

2010-2011-2012-2013

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Tax and Superannuation Laws  
Amendment (2013 Measures No. 1) Bill  
2013**

**No.     , 2013**

*(Treasury)*

**A Bill for an Act to amend the law relating to  
taxation and superannuation, and for related  
purposes**



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1     **A Bill for an Act to amend the law relating to**  
2     **taxation and superannuation, and for related**  
3     **purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Tax and Superannuation Laws*  
7                     *Amendment (2013 Measures No. 1) Act 2013*.

8     **2 Commencement**

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

13

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day this Act receives the Royal Assent.	
3. Schedule 1, Part 2	1 July 2013.	1 July 2013
4. Schedule 2	The later of: (a) immediately after the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 7 to the <i>Tax Laws Amendment (2012 Measures No. 6) Act 2013</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3	The day this Act receives the Royal Assent.	
6. Schedule 4, Part 1	1 July 2013.	1 July 2013
7. Schedule 4, Part 2	The later of: (a) immediately after the commencement of the provision(s) covered by table item 6; and (b) immediately after the commencement of item 23 of Schedule 3 to the <i>Superannuation Legislation Amendment (Reducing Illegal Early Release and Other Measures) Act 2013</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
8. Schedule 5, Part 1	The day after this Act receives the Royal Assent.	



<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
9. Schedule 5, Part 2, Division 1	The day after this Act receives the Royal Assent.	
10. Schedule 5, Part 2, Divisions 2 and 3	1 July 2013.	1 July 2013
11. Schedule 5, items 28 to 34	The day after this Act receives the Royal Assent.	
12. Schedule 5, item 35	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 5 of Schedule 1 to the <i>Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Act 2013</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
13. Schedule 5, items 36 to 38	The day after this Act receives the Royal Assent.	
14. Schedule 6	The day after this Act receives the Royal Assent.	
15. Schedule 7, items 1 to 136	Immediately after the commencement of the <i>Minerals Resource Rent Tax Act 2012</i> .	1 July 2012
16. Schedule 7, item 137	Immediately after the commencement of Part 2 of Schedule 2 to the <i>Petroleum Resource Rent Tax Assessment Amendment Act 2012</i> .	29 September 2012
17. Schedule 7, items 138 to 193	Immediately after the commencement of the <i>Minerals Resource Rent Tax Act 2012</i> .	1 July 2012
18. Schedule 7, item 194	Immediately after the commencement of Schedule 2 to the <i>Clean Energy (Tax Laws Amendments) Act 2011</i> .	1 July 2012
19. Schedule 7, item 195	The day this Act receives the Royal Assent.	

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
20. Schedule 7, item 196	Immediately after the commencement of the <i>Excise Tariff Amendment (Condensate) Act 2011</i> .	24 November 2011
21. Schedule 7, items 197 to 223	The day this Act receives the Royal Assent.	
22. Schedule 7, item 224	Immediately after the commencement of item 1 of Schedule 2 to the <i>Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012</i> .	31 January 2013
23. Schedule 7, items 225 to 228	The day this Act receives the Royal Assent.	
24. Schedule 7, item 229	Immediately after the commencement of item 14 of Schedule 1 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i> .	22 March 2012
25. Schedule 7, items 230 to 233	Immediately after the commencement of Division 2 of Part 25 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i> .	21 March 2012
26. Schedule 7, items 234 to 242	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally  
2 enacted. It will not be amended to deal with any later amendments of  
3 this Act.

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

### 7 **3 Schedule(s)**

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

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#### **4 Amendment of assessments**

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment if:

- (a) the assessment was made before the commencement of this section; and
- (b) the amendment is made within 2 years after that commencement; and
- (c) the amendment is made for the purpose of giving effect to items 204 to 208 of Schedule 7 (Miscellaneous amendments) to this Act.

1 **Schedule 1—Interest on unclaimed money**

2 **Part 1—Superannuation**

3 *Income Tax Assessment Act 1997*

4 **1 Subsection 295-190(1A)**

5 Omit “section 20H”, substitute “subsection 20H(2), (2AA) or (2A)”.

6 **2 Section 301-125**

7 Omit “subsection 17(2) or section 20H or 24G”, substitute  
8 “subsection 17(2), 20H(2), (2AA), (2A) or (3) or 24G(2)”.

9 **3 Subsections 301-170(2), (3) and (4)**

10 Omit “section 20H”, substitute “subsection 20H(2), (2AA), (2A) or  
11 (3)”.

12 **4 Subsection 307-5(1) (table item 5, column 2)**

13 Omit “subsection 17(1) or (2) or 20F(1) or section 20H, 24E or 24G”,  
14 substitute “subsection 17(1), (2) or (2AB), 20F(1) or 20H(2), (2AA) or  
15 (2A), section 24E or subsection 24G(2) or (3A)”.

16 **5 Subsection 307-5(1) (table item 5, column 3)**

17 Omit “subsection 17(1) or (2) or section 20H or 24G”, substitute  
18 “subsection 17(1), (2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or  
19 24G(2), (3A) or (3B)”.

20 **6 Paragraph 307-120(2)(e)**

21 Omit “subsection 17(2) or section 20H or 24G”, substitute  
22 “subsection 17(2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or  
23 24G(2), (3A) or (3B)”.

24 **7 Subsection 307-142(1)**

25 Omit “subsection 17(2) or section 20H or 24G”, substitute  
26 “subsection 17(2), (2AB) or (2AC), 20H(2), (2AA), (2A) or (3) or  
27 24G(2), (3A) or (3B)”.

28 **8 Subsection 307-142(2)**

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1 After “as follows”, insert “(unless subsection (3B) or (3C) applies)”.

2 **9 Subsection 307-142(2) (method statement, step 1, note)**

3 Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

4 **10 Subsection 307-142(2) (method statement, step 1, note)**

5 Omit “section 24G”, substitute “subsection 24G(2)”.

6 **11 After subsection 307-142(3A)**

7 Insert:

8 (3B) The \*tax free component is the amount of the benefit, if the  
9 \*superannuation benefit is paid under subsection 17(2AB) or  
10 (2AC), 20H(2AA) or 24G(3A) or (3B) of the *Superannuation*  
11 (*Unclaimed Money and Lost Members*) Act 1999 (interest).

12 (3C) Despite subsection (3B), the \*tax free component is nil, if the  
13 \*superannuation benefit is paid under subsection 20H(2AA) of the  
14 *Superannuation (Unclaimed Money and Lost Members) Act 1999*  
15 (interest) in respect of a person who:

16 (a) is a former temporary resident (within the meaning of that  
17 Act) when the payment is made; or

18 (b) if the person died before the payment is made—was a former  
19 temporary resident just before dying.

20 **12 Subsection 307-220(4)**

21 Omit “section 20H”, substitute “subsection 20H(2), (2AA) or (2A)”.

22 **13 Subsection 307-300(1)**

23 Omit “subsection 17(2) or section 20H or 24G”, substitute  
24 “subsection 17(2), 20H(2), (2AA), (2A) or (3) or 24G(2)”.

25 **14 Subsection 307-300(2)**

26 After “as follows”, insert “(unless subsection (3A) applies)”.

27 **15 Subsection 307-300(2) (method statement, step 1, note)**

28 Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

29 **16 Subsection 307-300(2) (method statement, step 1, note)**

30 Omit “section 24G”, substitute “subsection 24G(2)”.

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1 **17 After subsection 307-300(3)**

2 Insert:

3 (3A) The *element taxed in the fund* is nil, if the \*superannuation benefit  
4 is paid under subsection 20H(2AA) of the *Superannuation*  
5 *(Unclaimed Money and Lost Members) Act 1999* (interest).

6 Note: The taxable component of a superannuation benefit paid by the  
7 Commissioner under subsection 17(2AB) or (2AC) or 24G(3A) or  
8 (3B) of the *Superannuation (Unclaimed Money and Lost Members)*  
9 *Act 1999*, or under subsection 20H(2AA) in respect of a person who is  
10 not a former temporary resident, is nil: see subsections 307-142(3B)  
11 and (4) of this Act.

12 **18 Subsection 307-350(2B)**

13 Omit “subsection 17(2) and sections 20H and 24G”, substitute  
14 “subsections 17(2), 20H(2), (2AA), (2A) and (3) and 24G(2)”.

15 ***Superannuation (Departing Australia Superannuation***  
16 ***Payments Tax) Act 2007***

17 **19 Subsection 5(2)**

18 Omit “section 20H”, substitute “subsection 20H(2), (2AA) or (2A)”.

19 ***Superannuation (Unclaimed Money and Lost Members) Act***  
20 ***1999***

21 **20 Subsection 17(2A)**

22 Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

23 **21 Subsection 17(2A) (note)**

24 Omit “Section 20H provides”, substitute “Subsections 20H(2) and (3)  
25 provide”.

26 **22 Subparagraph 20H(1)(b)(iii)**

27 Omit “section 17”, substitute “subsection 17(2)”.

28 **23 Subparagraph 20H(1)(b)(iv)**

1 Omit “this section in respect of the person”, substitute “subsections (2)  
2 and (3) of this section in respect of the person (disregarding an amount  
3 paid under subsection (3), to the extent the amount was attributable to  
4 interest that would have been payable under subsection (2A) apart from  
5 subsection (3))”.

6 **24 Subparagraph 20H(1)(b)(vi)**

7 Omit “section 24G”, substitute “subsection 24G(2)”.

8 **25 Paragraph 20H(2B)(a)**

9 Omit “section 17, 24E or 24G”, substitute “subsection 17(1) or (2),  
10 section 24E or subsection 24G(2)”.

11 **26 Paragraph 20M(1)(a)**

12 Omit “section 20H”, substitute “subsection 20H(2), (2AA) or (2A)”.

13 **27 Section 20P (paragraph (a) of the example)**

14 Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

15 **28 Subsection 24E(5) (note 1)**

16 Omit “section 17”, substitute “subsection 17(1)”.

17 **29 Subsection 24G(4)**

18 Omit “section 20H”, substitute “subsection 20H(2) or (3)”.

19 **30 Subsection 24G(4) (note)**

20 Omit “Section 20H provides”, substitute “Subsections 20H(2) and (3)  
21 provide”.

22 **31 Paragraph 24L(1)(a)**

23 Omit “section 24G”, substitute “subsection 24G(2) or (3A)”.

24 **32 Subsection 29(4)**

25 Omit “section 20H”, substitute “subsection 20H(2), (2AA), (2A) or  
26 (3)”.

1 **Part 2—Other amendments**

2 ***Income Tax Assessment Act 1997***

3 **33 Section 11-15 (at the end of the table item headed**  
4 **“interest”)**

5 Add:  
unclaimed money and property ..... 51-120

6 **34 At the end of Division 51**

7 Add:

8 **51-120 Interest on unclaimed money and property**

9 The following amounts are exempt from income tax:

10 (a) an amount of interest paid under paragraph 69(7AA)(b) of  
11 the *Banking Act 1959*;

12 Note: An amount of interest paid under paragraph 69(7AA)(a) of the  
13 *Banking Act 1959* is not ordinary income or statutory income.

14 (b) an amount of interest paid under subsection 1341(3A) of the  
15 *Corporations Act 2001*;

16 (c) an amount of interest paid under subsection 51C(1A) of the  
17 *First Home Saver Accounts Act 2008*;

18 (d) an amount an \*FHSA provider contributes or pays under  
19 paragraph 51C(2)(b) of the *First Home Saver Accounts Act*  
20 *2008* because it receives an amount under  
21 subsection 51C(1A);

22 (e) an amount of interest paid under paragraph 216(7A)(b) of the  
23 *Life Insurance Act 1995*.

24 Note: An amount of interest paid under paragraph 216(7A)(a) of the  
25 *Life Insurance Act 1995* is not ordinary income or statutory  
26 income.

27 Note: For interest paid under the *Superannuation (Unclaimed Money and*  
28 *Lost Members) Act 1999*, see subsections 307-142(3B) and (3C).



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## **Schedule 2—Airline transport fringe benefits**

### ***Fringe Benefits Tax Assessment Act 1986***

#### **1 Division 8 of Part III**

Repeal the Division.

#### **2 After paragraph 42(1)(aa)**

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the stand-by airline travel value of the benefit at the time the transport starts; or

#### **3 Paragraph 42(1)(a)**

Omit “paragraph (aa) does not apply”, substitute “neither paragraph (aa) nor (ab) applies”.

#### **4 Paragraph 42(1)(b)**

Omit “neither paragraph (aa) nor (a)”, substitute “none of the above paragraphs”.

#### **5 After paragraph 48(aa)**

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the stand-by airline travel value of the benefit at the comparison time; or

#### **6 Paragraph 48(a)**

Omit “paragraph (aa) does not apply”, substitute “neither paragraph (aa) nor (ab) applies”.

#### **7 After paragraph 49(aa)**

Insert:

(ab) if paragraph (aa) does not apply and the benefit is an airline transport fringe benefit—an amount equal to 75% of the

1 stand-by airline travel value of the benefit at the comparison  
2 time; or

3 **8 Paragraph 49(a)**

4 Omit “paragraph (aa) does not apply”, substitute “neither paragraph (aa)  
5 nor (ab) applies”.

6 **9 Paragraph 58P(1)(b)**

7 Repeal the paragraph.

8 **10 Section 62 (heading)**

9 Repeal the heading, substitute:

10 **62 Reduction of aggregate taxable value of in-house fringe benefits**

11 **11 Subsection 62(1)**

12 Omit “eligible fringe benefits”, substitute “in-house fringe benefits”.

13 **12 Subsection 62(2)**

14 Repeal the subsection, substitute:

15 (2) Subsection (1) does not apply to an in-house fringe benefit  
16 provided under a salary packaging arrangement.

17 **13 Subsection 136(1) (definition of *airline operator*)**

18 Repeal the definition.

19 **14 Subsection 136(1) (definition of *airline transport benefit*)**

20 Repeal the definition.

21 **15 Subsection 136(1) (definition of *airline transport fringe*  
22 *benefit*)**

23 Repeal the definition, substitute:

24 *airline transport fringe benefit* means an in-house property fringe  
25 benefit, or in-house residual fringe benefit, to the extent that the  
26 benefit:

- 1 (a) is the provision of transport in a passenger aircraft operated  
 2 by a carrier and any incidental services on board the aircraft;  
 3 and  
 4 (b) is provided subject to the stand-by restrictions that  
 5 customarily apply in relation to the provision of airline  
 6 transport to employees in the airline industry.

7 **16 Subsection 136(1) (definition of *comparison time*)**

8 Repeal the definition, substitute:

9 *comparison time*, in relation to a residual fringe benefit, means:

- 10 (a) if the fringe benefit is constituted by a benefit to which  
 11 subsection 46(2) applies—the start of the billing period  
 12 referred to in that subsection in relation to the benefit; or  
 13 (b) if the fringe benefit is a period residual fringe benefit—the  
 14 time when the recipients overall benefit started to be  
 15 provided; or  
 16 (c) if the fringe benefit is an airline transport fringe benefit—the  
 17 time when the transport starts; or  
 18 (d) otherwise—the time when the benefit is provided.

19 **17 Subsection 136(1) (definition of *domestic route*)**

20 Repeal the definition.

21 **18 Subsection 136(1) (definition of *exclusive employee airline*  
 22 *transport benefit*)**

23 Repeal the definition.

24 **19 Subsection 136(1) (definition of *extended travel airline*  
 25 *transport benefit*)**

26 Repeal the definition.

27 **20 Subsection 136(1) (definition of *international route*)**

28 Repeal the definition.

29 **21 Subsection 136(1) (definition of *providers published air*  
 30 *fare*)**

31 Repeal the definition.

1 **22 Subsection 136(1) (definition of *qualifying air fare*)**

2 Repeal the definition.

3 **23 Subsection 136(1) (paragraph (a) of the definition of**  
4 ***recipients contribution*)**

5 Omit “an airline transport fringe benefit.”

6 **24 Subsection 136(1) (paragraph (a) of the definition of**  
7 ***recipients contribution*)**

8 Omit “the recipients transport.”

9 **25 Subsection 136(1) (definition of *recipients transport*)**

10 Repeal the definition.

11 **26 Subsection 136(1)**

12 Insert:

13 *stand-by airline travel value*, in relation to an airline transport  
14 fringe benefit, means:

15 (a) if the transport is over a domestic route—50% of the carrier’s  
16 lowest standard single economy air fare:

17 (i) for that route; and

18 (ii) as publicly advertised during the year of tax; or

19 (b) if the transport is over an international route—50% of the  
20 lowest of any carrier’s standard single economy air fare:

21 (i) for that route; and

22 (ii) as publicly advertised during the year of tax.

23 **27 Subsection 136(1) (definition of *stand-by value*)**

24 Repeal the definition.

25 **28 Subsection 136(1) (definition of *travel agent*)**

26 Repeal the definition.

27 **29 Subsection 136(1) (definition of *travel diary*)**

28 Omit “an airline transport fringe benefit.”

29 **30 Paragraph 138C(a)**

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1 Repeal the paragraph.

2 **31 Application of amendments**

3 The amendments made by this Schedule apply in relation to the  
4 provision after 7.30 pm, by legal time in the Australian Capital  
5 Territory, on 8 May 2012 of:

- 6 (a) transport in aircraft; and  
7 (b) incidental services on board aircraft.

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## Schedule 3—Rural water use

### *Income Tax Assessment Act 1997*

#### **1 Section 11-55 (after table item headed “employment”)**

Insert:  
**environment**

water infrastructure improvement payments..... 59-65

#### **2 Section 12-5 (table item headed “water facilities”)**

Repeal the item, substitute:  
**water facilities**

improvements..... 26-100

see also *capital allowances*

#### **3 At the end of Division 26**

Add:

#### **26-100 Expenditure attributable to water infrastructure improvement payments**

- (1) You cannot deduct under this Act \*SRWUIP expenditure if the matching \*SRWUIP payment is, or is reasonably expected to be, \*non-assessable non-exempt income (whether for you or for another entity) under section 59-65.
- (2) *SRWUIP expenditure*, in respect of a \*SRWUIP program, is expenditure that:
  - (a) you incur that satisfies an obligation under an \*arrangement under the program; and
  - (b) is, or is reasonably expected to be, matched by a \*SRWUIP payment in respect of the program.
- (3) However, treat the expenditure as if it had never been *SRWUIP expenditure* if it is no longer reasonable to expect that the expenditure will be matched by a \*SRWUIP payment in respect of the program.

#### **4 After section 40-220**

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1                   Insert:

2                   **40-222 Cost reduced by water infrastructure improvement**  
 3                   **expenditure**

4                   The \*cost of a \*depreciating asset is reduced by any portion of it  
 5                   that consists of expenditure that you cannot deduct because of  
 6                   section 26-100.

7                   **5 Subsection 40-515(3)**

8                   Repeal the subsection, substitute:

9                   *Limit on deduction*

- 10                  (3) You cannot deduct more in total than:
- 11                   (a) for a \*water facility—the amount of capital expenditure  
 12                   (disregarding expenditure that you cannot deduct because of  
 13                   section 26-100 (about water infrastructure improvement  
 14                   expenditure)) incurred on the facility; or  
 15                   (b) for a \*horticultural plant—the amount of capital expenditure  
 16                   incurred on the plant.

17                  **6 Section 40-540 (definition of expenditure)**

18                  After “capital expenditure”, insert “(disregarding expenditure that you  
 19                  cannot deduct because of section 26-100 (about water infrastructure  
 20                  improvement expenditure))”.

21                  **7 At the end of subsection 43-70(2)**

22                  Add:

- 23                   ; or (i) expenditure that you cannot deduct because of section 26-100  
 24                   (about water infrastructure improvement expenditure).

25                  **8 At the end of Division 59**

26                  Add:

27                  **59-65 Water infrastructure improvement payments**

- 28                  (1) A \*SRWUIP payment, in respect of a \*SRWUIP program, to an  
 29                  entity that is a participant in the program is not assessable income  
 30                  and is not \*exempt income if:

- 1 (a) the entity has made a choice under subsection (2) for the  
2 program; and  
3 (b) if the payment is an \*indirect SRWUIP payment—the entity  
4 \*derives the payment because it owns an asset (otherwise  
5 than under a \*financial arrangement) to which the program  
6 relates.

