

2016-2017

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Treasury Laws Amendment (2017
Enterprise Incentives No. 1) Bill 2017**

No. , 2017

(Treasury)

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

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

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2017 Enterprise Incentives No. 1) Act 2017*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Access to losses

Part 1—Companies

Income Tax Assessment Act 1997

1 Section 165-210 (heading)

Repeal the heading, substitute:

165-210 The business continuity test—carrying on the same business

2 Subsection 165-210(1)

Omit “*same business test* if throughout the *same business test period”, substitute “*business continuity test* if throughout the *business continuity test period”.

3 Subsection 165-210(2)

Omit “*same business test if, at any time during the *same business test period,”, substitute “*business continuity test under this section if, at any time during the *business continuity test period,”.

4 Subsection 165-210(3)

Omit “*same business test if”, substitute “*business continuity test under this section if”.

5 Subsection 165-210(3)

Omit “*same business test period”, substitute “*business continuity test period”.

6 Subsection 165-210(4)

Omit “*same business test is”, substitute “*business continuity test under this section is”.

7 Subsection 165-210(4)

Omit “*same business test period”, substitute “*business continuity test period”.

8 After section 165-210

Insert:

165-211 The business continuity test—carrying on a similar business

- (1) A company also satisfies the *business continuity test* in relation to:
 - (a) a *tax loss for an income year starting on or after 1 July 2015;
or
 - (b) taxable income for an income year starting on or after 1 July 2015; or
 - (c) a *net capital loss for an income year starting on or after 1 July 2015; or
 - (d) a debt, incurred in an income year starting on or after 1 July 2015, that the company writes off as bad;if throughout the *business continuity test period it carries on a business (its *current business*) that is similar to the *business it carried on immediately before the *test time (its *former business*).
- (2) Without limiting the matters that may be taken into account in ascertaining whether the company's current business is similar to its former business, the following must be taken into account:
 - (a) the extent to which the assets (including goodwill) that are used in its current business to generate assessable income throughout the *business continuity test period were also used in its former business to generate assessable income;
 - (b) the extent to which the activities and operations from which its current business generated assessable income throughout the business continuity test period were also the activities and operations from which its former business generated assessable income;
 - (c) the identity of its current business and the identity of its former business;
 - (d) the extent to which any changes to its former business result from development or commercialisation of assets, products, processes, services or marketing or organisational methods of the former business.
- (3) However, the company does *not* satisfy the *business continuity test under this section if, before the *test time, it:

- (a) started to carry on a *business it had not previously carried on; or
- (b) in the course of its business operations, entered into a transaction of a kind that it had not previously entered into; and did so for the purpose, or for purposes including the purpose, of being taken to have carried on throughout the *business continuity test period a business that is similar to the business it carried on immediately before the test time.

9 Paragraph 175-5(2)(b)

Repeal the paragraph, substitute:

- (b) meets the condition in section 165-13 in respect of the income year by satisfying the *business continuity test under section 165-210.

10 Paragraph 175-40(2)(b)

Repeal the paragraph, substitute:

- (b) would meet the condition in section 165-13 in respect of the income year by satisfying the *business continuity test under section 165-210.

11 Paragraph 175-80(2)(b)

Repeal the paragraph, substitute:

- (b) meets the condition in section 165-126 by satisfying the *business continuity test under section 165-210.

12 After subsection 707-140(1)

Insert:

- (1A) However, subsection (1) does not affect the operation of paragraph 165-211(1)(a) or (c).

Note: This subsection ensures that the head company can only apply the version of the business continuity test in section 165-211 if the loss of the joining entity was incurred on or after 1 July 2015.

13 Application of amendments

The amendments made by this Part apply in relation to income years starting on or after 1 July 2015.

