
Chapter #

Miscellaneous amendments

Outline of chapter

1.1 Schedule # to this Bill makes a number of miscellaneous amendments to the taxation and superannuation laws. These amendments are part of the Government's commitment to the care and maintenance of the taxation and superannuation systems.

1.2 These amendments include style changes, the repeal of redundant provisions, the correction of anomalous outcomes and corrections to previous amending Acts.

Context of amendments

1.3 Miscellaneous amendments to the taxation and superannuation laws such as those contained in Schedule # are periodically made to remove anomalies, correct unintended outcomes and clarify the operation of the law. Progressing such amendments gives priority to the care and maintenance of the tax system, a process supported by a 2008 recommendation from the Tax Design Review Panel.

1.4 A number of the amendments in Schedule # relate to issues lodged on the Tax Issues Entry System (TIES), a platform for members of the community to raise issues regarding the care and maintenance of the Australian Government's tax and superannuation systems. For more information, please visit the TIES website (<http://www.ties.gov.au>).

Summary of new law

1.1 These miscellaneous amendments address technical deficiencies and legislative uncertainties within several taxation and superannuation provisions.

1.2 The table below lists the various parts of this Schedule.

<i>Part</i>	<i>Title</i>
1	Amendments to the style of references to specific Ministers, Departments and Secretaries, and the repeal of redundant provisions.
2	Excise-related amendments
3	Renumbering of sections to correct errors in previous amending Acts
4	Other technical amendments to principal Acts
5	Other corrections to previous amending Acts

Detailed explanation of new law

Part 1: References to Ministers and Departments

1.1 Part 1 of Schedule # makes a number of amendments to the way the tax laws refer to government ministers and departments. These amendments are made as part of a whole-of-government process to standardise drafting practices.

1.2 The amendments are intended to increase readability and reduce the need for legislative changes to be made following machinery of government changes, ministerial changes and changes to the Administrative Arrangements Order.

References to Treasurer and Treasury

1.3 Part 1 amends the tax laws to replace references to ‘the Treasurer’ with references to ‘the Minister’ and replaces references to ‘the Treasury’ with references to ‘the Department’. Consequential amendments are also made to clarify references to other portfolios. [Schedule #, items 1-6, 11, 29-45, 47-48 and 90-93, section 79-100 of the GST Act, sections 6, 79B, 82CB, 82CD, 82CE and 128AE of the ITAA 1936, sections 30-80, 30-35, 30-85, 30-280, 30-289B, 30-289C, 30-300, 30-305, 30-310, 34-55, 207-115 and 842-105 of the ITAA 1997, and sections 355-50 and 355-65 of Schedule 1 to the TAA 1953].

1.4 Section 19A of the *Acts Interpretation Act 1901* provides that generic references to a minister or a department are taken to be references to the ministers and departments of state responsible for administering the relevant provision.

1.5 The current law aligns with the current Administrative Arrangements Order. There is no change to the ministerial or departmental responsibilities for any of the amended provisions.

Repeal of Redundant Definitions

1.6 A review of the current tax law definitions that relate to ministers and departments outside the Treasury portfolio revealed that a number of the definitions are no longer in use or could be rationalised.

1.7 Consequently, Part 1 repeals redundant definitions and updates related definitions as necessary. [Schedule #, items 7-10, 12-28, 46, 49-89, 94, 97-98, sections 6 and 73A of the ITAA 1936, sections 52-131 and 955-1 of the ITAA 1997, subsection 2(1) of the TAA 1953 and paragraph 355-70(8)(a) of Schedule 1 to the TAA 1953]

Transitional and Commencement Provisions

1.8 Transitional provisions ensure that things done, including decisions taken, under the current law are preserved and continue in force as if they were done under the amended provisions. [Schedule #, item 95].

1.9 The amendments also provide that the Treasurer may make rules to deal with transitional matters arising under Part 1 of the Schedule. [Schedule #, item 96].

1.10 Only one of the amendments made by Division 2 of Part 1 will commence. This will ensure that the *Income Tax Assessment Act 1997* (ITAA 1997) refers to the correct title of the *Farm Household Support Act* without being dependent on the outcome of the Farm Household Support Bill 2014.