7 Note: One of the requirements for a SRWUIP payment is for the SRWUIP  
8 program to be on the published list of SRWUIP programs for the day  
9 the payment is made (see subsection 59-67(5)).

10 (2) An entity may make a choice for a \*SRWUIP program under this  
11 subsection if, in an income year:

- 12 (a) the entity \*derives a \*SRWUIP payment in respect of the  
13 program but has *not*, in an earlier income year:  
14 (i) derived a SRWUIP payment in respect of the program;  
15 or  
16 (ii) incurred \*SRWUIP expenditure in respect of the  
17 program; or  
18 (b) the entity incurs SRWUIP expenditure in respect of the  
19 program but has *not*, in an earlier income year:  
20 (i) derived a SRWUIP payment in respect of the program;  
21 or  
22 (ii) incurred SRWUIP expenditure in respect of the  
23 program.

24 Disregard subsection 26-100(3) (about expenditure that is never  
25 SRWUIP expenditure) for the purposes of this subsection.

26 (3) The choice must be:

- 27 (a) made in the \*approved form; and  
28 (b) made:  
29 (i) unless subparagraph (ii) or (iii) applies—on or before  
30 the day the entity lodges its \*income tax return for the  
31 income year; or  
32 (ii) if the Commissioner makes an assessment of the entity's  
33 taxable income for the income year before the entity  
34 lodges its income tax return for the income year, and  
35 subparagraph (iii) does not apply—on or before the day  
36 the Commissioner makes that assessment; or  
37 (iii) within such further time as the Commissioner allows.

38 The choice cannot be revoked.

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1                    *Integrity rule*

- 2                    (4) Subsection (1) does not apply if, at the time the entity \*derives the  
3                    \*SRWUIP payment in respect of a \*SRWUIP program, it is  
4                    reasonable to conclude that:
- 5                    (a) the entity will not incur expenditure at least equal to the  
6                    payment on works required by the program; and
- 7                    (b) despite not incurring such expenditure, the entity will comply  
8                    with the program because an \*associate of the entity will  
9                    incur expenditure on those works; and
- 10                    (c) the associate has not made, and will not make, a choice under  
11                    subsection (2) for the program.

12                    **59-67 Meaning of *SRWUIP program*, *SRWUIP payment*, *direct***  
13                    ***SRWUIP payment* and *indirect SRWUIP payment***

- 14                    (1) A ***SRWUIP program*** is a program under the program administered  
15                    by the Commonwealth known as the Sustainable Rural Water Use  
16                    and Infrastructure program.
- 17                    (2) A ***SRWUIP payment***, in respect of a \*SRWUIP program, is:  
18                    (a) a \*direct SRWUIP payment in respect of the program; or  
19                    (b) an \*indirect SRWUIP payment in respect of the program.
- 20                    (3) A ***direct SRWUIP payment*** is a payment by the Commonwealth to  
21                    a participant in a \*SRWUIP program to the extent that it is made  
22                    under that program.
- 23                    (4) An ***indirect SRWUIP payment*** is a payment to a participant in a  
24                    \*SRWUIP program to the extent that it is reasonably attributable to  
25                    a payment by the Commonwealth under that program.
- 26                    (5) For the purposes of subsections (3) and (4), treat a payment as  
27                    being made under a \*SRWUIP program only if that SRWUIP  
28                    program is on the published list of SRWUIP programs (see  
29                    section 59-70) for the day the payment is made.
- 30                    (6) However, treat a payment as if it had never been made under a  
31                    \*SRWUIP program to the extent that the Commonwealth seeks to  
32                    recover the payment.

1 Example: The Commonwealth seeks to recover half of a payment made under a  
2 SRWUIP program. The remaining half is still a payment made under  
3 the SRWUIP program.

4 **59-70 List of SRWUIP programs**

- 5 (1) The \*Water Secretary must keep a list of \*SRWUIP programs. The  
6 list must:  
7 (a) specify the days for which each program is on the list; and  
8 (b) be published on the \*Water Department's website.

9 Example: A program could be listed for each day on or after 1 July 2011.

10 *Entering SRWUIP programs on the list*

- 11 (2) The \*Water Secretary must enter on the list each \*SRWUIP  
12 program (and its days) in accordance with a direction under  
13 subsection (3).  
14 (3) The Minister and the \*Water Minister may jointly direct the \*Water  
15 Secretary to enter a program (and its days) on the list only if the  
16 Water Minister has notified the Minister in writing that the Water  
17 Minister is satisfied that the program:  
18 (a) is a \*SRWUIP program; and  
19 (b) will generate efficiencies in water use through infrastructure  
20 improvements.  
21 (4) A direction under subsection (3) must be in writing and specify the  
22 days for which the \*SRWUIP program is to be on the list. Some or  
23 all of those days may be before the day the direction is given.

24 *Changing the days for which a SRWUIP program is listed*

- 25 (5) The Minister and the \*Water Minister may jointly direct the \*Water  
26 Secretary to change the list to specify:  
27 (a) additional days (including days before the day the direction is  
28 given) for which a \*SRWUIP program is on the list; or  
29 (b) the final day (which must be after the day the direction is  
30 given) for which a SRWUIP program is on the list.  
31 The \*Water Secretary must change the list accordingly.  
32 (6) A direction under subsection (5) must be in writing.

*Giving directions*

- (7) The Minister and the \*Water Minister must have regard to the policies and budgetary priorities of the Commonwealth Government in deciding whether to give a direction under subsection (3) or (5).

**59-75 Commissioner to be kept informed**

The \*Water Secretary must notify the Commissioner about each payment described in subsection 59-67(6) that the Commonwealth seeks to recover.

**59-80 Amending assessments**

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment for the purpose of giving effect to an outcome that is consequential on any or all of the following events:

- (a) the inclusion of a \*SRWUIP program on the published list of SRWUIP programs (see section 59-70);
- (b) the publication of a change to a SRWUIP program's listing on the published list of SRWUIP programs;
- (c) the Commonwealth seeking to recover a payment described in subsection 59-67(6);
- (d) the making of a choice under subsection 59-65(2);
- (e) the event that causes subsection 26-100(3) to treat expenditure as if it had never been \*SRWUIP expenditure; if the amendment is made at any time during the period of 2 years starting immediately after that event.

Note: Section 170 of the *Income Tax Assessment Act 1936* specifies the usual period within which assessments may be amended.

**9 At the end of section 110-38**

Add:

- (7) Expenditure does not form part of any element of the *cost base* to the extent that section 26-100 prevents it being deducted.

Note: Section 26-100 denies deductions for certain expenditure on water infrastructure improvements.

1 **10 After subsection 110-55(9F)**

2 Insert:

3 (9G) Expenditure does not form part of the *reduced cost base* to the  
4 extent that section 26-100 prevents it being deducted.

5 Note: Section 26-100 denies deductions for certain expenditure on water  
6 infrastructure improvements.

7 **11 After paragraph 118-37(1)(g)**

8 Insert:

9 (ga) a \*water entitlement, to the extent that the CGT event  
10 happens because an entity \*derives a \*SRWUIP payment that  
11 is \*non-assessable non-exempt income under section 59-65;

12 (gb) a \*SRWUIP payment you derive that is non-assessable  
13 non-exempt income under section 59-65;

14 **12 Subsection 995-1(1)**

15 Insert:

16 *direct SRWUIP payment* has the meaning given by  
17 subsection 59-67(3).

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

19 Insert:

20 *indirect SRWUIP payment* has the meaning given by  
21 subsection 59-67(4).

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

23 Insert:

24 *SRWUIP expenditure* has the meaning given by  
25 subsections 26-100(2) and (3).

26 **15 Subsection 995-1(1)**

27 Insert:

28 *SRWUIP payment* has the meaning given by subsection 59-67(2).

29 **16 Subsection 995-1(1)**

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1           Insert:

2                     **SRWUIP program** has the meaning given by subsection 59-67(1).

3       **17 Subsection 995-1(1)**

4           Insert:

5                     **Water Secretary** means the Secretary of the \*Water Department.

6       **18 Application of amendments**

7           The amendments made by this Schedule apply in relation to payments  
8           made on or after 1 April 2010 by the Commonwealth under a SRWUIP  
9           program.

10       **19 Transitional provision—time for making choices**

- 11       (1)     This item applies if, apart from this item, a choice under  
12           subsection 59-65(2) of the *Income Tax Assessment Act 1997* must be  
13           made on or before the day this Schedule commences.
- 14       (2)     Despite paragraph 59-65(3)(b) of that Act, the choice must be made and  
15           given to the Commissioner:  
16                 (a) within the 2 year period starting at that commencement; or  
17                 (b) within such further time as the Commissioner allows.

18       Note:   The requirements for making the choice must still be satisfied (see subsection 59-65(2)  
19           of that Act). This item does not change the income years referred to in that subsection.

1 **Schedule 4—Self managed superannuation**  
2 **funds and related parties**

3 **Part 1—Main amendments**

4 *Superannuation Industry (Supervision) Act 1993*

5 **1 Subsection 10(1)**

6 Insert:

7 *business real property* has the meaning given by section 21.

8 **2 Subsection 10(1)**

9 Insert:

10 *primary production business* has the same meaning as in the  
11 *Income Tax Assessment Act 1997*.

12 **3 At the end of Division 2 of Part 1**

13 Add:

14 **21 Business real property**

15 (1) *Business real property*, of an entity, is:

16 (a) any freehold or leasehold interest of the entity in real  
17 property; or

18 (b) any interest of the entity in Crown land, other than a  
19 leasehold interest, being an interest that is capable of  
20 assignment or transfer; or

21 (c) if another class of interest relating to real property is  
22 prescribed by regulations made for the purposes of this  
23 paragraph—any interest of that class held by the entity;

24 if the real property is used wholly and exclusively in one or more  
25 businesses (whether carried on by the entity or not).

26 (2) *Business real property* does not include any interest held in the  
27 capacity of beneficiary of a trust estate.

- 1 (3) For the purposes of subsection (1), real property used in one or  
2 more primary production businesses does not cease to be used  
3 wholly and exclusively in those businesses only because:  
4 (a) an area of the real property, not exceeding 2 hectares,  
5 contains a dwelling used primarily for domestic or private  
6 purposes; and  
7 (b) the area is also used primarily for domestic or private  
8 purposes;  
9 provided that the use for domestic or private purposes referred to in  
10 paragraphs (a) and (b) is not the predominant use of the real  
11 property.

- 12 (4) In this section:

13 *business* includes any profession, trade, employment, vocation or  
14 calling carried on for the purposes of profit, including:

- 15 (a) the carrying on of primary production; and  
16 (b) the provision of professional services;

17 but does not include occupation as an employee.

#### 18 **4 Transitional provision—in-house assets**

- 19 (1) For an asset that was an asset of a superannuation fund during any part  
20 of the period:  
21 (a) starting on 7 July 2010; and  
22 (b) ending on the day before the commencement of this Part;  
23 paragraph 71(1)(g) of the *Superannuation Industry (Supervision) Act*  
24 *1993* applies as if the expression ***business real property*** of the fund had  
25 the same meaning in that paragraph as it had in subsection 66(5) of that  
26 Act.  
27 (2) This item has effect despite item 9 of Schedule 1 to the *Superannuation*  
28 *Industry (Supervision) Amendment Act 2010*.

#### 29 **5 Section 62A**

30 Before “The” (first occurring), insert “(1)”.

#### 31 **6 At the end of section 62A**

32 Add:

1 (2) Subsection (1) has effect subject to section 66A (about acquisitions  
2 of certain assets).

3 **7 Subsection 66(1)**

4 After “regulated superannuation fund”, insert “(other than a self  
5 managed superannuation fund)”.

6 **8 Subparagraph 66(2A)(a)(iv)**

7 Omit “(ba),”.

8 **9 Subsection 66(5) (definition of *business*)**

9 Repeal the definition.

10 **10 Subsection 66(5) (definition of *business real property*)**

11 Repeal the definition.

12 **11 Subsection 66(5) (definition of *primary production*  
13 *business*)**

14 Repeal the definition.

15 **12 Subsection 66(6)**

16 Repeal the subsection.

17 **13 After section 66**

18 Insert:

19 **66A Self managed superannuation funds—certain acquisitions**

20 (1) This section applies in relation to self managed superannuation  
21 funds that are regulated superannuation funds.

22 *Certain assets not to be acquired from related parties*

23 (2) A trustee or an investment manager of a self managed  
24 superannuation fund must not acquire an asset from a related party  
25 of the fund.

26 Note: This subsection is a civil penalty provision (see subsection (5)).



1 *Exceptions*

- 2 (3) Subsection (2) does not apply if:
- 3 (a) the asset is a listed security acquired in a way prescribed by
- 4 regulations made for the purposes of this paragraph; or
- 5 (b) the asset is business real property of the related party, and the
- 6 acquisition of the asset is at market value, as determined by a
- 7 qualified independent valuer; or
- 8 (c) the asset is acquired:
- 9 (i) under a merger between regulated superannuation
- 10 funds; and
- 11 (ii) at market value, as determined by a qualified
- 12 independent valuer; or
- 13 (d) the acquisition of the asset:
- 14 (i) constitutes an investment covered by a subparagraph of
- 15 paragraph 66(2A)(a); and
- 16 (ii) is at market value, as determined by a qualified
- 17 independent valuer; and
- 18 (iii) would not result in the level of in-house assets of the
- 19 fund (within the meaning of Part 8) exceeding the level
- 20 permitted by that Part; or
- 21 (e) the asset is acquired solely as a result of a change to the
- 22 trustees of the self managed superannuation fund; or
- 23 (f) the asset is money; or
- 24 (g) the asset is of a kind that the Regulator, by legislative
- 25 instrument, determines may be acquired by self managed
- 26 superannuation funds.

27 Note: A determination under paragraph (g) may specify different kinds of

28 assets for different classes of self managed superannuation funds (see

29 subsection 33(3A) of the *Acts Interpretation Act 1901*).

- 30 (4) Subsections 66(2B) and (2C) apply in relation to subsection (2) of
- 31 this section in a corresponding way to the way those subsections
- 32 apply in relation to subsection 66(1).

33 *Civil penalty provision*

- 34 (5) Subsection (2) is a civil penalty provision as defined by
- 35 section 193, and Part 21 therefore provides for civil and criminal
- 36 consequences of contravening, or of being involved in a
- 37 contravention of, that subsection.

**66B Self managed superannuation funds—certain disposals**

- (1) This section applies in relation to self managed superannuation funds that are regulated superannuation funds.

*Certain assets not to be disposed of to related parties*

- (2) A trustee or an investment manager of a self managed superannuation fund must not dispose of an asset to a related party of the fund.

Note: This subsection is a civil penalty provision (see subsection (5)).

*Exceptions*

- (3) Subsection (2) does not apply if:
- (a) the asset is a listed security disposed of in a way prescribed by regulations made for the purposes of this paragraph; or
  - (b) the asset is one to which regulations in force for the purposes of section 62A (about collectables and personal use assets) apply; or
  - (c) the asset is money; or
  - (d) the asset is of a kind that the Regulator, by legislative instrument, determines may be disposed of by self managed superannuation funds; or

Note: A determination under paragraph (d) may specify different kinds of assets for different classes of self managed superannuation funds (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

- (e) the asset is disposed of solely as a result of a change to the trustees of the self managed superannuation fund; or
  - (f) the asset is not a listed security and is disposed of for market value, as determined by a qualified independent valuer.
- (4) Subsection (2) does not apply if:
- (a) the disposal of the asset is to a trustee or an investment manager of another self managed superannuation fund; and
  - (b) the trustee or investment manager of the other fund may acquire the asset only because of the operation of subsection 66A(4).

1 *Civil penalty provision*

- 2 (5) Subsection (2) is a civil penalty provision as defined by  
3 section 193, and Part 21 therefore provides for civil and criminal  
4 consequences of contravening, or of being involved in a  
5 contravention of, that subsection.

6 **66C Self managed superannuation funds—avoidance schemes**

- 7 (1) A person must not enter into, commence to carry out, or carry out a  
8 scheme (within the meaning of section 66) if:  
9 (a) the scheme results, or is likely to result, in a trustee or an  
10 investment manager of a self managed superannuation fund:  
11 (i) acquiring an asset from an entity; or  
12 (ii) disposing of an asset to an entity; and  
13 (b) the scheme avoids subsection 66A(2) from applying to the  
14 acquisition, or subsection 66B(2) from applying to the  
15 disposal, (as appropriate) because the entity is not a related  
16 party of the fund; and  
17 (c) that subsection would so apply were the entity a related party  
18 of the fund; and  
19 (d) the entity has a connection, directly or indirectly through one  
20 or more interposed entities, with a related party of the fund.

- 21 (2) Subsection (1) is a civil penalty provision as defined by  
22 section 193, and Part 21 therefore provides for civil and criminal  
23 consequences of contravening, or of being involved in a  
24 contravention of, that subsection.

25 **14 After paragraph 193(b)**

26 Insert:

- 27 (ba) subsection 66A(2);  
28 (bb) subsection 66B(2);  
29 (bc) subsection 66C(1);

1 **Part 2—Administrative penalties**

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

3 **15 Subsection 66A(2) (note)**

4 Omit “Note”, substitute “Note 1”.

5 **16 At the end of subsection 66A(2)**

6 Add:

7 Note 2: Section 166 imposes an administrative penalty for a contravention of  
8 this subsection.

9 **17 Subsection 66B(2) (note)**

10 Omit “Note”, substitute “Note 1”.

11 **18 At the end of subsection 66B(2)**

12 Add:

13 Note 2: Section 166 imposes an administrative penalty for a contravention of  
14 this subsection.

15 **19 Subsection 166(1) (after table item 3)**

16 Insert:

3A	Subsection 66A(2)	60 penalty units
3B	Subsection 66B(2)	60 penalty units

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17 **20 Application of amendments**

18 The amendments made by this Part apply in relation to acquisitions, and  
19 disposals, happening on or after the commencement of this Part.

1 **Schedule 5—Loss carry back**

2 **Part 1—Main amendments**

3 ***Income Tax Assessment Act 1997***

4 **1 Section 67-23 (after table item 13)**

5 Insert:

13A corporate losses \*loss carry back tax offset under  
Division 160

6 **2 Before Division 164**

7 Insert:

8 **Division 160—Corporate loss carry back tax offset**

9 **Table of Subdivisions**

10		Guide to Division 160
11	160-A	Object of this Division
12	160-B	Entitlement to and amount of loss carry back tax offset
13	160-C	Loss carry back choice

14 **Guide to Division 160**

15 **160-1 What this Division is about**

16 A corporate tax entity can choose to “carry back” a tax loss it has  
17 for the current year, or for the preceding income year, against the  
18 income tax liability it had for either of the 2 income years  
19 preceding the current year.

20 The entity gets a refundable tax offset for the current year that is a  
21 proxy for the tax the entity would save if it deducted the loss in the  
22 income year to which the loss is “carried back”.

1 The refundable tax offset is capped at the lesser of \$1,000,000  
2 multiplied by the corporate tax rate, and the entity's franking  
3 account balance.

4 **Subdivision 160-A—Object of this Division**

5 **Table of sections**

6 160-5 Object of this Division

7 **160-5 Object of this Division**

8 The object of this Division is to reduce the tax disincentive for  
9 corporate tax entities to take sensible investment risks. The  
10 Division does this by allowing such entities to offset their tax  
11 losses against their income tax liabilities for the 2 previous income  
12 years through a refundable tax offset.