Part 2—Listed widely held trusts

Income Tax Assessment Act 1936

14 Section 269-100 (heading) in Schedule 2F

Repeal the heading, substitute:

269-100 Passing the business continuity test

15 Subsection 269-100(1) in Schedule 2F

Omit “*passes the same business test* during a period (the *same business test period*)”, substitute “*passes the business continuity test* during a period (the *business continuity test period*)”.

16 Subsection 269-100(1) in Schedule 2F

Omit “same business test period”, substitute “business continuity test period”.

17 Subsection 269-100(3) in Schedule 2F

Omit “the same business test if, at any time during the same business test period,”, substitute “the business continuity test under this section if, at any time during the business continuity test period,”.

18 Subsection 269-100(4) in Schedule 2F

Omit “pass the same business test”, substitute “pass the business continuity test under this section”.

19 Subsection 269-100(4) in Schedule 2F

Omit “same business test period”, substitute “business continuity test period”.

20 Subsection 269-100(5) in Schedule 2F

Omit “the test if, at any time during the same business test period,”, substitute “the business continuity test under this section if, at any time during the business continuity test period,”.

21 At the end of Subdivision 269-F in Schedule 2F

Add:

269-105 Modified test for income years starting on or after 1 July 2015

Cases in which businesses need only be similar

- (1) A listed widely held trust also **passes the business continuity test** during a period (the **business continuity test period**) in relation to a time (the **test time**) and in relation to:
 - (a) a tax loss for a loss year starting on or after 1 July 2015; or
 - (b) net income for an income year starting on or after 1 July 2015; or
 - (c) a debt, incurred in an income year starting on or after 1 July 2015, that the trust writes off as bad; or
 - (d) a debt, incurred in an income year starting on or after 1 July 2015, in relation to which a debt/equity swap (within the meaning of section 63E) occurs;if throughout the business continuity test period it carries on a business (its **current business**) that is similar to the business it carried on immediately before the test time (its **former business**).

Relevance of being a trust

- (2) The mere fact of being a trust does not mean that the trust cannot carry on a business.

Matters to be considered

- (3) Without limiting the matters that may be taken into account in ascertaining whether the trust's current business is similar to its former business, the following must be taken into account:
 - (a) the extent to which the assets (including goodwill) that are used in its current business to generate assessable income throughout the business continuity test period were also used in its former business to generate assessable income;
 - (b) the extent to which the activities and operations from which its current business generated assessable income throughout the business continuity test period were also the activities and

- operations from which its former business generated assessable income;
- (c) the identity of its current business and the identity of its former business;
 - (d) the extent to which any changes to its former business result from development or commercialisation of assets, products, processes, services or marketing or organisational methods of the former business.

Exception

- (4) However, the trust does *not* pass the business continuity test under this section if, before the test time, it:
 - (a) began to carry on a business it had not previously carried on;
or
 - (b) in the course of its business operations, entered into a transaction of a kind that it had not previously entered into;
and did so for the purpose, or for purposes including the purpose, of being taken to have carried on throughout the business continuity test period a business that is similar to the business it carried on immediately before the test time.

22 Application of amendments

The amendments made by this Part apply in relation to income years starting on or after 1 July 2015.

Part 3—Consequential amendments

Income Tax Assessment Act 1936

23 Section 266-125 (heading) in Schedule 2F

Repeal the heading, substitute:

266-125 There must be no abnormal trading (subject to 50% stake or business continuity exceptions)

24 Paragraph 266-125(2)(b) in Schedule 2F

Omit “same business test”, substitute “business continuity test”.

25 Subsection 266-125(2) in Schedule 2F (second note)

Omit “same business test”, substitute “business continuity test”.

26 Paragraphs 266-135(2)(b) and (c) in Schedule 2F

Omit “same business test”, substitute “business continuity test”.

27 Subsection 266-135(3) in Schedule 2F

Omit “same business test”, substitute “business continuity test”.

28 Paragraph 268-20(4)(b) in Schedule 2F

Omit “same business test”, substitute “business continuity test”.

29 Section 269-5 in Schedule 2F

Omit “same business test”, substitute “business continuity test”.

