



# **Tax Laws Amendment (Small Business Measures No. 2) Act 2015**

**No. 67, 2015**

**An Act to amend the law relating to taxation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Tax Laws Amendment (Small Business Measures No. 2) Act 2015**

**No. 67, 2015**

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## **An Act to amend the law relating to taxation, and for related purposes**

*[Assented to 22 June 2015]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Tax Laws Amendment (Small Business Measures No. 2) Act 2015*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 June 2015
2. Schedule 1, Part 1	The day this Act receives the Royal Assent.	22 June 2015
3. Schedule 1, item 10	1 July 2022.	1 July 2022
4. Schedule 1, items 11 to 14	1 July 2019.	1 July 2019
5. Schedule 2	The day this Act receives the Royal Assent.	22 June 2015
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Accelerated depreciation for small business entities**

### **Part 1—Main amendments**

#### ***Income Tax Assessment Act 1997***

##### **1 At the end of subsection 328-175(10)**

Add:

Note 3: Subsections 328-180(2) and (3) of the *Income Tax (Transitional Provisions) Act 1997* affect the operation of this subsection in relation to income years ending on or after 12 May 2015.

##### **2 At the end of paragraph 328-180(1)(b)**

Add:

Note: This threshold is \$20,000 for assets you first acquire between 12 May 2015 and 30 June 2017: see subsection 328-180(4) of the *Income Tax (Transitional Provisions) Act 1997*.

##### **3 At the end of paragraphs 328-180(2)(a) and (3)(a)**

Add:

Note: This threshold is \$20,000 for costs included between 12 May 2015 and 30 June 2017: see subsection 328-180(5) of the *Income Tax (Transitional Provisions) Act 1997*.

##### **4 Subsection 328-210(1) (note)**

Omit “Note”, substitute “Note 1”.

##### **5 At the end of subsection 328-210(1)**

Add:

Note 2: This threshold is \$20,000 for income years ending on or after 12 May 2015 and on or before 30 June 2017: see subsection 328-180(6) of the *Income Tax (Transitional Provisions) Act 1997*.

##### **6 At the end of subsection 328-250(1)**

Add:

Note: The threshold in subsection 328-180(1) is \$20,000 (instead of \$1,000) for assets first acquired between 12 May 2015 and 30 June 2017: see

subsection 328-180(4) of the *Income Tax (Transitional Provisions) Act 1997*.

**7 At the end of subsection 328-250(4)**

Add:

Note: The threshold in subsection 328-180(1) is \$20,000 (instead of \$1,000) for assets acquired between 12 May 2015 and 30 June 2017: see subsection 328-180(4) of the *Income Tax (Transitional Provisions) Act 1997*.

**8 At the end of subsection 328-253(4)**

Add:

Note: The threshold in subsection 328-180(1) is \$20,000 (instead of \$1,000) for assets first acquired between 12 May 2015 and 30 June 2017: see subsection 328-180(4) of the *Income Tax (Transitional Provisions) Act 1997*.

***Income Tax (Transitional Provisions) Act 1997***

**9 After section 328-175**

Insert:

**328-180 Increased access to accelerated depreciation from 12 May 2015 to 30 June 2017**

(1) In this section:

***2015 budget time*** means 7.30 pm, by legal time in the Australian Capital Territory, on 12 May 2015.

***increased access year*** means an income year that ends:

- (a) on or after 12 May 2015; and
- (b) on or before 30 June 2017.

***Restrictions on making choice***

(2) In determining whether you can choose to use Subdivision 328-D of the *Income Tax Assessment Act 1997* in an increased access year, disregard subsection 328-175(10) of that Act.



- (3) In applying paragraph 328-175(10)(b) of that Act for the purpose of determining whether you can choose to use that Subdivision in any income year after the increased access years, disregard:
- (a) the increased access years, other than the last of the increased access years; and
  - (b) all earlier income years.

*Assets costing less than \$20,000*

- (4) Paragraph 328-180(1)(b) of the *Income Tax Assessment Act 1997* applies to a depreciating asset as if a reference in that paragraph to \$1,000 were a reference to \$20,000, if:
- (a) you first acquired the asset at or after the 2015 budget time; and
  - (b) you:
    - (i) first used the asset, for a taxable purpose, at or after the 2015 budget time and on or before 30 June 2017; or
    - (ii) first installed the asset ready for use, for a taxable purpose, at or after the 2015 budget time and on or before 30 June 2017.
- (5) Paragraph 328-180(2)(a) or (3)(a) of the *Income Tax Assessment Act 1997* applies to an amount included in the second element of the cost of an asset as if a reference in that paragraph to \$1,000 were a reference to \$20,000, if the amount is so included at any time:
- (a) at or after the 2015 budget time; and
  - (b) on or before 30 June 2017.