13 **Subdivision 160-B—Entitlement to and amount of loss carry  
14 back tax offset**

15 **Table of sections**

16 160-10 Entitlement to loss carry back tax offset

17 160-15 Amount of loss carry back tax offset

18 **160-10 Entitlement to loss carry back tax offset**

19 An entity is entitled to a <sup>\*</sup>tax offset (the *loss carry back tax offset*)  
20 for the <sup>\*</sup>current year if the following conditions are satisfied:

21 (a) the entity is a <sup>\*</sup>corporate tax entity throughout the current  
22 year;

23 Note: See also section 160-25.

24 (b) either or both of the following income years were <sup>\*</sup>loss years:

25 (i) the current year;

26 (ii) the income year just before the current year (the *middle*  
27 *year*);

28 (c) the entity had an <sup>\*</sup>income tax liability for either or both of the  
29 following income years:

30 (i) the middle year;

- 1 (ii) the income year just before the middle year (the *earliest*  
2 *year*);
- 3 (d) any of the following requirements are satisfied for the current  
4 year and each of the 5 income years before the current year:
- 5 (i) the entity has lodged its \*income tax return for the year;
- 6 (ii) the entity was not required to lodge an income tax return  
7 for the year;
- 8 (iii) the Commissioner has made an assessment of the  
9 entity's income tax for the year;
- 10 (e) the entity makes a \*loss carry back choice for the current year  
11 in accordance with Subdivision 160-C.

12 Note 1: The entity is entitled to only one loss carry back tax offset for the  
13 current year. However, that offset has 2 components, one relating to  
14 the earliest year and one relating to the middle year: see  
15 section 160-15.

16 Note 2: The loss carry back tax offset is a refundable tax offset: see  
17 section 67-23.

## 18 **160-15 Amount of loss carry back tax offset**

- 19 (1) The amount of the entity's \*loss carry back tax offset for the  
20 \*current year is the least of the following amounts:
- 21 (a) the sum of the \*loss carry back tax offset components for the  
22 earliest year and the middle year;
- 23 (b) the entity's \*franking account balance at the end of the  
24 current year;
- 25 (c) \$1,000,000 multiplied by the \*corporate tax rate for the  
26 current year.
- 27 (2) For the purposes of working out the amount of the entity's \*loss  
28 carry back tax offset for the \*current year, the entity's ***loss carry***  
29 ***back tax offset component*** for an income year is worked out as  
30 follows:

31 *Method statement*

- 32 Step 1. Start with the amount of the \*tax loss the entity \*carries  
33 back to the income year (or the sum of the amounts of the  
34 tax losses the entity carries back to the income year).

**Schedule 5** Loss carry back  
**Part 1** Main amendments

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Note: If no amount is carried back to the income year, the step 1 amount, and the *loss carry back tax offset component* for the income year, are nil.

Step 2. Reduce the step 1 amount by the entity's \*net exempt income for the income year.

Note: Do not reduce the step 1 amount by the entity's net exempt income to the extent the net exempt income has already been utilised: see section 960-20.

Step 3. Multiply the step 2 amount by the \*corporate tax rate for the \*current year.

Step 4. The entity's *loss carry back tax offset component* for the income year is so much of the entity's \*income tax liability for the income year as does not exceed the step 3 amount.

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Example: Redom Pty Ltd has at the end of the 2013-14 income year:

- (a) a tax loss of \$900,000 for that year and a franking account balance of \$280,000; and
- (b) for the 2011-12 income year—an income tax liability of \$120,000 and net exempt income of \$5,000; and
- (c) for the 2012-13 income year—an income tax liability of \$210,000.

Redom chooses to carry back \$405,000 of its tax loss for the 2013-14 year to the 2011-12 year and \$495,000 of that loss to the 2012-13 year.

Redom's loss carry back tax offset for the 2013-14 year is \$268,500, worked out as follows:

- (a) an offset component for the 2011-12 income year of \$120,000, calculated by starting with the \$405,000 carried back, reducing that at step 2 by \$5,000, and multiplying the result by 30%.
- (b) an offset component for the 2012-13 income year of \$148,500, calculated by starting with the \$495,000 carried back and multiplying the result by 30%.

The sum of the 2 components is \$268,500 (which is less than Redom's \$280,000 franking account balance at the end of the 2013-14 year). If that sum had exceeded that balance, the amount of the offset would have been limited under paragraph (1)(b) to that balance.

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*Income tax liability for earliest year already utilised*

- (3) For the purposes of applying step 4 of the method statement in subsection (2) to work out the entity's \*loss carry back tax offset
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1 component for the earliest year, disregard so much of the entity's  
2 \*income tax liability for the earliest year as has previously been  
3 included (for the purpose of working out the entity's entitlement to  
4 a \*loss carry back tax offset for the middle year) in a loss carry  
5 back tax offset component.

6 *Foreign residents*

7 (4) Paragraph (1)(b) does not apply if the entity was a foreign resident  
8 (other than an \*NZ franking company) for:

9 (a) if the entity \*carries back an amount to the earliest year—  
10 more than half of the earliest year; and

11 (b) if the entity carries back an amount to the middle year—more  
12 than half of the middle year.

13 **Subdivision 160-C—Loss carry back choice**

14 **Table of sections**

15	160-20	Loss carry back choice
16	160-25	Entity must have been a corporate tax entity during relevant years
17	160-30	Transferred tax losses etc. not included
18	160-35	Integrity rule—no loss carry back tax offset if scheme entered into

19 **160-20 Loss carry back choice**

20 (1) The entity may make a *loss carry back choice* for the \*current year  
21 that specifies:

22 (a) how much of the entity's \*tax loss for the current year (if  
23 any) is to be carried back to the earliest year; and

24 (b) how much of the entity's tax loss for the middle year (if any)  
25 is to be carried back to the earliest year; and

26 (c) how much of the entity's tax loss for the current year (if any)  
27 is to be carried back to the middle year.

28 (2) The choice must be made in the \*approved form by:

29 (a) the day the entity lodges its \*income tax return for the  
30 \*current year; or

31 (b) such later day as the Commissioner allows.

1 **160-25 Entity must have been a corporate tax entity during relevant**  
2 **years**

- 3 (1) The entity cannot \*carry back an amount of a \*tax loss to the  
4 earliest year unless the entity was a \*corporate tax entity  
5 throughout the earliest year and the middle year.
- 6 (2) The entity cannot \*carry back an amount of a \*tax loss to the  
7 middle year unless the entity was a \*corporate tax entity throughout  
8 the middle year.

9 Note: The entity must be a corporate tax entity throughout the current year:  
10 see paragraph 160-10(a).

11 **160-30 Transferred tax losses etc. not included**

12 The entity cannot \*carry back an amount of a \*tax loss for an  
13 income year, to the extent that the loss:

- 14 (a) was transferred to or from the entity under Division 170 or  
15 Subdivision 707-A (about certain company groups); or  
16 (b) exceeds the amount that would be the entity's tax loss for the  
17 year if section 36-55 (about excess franking offsets) were  
18 disregarded.

19 **160-35 Integrity rule—no loss carry back tax offset if scheme**  
20 **entered into**

21 *No loss carry back tax offset if scheme entered into*

- 22 (1) The \*corporate tax entity cannot \*carry back an amount of a \*tax  
23 loss to an income year (the *gain year*) if:  
24 (a) there is a \*scheme for a disposition of \*membership interests,  
25 or an \*interest in membership interests, in:  
26 (i) the corporate tax entity; or  
27 (ii) an entity that has a direct or indirect interest in the  
28 corporate tax entity; and  
29 (b) the scheme is entered into or carried out during the period:  
30 (i) starting at the start of the gain year; and  
31 (ii) ending at the end of the \*current year; and  
32 (c) the disposition results in a change in who controls, or is able  
33 to control, (whether directly, or indirectly through one or

- 1 more interposed entities) the voting power in the corporate  
2 tax entity; and
- 3 (d) another entity receives, in connection with the scheme, a  
4 \*financial benefit calculated by reference to one or more \*loss  
5 carry back tax offsets to which it was reasonable, at the time  
6 the scheme was entered into or carried out, to expect the  
7 corporate tax entity would be entitled; and
- 8 (e) having regard to the relevant circumstances of the scheme, it  
9 would be concluded that a person, or one of the persons, who  
10 entered into or carried out the scheme or any part of the  
11 scheme did so for a purpose (whether or not the dominant  
12 purpose but not including an incidental purpose) of enabling  
13 the corporate tax entity to get a loss carry back tax offset.

14 *Relevant circumstances*

- 15 (2) For the purposes of paragraph (1)(e), the relevant circumstances of  
16 the \*scheme for a disposition include the following:
- 17 (a) the extent to which the \*corporate tax entity continued to  
18 conduct the same activities after the scheme as it did before  
19 the scheme;
- 20 (b) if the corporate tax entity continued to use the same assets  
21 after the scheme as it did before the scheme—the extent to  
22 which those assets were assets for which equivalents were  
23 not readily available at the time of the scheme;
- 24 (c) the matters referred to in subparagraphs 177D(b)(i) to (viii)  
25 of the *Income Tax Assessment Act 1936* (applying  
26 subparagraph 177D(b)(iv) as if the reference to Part IVA of  
27 that Act were instead a reference to this section).

28 *Application of this section to non-share equity interests*

- 29 (3) This section:
- 30 (a) applies to a \*non-share equity interest in the same way as it  
31 applies to a \*membership interest; and
- 32 (b) applies to an \*equity holder in the same way as it applies to a  
33 \*member.

34 **3 Subsection 995-1(1)**

35 Insert:

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1 *income tax liability*, of an entity for an income year, is the amount  
2 assessed as being the amount of income tax that the entity owes (as  
3 mentioned in step 4 of the method statement in subsection 4-10(3))  
4 for the financial year applicable to the entity under  
5 subsection 4-10(2).

6 **4 Subsection 995-1(1)**

7 Insert:

8 *interest in membership interests* has the same meaning as in  
9 section 177EA of the *Income Tax Assessment Act 1936*.

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

11 Insert:

12 *scheme for a disposition*, in relation to \*membership interests or an  
13 \*interest in membership interests, has the same meaning as in  
14 section 177EA of the *Income Tax Assessment Act 1936*.

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

16 **6 Before Division 165**

17 Insert:

18 **Division 160—Loss carry back tax offset**

19 **Table of Subdivisions**

20 160-A Application of Division 160 of the Income Tax Assessment  
21 Act 1997

22 **Subdivision 160-A—Application of Division 160 of the Income  
23 Tax Assessment Act 1997**

24 **Table of sections**

25 160-1 Application of Division 160 of the *Income Tax Assessment Act 1997*  
26 160-5 Modification for 2012-13 income year—no carry back to 2010-11 income  
27 year

1 **160-1 Application of Division 160 of the *Income Tax Assessment Act***  
2 ***1997***

3 Division 160 of the *Income Tax Assessment Act 1997* applies to  
4 assessments for the 2012-13 income year and later income years.

5 **160-5 Modification for 2012-13 income year—no carry back to**  
6 **2010-11 income year**

- 7 (1) This section applies to assessments for the 2012-13 income year.
- 8 (2) Despite subsection 160-15(2) of the *Income Tax Assessment Act*  
9 *1997*, an entity's loss carry back tax offset component for the  
10 2010-11 income year is treated as being nil.

1 **Part 2—Ascertainment of totals of tax offset refunds**

2 **Division 1—Amendments relating to the 2012-13 income**  
3 **year**

4 *Income Tax Assessment Act 1997*

5 **7 Section 355-700**

6 Repeal the section.

7 **8 Application of amendment**

8 The amendment made by item 7 does not apply in relation to an  
9 objection made before the commencement of this item.

10 **9 Subsection 995-1(1)**

11 Insert:

12 *tax offset refund*, of yours for an income year, means a refund you  
13 can get as mentioned in item 40 of the table in subsection 63-10(1)  
14 (refundable tax offsets) for the income year.

15 *Income Tax (Transitional Provisions) Act 1997*

16 **10 At the end of Part 2-20**

17 Add:

18 **Division 67—Refundable tax offset rules**

19 **Table of Subdivisions**

20 67-L Notices of totals of tax offset refunds for 2012-13 income  
21 year

22 **Subdivision 67-L—Notices of totals of tax offset refunds for**  
23 **2012-13 income year**

24 **Table of sections**

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- 1                   **Giving notices**  
2           67-100   Notices of total of tax offset refunds  
3           67-105   Deemed notices  
4           67-110   Requests for notices  
5           67-115   Effect of notices

- 6                   **Amending notices**  
7           67-120   Amendment of notices

- 8                   **Validity of notices, evidence and review**  
9           67-125   Validity of notices  
10          67-130   Evidence  
11          67-135   Review of notices

12           **Giving notices**

13           **67-100 Notices of total of tax offset refunds**

- 14                   (1) The Commissioner may at any time give you a notice specifying:  
15                         (a) the amount the Commissioner has ascertained as being the  
16                                 total of your tax offset refunds for the 2012-13 income year;  
17                                 or  
18                         (b) that the Commissioner has ascertained that you can get no  
19                                 such refunds for the 2012-13 income year.
- 20                   (2) The notice may be included in any notice the Commissioner gives  
21                                 to you, including a notice of assessment.
- 22                   (3) The Commissioner may give you the notice electronically if you  
23                                 are required to lodge, or have lodged, your income tax return for  
24                                 the income year electronically.

25           **67-105 Deemed notices**

- 26                   (1) This section applies if:  
27                         (a) an entity is a self-assessment entity for the 2012-13 income  
28                                 year; and  
29                         (b) the entity lodges its income tax return for the 2012-13  
30                                 income year at a particular time; and  
31                         (c) just before that time, the Commissioner has not already given  
32                                 the entity a notice under section 67-100.

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- 1 (2) The Commissioner is taken:  
2 (a) to have ascertained, in accordance with what the entity  
3 specified in the return:  
4 (i) an amount as being the total of the entity's tax offset  
5 refunds for the income year; or  
6 (ii) that the entity can get no such refunds for the income  
7 year; and  
8 (b) to have given the entity a notice to that effect under  
9 section 67-100 on the day on which the entity lodges the  
10 return.

11 **67-110 Requests for notices**

- 12 (1) You may request the Commissioner in the approved form to give  
13 you a notice under this Subdivision.
- 14 (2) The Commissioner must comply with the request if:  
15 (a) the Commissioner has not already given you a notice under  
16 this Subdivision; and  
17 (b) you make the request on or after:  
18 (i) the day you lodge your income tax return for the income  
19 year; or  
20 (ii) if you were not required to lodge an income tax return  
21 for the income year—the day after the end of the  
22 income year; and  
23 (c) you make the request before the end of:  
24 (i) if the Commissioner has given or gives you a notice of  
25 assessment for the income year—the period within  
26 which you may object against the assessment under  
27 paragraph 14ZW(1)(aa) of the *Taxation Administration*  
28 *Act 1953*; or  
29 (ii) otherwise—2 years after the end of the income year; or  
30 (iii) in any case—such further period as the Commissioner  
31 allows.
- 32 (3) The Commissioner is treated, for the purposes of section 67-135, as  
33 having given you, on the 60th day after you make the request, a  
34 notice specifying that the Commissioner has ascertained that you  
35 can get no tax offset refunds for the income year, if the  
36 Commissioner has not complied with the request by that 60th day.



1 **67-115 Effect of notices**

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

9 **Amending notices**

10 **67-120 Amendment of notices**

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

13 **Validity of notices, evidence and review**

14 **67-125 Validity of notices**

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

17 **67-130 Evidence**

- 18 (1) The production of:  
19 (a) a notice given under this Subdivision; or  
20 (b) a document under the hand of the Commissioner, a Second  
21 Commissioner, or a Deputy Commissioner, purporting to be  
22 a copy of a notice given under this Subdivision;  
23 is, except in proceedings under Part IVC of the *Taxation*  
24 *Administration Act 1953* on a review or appeal relating to the  
25 notice, conclusive evidence that the notice was given and of the  
26 particulars in it.
- 27 (2) The production of a document under the hand of the  
28 Commissioner, a Second Commissioner, or a Deputy  
29 Commissioner, purporting to be a copy of or extract from a notice  
30 given under this Subdivision is evidence of the matters set out in

1 the document to the same extent as the original would have been  
2 evidence of those matters.

3 **67-135 Review of notices**

4 (1) You may object, in the manner set out in Part IVC of the *Taxation*  
5 *Administration Act 1953*, against a notice given to you under this  
6 Subdivision if you are dissatisfied with the notice.

7 (2) Section 14ZV of the *Taxation Administration Act 1953* applies to  
8 an amended notice in the same way as it applies to an amended  
9 determination.

10 (3) Despite subsection 14ZW(1) of that Act (and without limiting  
11 subsections 14ZW(2) and (3)), you must lodge the objection with  
12 the Commissioner before the end of:

13 (a) if the Commissioner gives you a notice of assessment for the  
14 income year—the period within which you may object  
15 against the assessment; or

16 (b) if the Commissioner does not give you a notice of  
17 assessment—the period within which you may have objected  
18 against an assessment under subsection 14ZW(1) if the  
19 Commissioner had given you notice of the assessment on the  
20 day the Commissioner gave you the notice under this  
21 Subdivision.

22 **Division 2—Amendments applying from the 2013-14 year**  
23 **of income**

24 ***Income Tax Assessment Act 1936***

25 **11 Subsection 6(1) (paragraphs (a) to (d) of the definition of**  
26 **assessment)**

27 Repeal the paragraphs, substitute:

28 (a) the ascertainment:

29 (i) of the amount of taxable income (or that there is no  
30 taxable income); and

31 (ii) of the tax payable on that taxable income (or that no tax  
32 is payable); and

- 1 (iii) of the total of a taxpayer's tax offset refunds for a year  
2 of income (or that the taxpayer can get no such refunds  
3 for the year of income); or
- 4 Note 1: A taxpayer does not have a taxable income if the taxpayer's  
5 deductions equal or exceed the taxpayer's assessable income: see  
6 subsection 4-15(1) of the *Income Tax Assessment Act 1997*.
- 7 Note 2: A taxpayer may have no tax payable on an amount of taxable  
8 income if that income is below the tax-free threshold or if the  
9 taxpayer's tax offsets reduce the taxpayer's basic income tax  
10 liability to nil.
- 11 (b) for a taxpayer that is the trustee of a unit trust that is a  
12 corporate unit trust (within the meaning of section 102J)—  
13 the ascertainment:
- 14 (i) of the net income of the trust (within the meaning of  
15 section 102D) (or that there is no net income); and  
16 (ii) of the tax payable on that net income (or that no tax is  
17 payable); and  
18 (iii) of the total of the taxpayer's tax offset refunds for a year  
19 of income (or that the taxpayer can get no such refunds  
20 for the year of income); or
- 21 (c) for a taxpayer that is the trustee of a unit trust that is a public  
22 trading trust (within the meaning of section 102R)—the  
23 ascertainment:
- 24 (i) of the net income of the trust (within the meaning of  
25 section 102M) (or that there is no net income); and  
26 (ii) of the tax payable on that net income (or that no tax is  
27 payable); and  
28 (iii) of the total of a taxpayer's tax offset refunds for a year  
29 of income (or that the taxpayer can get no such refunds  
30 for the year of income); or
- 31 (d) for a taxpayer that is the trustee of a trust estate (other than a  
32 trustee to which paragraph (b) or (c) applies or the trustee of  
33 a complying superannuation fund, a non-complying  
34 superannuation fund, a complying approved deposit fund, a  
35 non-complying approved deposit fund or a pooled  
36 superannuation trust)—the ascertainment:
- 37 (i) of so much of the net income of the trust estate as is net  
38 income in respect of which the trustee is liable to pay  
39 tax (or that there is no net income in respect of which  
40 the trustee is so liable); and
-

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- 1 (ii) of the tax payable on that net income (or that no tax is  
2 payable); and  
3 (iii) of the total of a taxpayer's tax offset refunds for a year  
4 of income (or that the taxpayer can get no such refunds  
5 for the year of income); or

6 **12 Subsection 6(1)**

7 Insert:

8 *tax offset refund* has the meaning given by the *Income Tax*  
9 *Assessment Act 1997*.

10 **13 After paragraph 161AA(b)**

11 Insert:

- 12 (ba) the total of its tax offset refunds for that year of income (or  
13 that it can get no such refund for that year of income); or

14 **14 Section 166**

15 Repeal the section, substitute:

16 **166 Assessment**

17 From the returns, and from any other information in the  
18 Commissioner's possession, or from any one or more of these  
19 sources, the Commissioner must make an assessment of:

- 20 (a) the amount of the taxable income (or that there is no taxable  
21 income) of any taxpayer; and  
22 (b) the amount of the tax payable thereon (or that no tax is  
23 payable); and  
24 (c) the total of the taxpayer's tax offset refunds (or that the  
25 taxpayer can get no such refunds).