30 Subdivision 269-F (heading) in Schedule 2F

Repeal the heading, substitute:

Subdivision 269-F—Business continuity test

31 Subsection 272-140(1) in Schedule 2F

Insert:

pass the business continuity test has the meaning given by Subdivision 269-F.

32 Subsection 272-140(1) (definition of *pass the same business test*) in Schedule 2F

Repeal the definition.

Income Tax Assessment Act 1997

33 Subsection 4-15(2) (table item 1)

Omit “same business test”, substitute “business continuity test”.

34 Subsection 25-35(5) (table item 1)

Omit “same business test”, substitute “business continuity test”.

35 Section 36-25 (table relating to tax losses of companies, table items 1 and 2)

Omit “same business test”, substitute “business continuity test”.

36 Section 102-30 (table items 4 and 5)

Omit “same business test”, substitute “business continuity test”.

37 Section 165-5

Omit:

<p>(b) it satisfies the same business test by carrying on the same business, entering into no new kinds of transactions and conducting no new kinds of business.</p>
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substitute:

<p>(b) it satisfies the business continuity test by carrying on the same business (including entering into no new kinds of transactions and conducting no new kinds of business), or by carrying on a similar business (on or after 1 July 2015).</p>

38 Paragraph 165-10(b)

Omit “same business test”, substitute “business continuity test”.

39 Section 165-13 (heading)

Repeal the heading, substitute:

165-13 Alternatively, the company must satisfy the business continuity test

40 Subsection 165-13(2)

Omit “*same business test for the income year (the *same business test period*)”, substitute “*business continuity test for the income year (the *business continuity test period*)”.

41 Subsection 165-13(2) (note)

Omit “same business test”, substitute “business continuity test”.

42 Section 165-15 (heading)

Repeal the heading, substitute:

165-15 The same people must control the voting power, or the company must satisfy the business continuity test

43 Subsection 165-15(2)

Omit “*same business test for the income year (the *same business test period*)”, substitute “*business continuity test for the income year (the *business continuity test period*)”.

44 Subsection 165-15(3)

Omit “*same business test”, substitute “*business continuity test”.

45 Subsection 165-15(3) (note)

Omit “same business test”, substitute “business continuity test”.