*Low value pool*

- (6) Section 328-210 of the *Income Tax Assessment Act 1997* applies in relation to a deduction for an increased access year as if a reference in that section to \$1,000 were a reference to \$20,000.

## **Part 2—Other amendments**

### *Income Tax Assessment Act 1997*

**10 Subsection 328-175(10) (note 3)**

Repeal the note.

**11 Paragraphs 328-180(1)(b), (2)(a) and (3)(a) (notes)**

Repeal the notes.

**12 Subsection 328-210(1) (note 1)**

Omit “Note 1”, substitute “Note”.

**13 Subsection 328-210(1) (note 2)**

Repeal the note.

**14 Subsections 328-250(1) and (4) and 328-253(4) (notes)**

Repeal the notes.

## **Schedule 2—Accelerated depreciation for primary producers**

### ***Income Tax Assessment Act 1997***

#### **1 Section 12-5 (table item headed “capital allowances”)**

Omit:

water facilities and horticultural plants ..... Subdivision 40-F

substitute:

water facilities, horticultural plants, fodder storage  
assets and fencing assets ..... Subdivision 40-F

#### **2 Section 40-10 (table item 1.5)**

Repeal the item, substitute:

1.5 *Primary production depreciating assets* ..... Subdivision 40-F

You can deduct amounts for capital expenditure on:

- *water facilities* immediately; or
- *horticultural plants* over a period that relates to the effective life of the plant; or
- *fodder storage assets* over 3 income years; or
- *fencing assets* immediately.

#### **3 At the end of paragraph 40-53(1)(b)**

Add “, \*fodder storage asset or \*fencing asset”.

#### **4 Section 40-510**

Omit “or horticultural plants”, substitute “, horticultural plants, fodder storage assets or fencing assets”.

#### **5 Section 40-515 (heading)**

Repeal the heading, substitute:

**40-515 Water facilities, horticultural plants, fodder storage assets and fencing assets**

**6 After paragraph 40-515(1)(b)**

Insert:

- ; (c) a \*fodder storage asset;
- (d) a \*fencing asset.

**7 At the end of subsection 40-515(3)**

Add:

- ; or (c) for a \*fodder storage asset—the amount of capital expenditure incurred on the asset; or
- (d) for a \*fencing asset—the amount of capital expenditure incurred on the asset.

**8 Subsection 40-515(4) (heading)**

Repeal the heading, substitute:

*Reduction of deduction: water facilities, fodder storage assets and fencing assets*

**9 Subsection 40-515(4)**

After “\*water facility”, insert “, \*fodder storage asset or \*fencing asset”.

**10 Subsection 40-515(4)**

Omit “the facility’s decline in value”, substitute “the decline in value of the facility or asset”.

**11 Section 40-520 (heading)**

Repeal the heading, substitute:

**40-520 Meaning of *water facility, horticultural plant, fodder storage asset and fencing asset***

**12 At the end of section 40-520**

Add:

- (3) A *fodder storage asset* is an asset or a structural improvement, or a repair of a capital nature, or an alteration, addition or extension, to

an asset or a structural improvement, that is primarily and principally for the purpose of storing fodder.

- (4) A *fencing asset* is:
- (a) an asset or a structural improvement that is a fence; or
  - (b) a repair of a capital nature, or an alteration, addition or extension, to a fence.

**13 Subsections 40-525(1) and (2) (paragraph (a) of the note)**

Omit “in a determination made”.

**14 At the end of section 40-525**

Add:

*Fodder storage assets*

- (3) The capital expenditure you incurred on the construction, manufacture, installation or acquisition of the \*fodder storage asset must have been incurred primarily and principally for use in a \*primary production business that you conduct on land in Australia.

- Note: If Division 250 applies to you and an asset that is a fodder storage asset:
- (a) if section 250-150 applies—the condition in this subsection is taken to be satisfied for the asset to the extent specified under subsection 250-150(3); or
  - (b) otherwise—the condition in this subsection is taken not to be satisfied for the asset.