26 **15 Paragraph 166A(3)(c)**

27 Repeal the paragraph, substitute:

- 28 (c) the Commissioner is taken to have made an assessment of:  
29 (i) the taxable income or net income (or an assessment that  
30 there is no taxable income or net income); and  
31 (ii) the tax payable on that income (or that no tax is  
32 payable); and

- 1 (iii) the total of the taxpayer's tax offset refunds for the year  
2 of income (or that the taxpayer can get no such refunds);  
3 in accordance with what the taxpayer specified in the return;

4 **16 Subsection 168(1)**

5 Repeal the subsection, substitute:

- 6 (1) The Commissioner may at any time during any year, or after its  
7 expiration, make an assessment of:  
8 (a) the taxable income derived (or that there is no taxable  
9 income) in that year or any part of it by any taxpayer; and  
10 (b) the tax payable thereon (or that no tax is payable); and  
11 (c) the total of the taxpayer's tax offset refunds for that year or  
12 that part of it (or that the taxpayer can get no such refunds).

13 **17 After section 172**

14 Insert:

15 **172A Consequences of amendment of assessments of tax offset**  
16 **refunds**

17 *Amendment increases total of tax offset refunds*

- 18 (1) If, by reason of an amendment of an assessment, the total of a  
19 person's tax offset refunds is increased, the Commissioner must  
20 apply the amount of the increase in accordance with Divisions 3  
21 and 3A of Part IIB of the *Taxation Administration Act 1953*.

22 Note: Interest on the amount of the increase may be payable under the  
23 *Taxation (Interest on Overpayments and Early Payments) Act 1983*.

24 *Amendment reduces total of tax offset refunds*

- 25 (2) If:  
26 (a) by reason of an amendment of an assessment, the total of a  
27 person's tax offset refunds is reduced; and  
28 (b) as a result, an amount applied in accordance with Divisions 3  
29 and 3A of Part IIB of the *Taxation Administration Act 1953*  
30 before the amendment was excessive;

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1 the person is liable to pay to the Commonwealth the amount of the  
2 excess. The amount is due 21 days after the Commissioner gives  
3 the person notice of the amended assessment.

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

6 (3) If any of the amount (the *overpayment*) the person is liable to pay  
7 under subsection (2) remains unpaid after the time by which it is  
8 due to be paid, the person is liable to pay the general interest  
9 charge on the unpaid amount for each day in the period that:

10 (a) starts at the beginning of the day on which the overpayment  
11 was due to be paid; and

12 (b) finishes at the end of the last day on which, at the end of the  
13 day, any of the following remains unpaid:

14 (i) the overpayment;

15 (ii) general interest charge on any of the overpayment.

16 Note: The general interest charge is worked out under Part IIA of the  
17 *Taxation Administration Act 1953*.

18 **18 Paragraph 175A(2)(b)**

19 Omit “payable;”, substitute “payable.”.

20 **19 Subsection 175A(2)**

21 Omit “unless the taxpayer is seeking an increase in the taxpayer’s  
22 liability”.

23 **20 At the end of section 175A**

24 Add:

25 (3) Subsection (2) does not prevent the taxpayer from objecting  
26 against an assessment if the taxpayer is seeking an increase in:

27 (a) the taxpayer’s liability; or

28 (b) the total of the taxpayer’s tax offset refunds.

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

30 **21 At the end of subsection 67-100(1)**

31 Add:

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

4 ***Taxation Administration Act 1953***

5 **22 Subsection 8AAB(4) (after table item 10)**

6 Insert:

10A	172A	<i>Income Tax Assessment Act</i> 1936	repayments of excessive tax offset refunds
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7 **23 Subsection 250-10(1) in Schedule 1 (after table item 50)**

8 Insert:

70 excessive tax offset refunds 172A(2)

9 **24 Application of amendments**

10 The amendments made by this Division apply to assessments made on  
11 or after 1 July 2013 for the 2013-14 income year or later income years.

12 **Division 3—Taxation Administration Act 1953**

13 **25 Paragraph 14ZZK(b)**

14 Repeal the paragraph, substitute:

- 15 (b) the applicant has the burden of proving:
- 16 (i) if the taxation decision concerned is an assessment—  
17 that the assessment is excessive or otherwise incorrect  
18 and what the assessment should have been; or
- 19 (ii) in any other case—that the taxation decision concerned  
20 should not have been made or should have been made  
21 differently.

22 **26 Paragraph 14ZZO(b)**

23 Repeal the paragraph, substitute:

- 24 (b) the appellant has the burden of proving:
- 25 (i) if the taxation decision concerned is an assessment—  
26 that the assessment is excessive or otherwise incorrect  
27 and what the assessment should have been; or

- 1 (ii) in any other case—that the taxation decision should not  
2 have been made or should have been made differently.

3 **27 Application of amendments**

4 The amendments made by this Division apply to an assessment if:

- 5 (a) the assessment is made on or after 1 July 2013; and  
6 (b) in the case of an assessment that relates to an income year or  
7 other accounting period:  
8 (i) the income year is the 2013-14 income year or a later  
9 income year; or  
10 (ii) the other accounting period commences on or after  
11 1 July 2013.



1 **Part 3—Anti-avoidance**

2 ***Income Tax Assessment Act 1936***

3 **28 Subsection 6(1)**

4 Insert:

5 *loss carry back tax offset* has the same meaning as in the *Income*  
6 *Tax Assessment Act 1997*.

7 **29 After paragraph 177C(1)(ba)**

8 Insert:

9 (baa) a loss carry back tax offset being allowable to the taxpayer  
10 where the whole or a part of that loss carry back tax offset  
11 would not have been allowable, or might reasonably be  
12 expected not to have been allowable, to the taxpayer if the  
13 scheme had not been entered into or carried out; or

14 **30 After paragraph 177C(1)(e)**

15 Insert:

16 (ea) in a case where paragraph (baa) applies—the amount of the  
17 whole of the loss carry back tax offset or of the part of the  
18 loss carry back tax offset, as the case may be, referred to in  
19 that paragraph; and

20 **31 After paragraph 177C(2)(c)**

21 Insert:

22 (ca) a loss carry back tax offset being allowable to the taxpayer  
23 the whole or a part of which would not have been, or might  
24 reasonably be expected not to have been, allowable to the  
25 taxpayer if the scheme had not been entered into or carried  
26 out, where:  
27 (i) the allowance of the loss carry back tax offset to the  
28 taxpayer is attributable to the making of a declaration,  
29 agreement, election, selection or choice, the giving of a  
30 notice or the exercise of an option by any person, being  
31 a declaration, agreement, election, selection, choice,  
32 notice or option expressly provided for by this Act; and

- 1 (ii) the scheme was not entered into or carried out by any  
2 person for the purpose of creating any circumstance or  
3 state of affairs the existence of which is necessary to  
4 enable the declaration, agreement, election, selection,  
5 choice, notice or option to be made, given or exercised,  
6 as the case may be; or

7 **32 Subsection 177C(3)**

8 After “(c)(i)”, insert “, (ca)(i)”.

9 **33 After paragraph 177C(3)(c)**

10 Insert:

11 (caa) the allowance of a loss carry back tax offset to a taxpayer; or

12 **34 After paragraph 177C(3)(f)**

13 Insert:

14 (fa) the loss carry back tax offset would not have been allowable;  
15 or

16 **35 After paragraph 177CB(1)(c)**

17 Insert:

18 (ca) the whole or a part of a loss carry back tax offset not being  
19 allowable to the taxpayer;

20 **36 At the end of paragraph 177F(1)(c)**

21 Add “or”.

22 **37 After paragraph 177F(1)(c)**

23 Insert:

24 (ca) in the case of a tax benefit that is referable to a loss carry  
25 back tax offset, or a part of a loss carry back tax offset, being  
26 allowable to the taxpayer—determine that the whole or a part  
27 of the loss carry back tax offset, or the part of the loss carry  
28 back tax offset, as the case may be, is not to be allowable to  
29 the taxpayer; or

30 **38 After paragraph 177F(3)(c)**

31 Insert:

32 (ca) if, in the opinion of the Commissioner:

---

- 1 (i) an amount would have been allowed, or would be  
2 allowable, to the relevant taxpayer as a loss carry back  
3 tax offset if the scheme had not been entered into or  
4 carried out, being an amount that was not allowed or  
5 would not, apart from this subsection, be allowable, as  
6 the case may be, as a loss carry back tax offset to the  
7 relevant taxpayer; and  
8 (ii) it is fair and reasonable that the amount, or a part of the  
9 amount, should be allowable as a loss carry back tax  
10 offset to the relevant taxpayer;  
11 determine that that amount or that part, as the case may be,  
12 should have been allowed or is allowable, as the case may be,  
13 as a loss carry back tax offset to the relevant taxpayer; or

1 **Schedule 6—Loss carry back consequential**  
2 **amendments**

3 **Part 1—Concepts and definitions**

4 ***Income Tax Assessment Act 1936***

5 **1 Subsection 45B(8)**

6 After “of a scheme include”, insert “the following”.

7 **2 Paragraph 45B(8)(c)**

8 Omit “carried forward to a later”, substitute “unutilised (within the  
9 meaning of the *Income Tax Assessment Act 1997*) at the end of the  
10 relevant”.

11 ***Income Tax Assessment Act 1997***

12 **3 Subsection 4-15(1) (note)**

13 Omit “deduct in”, substitute “utilise in that or”.

14 **4 Subsection 26-47(8)**

15 Omit “so much of your \*net exempt income as is not applied for that  
16 income year under section 35-15 (about non-commercial business  
17 activities) or section 36-10 or 36-15 (about tax losses)”, substitute “your  
18 \*net exempt income for that year (after \*utilising the net exempt income  
19 under section 35-15 (about non-commercial business activities) or  
20 section 36-10 or 36-15 (about tax losses))”.

21 **5 Subsection 35-15(2)**

22 Omit “so much of your \*net exempt income as is not applied for that  
23 income year under section 36-10 or 36-15 (about tax losses)”, substitute  
24 “your \*net exempt income for that year (after \*utilising the net exempt  
25 income under section 36-10 or 36-15 (about tax losses))”.

26 **6 Section 36-1**

27 Omit “which you may be able to deduct in a later income year”.

28 **7 At the end of section 36-1**

---

1 Add:

2 Note: You may be able to utilise the tax loss in that or a later income year.

3 **8 Subsection 36-15(1) (note)**

4 After “Note”, insert “1”.

5 **9 At the end of subsection 36-15(1)**

6 Add:

7 Note 2: A tax loss can be deducted only to the extent that it has not already  
8 been utilised: see subsection 960-20(1).

9 **10 Subsections 36-15(6) and (7)**

10 Repeal the subsections (including the note).

11 **11 At the end of subsection 36-17(1)**

12 Add:

13 Note 1: A tax loss can be deducted under this section only to the extent that it  
14 has not already been utilised: see subsection 960-20(1).

15 Note 2: A corporate tax entity may also be able to carry a loss back to an  
16 earlier income year: see Division 160.

17 **12 Subsections 36-17(8) and (9)**

18 Repeal the subsections (including the note).

19 **13 Paragraph 36-17(10)(a)**

20 Omit “deduct”, substitute “\*utilise”.

21 **14 Paragraph 36-45(1)(b)**

22 Omit “deducted”, substitute “\*utilised”.

23 **15 Section 65-10**

24 Omit “using certain losses that are carried forward”, substitute “utilising  
25 certain losses of earlier income years”.

26 **16 Subsection 102-10(2) (note)**

27 Repeal the note.

28 **17 Section 102-15**

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1 Repeal the section, substitute:

2 **102-15 How to apply net capital losses**

3 In working out if you have a \*net capital gain, your \*net capital  
4 losses are applied in the order in which you made them.

5 Note 1: A net capital loss can be applied only to the extent that it has not  
6 already been utilised: see subsection 960-20(1).

7 Note 2: For applying a net capital loss for the 1997-98 income year or an  
8 earlier income year, see section 102-15 of the *Income Tax*  
9 (*Transitional Provisions*) Act 1997.

10 **18 Section 165-114 (note 1)**

11 Repeal the note.

12 **19 Section 165-114 (note 2)**

13 Omit “Note 2”, substitute “Note”.

14 **20 Paragraph 165-115R(3)(a)**

15 Omit “an undeducted \*tax loss or undeducted”, substitute “a \*tax loss  
16 or”.

17 **21 Paragraph 165-115R(3)(b)**

18 Omit “an unapplied \*net capital loss or unapplied”, substitute “a \*net  
19 capital loss or”.

20 **22 Paragraph 165-115R(4)(a)**

21 Omit “an undeducted \*tax loss or unapplied”, substitute “a \*tax loss or”.

22 **23 Subsection 170-20(2)**

23 Omit “deduct”, substitute “\*utilise”.

24 **24 Subsection 170-45(1)**

25 Repeal the subsection, substitute:

26 *Loss company can only transfer what it cannot use itself*

27 (1) The amount transferred cannot exceed what would be the amount  
28 of the \*loss company’s \*unutilised \*tax loss at the end of the

1                   \*deduction year if the loss company utilised the tax loss to the  
2                   greatest extent possible.

3                   **25 Subsection 170-115(2)**

4                   Omit “apply”, substitute “\*utilise”.

5                   **26 Subsection 170-145(1)**

6                   Omit “the amount of the loss company’s \*net capital loss that, apart  
7                   from the transfer, the loss company would carry forward to the next  
8                   income year after the application year”, substitute “what would be the  
9                   amount of the \*loss company’s \*unutilised \*net capital loss at the end of  
10                  the application year if the loss company utilised the net capital loss to  
11                  the greatest extent possible”.

12                  **27 Subsection 170-145(1) (note)**

13                  Omit “loss company would carry forward the *whole* of the net capital  
14                  loss”, substitute “*whole* of the net capital loss would be unutilised”.

15                  **28 Subdivision 707-A (heading)**

16                  Repeal the heading, substitute:

17                  **Subdivision 707-A—Transfer of losses to head company**

18                  **29 Section 707-100**

19                  Omit “but not utilised”.

20                  **30 Subsection 707-110(1)**

21                  Omit “(1)”.

22                  **31 Subsection 707-110(2)**

23                  Repeal the subsection.

24                  **32 Subsection 707-115(1)**

25                  Omit “(1)”.

26                  **33 Subsection 707-115(2)**

27                  Repeal the subsection.

28                  **34 Before Subdivision 960-C**

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1                   Insert:

2                   **Subdivision 960-B—Utilisation of tax attributes**

3                   **Table of sections**

4                   960-20    Utilisation

5                   **960-20 Utilisation**

- 6                   (1) None of the following can be \*utilised, to the extent it has already  
7                   been utilised:
- 8                   (a) a \*tax loss;
  - 9                   (b) a \*net capital loss;
  - 10                  (c) \*net exempt income.

11                  *Utilisation of losses*

- 12                  (2) A \*tax loss is **utilised** to the extent that:
- 13                  (a) it is deducted from an amount of assessable income or \*net  
14                  exempt income; or
  - 15                  (b) it is reduced by applying a \*total net forgiven amount; or
  - 16                  (c) it is \*carried back.
- 17                  (3) A \*net capital loss is **utilised** to the extent that:
- 18                  (a) it is applied to reduce an amount of \*capital gains; or
  - 19                  (b) it is reduced by applying a \*total net forgiven amount.

20                  *Utilisation of net exempt income*

- 21                  (4) \*Net exempt income for an income year is **utilised** to the extent  
22                  that:
- 23                  (a) it is subtracted:
    - 24                  (i) from deductions; or
    - 25                  (ii) under subsection 268-60(4) in Schedule 2F to the  
26                  *Income Tax Assessment Act 1936* or  
27                  subsection 165-70(4) or 175-35(4) of this Act;  
28                  in determining a \*tax loss for the income year; or
  - 29                  (b) because of it, the extent to which a tax loss can be deducted  
30                  in that income year is reduced; or



- 1 (c) because of it, an amount is reduced under  
2 subsection 35-15(2) (about deferral of deductions from  
3 non-commercial business activities); or  
4 (d) because of it, a quarantined amount is reduced under  
5 subsection 26-47(8); or  
6 (e) it is reduced under subsection 65-35(3) because of a \*tax  
7 offset carried forward; or  
8 (f) because of it, an amount is reduced under step 2 of the  
9 method statement in subsection 160-15(2) (which is a step in  
10 calculating a loss carry back tax offset component).

11 **35 Subsection 995-1(1)**

12 Insert:

13 *carry back*: you *carry back* to an income year so much of a \*tax  
14 loss for a later income year as you specify in a \*loss carry back  
15 choice to be carried back to the earlier income year.

16 **36 Subsection 995-1(1) (definition of *current year*)**

17 Repeal the definition, substitute:

18 *current year* means the income year for which you are working out  
19 your assessable income, deductions and \*tax offsets.

20 **37 Subsection 995-1(1)**

21 Insert:

22 *loss carry back choice* has the meaning given by section 160-25.

23 **38 Subsection 995-1(1)**

24 Insert:

25 *loss carry back tax offset* has the meaning given by  
26 section 160-10.

27 **39 Subsection 995-1(1)**

28 Insert:

29 *loss carry back tax offset component* has the meaning given by  
30 subsection 160-15(2).

1 **40 Subsection 995-1(1)**

2 Insert:

3 *unutilised* means not \*utilised.

4 **41 Subsection 995-1(1) (definition of *utilise*)**

5 Repeal the definition, substitute:

6 *utilise*, a \*tax loss, a \*net capital loss or \*net exempt income, has  
7 the meaning given by section 960-20.

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

9 **42 Subdivision 707-A (heading)**

10 Repeal the heading, substitute:

11 **Subdivision 707-A—Transfer of losses to head company**

12 **43 Subsection 770-30(2) (note)**

13 Omit “undeducted tax loss may be deducted”, substitute “tax loss may  
14 be utilised”.

15 ***Taxation Administration Act 1953***

16 **44 Paragraph 45-330(1)(c) in Schedule 1**

17 Omit “you can carry it forward to the next income year”, substitute “it is  
18 \*unutilised at the end of the base year”.

19 **45 Subparagraph 45-330(2A)(c)(i) in Schedule 1**

20 Omit “you can carry it forward to the next income year”, substitute “it is  
21 \*unutilised at the end of the base year”.

22 **46 Subsection 45-330(3) in Schedule 1 (paragraph (a) of step  
23 3 of the method statement)**

24 Omit “the company can carry them forward to the next income year”,  
25 substitute “they are \*unutilised at the end of the \*base year”.

26 **47 Subsection 45-330(3) in Schedule 1 (paragraph (a) of step  
27 6 of the method statement)**

1 Omit “the company can carry them forward to the next income year”,  
2 substitute “they are \*unutilised at the end of the \*base year”.

3 **48 Subsection 45-480(2) in Schedule 1 (paragraph (c) of the**  
4 **definition of *adjusted net income of the trust*)**

5 Omit “can be carried forward for working out the trust’s net income for  
6 the next income year”, substitute “is \*unutilised at the end of the \*base  
7 year”.

1 **Part 2—Other amendments**

2 ***Income Tax Assessment Act 1936***

3 **49 Subsection 92A(3)**

4 After “Division 36”, insert “or 160”.

5 ***Income Tax Assessment Act 1997***

6 **50 Section 13-1 (after table item headed “long service leave”)**

7 Insert:

losses

loss carry back ..... Division 160

8 **51 Section 36-25 (at the end of the table item dealing with tax**  
9 **losses of corporate tax entities)**

10 Add:

*See also Division 160 (loss carry back  
tax offset)*

11 **52 Section 36-25 (table dealing with tax losses of pooled**  
12 **development funds (PDFs), item 1)**

13 Repeal the item, substitute:

1. A company is a pooled development fund (PDF) at the end of an income year for which it has a tax loss: it can only:
    - (a) deduct the loss while it is a PDF; or
    - (b) carry back the loss to an income year in which it was a PDF.
- Sections 195-5 and  
195-37

14 **53 Section 36-25 (table dealing with tax losses of pooled**  
15 **development funds (PDFs), item 2)**

16 Omit “deducted in a later income year”, substitute “utilised”.

17 **54 Section 36-25 (table dealing with tax losses of VCLPs,**  
18 **ESVCLPs, AFOFs and VCMPs, item 1)**

---

1 Repeal the item, substitute:

1. A limited partnership that has a tax loss Subdivision 195-B becomes a VCLP, an ESVCLP, an AFOF or a VCMP: it cannot:
- (a) deduct the loss while it is a VCLP, an ESVCLP, an AFOF or a VCMP;
  - or
  - (b) carry back the loss to an income year in which it was not a VCLP, an ESVCLP, an AFOF or a VCMP.