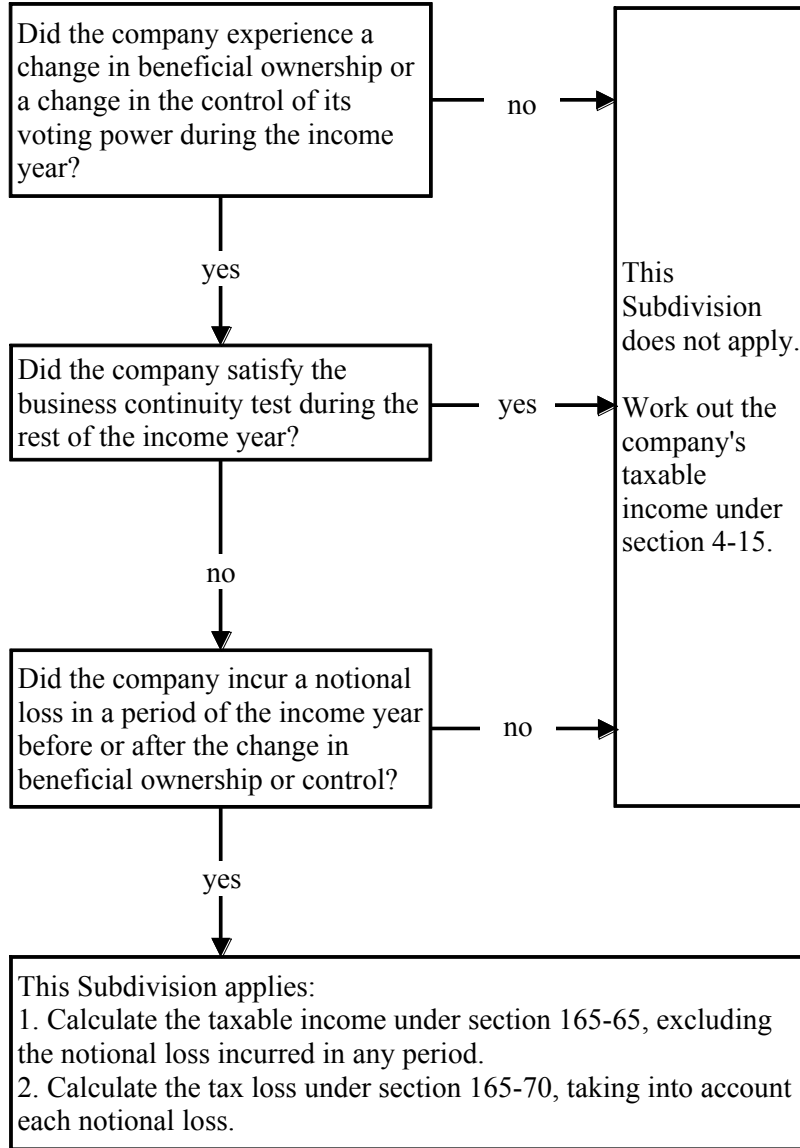
46 Section 165-23

Omit “same business test”, substitute “business continuity test”.

47 Section 165-30

Repeal the section, substitute:

165-30 Flow chart showing the application of this Subdivision



Note: If the company was a partner during the income year, special rules apply to calculating a notional loss or notional taxable income.

48 Section 165-35 (heading)

Repeal the heading, substitute:

165-35 On a change of ownership, unless the company satisfies the business continuity test

49 Paragraph 165-35(b)

Omit “*same business test for the *rest* of the income year (the *same business test period*)”, substitute “*business continuity test for the *rest* of the income year (the *business continuity test period*)”.

50 Section 165-35

Omit “apply the *same business test”, substitute “apply the business continuity test”.

51 Section 165-35 (note 1)

Omit “same business test”, substitute “business continuity test”.

52 Section 165-40 (heading)

Repeal the heading, substitute:

165-40 On a change of control of the voting power in the company, unless the company satisfies the business continuity test

53 Subsection 165-40(2)

Omit “*same business test for the *rest* of the income year (the *same business test period*)”, substitute “*business continuity test for the *rest* of the income year (the *business continuity test period*)”.

54 Subsection 165-40(3)

Omit “*same business test”, substitute “*business continuity test”.

55 Subsection 165-40(3) (note)

Omit “same business test”, substitute “business continuity test”.

56 Subsection 165-45(4)

Omit “*same business test for all of them, considered as a single period (the *same business test period*). Apply the same business test”, substitute “*business continuity test for all of them, considered as a single period (the *business continuity test period*). Apply the business continuity test”.

57 Subsection 165-45(4) (note 1)

Omit “same business test”, substitute “business continuity test”.

58 Section 165-93

Omit:

(b) it satisfies the same business test by carrying on the same business, entering into no new kinds of transactions and conducting no new kinds of business.

substitute:

(b) it satisfies the business continuity test by carrying on the same business (including entering into no new kinds of transactions and conducting no new kinds of business), or by carrying on a similar business (on or after 1 July 2015).
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59 Section 165-99

Omit “same business test”, substitute “business continuity test”.

60 Section 165-102 (heading)

Repeal the heading, substitute:

**165-102 On a change of ownership, or of control of voting power,
unless the company satisfies the business continuity test**

61 Section 165-115

Omit “same business test”, substitute “business continuity test”.

62 Paragraph 165-115AA(3)(b)

Omit “same business test”, substitute “business continuity test”.

63 Subsection 165-115B(4) (heading)

Repeal the heading, substitute:

Need to meet business continuity test

64 Subsection 165-115B(4)

Omit “same business test”, substitute “business continuity test”.

