936*, as if that person had made a TFN declaration in relation to the trustee or the RSA provider as mentioned in that subsection as amended by that item.

10 Subsection 221AZK(2)

After “221AZKC”, insert “, 221AZKEA”.

11 Before section 221AZKE

Insert:

221AZKEA Effect on sections 221AZKB and 221AZKC if assessment is amended

If an instalment taxpayer’s assessment for the 1999-2000 year of income is amended on one or more occasions, sections 221AZKB and 221AZKC apply, and are taken always to have applied, as if the taxpayer’s assessed tax for that year had always been the total of:

- 1 (a) the tax payable for that year; and
2 (b) the amount of interest (if any) payable under section
3 102AAM for that year;
4 as shown in the notice of the taxpayer's latest assessment for that
5 year.

6 Note: This may affect how much of the final instalment can be deferred, and
7 the number and amounts of quarterly payments by which the taxpayer
8 must pay off the deferred amount.

9 **12 At the end of section 221AZKE**

10 Add:

11 (2) Subsection (1) also has effect for the purposes of section
12 221AZKEA as applying to the entity.

13 (3) In this section:

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

16 ***Income Tax Assessment Act 1997***

17 **13 Subsection 2-15(3) (after item 4 of the table headed "Key**
18 **participants in the income tax system")**

19 Insert:

4A. foreign resident section 995-1

20 **14 Subsections 26-25(1) and (2)**

21 Repeal the subsections, substitute:

22 (1) You cannot deduct under this Act interest (within the meaning of
23 Division 11A of Part III of the *Income Tax Assessment Act 1936*)
24 or a *royalty if:

25 (a) Subdivision 12-F in Schedule 1 to the *Taxation*
26 *Administration Act 1953* requires you to withhold an amount
27 from the interest or royalty; and

28 (b) either:

29 (i) you fail to withhold the amount; or

1 (ii) after withholding the amount, you fail to comply with
 2 section 16-70 in that Schedule in relation to that
 3 amount.

4 (2) You cannot deduct under this Act interest (within the meaning of
 5 Division 11A of Part III of the *Income Tax Assessment Act 1936*),
 6 or a *royalty, that is in the form of a *non-cash benefit if:

7 (a) section 14-5 or 14-10 in Schedule 1 to the *Taxation*
 8 *Administration Act 1953* requires you to pay an amount to the
 9 Commissioner before providing the benefit, because of
 10 Subdivision 12-F in that Schedule; and

11 (b) you fail to pay the amount as required by that section.

12 **15 Paragraph 26-25(3)(a)**

13 Omit “a payment of”.

14 **16 Paragraph 26-25(3)(a)**

15 Omit “, for”, substitute “for”.

16 ***Taxation Administration Act 1953***

17 **17 Subsection 8AAB(5) (after table item 17F)**

18 Insert:

17GA 45-232 in *Taxation Administration Act 1953*
 Schedule 1

19 **18 Section 6-1 in Schedule 1**

20 Omit “and liability”, substitute “, liability”.

21 **19 Section 6-1 in Schedule 1**

22 After “(HECS)”, insert “and liability to repay financial supplement
 23 debts under the Student Financial Supplement Scheme (SFSS)”.

24 **20 After paragraph 11-1(c) in Schedule 1**

25 Insert:

26 (da) amounts of liabilities to the Commonwealth under Part 2B.3
 27 of the *Social Security Act 1991*; and

28 (db) amounts of liabilities to the Commonwealth under Division 6
 29 of Part 4A of the *Student Assistance Act 1973*; and

1 **21 Section 12-215 in Schedule 1**

2 Omit all the words before paragraph (a), substitute:

3 An entity that receives a payment of a *dividend of a company that
4 is an Australian resident must withhold an amount from the
5 dividend if:

6 **22 Paragraph 12-215(b) in Schedule 1**

7 After “is”, insert “or becomes”.

8 **23 At the end of section 12-215 in Schedule 1**

9 Add:

- 10 (2) The entity must withhold the amount:
- 11 (a) if the foreign resident is so entitled when the entity receives
12 the payment—immediately after the entity receives the
13 payment; or
- 14 (b) if the foreign resident becomes so entitled after the entity
15 receives the payment—immediately after the foreign resident
16 becomes so entitled.