2 **55 At the end of paragraph 195-15(5)(b)**

3 Add “and”.

4 **56 After paragraph 195-15(5)(b)**

5 Insert:

- 6 (c) section 195-37 does *not* prevent the company from \*carrying  
7 back its tax loss for the purpose of working out the amount of  
8 the company’s \*loss carry back tax offset for an income year;

9 **57 At the end of Subdivision 195-A**

10 Add:

11 **Working out a PDF’s loss carry back tax offset**

12 **195-37 PDF cannot carry back tax loss**

13 A company that:

- 14 (a) has a \*tax loss for an income year; and  
15 (b) is a \*PDF at the end of the income year;

16 cannot \*carry back the loss to an earlier income year for the  
17 purposes of working out the amount of the company’s \*loss carry  
18 back tax offset for an income year (the *offset year*) unless the  
19 company is a PDF throughout the earlier income year and the  
20 offset year.

21 **58 After section 195-70**

22 Insert:

1 **195-72 Tax losses cannot be carried back to before ceasing to be a**  
2 **VCLP, an ESVCLP, an AFOF or a VCMP**

3 A \*limited partnership's \*tax loss for a \*loss year cannot be \*carried  
4 back to an income year during which the partnership was a \*VCLP,  
5 an \*ESVCLP, an \*AFOF or a \*VCMP.

6 **59 Subsection 205-30(1) (after table item 2)**

7 Insert:

2A	the entity *receives a *tax offset refund; and  the entity does not satisfy the *residency requirement for the income year to which the refund relates; and  the entity was a *franking entity during the whole or part of the income year to which the refund relates; and  the entity's *franking account is in *surplus on the day on which the refund is received	the lesser of:  (a) that part of the refund that is attributable to the period during which the entity was a franking entity; and  (b) the amount of the *franking surplus	on the day on which the refund is received
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8 **60 Subparagraph 205-35(1)(b)(ii)**

9 After "applying", insert "a \*loss carry back tax offset, or".

10 **61 Subparagraph 205-35(1)(b)(ii)**

11 After "(about R&D)", insert ",".

12 **62 Subsection 219-30(1)**

13 Omit "item 2", substitute "items 2 and 3".

14 **63 Subsection 219-30(2) (at the end of the table)**

15 Add:

- 3 the company \*receives a \*tax offset refund; and the lesser of: on the day on  
the company does not satisfy (a) that part of the refund that which the  
the \*residency requirement is attributable to: refund is  
for the income year to which (i) the \*shareholders' received  
the refund relates; and share of the income  
the company was a \*franking tax liability of the  
entity for the whole or part company for that  
of that income year; and income year; and  
the company's \*franking (ii) the period during  
account is in \*surplus on the which the company  
day on which the refund is was a franking  
received (b) the amount of the entity; and  
\*franking surplus

1 **64 After paragraph 320-149(2)(a)**

2 Insert:

- 3 (aa) Division 160 (Corporate loss carry back tax offset);

4 **65 At the end of subsection 830-65(3)**

5 Add "or 160".

6 ***Taxation Administration Act 1953***

7 **66 Section 45-340 in Schedule 1 (after paragraph (db) of step**  
8 **1 of the method statement)**

9 Insert:

- 10 (dc) Division 160 of the *Income Tax Assessment Act*  
11 *1997* (the loss carry back tax offset);

1 **Schedule 7—Miscellaneous amendments**

2 **Part 1—Resource rent taxation**

3 ***Income Tax Assessment Act 1997***

4 **1 Subsections 721-10(4) and (5)**

5 Repeal the subsections, substitute:

- 6 (4) The following only apply in relation to tax-related liabilities that  
7 are due and payable because a choice has been made, under  
8 section 215-10 of the *Minerals Resource Rent Tax Act 2012*, to  
9 apply Division 215 of that Act in relation to the \*consolidated  
10 group:  
11 (a) items 75, 80 and 85 of the table in subsection (2);  
12 (b) items 40 and 65 of that table to the extent that it relates to  
13 tax-related liabilities to which the items referred to in  
14 paragraph (a) apply.
- 15 (5) The following only apply in relation to tax-related liabilities that  
16 are due and payable because a choice has been made, under  
17 section 58N of the *Petroleum Resource Rent Tax Assessment Act*  
18 *1987*, to apply Division 8 of Part V of that Act in relation to the  
19 \*consolidated group:  
20 (a) items 95, 100, 105 and 110 of the table in subsection (2);  
21 (b) items 40 and 65 of that table to the extent that they relate to  
22 tax-related liabilities to which the items referred to in  
23 paragraph (a) apply.
- 24 (6) Without limiting subsections (4) and (5), in the application of this  
25 section in relation to a \*MEC group because of section 719-2, the  
26 items referred to in those subsections also apply in relation to  
27 tax-related liabilities of the \*provisional head company of the MEC  
28 group.

29 **2 Subsection 995-1(1)**

30 Insert:

31 ***petroleum resource rent tax law*** means:

- 32 (a) the *Petroleum Resource Rent Tax Assessment Act 1987*; and
-



- 1 (b) any Act that imposes \*petroleum resource rent tax; and  
2 (c) the *Taxation Administration Act 1953*, so far as it relates to  
3 any Act covered by paragraphs (a) and (b); and  
4 (d) any other Act, so far as it relates to any Act covered by  
5 paragraphs (a) to (c) (or to so much of that Act as is covered);  
6 and  
7 (e) regulations under an Act, so far as they relate to any Act  
8 covered by paragraphs (a) to (d) (or to so much of that Act as  
9 is covered).

10 **3 Subsection 995-1(1)**

11 Insert:

12 *resource rent tax amount* means any debt or credit that arises  
13 directly under the \*resource rent tax provisions.

14 **4 Subsection 995-1(1)**

15 Insert:

16 *resource rent tax provisions* means:  
17 (a) the \*MRRT law; and  
18 (b) the \*petroleum resource rent tax law;  
19 other than \*BAS provisions.

20 ***Minerals Resource Rent Tax Act 2012***

21 **5 Subsection 30-25(7)**

22 Repeal the subsection, substitute:

- 23 (7) Operations or activities are *resource marketing operations*, for a  
24 mining project interest, to the extent that the operations or  
25 activities involve marketing, selling, shipping or delivering of:  
26 (a) \*taxable resources in relation to which a \*mining revenue  
27 event mentioned in paragraph 30-15(1)(a) or (b) happens; or  
28 (b) things produced using taxable resources in relation to which a  
29 mining revenue event mentioned in paragraph 30-15(1)(c)  
30 happens.

31 **6 At the end of subsection 30-40(2)**

32 Add:

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## Schedule 7 Miscellaneous amendments

### Part 1 Resource rent taxation

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1 Note: The amount of that mining expenditure is adjusted if an adjustment  
2 arises under Division 160 in relation to that mining expenditure: see  
3 subsection 160-15(5).

#### 4 **7 Section 30-55**

5 Before “An amount”, insert “(1)”.

#### 6 **8 At the end of section 30-55**

7 Add:

8 (2) However, subsection (1) does not apply if the only reason the  
9 amount does not relate to a particular \*mining revenue event is that  
10 paragraph 30-20(2)(a) prevents the supply from being an \*initial  
11 supply.

#### 12 **9 Subsection 35-5(1) (note)**

13 Repeal the note, substitute:

14 Note: Most of the amounts are covered by this section. However, the  
15 following amounts may also be included in a miner’s mining  
16 expenditure:  
17 (a) amounts arising as a result of adjustments to take account of  
18 changes in circumstances (see Division 160);  
19 (b) amounts arising as a result of changed use of starting base assets  
20 (see section 165-55).

#### 21 **10 Subsection 45-10(1) (formula)**

22 Repeal the formula, substitute:

23 
$$\left( \left( \left( \begin{array}{c} \$75 \\ \text{million} \end{array} - \begin{array}{c} \text{Taper} \\ \text{amount} \end{array} \right) \times \frac{3}{2} \right) - \begin{array}{c} \text{Miner's group} \\ \text{MRRT} \\ \text{allowances} \end{array} \right) \times \begin{array}{c} \text{Miner's share} \\ \text{of group mining} \\ \text{profit} \end{array}$$

#### 24 **11 Subsection 45-10(2) (example)**

25 Repeal the example, substitute:

26 Example: For the 2013-14 MRRT year, Pinder Mines Ltd has a total mining  
27 profit of \$80 million, a group mining profit of \$100 million, group  
28 MRRT allowances of \$10 million and a taper amount of \$50 million  
29 (\$100 million - \$50 million). The amount worked out using the  
30 formula in subsection (1) is \$22 million:  $((\$75 \text{ million} - \$50 \text{ million})$   
31  $\times \frac{3}{2}) - \$10 \text{ million}) \times \frac{4}{5}$ . Multiplying this amount by the MRRT rate  
32 gives Pinder Mines Ltd an offset for the year of \$4.95 million.

#### 33 **12 Subsection 70-35(1) (note)**

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1 Repeal the note, substitute:

- 2 Note: Most of the amounts are covered by this Division. However, the  
3 following amounts may also be included in a miner's pre-mining  
4 expenditure:  
5 (a) amounts arising as a result of adjustments to take account of  
6 changes in circumstances (see Division 160);  
7 (b) amounts arising as a result of changed use of starting base assets  
8 (see section 165-55).

9 **13 Subsection 80-25(1)**

10 Omit "a mining project interest that a miner had at that time", substitute  
11 "the mining project interest".

12 **14 Subparagraphs 80-25(3)(b)(i) and (ii)**

13 Repeal the subparagraphs, substitute:

- 14 (i) a valid choice has not been made under section 85-5  
15 specifying the valuation approach for the mining project  
16 interest; or  
17 (ii) a starting base assessment (within the meaning of  
18 subitem 15(3) of Schedule 4 to the *Minerals Resource*  
19 *Rent Tax (Consequential Amendments and Transitional*  
20 *Provisions) Act 2012*) does not cover the property or  
21 right; or  
22 (iii) immediately before 1 July 2012, the property or right  
23 was not \*held by the \*entity that, at that time, had the  
24 mining project interest (or held the \*pre-mining project  
25 interest from which the mining project interest  
26 \*originated); or  
27 (iv) the property or right did not exist before 1 July 2012.

28 **15 After subsection 80-25(3)**

29 Insert:

- 30 (3A) For the purposes of subparagraphs (3)(b)(iii) and (iv), if:  
31 (a) the asset is, or includes, the rights and interests that constitute  
32 the mining project interest; and  
33 (b) the mining project interest did not exist immediately before  
34 1 July 2012; and  
35 (c) the mining project interest \*originates from one or more  
36 \*pre-mining project interests, or one or more parts of

1 pre-mining project interests, that existed immediately before  
2 1 July 2012;  
3 assume that the mining project interest is a continuation of the  
4 pre-mining project interest.

5 **16 Subsection 80-40(1)**

6 Omit “in which a \*starting base loss arises”, substitute “for which a  
7 \*starting base loss arises”.

8 **17 Subsection 80-45(1) (paragraph (b) of the definition of**  
9 ***uplift factor*)**

10 Repeal the paragraph, substitute:

11 (b) if, under Division 85, the market value approach is the  
12 valuation approach for the mining project interest:

13 
$$\frac{\text{Sum of the *index numbers for the} \\ \text{quarters in the year ending on 31 March just} \\ \text{before the start of the relevant financial year}}{\text{Sum of the *index numbers for the} \\ \text{quarters in the year ending on the} \\ \text{previous 31 March}}$$

Sum of the \*index numbers for the  
quarters in the year ending on the  
previous 31 March

14 where:

15 ***relevant financial year*** is:

- 16 (i) if the \*MRRT year is a \*financial year—the MRRT  
17 year; or  
18 (ii) if the MRRT year is not a financial year—the financial  
19 year corresponding to the MRRT year.

20 **18 Paragraph 80-50(1)(b)**

21 Omit “starting base losses for the mining project interest in the year”,  
22 substitute “starting base losses for the mining project interest for the  
23 year”.

24 **19 At the end of subsection 90-25(1)**

25 Add:

26 Note: Initial base values are separately assessed under Division 155 in  
27 Schedule 1 to the *Taxation Administration Act 1953*. Those assessed  
28 values are used in working out starting base allowances in all  
29 assessments of MRRT liabilities: see item 15 of Schedule 4 to the  
30 *Minerals Resource Rent Tax (Consequential Amendments and*  
31 *Transitional Provisions) Act 2012*.

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1 **20 At the end of subsection 90-40(1)**

2 Add:

3 Note 3: Initial base values are separately assessed under Division 155 in  
4 Schedule 1 to the *Taxation Administration Act 1953*. Those assessed  
5 values are used in working out starting base allowances in all  
6 assessments of MRRT liabilities: see item 15 of Schedule 4 to the  
7 *Minerals Resource Rent Tax (Consequential Amendments and*  
8 *Transitional Provisions) Act 2012*.

9 **21 Subsection 90-45(1)**

10 Omit all the words after “assume that”, substitute “the mining project  
11 interest is a continuation of the pre-mining project interest”.

12 **22 After subsection 90-45(1)**

13 Insert:

14 (1A) Without limiting subsection (1), assume also that the \*market value  
15 of the asset on 1 May 2010 was an amount equal to the market  
16 value, on that day, of the rights and interests that constitute the  
17 \*pre-mining project interest or pre-mining project interests, or the  
18 part or parts, from which the mining project interest \*originates.

19 **23 Subsection 90-45(2)**

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

21 **24 After subsection 90-55(5)**

22 Insert:

23 (5A) For the purposes of subsections (4) and (5), if:  
24 (a) the asset is, or includes, the rights and interests that constitute  
25 the mining project interest; and  
26 (b) the mining project interest did not exist on 1 May 2010; and  
27 (c) the mining project interest \*originates from one or more  
28 \*pre-mining project interests, or one or more parts of  
29 pre-mining project interests, that existed just before 2 May  
30 2010;  
31 assume that the mining project interest is a continuation of the  
32 pre-mining project interest.

33 **25 Subsection 90-65(5)**

---

1 Repeal the subsection (including the note), substitute:

2 (5) However, if one or more of the following applies:

3 (a) there have been reductions to a \*starting base loss relating to  
4 the \*starting base asset, for that \*MRRT year or an earlier  
5 MRRT year, under subsection 80-40(3) or (4);

6 (b) there have been reductions to a starting base loss relating to  
7 the asset, for that MRRT year or an earlier MRRT year,  
8 under paragraph 115-15(2)(b);

9 (c) there has been no starting base loss for that MRRT year, or  
10 no starting base loss for an earlier MRRT year, for the  
11 mining project interest to which the asset relates, because of  
12 paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) or (c);

13 the amount included in the miner's \*mining revenue under  
14 subsection (4) is reduced by the following:

15 
$$\text{Excess amount} \times \frac{\text{Sum of reductions}}{\text{Total decline}}$$

16 where:

17 **excess amount** is the amount of the excess mentioned in  
18 subsection (4).

19 **sum of reductions** is the sum of:

20 (a) any reductions to a \*starting base loss relating to the \*starting  
21 base asset, for that \*MRRT year or an earlier MRRT year,  
22 under subsection 80-40(3) or (4); and

23 (b) any reductions to a starting base loss relating to the asset, for  
24 that MRRT year or an earlier MRRT year, under  
25 paragraph 115-15(2)(b); and

26 (c) any starting base losses, for that MRRT year or an earlier  
27 MRRT year, that paragraph 115-15(2)(a), 130-15(a) or (b) or  
28 200-5(b) extinguished, or paragraph 200-5(c) prevented from  
29 arising, to the extent that they related (or would have related)  
30 to the asset.

31 **total decline** is the sum of the declines in value of the asset that  
32 have happened during that \*MRRT year or any earlier MRRT year.

33 Note 1: Reductions happen under subsection 80-40(3) or (4) if the asset is  
34 used, installed for use, or constructed for use:

35 (a) for a purpose other than carrying on upstream mining operations  
36 relating to the mining project interest; or

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- 1 (b) in connection with excluded expenditure.
- 2 Note 2: Starting base losses are reduced under paragraph 115-15(2)(b) if a  
3 miner chooses to treat a mining project interest as having combined  
4 with another despite non-compliance with section 115-35.
- 5 Note 3: Starting base losses are extinguished, or prevented from arising, if:  
6 (a) under paragraph 115-15(2)(a), a miner chooses to treat a mining  
7 project interest as having combined with another despite  
8 non-compliance with section 115-35; or  
9 (b) under paragraph 130-15(a) or (b), the suspension day for the  
10 mining project interest happens; or  
11 (c) under paragraph 200-5(b) or (c), a miner chooses to use the  
12 simplified MRRT method.

13 **26 Paragraph 95-20(2)(a)**

14 Omit “has”, substitute “\*holds”.

15 **27 Subsection 95-25(1)**

16 After “cannot be applied”, insert “under that section”.

17 **28 Paragraphs 95-30(1)(a) and (2)(a)**

18 Omit “entity”, substitute “\*entity”.

19 **29 Paragraph 115-15(2)(b)**

20 Repeal the paragraph, substitute:

- 21 (b) the starting base loss for the combined interest for an \*MRRT  
22 year is reduced by the amount of any declines in value, for  
23 the year, of \*starting base assets that:  
24 (i) relate to a constituent interest; and  
25 (ii) do not comply with section 115-35.

26 **30 At the end of section 115-15**

27 Add:

- 28 (3) However, if:  
29 (a) an existing pre-mining loss does not comply with  
30 section 115-25 because section 95-25 or 115-55 partly  
31 prevents the existing pre-mining loss from being applied in  
32 working out a \*transferred pre-mining loss allowance; and  
33 (b) there is no other reason why the loss does not comply with  
34 section 115-25;

1 the loss is extinguished under paragraph (2)(a) only to the extent  
2 that section 95-25 or 115-55 prevents the existing pre-mining loss  
3 from being so applied.

4 **31 After paragraph 115-25(a)**

5 Insert:

6 (aa) section 95-25 (cap on available pre-mining losses) does not  
7 wholly or partly prevent the existing pre-mining loss from  
8 being so applied; and

9 **32 Paragraph 115-25(b)**

10 After “section 115-55 does not”, insert “wholly or partly”.

11 **33 Subsections 115-55(1) and (2)**

12 Repeal the subsections, substitute:

13 (1) If:

14 (a) a \*pre-mining loss relates to:

15 (i) a mining project interest other than the combined  
16 interest (or any of the constituent interests); or

17 (ii) a \*pre-mining project interest; and

18 (b) the loss arose in relation to an \*MRRT year preceding the  
19 combined interest coming into existence; and

20 (c) in relation to at least one of the constituent interests—  
21 section 95-25 (cap on available pre-mining losses) would  
22 have, to any extent, prevented the loss from being applied in  
23 working out a \*transferred pre-mining loss allowance for the  
24 constituent interest for the year (if the combined interest had  
25 not existed);

26 the loss cannot be applied in working out a transferred pre-mining  
27 loss allowance for the combined interest for an MRRT year to the  
28 extent that that section would have prevented the loss from being  
29 so applied in working out transferred pre-mining loss allowances  
30 for all the constituent interests for the year (if the combined interest  
31 had not existed).