Part 2: Excise-Related Amendments

1.1 Part 2 makes a number of amendments to the *Aviation Fuel Revenue (Special Appropriation) Act 1988* (AFRSA Act) to remove references to the indexation of rates of duty on aviation fuel under the *Excise Tariff Act 1921* (ETA).

1.2 The AFRSA Act grants power to the Minister to fix a rate of duty for aviation fuel by using the method of indexation in the ETA. However, indexation of rates of duty on aviation fuel ceased in August 2001. Accordingly, the provision relating to indexation concepts in the ETA is repealed as it is redundant. [Schedule #, item 105]

1.3 Determinations based on indexation concepts in the ETA continue to apply in circumstances where the determinations were in force

at the time the duty was imposed on the aviation fuel. *[Schedule #, item 102, section 3, paragraph(a) of the definition of statutory rate in the AFRSA Act]*

1.4 Part 2 also makes a number of consequential amendments to reflect the repeal of the indexation measures in the ETA. *[Schedule #, items 99 to 101 and 103 to 104]*

Part 3: Renumbering of Previous Amendments

1.5 Part 3 makes a number of amendments to renumber provisions in the ITAA 1997 to correct errors identified in recent amending Acts. This Part also corrects cross-referencing between provisions. *[Schedule #, items 106-113, sections 12-5, 26-100, 40-235, 110-38 and 110-55 of the ITAA 1997]*

Part 4: Other Amendments to Principal Acts

Repeal of Assessed Net Amount Concept in the GST Act

1.6 Prior to the amendments in this Schedule, section 17-15 of the *New Tax System (Goods and Services Tax) Act 1999* (GST Act) provided that a taxpayer's net amount for a tax period was worked out in accordance with the information provided in their GST return. For tax periods commencing on or after 1 July 2012, this outcome is achieved through the self-assessment process under section 155-15 in Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953). Therefore, section 17-15 of the GST Act is removed as it is redundant as a result of the adoption of a self-assessment system for GST. *[Schedule #, item 114, section 17-15 of the GST Act]*

1.7 Section 155-15 provides that, on lodgement of a taxpayer's GST return for a tax period, the Commissioner of Taxation (the Commissioner) is taken to have made an assessment of the taxpayer's net amount for that tax period. Subsection 155-15(3) together with table item 1 of subsection 155-15(1) provide that the amount assessed is worked out in accordance with the information set out in the GST return.

1.8 This amendment applies in relation to tax periods starting on or after the day this Act receives Royal Assent. *[Schedule #, item 115]*

Time at which input tax credit entitlements cease

1.9 Prior to the amendments in this Schedule, section 93-15 of the GST Act ensured that the input tax credit entitlement for a creditable acquisition ceased if the GST was no longer payable on a supply that would otherwise have given rise to that credit.

1.10 For tax periods starting prior to 1 July 2012, section 93-15 denied an input tax credit where the GST had ceased to be payable because the Commissioner was out of time to recover it. This was primarily due to section 105-50 in Schedule 1 to the TAA 1953 which set a four year time limit on recovery of amounts that were payable to the Commissioner.

1.11 As section 105-50 does not apply to tax periods starting on or after 1 July 2012, there is no longer another provision that uses the term ‘ceases to be payable’. Therefore, the amendment makes it clear that an entitlement to an input tax credit concerning GST on a supply ceases when the Commissioner is no longer able to amend an assessment of an assessable amount relating to the GST. *[Schedule #, item 116, section 93-15 of the GST Act]*

1.12 This amendment applies to creditable acquisitions for which the GST on the related supply is attributable to a tax period starting on or after the day this Act receives Royal Assent. *[Schedule #, item 117]*

Creditable acquisitions relating to reimbursements

1.13 Subsection 111-5(3) of the GST Act states the situations where a taxpayer is not entitled to claim an input tax credit, notwithstanding that the taxpayer reimbursed an employee for expenses that were directly related to the employee’s duties.

1.14 Taxpayers are disentitled from claiming input tax credits if they satisfy any of the paragraphs in subsection 111-5(3) and it is not necessary for all of the paragraphs to be satisfied. In fact, it is impossible for taxpayers to satisfy all of the paragraphs as subparagraph (a)(i) and paragraph (b) are mutually exclusive.