17 **24 Section 12-250 in Schedule 1**

18 Omit all the words before paragraph (a), substitute:

19 An entity that receives a payment of interest (within the meaning
20 of Division 11A of Part III of the *Income Tax Assessment Act*
21 *1936*) must withhold an amount from the payment if:

22 **25 Paragraph 12-250(b) in Schedule 1**

23 After “is”, insert “or becomes”.

24 **26 At the end of section 12-250 in Schedule 1**

25 Add:

- 26 (2) The entity must withhold the amount:
- 27 (a) if the foreign resident is so entitled when the entity receives
28 the payment—immediately after the entity receives the
29 payment; or

1 (b) if the foreign resident becomes so entitled after the entity
2 receives the payment—immediately after the foreign resident
3 becomes so entitled.

4 **27 Section 12-285 in Schedule 1**

5 Omit all the words before paragraph (a), substitute:

6 An entity that receives a payment of a *royalty must withhold an
7 amount from the payment if:

8 **28 Paragraph 12-285(b) in Schedule 1**

9 After “is”, insert “or becomes”.

10 **29 At the end of section 12-285 in Schedule 1**

11 Add:

12 (2) The entity must withhold the amount:

13 (a) if the foreign resident is so entitled when the entity receives
14 the payment—immediately after the entity receives the
15 payment; or

16 (b) if the foreign resident becomes so entitled after the entity
17 receives the payment—immediately after the foreign resident
18 becomes so entitled.

19 **30 After paragraph 15-30(c) in Schedule 1**

20 Insert:

21 (da) the rates specified in section 1061ZZFA (about repayments
22 of accumulated FS debts) of the *Social Security Act 1991*;
23 and

24 (db) the rates specified in section 12ZK (about repayments of
25 accumulated FS debts) of the *Student Assistance Act 1973*;
26 and

27 **31 Paragraph 15-50(1)(b) in Schedule 1**

28 Omit “11-1(b) or (c)”, substitute “11-1(b), (c), (da) or (db)”.

29 **32 Section 16-5 in Schedule 1 (note 2)**

30 Omit “immediately after receiving the payment”, substitute “at the time
31 required by that section”.

1 **33 Section 16-165 in Schedule 1**

2 Repeal the section, substitute:

3 **16-165 Payment summary for retained amount in relation to eligible**
4 **termination payment**

5 (1) Within 14 days after an entity (the *payer*) makes an *eligible
6 termination payment that includes one or more retained amounts
7 mentioned in subsection 27AC(2) of the *Income Tax Assessment*
8 *Act 1936*, the payer must:

- 9 (a) give a *payment summary that covers the retained amount or
10 amounts to the recipient of the payment (the *recipient*); and
11 (b) give a copy of the summary to the Commissioner.

12 (The summary must cover only the retained amount or amounts.)

13 Note: The payer must give the payment summary even if the payment is not
14 covered by section 12-85.

15 *Exceptions*

16 (2) Subsection (1) does not apply if the *eligible termination payment:

- 17 (a) is of a kind mentioned in paragraph (a) or (jaa) of the
18 definition of *eligible termination payment* in subsection
19 27A(1) of the *Income Tax Assessment Act 1936*; and
20 (b) is a CGT exempt component within the meaning of that
21 subsection.