32 (2) If:

33 (a) a \*pre-mining loss relates to the combined interest (or any of  
34 the constituent interests); and



- 1 (b) the loss arose in relation to an \*MRRT year preceding the  
2 combined interest coming into existence; and  
3 (c) in relation to at least one of the constituent interests—  
4 section 95-25 (cap on available pre-mining losses) would  
5 have, to any extent, prevented the loss from being applied in  
6 working out a \*transferred pre-mining loss allowance for  
7 another mining project interest (other than the combined  
8 interest or any of the constituent interests) for the year if:  
9 (i) the combined interest had not existed; and  
10 (ii) the loss had related to the constituent interest;  
11 the loss cannot be applied in working out a transferred pre-mining  
12 loss allowance for the other interest for an MRRT year to the  
13 extent that that section would have prevented the loss from being  
14 so applied in working out transferred pre-mining loss allowances  
15 for all the constituent interests for the year (if the combined interest  
16 had not existed).

### 17 **34 At the end of subsection 120-10(4)**

- 18 Add:  
19 ; (e) if the transfer happens because of the operation of  
20 section 120-25—the amount of the \*pre-mining loss cap (if  
21 any) for the original interest.

### 22 **35 Subsection 120-10(4) (note)**

- 23 Repeal the note, substitute:  
24 Note 1: Under section 120-25, the start of a mining venture may be taken to be  
25 a mining project transfer.  
26 Note 2: If the original miner's MRRT year starts before the new miner's  
27 MRRT year, the effect of this provision is that amounts from before  
28 the start of the new miner's MRRT year are taken into account for the  
29 new miner in the new miner's MRRT year.

### 30 **36 At the end of subsection 125-10(4)**

- 31 Add:  
32 ; (e) if the new miner is the same \*entity as the original miner—  
33 the amount of the \*pre-mining loss cap (if any) for the  
34 original interest.

### 35 **37 Subsection 125-10(4) (note)**

- 36 Repeal the note, substitute:
-

**Schedule 7** Miscellaneous amendments

**Part 1** Resource rent taxation

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1 Note 1: If the new miner is not the same entity as the original miner, a new  
2 pre-mining loss cap arises for the new interest under section 95-30.

3 Note 2: If the original miner's MRRT year starts before a new miner's MRRT  
4 year, the effect of this provision is that amounts from before the start  
5 of the new miner's MRRT year are taken into account for the new  
6 miner in the new miner's MRRT year.

7 **38 Paragraph 140-10(2)(c)**

8 Omit "does not apply", substitute "is taken to be satisfied".

9 **39 At the end of subsection 145-15(2)**

10 Add:

11 ; (e) if the transfer happens because of the operation of  
12 section 145-30—the amount of the \*pre-mining loss cap (if  
13 any) for the original interest.

14 **40 Subsection 145-15(2) (note)**

15 Repeal the note, substitute:

16 Note 1: Under section 145-30, a mining project interest originating from a  
17 pre-mining project interest may be taken to be a pre-mining project  
18 transfer.

19 Note 2: If the original explorer's MRRT year starts before the new explorer's  
20 MRRT year, the effect of this provision is that amounts from before  
21 the start of the new explorer's MRRT year are taken into account for  
22 the new explorer in the new explorer's MRRT year.

23 **41 Subsection 145-20(2)**

24 Omit "section 30-40", substitute "sections 30-40 and 70-40".

25 **42 Subsection 145-20(3)**

26 Omit "section 35-35", substitute "sections 35-35 and 70-35".

27 **43 At the end of subsection 150-15(2)**

28 Add:

29 ; (e) if the new explorer is the same \*entity as the original  
30 explorer—the amount of the \*pre-mining loss cap (if any) for  
31 the original interest.

32 Note: If the new explorer is not the same entity as the original explorer, a  
33 new pre-mining loss cap arises for the new interest under  
34 section 95-30.

1 **44 Subsection 150-15(4) (heading)**

2 Repeal the heading, substitute:

3 *Exception for new explorer that is the same entity as original*  
4 *explorer*

5 **45 Subsection 150-20(2)**

6 Omit “section 30-40”, substitute “sections 30-40 and 70-40”.

7 **46 Subsection 150-20(3)**

8 Omit “section 35-35”, substitute “sections 35-35 and 70-35”.

9 **47 Subsection 150-30(2) (note 2)**

10 Omit “mining project transfer”, substitute “pre-mining project transfer”.

11 **48 Subsection 155-10(3)**

12 Repeal the subsection, substitute:

- 13 (3) In determining, for the purposes of subsection (2), whether an  
14 additional area is insignificant, assume that the additional area  
15 includes any other such additional areas that have been included in  
16 the \*project area for the \*pre-mining project interest because of a  
17 previous application of that subsection.

18 **49 At the end of section 160-15**

19 Add:

- 20 (5) If this Division has given rise to a mining adjustment in relation to  
21 an original amount of \*mining expenditure to which  
22 subsection 30-40(2) applies, that subsection has effect as if:  
23 (a) the adjustment mentioned in column 3 of the table in  
24 subsection (1) of this section had not been made; and  
25 (b) the original amount had instead been increased or decreased  
26 (as the case requires) as mentioned in column 2 of that table  
27 by the amount of the adjustment.
- 28 (6) If this Division has given rise to a mining adjustment in relation to  
29 an original amount of \*pre-mining expenditure to which  
30 paragraph 70-40(2)(b) applies, and to which subsection 30-40(2)  
31 would have applied if the pre-mining expenditure had been mining

1 expenditure for a mining project interest, that paragraph has effect  
2 as if:

- 3 (a) the adjustment mentioned in column 3 of the table in  
4 subsection (1) of this section had not been made; and  
5 (b) the original amount had instead been increased or decreased  
6 (as the case requires) as mentioned in column 2 of that table  
7 by the amount of the adjustment.

8 **50 Subsection 165-15(1)**

9 Repeal the subsection, substitute:

- 10 (1) If there is a \*starting base adjustment amount, for a \*starting base  
11 asset for an \*MRRT year, and:  
12 (a) an amount of a \*starting base loss for that MRRT year or any  
13 earlier MRRT year has been reduced because of a reduction  
14 under subsection 80-40(3) or (4) relating to the asset; or  
15 (b) there have been reductions to a starting base loss relating to  
16 the asset, for that MRRT year or an earlier MRRT year,  
17 because of paragraph 115-15(2)(b); or  
18 (c) there has been no starting base loss for that MRRT year, or  
19 no starting base loss for an earlier MRRT year, for the  
20 mining project interest to which the asset relates, because of  
21 paragraph 115-15(2)(a), 130-15(a) or (b) or 200-5(b) or (c);  
22 reduce the starting base adjustment amount in accordance with  
23 subsection (2).

24 Note 1: Reductions happen under subsection 80-40(3) or (4) if the asset is  
25 used, installed for use, or constructed for use:  
26 (a) for a purpose other than carrying on upstream mining operations  
27 relating to the mining project interest; or  
28 (b) in connection with excluded expenditure.

29 Note 2: Starting base losses are reduced under paragraph 115-15(2)(b) if a  
30 miner chooses to treat a mining project interest as having combined  
31 with another despite non-compliance with section 115-35.

32 Note 3: Starting base losses are extinguished, or prevented from arising, if:  
33 (a) under paragraph 115-15(2)(a), a miner chooses to treat a mining  
34 project interest as having combined with another despite  
35 non-compliance with section 115-35; or  
36 (b) under paragraph 130-15(a) or (b), the suspension day for the  
37 mining project interest happens; or  
38 (c) under paragraph 200-5(b) or (c), a miner chooses to use the  
39 simplified MRRT method.

1 **51 Subsection 165-15(2) (definition of *sum of reductions*)**

2 Repeal the definition, substitute:

3 *sum of reductions* is the sum of:

- 4 (a) any reductions to a \*starting base loss relating to the \*starting  
5 base asset, for that \*MRRT year or an earlier MRRT year,  
6 under subsection 80-40(3) or (4); and  
7 (b) any reductions to a starting base loss relating to the asset, for  
8 that MRRT year or an earlier MRRT year, under  
9 paragraph 115-15(2)(b); and  
10 (c) any starting base losses, for that MRRT year or an earlier  
11 MRRT year, that paragraph 115-15(2)(a), 130-15(a) or (b) or  
12 200-5(b) extinguished, or paragraph 200-5(c) prevented from  
13 arising, to the extent that they related (or would have related)  
14 to the asset.

15 **52 Subsections 165-25(3) and 165-30(1)**

16 After “the starting base adjustment”, insert “(expressed as a positive  
17 amount)”.

18 **53 Paragraph 165-30(2)(c)**

19 After “the starting base adjustment”, insert “(expressed as a positive  
20 amount)”.

21 **54 Subsection 165-30(2)**

22 After “the starting base adjustment” (last occurring), insert “(expressed  
23 as a positive amount)”.

24 **55 Paragraph 175-15(1)(b)**

25 Repeal the paragraph, substitute:

- 26 (b) have reached, during the MRRT year, the form in which the  
27 resources are intended to be:  
28 (i) supplied or exported as mentioned in  
29 paragraph 30-15(1)(a) or (b); or  
30 (ii) used to produce something, but not after having been  
31 supplied or exported as mentioned in  
32 paragraph 30-15(1)(a) or (b).

33 **56 Subsection 180-5(1)**

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1           After “\*starting base assets”, insert “(and all property or rights that are  
2           expected to be starting base assets after the time mentioned in  
3           subsection 80-25(2))”.

4           **57 Section 190-1**

5           Omit “a miner”, substitute “an entity”.

6           **58 Section 190-1**

7           Omit “a miner’s”, substitute “an entity’s”.

8           **59 Section 190-5**

9           Omit “miners”, substitute “\*entities”.

10          **60 Section 190-10**

11          Omit “a miner”, substitute “an \*entity”.

12          **61 Subsection 190-15(1)**

13          Omit “a miner’s”, substitute “an \*entity’s”.

14          **62 Subsection 190-15(2) (example)**

15          Omit “A miner”, substitute “An entity”.

16          **63 Subsection 190-15(3) (example)**

17          Omit “A miner”, substitute “An entity”.

18          **64 Subsection 190-15(4) (example)**

19          Omit “A miner”, substitute “An entity”.

20          **65 Subsection 190-20(2) (example)**

21          Omit “\$6.26 million”, substitute “\$7.97 million”.

22          **66 Subsection 190-20(2) (example)**

23          Omit “\$2.06 million”, substitute “\$2.62 million”.

24          **67 Subsection 190-20(2) (example)**

25          Omit “\$3.57 million”, substitute “\$3.01 million”.

26          **68 After subsection 200-15(1)**

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1           Insert:

2           (1A) For the purposes of subsection (1), assume that, during the whole  
3           of the \*MRRT year, the entity has a particular mining project  
4           interest to the extent (if any) that the entity has the interest  
5           immediately before the end of the year.

6           Example: If, during the MRRT year, a mining project interest that the entity had  
7           at the start of the year was subject to a mining project split with  
8           another entity (and they retained their new interests for the rest of the  
9           year), the entity's profit under subsection (1) is worked out as if the  
10          entity's split percentage applied for the whole year.

11           If the other entity's profit under subsection (1) is relevant, it is worked  
12          out as if the other entity's split percentage applied for the whole year.

13       **69 Subsection 215-10(2)**

14           Omit "or 719-76", substitute ", 719-76 or 719-78".

15       **70 Subsections 255-20(1) and (2)**

16           Omit "paragraphs 255-10(1)(a) to (d)", substitute "paragraphs 255-10(a)  
17          to (d)".

18       **71 Section 300-1 (definition of *MRRT year*)**

19           Repeal the definition, substitute:

20           *MRRT year* has the meaning given by sections 10-25, 190-10 and  
21          190-15.

22       ***Minerals Resource Rent Tax (Consequential Amendments***  
23       ***and Transitional Provisions) Act 2012***

24       **72 After item 1 of Schedule 4**

25           Insert:

26       **1A Administration of this Schedule**

27           The Commissioner has the general administration of this Schedule.

28       **73 Paragraph 10(a) of Schedule 4**

29           Omit "a miner", substitute "an entity".

30       **74 At the end of subitem 15(1) of Schedule 4**

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- 1 Add:  
2 ; and (c) the Commissioner were the recipient mentioned in column 2  
3 of that table in relation to that starting base return.

4 **75 At the end of item 15 of Schedule 4**

- 5 Add:
- 6 (3) Without limiting subitem (1), from the first time an assessment (a  
7 **general assessment**) is made of the MRRT payable by an entity for an  
8 MRRT year (or that no MRRT is payable by the entity for the year):
- 9 (a) an assessment (a **starting base assessment**) that the  
10 Commissioner is treated as having made because of  
11 subsection 155-15(1) in Schedule 1 to the *Taxation*  
12 *Administration Act 1953* in relation to that base value is  
13 taken, for the purposes of this Act, to form part of the general  
14 assessment; and
- 15 (b) any objection against the general assessment under  
16 section 155-90 in Schedule 1 to that Act must not relate to  
17 matters to which the starting base assessment relates; and
- 18 (c) any amendment of the general assessment under  
19 Subdivision 155-B in that Schedule must not relate to matters  
20 to which the starting base assessment relates, except to the  
21 extent necessary to give effect to the starting base assessment  
22 (including the starting base assessment as amended).
- 23 (4) Without limiting sections 155-45 to 155-60 in Schedule 1 to that Act,  
24 the Commissioner may amend a general assessment at any time to the  
25 extent necessary to give effect to the starting base assessment (including  
26 the starting base assessment as amended).

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

28 **76 Title**

- 29 Omit “relating to the assessment and collection of the tax imposed  
30 by the *Petroleum Resource Rent Tax Act 1987*”, substitute “about  
31 petroleum resource rent tax”.

32 **77 Section 2 (definition of acquisition)**

- 33 Repeal the definition, substitute:

34 ***acquisition:***

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- 1 (a) in clauses 18 and 19 of Schedule 2—has the meaning given  
2 by subclauses 18(7) and (8) of that Schedule; and  
3 (b) otherwise—has the meaning given by section 195-1 of the  
4 GST Act.

5 **78 Section 2 (definition of *created*)**

6 Repeal the definition, substitute:

7 *created*, in relation to a consolidated group or a MEC group, has  
8 the meaning given by subsection 995-1(1) of the *Income Tax*  
9 *Assessment Act 1997*.

10 **79 Section 2**

11 Insert:

12 *notional tax amount* has the meaning given by section 97.

13 **80 Subsections 4A(1) and (3)**

14 Omit “in relation to” (first occurring), substitute “in, or in relation to,”.

15 **81 Paragraphs 4A(3)(b) and (c)**

16 Repeal the paragraphs, substitute:

- 17 (b) if the time is a time before the project combination certificate  
18 came into force:  
19 (i) any production licence areas in relation to  
20 pre-combination projects relating to the combined  
21 project; or  
22 (ii) any pre-licence areas in relation to any of those  
23 pre-combination projects.

24 **82 Subsection 4A(4)**

25 Omit “in relation to” (first occurring), substitute “in, or in relation to,”.

26 **83 Subsection 4A(4)**

27 After “recovered from”, insert “any of”.

28 **84 Sections 4B and 4C**

29 Omit “in relation to”, substitute “in, or in relation to,”.

30 **85 Subsection 10(4) (heading)**

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1 Repeal the heading, substitute:

2 *Translation rule—eligible real expenditure*

3 **86 Paragraph 10(4)(a)**

4 Omit “deductible expenditure”, substitute “eligible real expenditure”.

5 **87 Subparagraph 20(2)(a)(iii)**

6 Repeal the subparagraph, substitute:

7 (iii) if the licence relates to an onshore petroleum project and  
8 was granted on or after 1 July 2012—the start of  
9 1 January 2013;

10 (iv) if the licence relates to an onshore petroleum project and  
11 was granted before 1 July 2012—the start of 1 July  
12 2013; or

13 **88 Subsection 35C(5)**

14 Omit “subsection (1), (2) or (3)”, substitute “subsection (1) or (2)”.

15 **89 After subsection 35E(1)**

16 Insert:

17 (1A) However, if:

18 (a) the petroleum project is the North West Shelf project; and

19 (b) in the starting base financial year for the project or in a later  
20 financial year, a production licence relating to the project  
21 comes into existence; and

22 (c) the production licence is derived from an exploration permit,  
23 or a retention lease, that existed at the start of 1 July 2012;

24 subsection (1) has effect as if the starting base expenditure incurred  
25 by the person in that financial year in relation to the project  
26 includes an amount equal to the person’s starting base expenditure  
27 in that financial year in relation to the petroleum project that  
28 would, but for subsection 19(1B), relate to that production licence.

29 (1B) For the purposes of this Act, starting base expenditure incurred by  
30 a person in the starting base financial year is taken to be incurred  
31 on the first day of the starting base financial year.

32 **90 Subsection 35E(4)**

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1 Omit “The reference in paragraph (1)(a) to the starting base financial  
2 year for a petroleum project is a reference to”, substitute “References in  
3 paragraph (1)(a) and subsections (1A) and (1B) to the starting base  
4 financial year for a petroleum project are references to”.

5 **91 Subsection 41(2)**

6 Repeal the subsection, substitute:

- 7 (2) This section does not apply if the other person carries on or  
8 provides the operations, facilities or other things as part of the  
9 processing of:
- 10 (a) internal petroleum in relation to the petroleum project; or
  - 11 (b) external petroleum in relation to a petroleum project other  
12 than the project to which the operations, facilities or other  
13 things referred to in subsection (1) relate.

14 **92 Paragraph 45(2)(b)**

15 Repeal the paragraph, substitute:

- 16 (b) if paragraph (a) does not apply—at any time on or after  
17 2 May 2010, including a time before the project commences  
18 or after the project ceases.

19 **93 Subsection 45(5) (table item 2)**

20 Omit “the day on which that acquisition occurred”, substitute “the day,  
21 on or after 1 July 2007, on which the person first commenced to hold  
22 the interest, or was acquired, as the case requires”.

23 **94 At the end of section 45**

24 Add:

25 *Transferred expenditure relating to onshore petroleum projects or*  
26 *the North West Shelf project*

- 27 (8) To avoid doubt, eligible real expenditure that a person may incur in  
28 relation to an onshore petroleum project, or the North West Shelf  
29 project, may include expenditure that a person is taken to have  
30 incurred in relation to the project, before or after the  
31 commencement of this section, because of section 48 or 48A.
- 32 (9) However, if the person is taken to have incurred the expenditure  
33 because of the application of section 48 or 48A in relation to a

1 transaction entered into before 1 July 2012, subsection 48(3) or  
2 48A(11) (as the case requires) does not apply in relation to the  
3 transaction.

4 **95 Subparagraph 48(1)(a)(ib)**

5 Omit “does not apply in relation to the financial year in which the  
6 transaction is or was entered into”, substitute “did not apply  
7 immediately before the transfer time”.

8 **96 Subsection 48(3)**

9 Omit “later”, substitute “latest”.

10 **97 At the end of subsection 48(3)**

11 Add:

12 ; (c) if the project is an onshore petroleum project, or the North  
13 West Shelf project, and the transaction was entered into  
14 between 1 July 2012 and 30 June 2013—31 August 2013.

15 **98 Subparagraph 48A(5)(ca)(i)**

16 Repeal the subparagraph, substitute:

17 (i) section 35E did not apply immediately before the  
18 transfer time; and

19 **99 Subsection 48A(11)**

20 Omit “later”, substitute “latest”.

21 **100 At the end of subsection 48A(11)**

22 Add:

23 ; (c) if the project is an onshore petroleum project, or the North  
24 West Shelf project, and the transaction time occurred  
25 between 1 July 2012 and 30 June 2013—31 August 2013.