1.15 Prior to the amendment, subsection 111-5(3) had the potential to create confusion as it used the word ‘and’ between the paragraphs. Accordingly, the wording of subsection 111-5(3) of the GST Act is amended to clarify that taxpayers are disentitled from claiming input tax credits if they satisfy one or more of the paragraphs. *[Schedule #, item 118, subsection 111-5(3) of the GST Act]*

1.16 This amendment applies to acquisitions made on or after 1 July 2000. Although the amendment applies retrospectively, it does not alter the substance or operation of the section. *[Schedule #, item 119]*

Consolidation of the Definitions of Tax and Income Tax

1.17 The *Income Tax Assessment Act 1936* (ITAA 1936) uses the terms ‘tax’ and ‘income tax’ interchangeably – they mean the same thing.

However, the only entry in that Act's general definition section appears under 'income tax or tax'. That makes it difficult to locate the definition for the term 'tax'; the reader has to know that it is listed under 'I'.

1.18 Accordingly, the amendments split the existing definition into two; one for 'income tax' and one for 'tax'. Each definition appears in its correct alphabetical order, making it simpler to find. There is no change to the meaning of either term. [*Schedule #, items 121 to 123, subsection 6(1) of the ITAA 1936*]

Correct error in the new special conditions for deductible gift recipients as a result of the introduction of the ACNC

1.19 Division 30 of the ITAA 1997 sets out the rules for working out the deductions a taxpayer may claim for certain gifts or contributions that they make.

1.20 Division 30 sets out general categories of deductible gift recipients, for example, welfare and rights recipients, and contains special conditions which must be met by the fund, authority or institution for it to receive gifts that are eligible for a tax deduction. For example, item 4.1.4 in the table in subsection 30-45(1), lists public funds on the register of harm prevention charities, whose special conditions require the funds to be registered under the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act).

1.21 Similar to the harm prevention charities example in paragraph 1.20, the most common of these conditions deals with the interaction between the Australian Charities and Not-for-profits Commission regulatory framework and the tax law endorsement framework for deductible gift recipients that are charities. Consequential amendments were legislated along with the ACNC Act, adding new special conditions for deductible gift recipients that required charities endorsed as deductible gift recipients to also be registered under the ACNC Act in order to remain endorsed to access tax deductibility for gifts provided to them. A 12-month transitional arrangement gave charities time to make any necessary changes to existing arrangements should a small number of them not be eligible for transitional automatic registration.

1.22 There are three categories of ACNC-related special conditions – those requiring the endorsed deductible gift recipient to be a registered charity in all instances, those requiring the endorsed deductible gift recipient to be a registered charity if it is *not* an Australian government agency, and those requiring the endorsed deductible gift recipient to be a registered charity if it is not an ACNC type of entity (that is, those deductible gift recipients that aren't within the charitable sector or aren't entities in their own right, (e.g., sports groups or certain public funds that

are merely bank accounts of another charity)). In most cases, where the public fund is not an ACNC type of entity but is operated by a charity, that operating charity must be registered.

1.23 The special conditions were developed based on the ATO endorsement database and the characteristics of the organisations and funds currently endorsed. However, there are cases where the incorrect category of ACNC-related special conditions was applied to some general categories because the database contained some minor errors or the wrong set of special conditions was allocated to be the deductible gift recipient category.

1.24 This incorrect allocation of category is now incorrectly requiring certain organisations to restructure existing arrangements even though they are already covered by the ACNC regulatory framework, adding unintended compliance costs and red tape outside of the original policy intent.

1.25 In relation to the public funds listed in item 4.1.4 in the table in subsection 30-45(1), which currently requires the public fund to be a registered charity, Schedule # to this Bill amends the special conditions to instead require the public fund to be a registered charity or be operated by a registered charity. *[Schedule #, item 125, subsection 30-45(1) of the ITAA 1997]*

1.26 As the register of harm prevention charities already requires a registered charity to operate the public fund, there was no intention to also require the fund (which might just be a bank account) to also be a registered charity.