22 (3) Subsection (1) also does not apply if the *eligible termination
23 payment:

- 24 (a) is a death benefit of a kind set out in item 2 or 4 of Table 1 in
25 subsection 27AAA(2) of the *Income Tax Assessment Act*
26 *1936*; and
27 (b) is made to a person who is a dependant (within the meaning
28 of paragraph (b) of the definition of *dependant* in subsection
29 27A(1) of that Act) of the deceased taxpayer concerned.

30 **34 Paragraph 16-170(1)(f) in Schedule 1**

31 Repeal the paragraph, substitute:

- 32 (f) specifies the retained amount or amounts (if any) mentioned
33 in subsection 16-165(1) that it covers; and
34 (g) is in the *approved form.
-

35 At the end of section 45-5 in Schedule 1

Add:

- ; and (d) amounts of liabilities to the Commonwealth under Part 2B.3 of the *Social Security Act 1991*; and
- (e) amounts of liabilities to the Commonwealth under Division 6 of Part 4A of the *Student Assistance Act 1973*.

36 After subsection 45-120(2) in Schedule 1

Insert:

- (2A) The *instalment income* of a *life insurance entity or *registered organisation for a period also includes its *statutory income, to the extent that the statutory income:
- (a) is reasonably attributable to that period; and
- (b) is included in the *CS/RA class of its assessable income for the income year that is or includes that period.

Note: The CS/RA class relates to the Complying Superannuation/Roll-over Annuity aspect of the entity's business.

37 At the end of section 45-330 in Schedule 1

Add:

Special rule for life insurance entities and registered organisations

- (3) The *adjusted taxable income* of a *life insurance entity or *registered organisation for the *base year is worked out as follows:

Method statement

Step 1. Recalculate each component of the taxable income for the *base assessment (except the *CS/RA component), disregarding any *capital gains.

Step 2. Add up the components recalculated under step 1.

Step 3. Add to the step 2 result the *CS/RA component for the *base assessment.

Step 4. Add to the step 3 result the deductions for *tax losses used in making the *base assessment.

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Step 5. Reduce the step 4 result by the amount of any *tax loss, to the extent that the life insurance entity or registered organisation can carry it forward to the next income year.

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38 Section 45-340 in Schedule 1 (after step 3 of the method statement)

Insert:

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Step 3A. The amount (if any) that you would have been liable to pay for the *base year by way of an *FS assessment debt if your taxable income for the base year had been your *adjusted taxable income, or your *adjusted withholding income, for that year is worked out.

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39 Section 45-340 in Schedule 1 (step 4 of the method statement)

Omit “and 3”, substitute “, 3 and 3A”.

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40 Section 45-375 in Schedule 1 (after step 3 of the method statement)

Insert:

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Step 3A. The amount (if any) that you would have been liable to pay for the variation year by way of an *FS assessment debt if your taxable income for that year had been your *adjusted assessed taxable income for that year is worked out.

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41 Section 45-375 in Schedule 1 (step 4 of the method statement)

Omit “and 3”, substitute “, 3 and 3A”.

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42 Group heading before section 360-60 in Schedule 1

Repeal the heading, substitute:

1 **Exercise of powers by authorised person**

2 **43 Section 360-60 (heading) in Schedule 1**

3 Repeal the heading, substitute:

4 **360-60 Where powers to be exercised**

5 **44 Subsection 360-60(1) in Schedule 1**

6 Repeal the subsection, substitute:

7 (1) A person who is authorised to perform a function, or exercise a
8 power, of the Commissioner under this Division must do so only at
9 places approved by the Commissioner.

10 **45 Section 360-75 in Schedule 1 (table item 35)**

11 Repeal the item.

12 **46 Section 360-75 in Schedule 1 (after table item 50)**

13 Insert:

53 section 52-150 Family assistance payments

14 **47 After paragraph 360-80(a) in Schedule 1**

15 Insert:

16 (ba) a fee or commission you incur as mentioned in section 25-7
17 (for advice about family tax benefit) of the *Income Tax*
18 *Assessment Act 1997*; or

19 **48 Section 360-85 in Schedule 1 (table item 10)**

20 Repeal the item.

1
2 **Schedule 5—Consequential amendment of**
3 **Chapter 6 (the Dictionary) of the**
4 **Income Tax Assessment Act 1997**
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6 **1 Subsection 995-1(1)**

7 Insert:

8 *adjusted tax* on *adjusted taxable income or on *adjusted
9 withholding income has the meaning given by section 45-340 in
10 Schedule 1 to the *Taxation Administration Act 1953*.