65 Subsection 165-115BA(4) (heading)

Repeal the heading, substitute:

No increase in assessable income if company satisfies the business continuity test

66 Subsection 165-115BA(4)

Omit “same business test”, substitute “business continuity test”.

67 Subsection 165-115BA(5) (heading)

Repeal the heading, substitute:

Assumptions for purposes of business continuity test

68 Paragraph 165-115BA(5)(d)

Omit “same business test period”, substitute “*business continuity test period”.

69 Section 165-117

Omit “same business test by carrying on the same business, entering into no new kinds of transactions and conducting no new kinds of business”, substitute “business continuity test by carrying on the same business (including entering into no new kinds of transactions and conducting no new kinds of business), or by carrying on a similar business (on or after 1 July 2015)”.

70 Paragraph 165-120(1)(c)

Omit “same business test”, substitute “business continuity test”.

71 Section 165-126 (heading)

Repeal the heading, substitute:

165-126 Alternatively, the company must satisfy the business continuity test

72 Subsection 165-126(2)

Omit “same business test for the *second continuity period (the *same business test period*)”, substitute “business continuity test for the *second continuity period (the *business continuity test period*)”.

73 Subsection 165-126(2) (note)

Omit “same business test”, substitute “business continuity test”.

74 Section 165-129 (heading)

Repeal the heading, substitute:

165-129 Same people must control the voting power, or the company must satisfy the business continuity test

75 Subsection 165-129(2)

Omit “same business test for the *second continuity period (the *same business test period*)”, substitute “business continuity test for the *second continuity period (the *business continuity test period*)”.

76 Subsection 165-129(3)

Omit “same business test”, substitute “business continuity test”.

77 Subsection 165-129(3) (note)

Omit “same business test”, substitute “business continuity test”.

78 Paragraph 165-132(1)(b)

Omit “same business test”, substitute “business continuity test”.

79 Subsection 165-132(1)

Omit “*same business test for the later income year (the *same business test period*)”, substitute “*business continuity test for the later income year (the *business continuity test period*)”.

80 Subsection 165-132(2) (note)

Omit “same business test”, substitute “business continuity test”.

81 Subdivision 165-E (heading)

Repeal the heading, substitute:

Subdivision 165-E—Business continuity test

82 Subsections 165-212D(1) and (2)

Omit “*same business test”, substitute “*business continuity test”.

83 Section 165-212E (heading)

Repeal the heading, substitute:

165-212E Entry history rule does not apply for the purposes of sections 165-210 and 165-211

84 Section 165-212E

Omit “section 165-210”, substitute “sections 165-210 and 165-211”.

85 Subsection 166-5(5) (heading)

Repeal the heading, substitute:

Satisfies the business continuity test

86 Subsection 166-5(5)

Omit “*same business test for the income year (the *same business test period*)”, substitute “*business continuity test for the income year (the *business continuity test period*)”.

87 Subsection 166-5(5) (note 1)

Omit “same business test”, substitute “business continuity test”.

88 Subsection 166-5(6)

Omit “*same business test”, substitute “*business continuity test”.

89 Subsection 166-20(4) (heading)

Repeal the heading, substitute:

Satisfies the business continuity test

90 Subsection 166-20(4)

Omit “*same business test for the rest of the income year (the *same business test period*)”, substitute “*business continuity test for the rest of the income year (the *business continuity test period*)”.

91 Subsection 166-20(4) (note 1)

Omit “same business test”, substitute “business continuity test”.

92 Subsection 166-20(5)

Omit “*same business test”, substitute “*business continuity test”.

93 Subsection 166-40(5) (heading)

Repeal the heading, substitute:

Satisfies the business continuity test

94 Subsection 166-40(5)

Omit “*same business test for the *second continuity period (the *same business test period*)”, substitute “*business continuity test for the *second continuity period (the *business continuity test period*)”.