1.27 In relation to public funds listed in item 5.1.2 in the table in subsection 30-50(1), which currently requires the public fund to be a registered charity or an Australian government agency, Schedule # to this Bill amends the special conditions to instead require the public fund to be an Australian government agency, a registered charity or operated by an Australian government agency or a registered charity. *[Schedule #, item 126, subsection 30-50(1) of the ITAA 1997]*

1.28 The error with the special conditions in item 5.1.2 arose because the item covers both public institutions and public funds. Only public institutions were intended to be subject to the stricter special conditions introduced with the ACNC Act, while the new amended conditions are more appropriate for public funds.

1.29 In relation to public funds listed in item 5.1.3 in the table in subsection 30-50(1), which currently requires the public fund to be a registered charity or an Australian government agency, Schedule # to this Bill amends the special conditions to instead require the public fund to be

an Australian government agency, a registered charity or operated by an Australian government agency or a registered charity. [*Schedule #, item 127, subsection 30-50(1) of the ITAA 1997*]

1.30 In relation to public funds listed in item 8.1.1 in the table in subsection 30-70(1), which currently requires the public fund to be a registered charity or an Australian government agency, Schedule # to this Bill amends the special conditions to instead require the public fund to be a registered charity or operated by a registered charity. [*Schedule #, item 128, subsection 30-70(1) of the ITAA 1997*]

1.31 In relation to public funds listed in item 8.1.2 in the table in subsection 30-70(1), which currently requires the public fund to be a registered charity or an Australian government agency, Schedule # to this Bill amends the special conditions to instead require the public fund to be a registered charity or operated by a registered charity. [*Schedule #, item 128, subsection 30-70(1) of the ITAA 1997*]

1.32 In relation to public funds listed in item 2.1.2 in the table in subsection 30-25(1), which currently requires the public fund to be a registered charity or an Australian government agency, Schedule # to this Bill amends the special conditions to instead require the public fund to be an Australian government agency, a registered charity or operated by an Australian government agency or a registered charity. [*Schedule #, item 124, subsection 30-25(1) of the ITAA 1997*]

1.33 The original amendments misallocated these deductible gift recipient public funds to the wrong the category of special conditions.

Application provisions

1.34 These amendments commence on the day after this Bill receives Royal Assent, and would apply to gifts received on or after 3 December 2012, which is the day the ACNC Act commenced. [*Schedule #, item 129*]

1.35 No deductible gift recipient will be adversely affected by these changes.

Clarifying the continuity of ownership test following the death of a beneficial owner of shares

1.36 Under the company loss recoupment rules, a company is able to deduct prior year losses, or apply capital losses, only if it satisfies the continuity of ownership test or the same business test.

1.37 A company satisfies the continuity of ownership test if it satisfies the primary test or the alternate test in respect of voting power,

rights to dividends and rights to capital distributions during the ownership test period.

- The primary test is satisfied if, broadly, the same persons beneficially own shares that carry more than 50 per cent of the voting power in the company, and carry rights to more than 50 per cent of the dividend and capital distributions made by the company.
- The alternate test is satisfied if, broadly, it is reasonable to assume that the same persons (none of whom are companies or trustees) control the voting power in the company and have rights to receive more than 50 per cent of the dividends and capital distributions made by the company.

1.38 For the purpose of applying the continuity of ownership test after a shareholder dies, the shares that were beneficially owned by the deceased person at the time of death are treated as continuing to be owned by that person so long as the shares are owned by either the trustee of the deceased person's estate or by a beneficiary of the estate. As a result, a company will not fail the continuity of ownership test simply because a shareholder dies.

1.39 This concessional treatment for deceased estates only applies in respect of ownership, not voting power and control. Therefore, the concession does not currently operate effectively for the purpose of applying the alternate continuity of ownership test.

1.40 The amendments ensure that, for the purposes of applying both the primary test and the alternative test, the deceased individual is considered to retain all voting power, dividend entitlements and capital distributions so long as the shares are owned by either the trustee of the deceased person's estate or by a beneficiary of the estate. [*Schedule #, item 132, section 165-205 of the ITAA 1997*]

1.41 The amendments apply to assessments for the 1997-98 income year and later income years. In this regard, the amendments ensure that the continuity of ownership tests operate as intended and are beneficial to taxpayers. [*Schedule #, item 133*]

1.42 This amendment addresses TIES issue 31/2010.

Removing technical defects in the franking deficit tax offset rules

1.43 Franking deficit tax arises when an entity has a deficit in its franking account at the end of an income year. The payment of franking

deficit tax gives rise to a tax offset which can be applied to reduce an entity's income tax liability.