11 **2 Subsection 995-1(1) (definition of *adjusted taxable income*)**

12 Omit “section 45-330”, substitute “sections 45-330 and 45-480”.

13 **3 Subsection 995-1(1) (definition of *adjusted withholding***
14 ***income*)**

15 Omit “section 45-335”, substitute “sections 45-335 and 45-485”.

16 **4 Subsection 995-1(1) (definition of *base assessment*)**

17 Omit “section 45-320”, substitute “sections 45-320 and 45-470”.

18 **5 Subsection 995-1(1) (definition of *base year*)**

19 Omit “section 45-320”, substitute “sections 45-320 and 45-470”.

20 **6 Subsection 995-1(1) (definition of *benchmark instalment***
21 ***rate*)**

22 Omit “section 45-360”, substitute “sections 45-360 and 45-530”.

23 **7 Subsection 995-1(1) (definition of *benchmark tax*)**

24 Omit “section 45-365”, substitute “sections 45-365 and 45-535”.

25 **8 Subsection 995-1(1)**

26 Insert:

27 *Commissioner’s instalment rate* has the meaning given by section
28 45-115 in Schedule 1 to the *Taxation Administration Act 1953*.

29 **9 Subsection 995-1(1)**

1 Insert:

2 ***CS/RA class*** of the assessable income of a *life insurance entity or
3 *registered organisation has the meaning given by section 116CE
4 or 116GD of the *Income Tax Assessment Act 1936*.

5 **10 Subsection 995-1(1)**

6 Insert:

7 ***CS/RA component*** of the taxable income of a *life insurance entity
8 or *registered organisation has the meaning given by section 110 or
9 116E of the *Income Tax Assessment Act 1936*.

10 **11 Subsection 995-1(1) (definition of *instalment income*)**

11 Omit “and 45-280”, substitute “, 45-280, 45-285 and 45-465”.

12 **12 Subsection 995-1(1)**

13 Insert:

14 ***FS assessment debt*** means an FS assessment debt under:
15 (a) subsection 19AB(2) of the *Social Security Act 1991*; or
16 (b) the *Student Assistance Act 1973* as in force at a time on or
17 after 1 July 1998.

18 **13 Subsection 995-1(1)**

19 Insert:

20 ***majority control*** has the meaning given by section 45-145 in
21 Schedule 1 to the *Taxation Administration Act 1953*.

22 **14 Subsection 995-1(1)**

23 Insert:

24 ***multi-rate trustee*** has the meaning given by section 45-455 in
25 Schedule 1 to the *Taxation Administration Act 1953*.

26 **15 Subsection 995-1(1) (definition of *notional tax*)**

27 Omit “section 45-325”, substitute “sections 45-325 and 45-475”.

28 **16 Subsection 995-1(1)**

1 Insert:

2 *reduced beneficiary's share* of a trust's net income for an income
3 year has the meaning given by section 45-483 in Schedule 1 to the
4 *Taxation Administration Act 1953*.

5 **17 Subsection 995-1(1)**

6 Insert:

7 *reduced no beneficiary's share* of a trust's net income for an
8 income year has the meaning given by section 45-483 in Schedule
9 1 to the *Taxation Administration Act 1953*.

10 **18 Subsection 995-1(1)**

11 Insert:

12 *single-rate trustee* has the meaning given by section 45-450 in
13 Schedule 1 to the *Taxation Administration Act 1953*.

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