95 Subsection 166-40(5) (note 1)

Omit “same business test”, substitute “business continuity test”.

96 Subsection 166-40(6)

Omit “*same business test”, substitute “*business continuity test”.

97 Subsection 175-80(2)

After “if”, insert “the company”.

98 Paragraph 175-80(2)(a)

Omit “the company”.

99 Subsection 415-35(4)

Omit “*same business test period”, substitute “*business continuity test period”.

100 Subsection 415-35(4)

Omit “same business test period would”, substitute “business continuity test period would”.

101 Subsection 415-40(4)

Omit “*same business test period”, substitute “*business continuity test period”.

102 Subsection 415-40(4)

Omit “same business test period would”, substitute “business continuity test period would”.

103 Section 701-5 (note 3)

Omit “same business test”, substitute “business continuity test”.

104 Subsection 707-120(3)

Repeal the subsection, substitute:

Business continuity test involving trial year

- (3) When working out whether the joining entity carried on, throughout the *trial year (or a period including the trial year):
- (a) the same business as the business it carried on at a particular time; or
 - (b) a similar business to the business it carried on at that time; assume that the entity carried on at and just after the joining time the same business that it carried on just before the joining time.

105 Section 707-125 (heading)

Repeal the heading, substitute:

707-125 Modified business continuity test for companies' post-1999 losses

106 Subsection 707-125(2)

Omit “*same business test”, substitute “*business continuity test”.

107 Paragraph 707-125(2)(a)

Omit “*same business test period*”, substitute “*business continuity test period*”.

108 Paragraph 707-125(3)(a)

Omit “(the *same business test period*) for the *same business test”, substitute “(the *business continuity test period*) for the *business continuity test”.

109 Paragraph 707-125(3)(b)

Omit “same business test”, substitute “business continuity test”.

110 Paragraph 707-125(4)(a)

Omit “*same business test for the period (the *same business test period*)”, substitute “*business continuity test for the period (the *business continuity test period*)”.

111 Paragraph 707-125(4)(b)

Omit “same business test”, substitute “business continuity test”.

112 Section 707-135 (heading)

Repeal the heading, substitute:

707-135 Transferring loss transferred to joining entity because business continuity test was satisfied

113 Subsection 707-135(1)

Repeal the subsection, substitute:

- (1) This section operates if the loss had been transferred to the joining entity (by a previous operation of this Subdivision) because the

entity *from* which the loss was transferred carried on during a particular period:

- (a) the same business as it carried on at a particular time; or
- (b) if section 165-211 applies in relation to the loss—a business similar to the business it carried on at a particular time.

Note: Section 165-211 enables an entity to satisfy the business continuity test by carrying on a similar business.

114 Subsection 707-135(2)

Omit “same business test”, substitute “business continuity test”.

115 Paragraph 707-135(2)(a)

Omit “*same business test period*”, substitute “*business continuity test period*”.

116 Subsection 707-210(6) (heading)

Repeal the heading, substitute:

Business continuity test applying to latest transferee under Division 166

117 Subsection 707-210(6)

Omit “same business test”, substitute “business continuity test”.

118 Paragraph 707-400(1)(a)

Omit “same business test”, substitute “business continuity test”.

119 Paragraph 707-400(1)(b)

Omit “same business test period”, substitute “business continuity test period”.

120 Subsection 707-400(1)

Omit “*same business test period*”, substitute “*business continuity test period*”.

121 Subsection 707-400(1)

Omit “same business test” (last occurring), substitute “business continuity test”.

122 Subsection 709-215(6) (heading)

Repeal the heading, substitute:

Test time for business continuity test under section 165-126

123 Paragraph 715-15(1)(a)

Omit “*same business test”, substitute “*business continuity test”.

124 Paragraph 715-15(1)(b)

Omit “same business test”, substitute “business continuity test”.

125 Subparagraph 715-15(1)(c)(iii)

Omit “same business test”, substitute “business continuity test”.