26 **101 Subsection 57(3)**

27 Omit “subparagraph 24(1)(d)(i)”, substitute “paragraph 24(1)(d)”.

28 **102 Subsections 58B(1), (4), (5) and (6), 58C(1) and (2) and**  
29 **58D(1)**

30 Omit “year of tax” (wherever occurring), substitute “financial year”.

1 **103 Section 58F (heading)**

2 Repeal the heading, substitute:

3 **58F Translation rule—eligible real expenditure**

4 **104 Paragraph 58F(a)**

5 Omit “deductible expenditure”, substitute “eligible real expenditure”.

6 **105 Subsections 58J(1) and (3)**

7 Omit “year of tax” (wherever occurring), substitute “financial year”.

8 **106 Paragraphs 58J(4)(b) and (c)**

9 Omit “years of tax”, substitute “financial years”.

10 **107 Subsection 58J(4)**

11 Omit “year of tax”, substitute “financial year”.

12 **108 Paragraphs 58J(5)(b) and (c)**

13 Omit “years of tax”, substitute “financial years”.

14 **109 Subsection 58J(5)**

15 Omit “year of tax”, substitute “financial year”.

16 **110 Subsections 58J(6), (7), (8), (9), (10) and (11)**

17 Omit “year of tax” (wherever occurring), substitute “financial year”.

18 **111 Subsection 58K(1) (heading)**

19 Repeal the heading, substitute:

20 *Certain expenditure incurred on the day when section 58B election*  
21 *takes effect*

22 **112 Paragraphs 58K(1)(a) and (b)**

23 Omit “year of tax” (wherever occurring), substitute “financial year”.

24 **113 Paragraph 58K(1)(b)**

25 Omit “and”.

1 **114 After subparagraph 58K(1)(b)(iii)**

2 Insert:

- 3 (iv) under subsection 35C(5), an amount is taken to be  
4 resource tax expenditure incurred by the person in  
5 relation to a petroleum project on the first day of the  
6 financial year;
- 7 (v) under subsection 35D(3) or (4), an amount is taken to be  
8 acquired exploration expenditure incurred by the person  
9 in relation to a petroleum project on the first day of the  
10 financial year;
- 11 (vi) under subsections 35E(1) and (1B), or under  
12 subsection 35E(3), an amount is taken to be starting  
13 base expenditure incurred by the person in relation to a  
14 petroleum project on the first day of the financial year;
- 15 (vii) under Division 1 of Part 3 of Schedule 2, an amount is  
16 the starting base amount that the person has in relation  
17 to an interest in a petroleum project; and

18 **115 Subsections 58K(2) and 58L(1) and (4)**

19 Omit “year of tax” (wherever occurring), substitute “financial year”.

20 **116 Subsection 58M(1) (heading)**

21 Repeal the heading, substitute:

22 *Certain expenditure incurred on the day when section 58B election*  
23 *takes effect*

24 **117 Paragraphs 58M(1)(a), (b) and (c)**

25 Omit “year of tax” (wherever occurring), substitute “financial year”.

26 **118 Paragraph 58M(1)(c)**

27 Omit “and”.

28 **119 After subparagraph 58M(1)(c)(iii)**

29 Insert:

- 30 (iv) under subsection 35C(5), an amount is taken to be  
31 resource tax expenditure incurred by the person in  
32 relation to a petroleum project on the first day of the  
33 next financial year;
-

- 1 (v) under subsection 35D(3) or (4), an amount is taken to be  
2 acquired exploration expenditure incurred by the person  
3 in relation to a petroleum project on the first day of the  
4 next financial year;
- 5 (vi) under subsections 35E(1) and (1B), or under  
6 subsection 35E(3), an amount is taken to be starting  
7 base expenditure incurred by the person in relation to a  
8 petroleum project on the first day of the next financial  
9 year;
- 10 (vii) under Division 1 of Part 3 of Schedule 2, an amount is  
11 the starting base amount that the person has in relation  
12 to an interest in a petroleum project; and

13 **120 Subsection 58M(1)**

14 Omit “year of tax” (last occurring), substitute “financial year”.

15 **121 Subsection 58M(2)**

16 Omit “year of tax” (wherever occurring), substitute “financial year”.

17 **122 Subsection 58N(2)**

18 Omit “or 719-76”, substitute “, 719-76 or 719-78”.

19 **123 Section 58P**

20 Repeal the section, substitute:

21 **58P Single entity rule**

- 22 (1) If a person:
- 23 (a) is a subsidiary member of the consolidated group or MEC  
24 group for any period in which the choice is in effect; and  
25 (b) holds an interest in an onshore petroleum project;
- 26 the person and any other subsidiary member of the group that holds  
27 an interest in the project are taken, for the purposes covered by  
28 subsection (2), to be parts of the head company or provisional head  
29 company of the group, rather than separate persons, during that  
30 period.

31 Note: Despite the single entity rule, a subsidiary member of the group is  
32 jointly and severally liable for a liability of the head company: see  
33 section 721-10 of the *Income Tax Assessment Act 1997*.

- 1 (2) The purposes covered by this subsection are:
- 2 (a) working out, for the purposes of this Act, the head
- 3 company's or provisional head company's interests, and any
- 4 subsidiary member's interests, in onshore petroleum projects
- 5 for any financial year in which any of the period occurs or
- 6 any later financial year; and
- 7 (b) working out any tax that is payable in relation to such an
- 8 interest for any such financial year; and
- 9 (c) working out assessable receipts and deductible expenditure
- 10 arising in relation to such an interest for any such financial
- 11 year; and
- 12 (d) working out the head company's or provisional head
- 13 company's notional tax amount, and any subsidiary
- 14 member's notional tax amount, in relation to an instalment
- 15 period in any such financial year; and
- 16 (e) working out excess closing-down expenditure arising in
- 17 relation to such an interest.

18 Examples: The following are some examples of consequences of the single entity

19 rule:

- 20 (a) a subsidiary member's interest in an onshore petroleum project
- 21 becomes a part of the head company's or provisional head
- 22 company's aggregated interest in the project;
- 23 (b) a subsidiary member's assessable receipts and deductible
- 24 expenditure relating to the interest are inherited by the head
- 25 company or provisional head company along with the interest;
- 26 (c) a subsidiary member's liability to pay tax in relation to a period
- 27 before becoming a member of the group (and any interest
- 28 charges associated with such a liability) remains a liability of the
- 29 subsidiary member and does not become a liability of the head
- 30 company or provisional head company.

31 **124 Section 58Q**

32 Omit all the words after "section 48 applies", substitute:

33 as if, at that time:

- 34 (a) each of the person's interests in onshore petroleum projects
- 35 just before that time had been transferred to the head
- 36 company or provisional head company; and
- 37 (b) the head company or provisional head company had given
- 38 the consideration referred to in paragraph 48(1A)(c).

39 **125 Subsection 58R(1)**

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1 After “as if”, insert “, at that time,”.

2 **126 At the end of subsection 58R(1)**

3 Add “, and as if the person had given the consideration referred to in  
4 paragraph 48(1A)(c)”.

5 **127 Subsection 58R(2)**

6 After “as if”, insert “, at that time,”.

7 **128 At the end of subsection 58R(2)**

8 Add “, and as if the person had given the consideration referred to in  
9 paragraph 48A(11)(b)”.

10 **129 After section 58R**

11 Insert:

12 **58RA Interests taken to be transferred when combined with**  
13 **offshore interests**

14 (1) If:

- 15 (a) after a person’s interest in an onshore petroleum project is  
16 taken to be transferred to the head company or provisional  
17 head company, the project becomes part of a combined  
18 project of which another petroleum project that is not an  
19 onshore petroleum project is also a part; and  
20 (b) the entitlement comprising the person’s interest in the project  
21 just after that time is all of the entitlement comprising the  
22 company’s interest in the project just before that time;  
23 section 48 applies as if, at that time, the person’s interest in the  
24 project just after that time had been transferred from the company  
25 under a transaction of a kind referred to in subsection 48(1A), and  
26 as if the person had given the consideration referred to in  
27 paragraph 48(1A)(c).

28 (2) If:

- 29 (a) after a person’s interest in an onshore petroleum project is  
30 taken to be transferred to the head company or provisional  
31 head company, the project becomes part of a combined  
32 project of which another petroleum project that is not an  
33 onshore petroleum project is also a part; and

1 (b) the entitlement comprising the person's interest in the project  
2 just after that time is part, but not all, of the entitlement  
3 comprising the company's interest in the project just before  
4 that time;

5 section 48A applies as if, at that time, the person's interest in the  
6 project just after that time had been transferred from the company  
7 under a transaction of a kind referred to in subsection 48A(1), and  
8 as if the person had given the consideration referred to in  
9 paragraph 48A(11)(b).

10 **130 Subparagraph 58U(1)(a)(i)**

11 Omit “\*MEC group”, substitute “MEC group”.

12 **131 Subparagraph 58U(1)(b)(i)**

13 Omit “\*provisional head company of a \*MEC group”, substitute  
14 “provisional head company of a MEC group”.

15 **132 Paragraph 58V(1)(a)**

16 Omit “\*MEC group”, substitute “MEC group”.

17 **133 At the end of section 58V**

18 Add:

19 (3) If this section applies because a MEC group is created from a  
20 consolidated group, references in paragraph (2)(c) to the head  
21 company of the new group are taken to be references to the head  
22 company or the provisional head company of the new group.

23 **134 At the end of Division 8 of Part V**

24 Add:

25 **58W Subsidiary members that are trusts**

26 If a subsidiary member of a consolidated group or MEC group is a  
27 trust, this Division applies to the subsidiary member as if it were a  
28 person.

29 **135 Subsection 93(1)**

30 After “sections”, insert “58P,”.

1 **136 Paragraph 97(1A)(b)**

2 After “35(3)”, insert “, 35C(5), 35D(3) and (4), 35E(3)”.

3 **137 Subsection 97(1AA)**

4 Omit “subparagraph 24(1)(d)(i) or paragraph 24(1)(e)”, substitute  
5 “paragraph 24(1)(d), (e) or (f)”.

6 **138 After section 108**

7 Insert:

8 **108A Offshore information notices**

9 For the purposes of this Act, section 264A (about offshore  
10 information notices) of the *Income Tax Assessment Act 1936*  
11 applies as if:

- 12 (a) a reference to a taxpayer in that section were a reference to a  
13 person; and  
14 (b) a reference to an assessment in that section were a reference  
15 to an assessment under Division 2 of Part VI of this Act; and  
16 (c) a reference to the *Income Tax Assessment Act 1936* in that  
17 section were a reference to this Act.

18 **139 At the end of section 109**

19 Add:

- 20 (5) This section does not apply to a trustee of a trust in relation to any  
21 period during which the trust:  
22 (a) is a subsidiary member of a consolidated group or a MEC  
23 group; and  
24 (b) is taken, under section 58P, to be part of the head company or  
25 provisional head company of the group for the purposes  
26 covered by subsection 58P(2).

27 **140 Clause 1 of Schedule 1 (paragraph (b) of the definition of**  
28 ***relevant pre-commencement day*)**

29 Omit “, the Bass Strait project or the North West Shelf project”.

30 **141 Clause 1 of Schedule 1 (at the end of the definition of**  
31 ***relevant pre-commencement day*)**

- 1 Add:  
2 ; or (c) if the petroleum project is the Bass Strait project or the North  
3 West Shelf project—the day occurring 5 years before the  
4 earlier of the following:  
5 (i) the earliest day specified in a production licence notice  
6 in relation to the project;  
7 (ii) the earliest day a production licence was issued in  
8 relation to the project.

9 **142 At the end of clause 22 of Schedule 1**

- 10 Add:  
11 (5) For the purposes of subclause (1) but without limiting that  
12 subclause, the person is taken to hold an interest in relation to the  
13 transferring entity or the receiving project during a period if:  
14 (a) in relation to all times during the period, the person and  
15 another person are group companies in relation to each other;  
16 and  
17 (b) at all times during the period, the other person held an  
18 interest in relation to the transferring entity or the receiving  
19 project, as the case requires.  
20 However, this subclause does not apply unless, at the time of the  
21 transfer referred to in subclause (1), the person holds an interest in  
22 both the transferring entity and the receiving project.

23 **143 After subclause 31(2) of Schedule 1**

- 24 Insert:  
25 (2A) If:  
26 (a) at a time (the *cessation time*) after the expenditure was  
27 incurred and on or after 1 July 1993, the loss company ceased  
28 to hold any interest in relation to the transferring entity; and  
29 (b) the cessation did not occur because of a transaction to which  
30 section 48 applies;  
31 subclause (1) does not require the loss company to have held an  
32 interest in relation to the transferring entity at a time after the  
33 cessation time.

34 **144 Paragraph 3(1)(b) of Schedule 2**

- 35 Repeal the paragraph, substitute:
-

- 1 (b) an interest that the person may in the future hold in such a  
2 project, if:  
3 (i) the project does not exist at the time the person makes  
4 the choice; and  
5 (ii) the production licence to which the project would relate  
6 would, if it later came into existence, be derived from an  
7 exploration permit or retention lease in which the person  
8 held an interest at that time.

9 **145 Paragraph 5(b) of Schedule 2**

10 Omit “from which the interest is derived”, substitute “from which the  
11 production licence to which the project relates is derived”.

12 **146 Paragraph 7(3)(b) of Schedule 2**

13 Omit “from which the project is derived”, substitute “from which the  
14 production licence to which the project relates is derived”.

15 **147 Subclause 7(3) of Schedule 2 (note)**

16 Omit “subsection”, substitute “subclause”.

17 **148 Subparagraph 10(1)(a)(ii) of Schedule 2**

18 Omit “project (or pre-combination project)”, substitute “production  
19 licence”.

20 **149 Subparagraph 10(2)(b)(i) of Schedule 2**

21 Omit “section 3”, substitute “clause 3”.

22 **150 Subclause 10(3) of Schedule 2**

23 Omit “subsection (1)”, substitute “subclause (1)”.

24 **151 Subclause 10(4) of Schedule 2**

25 Repeal the subclause, substitute:

- 26 (4) Despite subclause (1), something cannot become a starting base  
27 asset relating to an interest in a petroleum project that relates to a  
28 particular production licence if:  
29 (a) the production licence is derived from a particular retention  
30 lease or exploration permit; and

- 1 (b) the thing has already become a starting base asset relating to  
2 an interest in another petroleum project; and  
3 (c) the production licence to which the other project relates:  
4 (i) came into force between 2 May 2010 and 30 June 2012;  
5 and  
6 (ii) is derived from that retention lease or exploration  
7 permit.

- 8 (4A) Despite subclause (1), something cannot become a starting base  
9 asset relating to an interest in a petroleum project that relates to a  
10 particular production licence if:  
11 (a) the production licence is derived from a particular  
12 exploration permit; and  
13 (b) a retention lease that is related to the exploration permit came  
14 into force between 2 May 2010 and 30 June 2012; and  
15 (c) the production licence is not derived from the retention lease.

16 Note: For the relationship between production licences, exploration permits  
17 and retention leases, see section 4.

18 **152 Paragraph 15(5)(b) of Schedule 2**

19 Omit “from which the project is derived”, substitute “from which the  
20 production licence to which the project relates is derived”.

21 **153 Subclause 18(1) of Schedule 2**

22 Omit “incurred by the person referred to in paragraph (b)”.

23 **154 Subclauses 18(3), (4) and (5) of Schedule 2**

24 Omit “incurred by the person”.

25 **155 After subclause 18(5) of Schedule 2**

26 Insert:

27 (5A) For the purposes of subclause (1), if the person disposed of part of  
28 the interest during the period between 1 July 2007 and 2 May  
29 2010:

- 30 (a) the acquisition is taken to be an acquisition of so much (the  
31 *remaining part*) of the interest as the person holds  
32 immediately after the last such partial disposal to take place  
33 during that period; and

- 1 (b) the acquisition expenditure is taken to be so much of the  
2 expenditure referred to in paragraph (2)(a) or (b) as is  
3 attributable to the remaining part of the interest.

4 **156 Subclause 18(6) of Schedule 2 (heading)**

5 Repeal the heading, substitute:

6 *Interests acquired before 1 July 2007*

7 **157 Paragraphs 18(6)(a) and (b)**

8 Omit “30 June 2007”, substitute “1 July 2007”.

9 **158 Subclause 18(7) of Schedule 2**

10 Repeal the subclause (not including the heading), substitute:

11 (7) For the purposes of this clause and clause 19:

- 12 (a) the person holding an interest in an onshore petroleum  
13 project or the North West Shelf project is taken to have  
14 acquired the interest if and only if:  
15 (i) in a case where the project existed on 2 May 2010—the  
16 person purchased the interest; or  
17 (ii) in a case where the project did not exist on 2 May  
18 2010—the person purchased the exploration permit or  
19 retention lease from which the production licence to  
20 which the project relates is derived, or purchased an  
21 interest in the exploration permit or retention lease; and  
22 (b) the acquisition is taken to have occurred when the transaction  
23 was first entered into that, when complete, had the effect of  
24 transferring the interest, or the permit or lease; and  
25 (c) except for the purposes of subclause (6) of this clause, the  
26 acquisition expenditure relating to the acquisition includes  
27 any expenditure the person incurred, at any time, in acquiring  
28 the interest:  
29 (i) during the period between 1 July 2007 and 2 May 2010;  
30 or  
31 (ii) under an agreement entered into during the period  
32 between 1 July 2007 and 2 May 2010.

33 **159 Subparagraph 18(8)(b)(i) of Schedule 2**

34 Repeal the subparagraph, substitute:

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- 1 (i) the transaction that, when complete, had the effect of the  
2 first company becoming a subsidiary of the other  
3 company; or

4 **160 Paragraph 18(8)(c) of Schedule 2**

5 After “incurred”, insert “, at any time,”.

6 **161 Paragraph 19(1)(b) of Schedule 2**

7 Repeal the paragraph, substitute:

- 8 (b) during the period between 1 July 2007 and 2 May 2010,  
9 either or both of the following events occurred:  
10 (i) a person acquired the interest;  
11 (ii) if the person holding the interest is a company—the  
12 person was acquired by another company; and

13 **162 Paragraph 19(2)(b) of Schedule 2**

14 Repeal the paragraph, substitute:

- 15 (b) it was prepared in accordance with:  
16 (i) the accounting standards (within the meaning of the  
17 *Corporations Act 2001*); or  
18 (ii) International Financial Reporting Standard 6, or another  
19 international financial reporting standard prescribed by  
20 the regulations; and

21 **163 Paragraph 19(2)(c) of Schedule 2**

22 Omit “the day of the acquisition”, substitute “the day on which the  
23 acquisition of the interest, or the acquisition of the company, was  
24 recognised in accordance with those accounting standards or that  
25 reporting standard”.

26 **164 At the end of Part 4 of Schedule 2**

27 Add:

28 **21A Assessable property receipts**

- 29 (1) Without limiting section 27, if:  
30 (a) on or after 1 July 2012, consideration is receivable by a  
31 person in respect of the disposal, loss or destruction of an  
32 asset; and
-



1 (b) the asset was used, or being constructed for use, before 1 July  
2 2012 in carrying on project activities relating to an onshore  
3 petroleum project or the North West Shelf project;  
4 the disposal, loss or destruction is taken, for the purposes of that  
5 section, to be a disposal, loss or destruction of property in respect  
6 of which capital expenditure of the kind referred to in  
7 paragraph 27(1)(a) was incurred by the person.

8 (2) However, if the asset was used, or being constructed for use, before  
9 1 July 2012 only partly in carrying on project activities relating to  
10 the project, subclause (1) applies to the disposal, loss or destruction  
11 only to the extent that the asset was so used, or being constructed  
12 for use.

### 13 **165 Paragraph 23(4)(b) of Schedule 2**

14 Omit “section 66”, substitute “subsection 66(1)”.

### 15 **166 After subclause 23(5) of Schedule 2**

16 Insert:

17 (5A) If:

18 (a) section 48 or 48A applies in relation to a transaction that has  
19 the effect of transferring a person’s entitlement to derive,  
20 after the transaction, assessable receipts in relation to a  
21 petroleum project; and

22 (b) the person is a vendor (within the meaning of section 48 or  
23 48A) in relation to the transaction; and

24 (c) before the transaction, a starting base assessment relating to  
25 the project was taken (under subclause (1) or (5B) of this  
26 clause) to have been made relating to the person;

27 after the transaction, subclauses (4) and (5) of this clause apply, in  
28 relation to a person who is a purchaser (within the meaning of  
29 section 48 or 48A) in relation to the transaction, and cease to apply  
30 in relation to the vendor, to the extent that the transaction had the  
31 effect of transferring that entitlement to the purchaser.

32 (5B) To the extent that subclauses (4) and (5) apply because of  
33 subclause (5A), the starting base assessment is taken to have been  
34 made relating to the purchaser, and not the vendor.