1.44 The franking deficit tax offset rules are modified for life insurance companies to ensure that the franking deficit tax offset applies only to reduce an income tax liability of a life insurance company that is attributable to its shareholders (as distinct from its policyholders).

1.45 Division 63 of the ITAA 1997 contains rules that prioritise the order in which tax offsets are applied. When the Division was inserted in 2006, consequential amendments were made to the franking deficit tax offset rules in section 205-70. As a result, the modified franking deficit tax offset rules for life insurance companies do not operate effectively.

1.46 To overcome this concern, the amendments modify sections 219-70 and 219-75 to ensure that, for the purposes of applying section 205-70 to a life insurance company, the section applies as if the reference to the company's basic income tax liability in section 63-10 were a reference to the part of such an amount in respect of the company that is attributable to its shareholders. *[Schedule #, items 134 to 137, sections 219-70 and 219-75 of the ITAA 1997]*

1.47 Further, if an entity joins a consolidated group holding excess franking deficit tax offsets, Subdivision 709-C of the ITAA 1997 applies to ensure that, broadly:

- if the joining entity has excess franking deficit tax offsets at the joining time, that excess is transferred to the head company; and
- if an entity leaves a consolidated group, any excess franking deficit tax offsets are retained by the head company.

1.48 The amendments make some technical corrections to Subdivision 709-C to ensure that it reflects the 2006 amendments to the franking deficit tax offset rules. *[Schedule #, items 141 to 145, sections 709-185 and 709-190 of the ITAA 1997]*

1.49 The amendments apply from the 2006-07 income year, that is, from the commencement of Division 63. In this regard, the amendments make technical corrections to clarify that the franking deficit tax offset provisions operate as intended and are beneficial to taxpayers. *[Schedule #, items 133 and 138]*

1.50 This amendment addresses TIES issue 11/2011.

Clarifying the operation of the consolidation tax cost setting rules for depreciating assets

1.51 When an entity joins a consolidated group, the consolidation tax cost setting rules apply to reset the tax costs of its assets. If a depreciating asset receives an increased tax cost under those rules, and the joining entity used the prime cost method to work out its depreciation deductions, paragraph 701-55(5)(d) of the ITAA 1997 requires the head company to choose an effective life for that asset in accordance with subsections 40-95(1) and (3) for the purpose of determining future depreciation deductions.

1.52 However, for certain intangible depreciating assets, the effective life is specified in subsection 40-95(7) (rather than being determined under subsections 40-95(1) and (3)). The effective lives of certain other depreciating assets (such as indefeasible rights to use telecommunications cables, and mining, quarrying and prospecting rights) are specified under subsections 40-95(8) to (10).

1.53 Therefore, the amendments make a technical correction to paragraph 701-55(2)(d) to ensure that, for relevant assets, the effective life of the asset can be worked out under subsections 40-95(7) to (10).
[Schedule #, item 140, paragraph 701-55(5)(d) of the ITAA 1997]

1.54 This amendment addresses TIES issue 22/2011.

Clarifying the operation of the consolidation provisions where an entity joins or leaves a group holding a bad debt

1.55 Subdivision 709-D of the ITAA 1997 specifies the circumstances in which an entity can deduct a bad debt that is brought into a consolidated group by a joining entity, or that is taken out of the group by a leaving entity – that is, the Subdivision applies where, for part of the period that the bad debt exists, the debt has been owed to a member of a consolidated group.

1.56 The object of the Subdivision is to, broadly, ensure that the claimant can deduct a debt, or part of a debt, only if an entity that was owed the debt for a debt test period could have deducted the debt if it had been written off as bad at the end of that period.

1.57 A debt test period is taken to end when a subsidiary member of a consolidated group leaves the group taking the debt with it and joins another consolidated group (item 4 of the table in subsection 709-215(4)).