*Fencing assets*

- (4) The capital expenditure you incurred on the construction, manufacture, installation or acquisition of the \*fencing asset must have been incurred primarily and principally for use in a \*primary production business that you conduct on land in Australia.

- Note: If Division 250 applies to you and an asset that is a fencing asset:
- (a) if section 250-150 applies—the condition in this subsection is taken to be satisfied for the asset to the extent specified under subsection 250-150(3); or
  - (b) otherwise—the condition in this subsection is taken not to be satisfied for the asset.

## **15 Section 40-530**

Repeal the section, substitute:

### **40-530 When declines in value start**

- (1) A \*water facility, \*fodder storage asset or \*fencing asset starts to decline in value in the income year in which you first incur expenditure on the facility or asset.
- (2) A \*horticultural plant starts to decline in value in:
  - (a) if you are the first entity to satisfy a condition in subsection 40-525(2) for the plant—the income year in which the first commercial season starts; or
  - (b) if not—the later of the income year in which you first satisfied that condition and the income year in which the first commercial season starts.

## **16 Section 40-540**

Repeal the section, substitute:

### **40-540 How you work out the decline in value for water facilities**

- (1) The decline in value of a \*water facility for the income year in which you incurred the expenditure is the amount of capital expenditure you incurred on the construction, manufacture, installation or acquisition of the water facility.
- (2) However, disregard expenditure that you cannot deduct because of section 26-100 (about water infrastructure improvement expenditure).

## **17 After section 40-545**

Insert:

### **40-548 How you work out the decline in value for fodder storage assets**

You work out the decline in value of a \*fodder storage asset for an income year in this way for the income year in which you incurred the expenditure and the 2 following years:

Expenditure  $\times 33 \frac{1}{3} \%$

where:

*expenditure* is the amount of capital expenditure you incurred on the construction, manufacture, installation or acquisition of the \*fodder storage asset.

#### **40-551 How you work out the decline in value for fencing assets**

The decline in value of a \*fencing asset for the income year in which you incurred the expenditure is the amount of capital expenditure you incurred on the construction, manufacture, installation or acquisition of the fencing asset.

#### **18 Subsection 40-555(1)**

Omit “person”, substitute “entity”.

#### **19 At the end of section 40-555**

Add:

##### *Fodder storage assets*

- (4) You cannot deduct an amount for any income year for capital expenditure on the acquisition of a \*fodder storage asset if any entity has deducted or can deduct an amount under this Subdivision for any income year for earlier capital expenditure on:
- (a) the construction or manufacture of the asset; or
  - (b) a previous acquisition of the asset.

Note: A depreciating asset and a repair of a capital nature or an alteration, addition or extension to that asset that is a fodder storage asset are not the same depreciating asset for the purposes of section 40-50 and this Subdivision: see section 40-53.

##### *Fencing assets*

- (5) You cannot deduct an amount for any income year for capital expenditure on the acquisition of a \*fencing asset if any entity has deducted or can deduct an amount under this Subdivision for any income year for earlier capital expenditure on:
- (a) the construction or manufacture of the fencing asset; or
  - (b) a previous acquisition of the fencing asset.

## Schedule 2 Accelerated depreciation for primary producers

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Note: A depreciating asset and a repair of a capital nature or an alteration, addition or extension to that asset that is a fencing asset are not the same depreciating asset for the purposes of section 40-50 and this Subdivision: see section 40-53.

- (6) You cannot deduct an amount for any income year for capital expenditure on a \*fencing asset to the extent that any entity has deducted or can deduct the amount under subsection 40-630(1) (about landcare operations).
- (7) You cannot deduct an amount for any income year for capital expenditure on a \*fencing asset if the fencing asset is (or is a repair, alteration, addition or extension to):
  - (a) a stockyard or pen; or
  - (b) a portable fence.

### 20 Subsection 995-1(1)

Insert:

*fencing asset* has the meaning given by subsection 40-520(4).

*fodder storage asset* has the meaning given by subsection 40-520(3).

### 21 Application of amendments

The amendments made by this Schedule apply to assets that an entity starts to hold, or to expenditure an entity incurs, at or after 7.30 pm, by legal time in the Australian Capital Territory, on 12 May 2015.

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[Minister's second reading speech made in—  
House of Representatives on 28 May 2015  
Senate on 15 June 2015]

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(79/15)