126 Paragraph 715-15(1)(d)

Omit “same business test”, substitute “business continuity test”.

127 Section 715-50 (heading)

Repeal the heading, substitute:

715-50 Step 1 amount is reduced if membership interest in subsidiary member is 165-CC tagged asset and business continuity test is failed

128 Paragraph 715-50(1)(d)

Omit “*same business test”, substitute “*business continuity test”.

129 Subparagraph 715-50(1)(d)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

130 Section 715-55 (heading)

Repeal the heading, substitute:

**715-55 Step 2 amount is affected if liability of subsidiary member is
165-CC tagged asset of another group member and
business continuity test is failed**

131 Paragraph 715-55(1)(d)

Omit “*same business test”, substitute “*business continuity test”.

132 Subparagraph 715-55(1)(d)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

133 Paragraph 715-60(1)(d)

Omit “*same business test”, substitute “*business continuity test”.

134 Subparagraph 715-60(1)(d)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

135 Paragraph 715-70(2)(c)

Omit “*same business test”, substitute “*business continuity test”.

136 Subparagraph 715-70(2)(c)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

137 Section 715-90 (heading)

Repeal the heading, substitute:

**715-90 How business continuity test applies if leaving time is
changeover time for leaving company**

138 Subsection 715-90(2) (note)

Omit “same business test”, substitute “business continuity test”.

139 Subsection 715-95(3)

Omit “*same business test”, substitute “*business continuity test”.

140 Paragraph 715-95(3)(a)

Omit “*same business test period*”, substitute “*business continuity test period*”.

141 Paragraph 715-355(3)(c)

Omit “*same business test”, substitute “*business continuity test”.

142 Subparagraph 715-355(3)(c)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

143 Paragraph 715-360(3)(c)

Omit “*same business test”, substitute “*business continuity test”.

144 Subparagraph 715-360(3)(c)(i)

Omit “*same business test period*”, substitute “*business continuity test period*”.

145 Subsection 719-260(2) (note)

Omit “same business test”, substitute “business continuity test”.

146 Subsection 719-260(3) (heading)

Repeal the heading, substitute:

Business continuity test for focal company under Division 166

147 Subsection 719-260(3)

Omit “*same business test”, substitute “*business continuity test”.

148 Subsection 719-260(4) (heading)

Repeal the heading, substitute:

Business continuity test for focal company to transfer loss

149 Subsection 719-260(4) (note)

Omit “same business test period”, substitute “business continuity test period”.

150 Subsection 719-265(3) (heading)

Repeal the heading, substitute:

Loss transferred because business continuity test satisfied

151 Subsection 719-265(3)

Omit “*same business test for”, substitute “*business continuity test for”.

152 Paragraph 719-265(3)(a)

Omit “*same business test period”, substitute “*business continuity test period”.

153 Group heading before section 719-285

Repeal the heading, substitute:

Business continuity test and change of head company

154 Section 719-285 (heading)

Repeal the heading, substitute:

719-285 Business continuity test and change of head company

155 Section 719-285

Omit “*same business test”, substitute “*business continuity test”.

156 Section 719-285 (note 1)

Omit “same business test”, substitute “business continuity test”.

157 Subsection 719-455(3) (notes 1 and 2)

Omit “same business test”, substitute “business continuity test”.

158 Subsection 719-455(4) (heading)

Repeal the heading, substitute:

Business continuity test for head company under Division 166

159 Subsection 719-455(4)

Omit “*same business test”, substitute “*business continuity test to”.

160 Subsection 995-1(1)

Insert:

business continuity test has the meaning given by
Subdivision 165-E.

business continuity test period has the meaning given by
sections 165-13, 165-15, 165-35, 165-40, 165-45, 165-126,
165-129, 165-132, 166-5, 166-20, 166-40, 707-125, 707-135,
715-50, 715-55, 715-60, 715-70, 715-95, 715-355 and 715-360,
and affected by sections 415-35, 415-40 and 707-400.