1 ***Taxation Administration Act 1953***

2 **167 Paragraph 8AAZLG(1)(b)**

3 Repeal the paragraph, substitute:

4 (b) that the entity is required to give the Commissioner under:

- 5 (i) any of the BAS provisions (as defined in  
6 subsection 995-1(1) of the *Income Tax Assessment Act*  
7 *1997*); or  
8 (ii) any of the resource rent tax provisions (as defined in  
9 that subsection).

10 **168 Subsection 8AAZLH(1)**

11 Repeal the subsection, substitute:

- 12 (1) This section applies to refunds payable to an entity of RBA  
13 surpluses, or excess non-RBA credits that relate to an RBA, if  
14 primary tax debts arising under:  
15 (a) any of the BAS provisions (as defined in subsection 995-1(1)  
16 of the *Income Tax Assessment Act 1997*); or  
17 (b) any of the resource rent tax provisions (as defined in that  
18 subsection);  
19 have been allocated to that RBA.

20 **169 Application of subsection 8AAZLH(2)**

21 For the purposes of applying section 8AAZLH of the *Taxation*  
22 *Administration Act 1953* in relation to amounts that have been allocated  
23 to an RBA in relation to primary tax debts arising under any of the  
24 resource rent tax provisions (as defined in subsection 995-1(1) of the  
25 *Income Tax Assessment Act 1997*), if:

- 26 (a) an entity has not nominated a financial institution account in  
27 the approved form as required by subsection 8AAZLH(2) of  
28 the *Taxation Administration Act 1953*; and  
29 (b) the Commissioner has information, given to the  
30 Commissioner before the commencement of this item,  
31 relating to a financial institution account into which refunds  
32 may be paid to an entity;

33 the Commissioner may treat the information as information given by the  
34 entity in that approved form.

1 **170 Section 14ZQ**

2 Insert:

3 *starting base assessment* means:

- 4 (a) a starting base assessment within the meaning of clause 23 of  
5 Schedule 2 to the *Petroleum Resource Rent Tax Assessment*  
6 *Act 1987*; or  
7 (b) a starting base assessment within the meaning of  
8 subitem 15(3) of Schedule 4 to the *Minerals Resource Rent*  
9 *Tax (Consequential Amendments and Transitional*  
10 *Provisions) Act 2012*.

11 **171 Subparagraphs 14ZZK(b)(i) and (ii) and 14ZZO(b)(i) and**  
12 **(ii)**

13 After “franking assessment”, insert “or a starting base assessment”.

14 **172 At the end of section 11-1 in Schedule 1**

15 Add:

16 ; and (h) \*petroleum resource rent tax.

17 **173 Paragraphs 12-330(1)(b) and 12-335(2)(a) in Schedule 1**

18 Omit “or \*MRRT”, substitute “, \*MRRT or \*petroleum resource rent  
19 tax”.

20 **174 Subsection 18-10(3) in Schedule 1 (note)**

21 Repeal the note, substitute:

22 Note 1: Section 18-49 provides a credit for amounts withheld in respect of  
23 MRRT.

24 Note 2: Section 18-55 provides a credit for amounts withheld in respect of  
25 petroleum resource rent tax.

26 **175 At the end of Subdivision 18-A in Schedule 1**

27 Add:

1 **Entitlement to credit: Petroleum resource rent tax**

2 **18-55 Credit—Natural resource payments**

3 (1) An entity is entitled to a credit in a year of tax (within the meaning  
4 of the *Petroleum Resource Rent Tax Assessment Act 1987*) if:

5 (a) one or more \*withholding payments covered by  
6 section 12-325 (natural resource payments) from which there  
7 are \*amounts withheld in respect of \*petroleum resource rent  
8 tax are made to the entity during the year of tax; and

9 (b) an assessment has been made of the petroleum resource rent  
10 tax payable, or an assessment has been made that no  
11 petroleum resource rent tax is payable, by the entity for the  
12 year of tax.

13 (2) The amount of the credit is so much of the total of the \*amounts  
14 withheld as is withheld in respect of \*petroleum resource rent tax.

15 **176 Section 115-1 in Schedule 1**

16 After “mining revenue”, insert “or pre-mining revenue”.

17 **177 At the end of section 117-20 in Schedule 1**

18 Add:

19 (6) In addition to the \*starting base return required under  
20 subsection (1) (and the \*MRRT returns required under  
21 section 117-5 or 117-15), you must give the Commissioner such  
22 further or fuller starting base returns as the Commissioner directs  
23 you to give (including any starting base return in your capacity as  
24 agent or trustee).

25 **178 Paragraph 284-75(2)(a) in Schedule 1**

26 After “the \*MRRT law”, insert “or \*petroleum resource rent tax law”.

27 **179 Paragraph 284-75(2)(b) in Schedule 1**

28 After “the MRRT law”, insert “or petroleum resource rent tax law”.

29 **180 Subsection 284-80(1) in Schedule 1 (table item 3)**

30 Omit “, or the \*MRRT law,”, substitute “, the \*MRRT law or the  
31 \*petroleum resource rent tax law”.

1 **181 Subsection 284-80(1) in Schedule 1 (table item 4)**

2 Omit “, or the \*MRRT law,” (first occurring), substitute “, the \*MRRT  
3 law or the \*petroleum resource rent tax law”.

4 **182 Subsection 284-80(1) in Schedule 1 (table item 4)**

5 Omit “\*income tax law, or the \*MRRT law,” (last occurring), substitute  
6 “income tax law, the MRRT law or the petroleum resource rent tax  
7 law”.

8 **183 Subsection 284-90(1) in Schedule 1 (cell at table item 4,**  
9 **column headed “In this situation:”)**

10 Repeal the cell, substitute:

You have a \*shortfall amount, all or part of which resulted from you or your agent treating an \*income tax law, the \*MRRT law or the \*petroleum resource rent tax law as applying to a matter or identical matters in a particular way that was not \*reasonably arguable, and that amount is more than the greater of \$10,000 or 1% of whichever of the following applies:

- (a) the income tax payable by you for the income year, worked out on the basis of your \*income tax return;
- (b) the \*MRRT payable by you for the \*MRRT year, worked out on the basis of your \*MRRT return;
- (c) the \*petroleum resource rent tax payable by you for the year of tax (within the meaning of the *Petroleum Resource Rent Tax Assessment Act 1987*), worked out on the basis of your return under Division 1 of Part VI of that Act.

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

13 **184 Subsection 3(1) (paragraph (d) of the definition of**  
14 ***decision to which this Act applies*)**

15 Omit “the liability of the person to tax”, substitute “the liability of the  
16 person to relevant tax or other tax”.

17 **185 Subsection 3C(2)**

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1 Repeal the subsection, substitute:

2 (2) Without limiting subsection (1), a reference in item 160 of the table  
3 to assessed MRRT includes any general interest charge due and  
4 payable in relation to such an amount.

5 **186 Section 12AA (heading)**

6 Repeal the heading, substitute:

7 **12AA Entitlement to interest for RBA surpluses after notification of**  
8 **BAS amount or resource rent tax amount**

9 **187 Paragraph 12AA(a)**

10 After “BAS amount”, insert “or resource rent tax amount”.

11 **188 Section 12AA (note)**

12 After “*BAS amount*”, insert “*resource rent tax amount*”.

13 **189 Paragraph 12AB(a)**

14 After “BAS amount”, insert “or resource rent tax amount”.

15 **190 Section 12AB (note)**

16 After “*BAS amount*”, insert “*resource rent tax amount*”.

17 **191 Paragraph 12AC(b)**

18 After “BAS amount”, insert “or resource rent tax amount”.

19 **192 Section 12AC (note)**

20 After “*BAS amount*”, insert “*resource rent tax amount*”.

21 **193 Section 12AF**

22 Insert:

23 *resource rent tax amount* has the same meaning as in  
24 subsection 995-1(1) of the Tax Act.

1 **Part 2—General amendments**

2 *A New Tax System (Medicare Levy Surcharge—Fringe*  
3 *Benefits) Act 1999*

4 **194 Paragraphs 15(1)(c) and 16(2)(c)**

5 Before “20,542”, insert “\$”.

6 *Crimes (Taxation Offences) Act 1980*

7 **195 Subsection 3(1) (paragraph (b) of the definition of *income***  
8 ***tax*)**

9 Before “section 170AA”, insert “former”.

10 *Excise Tariff Amendment (Condensate) Act 2011*

11 **196 Item 4 of Schedule 1 (at the end of the heading)**

12 Add “(before The Schedule)”.

13 *Fringe Benefits Tax Assessment Act 1986*

14 **197 Subsection 136(1) (definition of *Chief Executive***  
15 ***Centrelink*)**

16 Repeal the definition.

17 *Fuel Tax Act 2006*

18 **198 Subsections 43-10(11) and (12)**

19 Omit “\*road user charge”, substitute “road user charge”.

20 *Income Tax Assessment Act 1936*

21 **199 Subsection 159P(4) (subparagraphs (g)(i) and (ii) of the**  
22 **definition of *medical expenses*)**

23 After “spectacles”, insert “or contact lenses”.

1 ***Income Tax Assessment Act 1997***

2 **200 Section 10-5 (table item headed “balancing adjustment”)**

3 Omit “*industrial property*”.

4 **201 Section 10-5 (table item headed “industrial property”)**

5 Repeal the item.

6 **202 Section 10-5 (table item headed “residual value”)**

7 Repeal the item.

8 **203 Section 102-20 (note 5) (the note 5 inserted by item 69 of**  
9 **Schedule 1 to the *Tax Laws Amendment (Taxation of***  
10 ***Financial Arrangements) Act 2009***

11 Omit “Note 5”, substitute “Note 6”.

12 **204 Paragraph 250-55(b)**

13 Repeal the paragraph, substitute:

14 (b) the end user is:

15 (i) an entity that is a foreign resident; or

16 (ii) an entity that is an Australian resident, to the extent that  
17 the entity carries on \*business in a foreign country at or  
18 through a \*permanent establishment of the entity in that  
19 country.

20 **205 Subparagraph 250-60(1)(b)(ii)**

21 Omit “(non-resident)”, substitute “(foreign resident or business)”.

22 **206 Subparagraph 250-60(2)(b)(ii)**

23 After “(foreign resident”, insert “or business”.

24 **207 Paragraph 250-115(3)(b)**

25 After “foreign residents”, insert “or businesses”.

26 **208 Application of amendments**

27 The amendments made by items 204 to 207 apply in relation to end  
28 users of assets on or after 1 July 2007.



1 **209 Paragraph 727-95(a)**

2 Omit “a non-arm’s length dealing”, substitute “a dealing that is not at  
3 \*arm’s length”.

4 **210 Subsection 995-1(1) (definition of *natural resource*, first  
5 occurring)**

6 Repeal the definition.

7 ***Income Tax Rates Act 1986***

8 **211 Subsection 3(1)**

9 Insert:

10 *net income phase-out limit* has the meaning given by  
11 subsection 14(3).

12 **212 Subsection 3(1)**

13 Insert:

14 *non-resident phase-out limit* has the meaning given by  
15 subsection 15(8).

16 **213 Subsection 3(1)**

17 Insert:

18 *resident phase-out limit* has the meaning given by  
19 subsection 13(10).

20 **214 Subsection 13(2)**

21 Omit “\$1,307”, substitute “the resident phase-out limit”.

22 **215 Paragraphs 13(5)(b), (6)(c) and (8)(b)**

23 Omit “\$1,307”, substitute “the resident phase-out limit”.

24 **216 At the end of section 13**

25 Add:

26 (10) The *resident phase-out limit* is the following amount rounded  
27 down to the nearest dollar:

1

$$66\% - \frac{\$416 \times 66\%}{\text{Highest rate in the table in Part I of Schedule 7}}$$

2 **217 Paragraph 14(2)(c)**

3 Omit “\$594”, substitute “the net income phase-out limit”.

4 **218 At the end of section 14**

5 Add:

6 (3) The *net income phase-out limit* is the following amount rounded  
7 down to the nearest dollar:

8

$$50\% - \frac{\$416 \times 50\%}{\text{Lowest rate in the table in Part I of Schedule 7}}$$

9 **219 Paragraphs 15(2)(b), (4)(d) and (6)(b)**

10 Omit “\$663”, substitute “the non-resident phase-out limit”.

11 **220 At the end of section 15**

12 Add:

13 (8) The *non-resident phase-out limit* is the following amount rounded  
14 down to the nearest dollar:

15

$$\frac{\$416 \times \left( 66\% - \text{Lowest rate in the table in Part II of Schedule 7} \right)}{66\% - \text{Highest rate in the table in Part II of Schedule 7}}$$

16 **221 Application of amendments**

17 The amendments made by items 211 to 220 apply in relation to the  
18 2012-13 income year and later income years.

19 ***New Business Tax System (Former Subsidiary Tax***  
20 ***Imposition) Act 1999***

21 **222 Paragraphs 4(2)(a) and (b)**

22 Omit “section 170AA”, substitute “former section 170AA”.

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1 ***New Business Tax System (Venture Capital Deficit Tax) Act***  
2 ***2003***

3 **223 Subsection 2(1) (table item 2)**

4 Omit “(No. 2)”.

5 ***Superannuation Laws Amendment (Capital Gains Tax Relief***  
6 ***and Other Efficiency Measures) Act 2012***

7 **224 Item 1 of Schedule 2**

8 Omit “or (g)” (wherever occurring).

9 ***Taxation Administration Act 1953***

10 **225 Subparagraph 426-102(1)(a)(ii) in Schedule 1**

11 Before “is prescribed”, insert “each trustee of the trust”.

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

14 **226 Subsection 3C(1) (definition of *relevant tax*) (table**  
15 **item 15)**

16 Omit “section 170AA of the Tax Act”, substitute “former  
17 section 170AA of the *Income Tax Assessment Act 1936*”.

18 **227 Subparagraph 8A(1)(a)(vb)**

19 Omit “or 170AA”, substitute “, or former section 170AA,”.

20 ***Tax Laws Amendment (2011 Measures No. 9) Act 2012***

21 **228 At the end of section 4**

22 Add:

23 (4) Section 170 of the *Income Tax Assessment Act 1936* does not  
24 prevent the amendment of an assessment if:

25 (a) the assessment was made before the commencement of  
26 Part 28 of Schedule 6 to this Act; and

- 1 (b) the amendment is made within 2 years after the  
2 commencement of this subsection; and  
3 (c) the amendment is made for the purpose of giving effect to  
4 that Part.

5 **229 Item 14 of Schedule 1**

6 Omit “self-managed superannuation funds”, substitute “self managed  
7 superannuation funds”.

8 **230 Item 200 of Schedule 6**

9 Omit “self managed superannuation fund (within the meaning of the  
10 *Superannuation Industry (Supervision) Act 1993*)”, substitute “self  
11 managed superannuation fund (within the meaning of the  
12 *Superannuation Industry Supervision Act 1993*)”.

13 **231 Item 201 of Schedule 6**

14 Omit “self managed superannuation fund (within the meaning of the  
15 *Superannuation Industry (Supervision) Act 1993*)”, substitute “self  
16 managed superannuation fund (within the meaning of the  
17 *Superannuation Industry Supervision Act 1993*)”.

18 **232 Item 202 of Schedule 6**

19 Omit “self managed superannuation fund (within the meaning of the  
20 *Superannuation Industry (Supervision) Act 1993*)”, substitute “self  
21 managed superannuation fund (within the meaning of the  
22 *Superannuation Industry Supervision Act 1993*)”.

23 **233 Item 203 of Schedule 6**

24 Omit “self managed superannuation fund (within the meaning of the  
25 *Superannuation Industry (Supervision) Act 1993*)”, substitute “self  
26 managed superannuation fund (within the meaning of the  
27 *Superannuation Industry Supervision Act 1993*)”.

28 ***Tax Laws Amendment (Income Tax Rates) Act 2012***

29 **234 Subsection 2(1) (table item 3)**

30 Repeal the item.

31 **235 Part 2 of Schedule 1**

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1 Repeal the Part.

1 **Part 3—Asterisking amendments**

2 ***Income Tax Assessment Act 1997***

3 **236 Amendments relating to asterisking**

4 The provisions of the *Income Tax Assessment Act 1997* listed in the  
5 table are amended as set out in the table.  
6

<b>Asterisking amendments</b>			
<b>Item</b>	<b>Provision</b>	<b>Omit:</b>	<b>Substitute:</b>
1	Paragraph 43-170(2)(b)	arm's length	*arm's length
2	Paragraph 70-20(b)	arm's length	*arm's length
3	Paragraph 70-30(1)(a)	arm's length	*arm's length
4	Paragraph 70-110(1)(a)	arm's length	*arm's length
5	Paragraph 70-120(6)(b)	arm's length	*arm's length
6	Paragraph 87-40(2)(e)	arm's length	*arm's length
7	Paragraph 112-20(1)(c)	arm's length	*arm's length
8	Paragraph 112-20(2)(a)	arm's length	*arm's length
9	Subparagraph 116-30(2)(b)(i)	arm's length	*arm's length
10	Paragraph 207-128(1)(e)	arm's length	*arm's length
11	Subsection 243-20(7)	arm's length	*arm's length
12	Paragraph 243-25(1)(d)	arm's length	*arm's length
13	Subparagraph 420-20(1)(b)(i)	arm's length	*arm's length
14	Subparagraph 420-30(c)(i)	arm's length	*arm's length
15	Subsection 620-40(2)	arm's length	*arm's length
16	Subparagraph 707-325(4)(b)(i)	arm's length	*arm's length
17	Paragraph 775-120(a)	arm's length	*arm's length
18	Subparagraph 820-105(1)(b)(ii)	arm's length	*arm's length

<b>Asterisking amendments</b>			
<b>Item</b>	<b>Provision</b>	<b>Omit:</b>	<b>Substitute:</b>
19	Paragraph 820-105(3)(h)	arm's length	*arm's length
20	Subparagraph 820-215(1)(b)(ii)	arm's length	*arm's length
21	Paragraph 820-215(3)(h)	arm's length	*arm's length
22	Paragraph 820-315(1)(d)	arm's length	*arm's length
23	Paragraph 820-315(3)(f)	arm's length	*arm's length
24	Paragraph 820-410(1)(d)	arm's length	*arm's length
25	Paragraph 820-410(3)(f)	arm's length	*arm's length
26	Paragraph 820-910(3)(d)	arm's length	*arm's length
27	Paragraph 820-942(2)(g)	arm's length	*arm's length
28	Subsections 960-280(1), (2) and (4)	a quarter	a *quarter
29	Subsection 960-285(6)	a quarter	a *quarter

1 **237 Subsection 960-275(1) (formula)**

2 Repeal the formula, substitute:

3 
$$\frac{\text{Sum of the *index numbers for the *quarters in the year ending on 31 March just before the start of the relevant *financial year}}{\text{Sum of the *index numbers for the *quarters in the year ending on the previous 31 March}}$$

4 **238 Subsection 960-275(1A) (formula)**

5 Repeal the formula, substitute:

6 
$$\frac{\text{*Index number for the *quarter ending on 31 March just before the start of the relevant income year}}{\text{*Index number for the *quarter ending on the previous 31 March}}$$

1 **239 Subsection 960-275(2) (formula)**

2 Repeal the formula, substitute:

3 
$$\frac{\text{*Index number for the *quarter ending on 30 September 1999}}{\text{*Index number for the *quarter in which the expenditure was incurred}}$$

4 **240 Subsection 960-275(3) (formula)**

5 Repeal the formula, substitute:

6 
$$\frac{\text{*Index number for the *quarter ending on 30 September 1999}}{\text{*Index number for the *quarter in which the amount was paid}}$$

7 **241 Subsection 960-285(3A) (formula)**

8 Repeal the formula, substitute:

9 
$$\frac{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December just before the start of the relevant income year or *financial year}}{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December 2008}}$$

10 **242 Subsection 960-285(4) (formula)**

11 Repeal the formula, substitute:

12 
$$\frac{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December just before the start of the relevant income year or *financial year}}{\text{*Index number mentioned in subsection (6) for the *quarter ending on 31 December 2006}}$$