161 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *same business test*;
- (b) definition of *same business test period*.

162 Subsection 995-1(1) (definition of test time)

Omit “*same business test”, substitute “*business continuity test”.

163 Subsection 995-1(1) (definition of trading stock loss)

Omit “165-115A(1B)”, substitute “165-115A(1D)”.

164 Application of amendments

The amendments made by this Part apply in relation to income years
starting on or after 1 July 2015.

Schedule 2—Intangible asset depreciation

Income Tax Assessment Act 1997

1 Paragraph 40-75(5)(a)

After “is”, insert “of a kind”.

2 Paragraph 40-75(5)(b)

Omit “asset.”, substitute “asset; and”.

3 After paragraph 40-75(5)(b)

Insert:

(c) has as its *effective life the period applicable to the asset under that item.

4 Subsection 40-75(5)

Omit “you acquire the asset”, substitute “you start to *hold the asset”.

5 Subsection 40-75(6)

Repeal the subsection, substitute:

(6) The adjustment is to use, instead of the asset’s *effective life, the period remaining in that effective life as at the time you start to *hold the asset.

Note: The asset’s effective life is the period described in paragraph (5)(c).

6 Subsection 40-95(6)

Omit “However, you must use an *effective life determined by the Commissioner”, substitute “Despite subsection (5), (5B) or (5C), you must use the *effective life referred to in subsection (6A)”.

7 After subsection 40-95(6)

Insert:

(6A) For the purposes of subsection (6), the asset’s *effective life:

(a) unless paragraph (b) of this subsection applies—is determined by the Commissioner; or

- (b) if the asset is an intangible *depreciating asset of a kind mentioned in an item of the table in subsection (7)—is the period applicable to the asset under that item.

8 Subsection 40-95(7)

Omit all the words before the table, substitute:

Exception: intangible depreciating assets

- (7) The **effective life** of an intangible *depreciating asset of a kind mentioned in an item of this table is the period applicable to the asset under that item unless:
 - (a) you start to *hold the asset on or after 1 July 2016; and
 - (b) you choose to work out the **effective life** of the asset yourself under section 40-105.

9 After subsection 40-95(7)

Insert:

- (7A) If you wish to make the choice referred to in paragraph (7)(b), you must do so for the income year in which the asset's *start time occurs.

Note: For rules about choices, see section 40-130.

- (7B) To avoid doubt:
 - (a) subsection (7) does not apply to an intangible *depreciating asset to which subsection (4) applies; and
 - (b) except as described in paragraph (6A)(b), subsection (7) does not apply to an intangible depreciating asset to which subsection (5) applies.

10 Paragraph 40-105(4)(a)

Repeal the paragraph, substitute:

- (a) an asset of a kind mentioned in an item of the table in subsection 40-95(7) if the asset's *effective life:
 - (i) is the period applicable to the asset under that item; and
 - (ii) is not being recalculated under section 40-110;

11 Subparagraph 40-110(2)(a)(iii)

Omit “and”, substitute “or”.

12 At the end of paragraph 40-110(2)(a)

Add:

- (iv) are using an effective life applicable to the asset under an item of the table in subsection 40-95(7) (or the period remaining in that effective life, as provided for under subsection 40-75(6)); and

13 Subsection 40-110(5)

Repeal the subsection, substitute:

Exception: intangibles that you start to hold before 1 July 2016

- (5) This section does not apply to an intangible *depreciating asset, of a kind mentioned in an item of the table in subsection 40-95(7), which you start to *hold before 1 July 2016.

14 Paragraph 701-55(2)(d)

Omit “—either”.

15 After subparagraph 701-55(2)(d)(i)

Insert:

- (ia) the head company were able to choose at that time an effective life for the asset in accordance with subsections 40-95(7) and (7A); or

16 Subparagraph 701-55(2)(d)(ii)

Omit “(7),”.