1.58 However, item 4 does not apply when a subsidiary member of a consolidated group leaves the group taking the debt with it but does not

join another consolidated group. As a result, in these circumstances the former subsidiary member cannot deduct the debt when it is subsequently written off.

1.59 To address this concern, the amendments modify item 4 of the table in subsection 709-215(4) to clarify that a debt test period ends when a subsidiary member of a consolidated group ceases to be a member of the group taking the debt with it but does not join another consolidated group. *[Schedule #, item 146, subsection 709-215(4) of the ITAA 1997]*

1.60 The amendment applies in relation to debt test periods starting on or after 1 July 2002. In this regard, the amendment makes a technical correction to ensure that the relevant provisions operate as intended and is beneficial to taxpayers. *[Schedule #, item 147]*

1.61 This amendment addresses TIES issue 21/2011.

Benefit Certificates for Defined Benefit Superannuation Schemes

1.62 A benefit certificate is a certificate provided by an actuary relating to a defined benefit superannuation scheme and specifies the rate that is the notional employer contribution rate in relation to a specified class of employees that are members of a scheme.

1.63 Paragraph 10(3)(a) of the *Superannuation Guarantee (Administration) Act 1992* requires superannuation funds to obtain a new benefit certificate when there is a change to the scheme in a way that affects the level or method of calculation of benefits provided by the scheme for the class of employees specified in the certificate.

1.64 The provision may impose unwarranted administrative costs on superannuation funds in that they must obtain a new certificate in circumstances when the minimum benefits of members has not changed.

1.65 The amendment provides that superannuation funds must obtain a new benefit certificate only when there has been a change to the minimum benefits of a class of employees. *[Schedule #, item 148, paragraph 10(3)(a) of the Superannuation Guarantee (Administration) Act 1992]*

Omitted cross-reference to business real property in Superannuation Industry (Supervision) Act 1993

1.66 Item 9 of the *Superannuation Industry (Supervision) Amendment Act 2010* incorrectly omitted from paragraph 71(1)(g) the cross-reference to the definition of ‘business real property’ in subsection 66(5) of the *Superannuation Industry (Supervision) Act 1993*.

1.67 The amendment corrects this cross-reference and ensures that the definition of ‘business real property’ in subsection 66(5) of the *Superannuation Industry (Supervision) Act 1993* applies from the day the cross-reference was omitted. [Schedule #, items 149 and 150, Paragraph 71(1)(g) of the *Superannuation (Industry) Supervision Act 1993*]

Note to subsection 8AAZLGA(7)

1.68 A Chair’s amendment to Schedule 7 to the *Tax and Superannuation Laws Amendment (2012 Measures No 1) Act 2012* changed some of the section and paragraph numbers in the *Taxation Administration Act 1953*. The paragraph number in the note to section 8AAZLGA(7) of the *Taxation Administration Act 1953* was overlooked and never updated. Accordingly, the paragraph number in the note to section 8AAZLGA(7) is amended so that it correctly refers to paragraph 14ZW(1)(aad). [Schedule #, item 151, the note to subsection 8AAZLGA(7) of the *TAA 1953*]

Amendments to withholding matters and declarations

1.69 Section 15-30 of Schedule 1 to the *TAA 1953* requires the Commissioner to have regard to particular matters when making a withholding schedule for the purpose of calculating a withholding payment or an alienated services payment to which Division 13 applies. One of the matters that the Commissioner must have regarded, under paragraph 15-30(d), is ‘prescribed tax offsets’. Prescribed tax offsets are individually listed in regulation 24 of the *Taxation Administration Regulations 1976*. These amendments remove the requirement to prescribe specific ‘tax offsets’. [Schedule #, item 154, paragraph 15-30(d) of *Schedule 1 to the TAA 1953*]

1.70 Removing the requirement to first prescribe the tax offset before the Commissioner must have regard to it will allow the Commissioner to have regard to new tax offsets when making a withholding schedule, from the time the tax offset is effective, and not only after it has been prescribed.

1.71 This is more administratively efficient and flexible.

1.72 In addition, section 15-50 of Schedule 1 to the *TAA 1953*, requires individuals to give a declaration to an entity if they expect to receive a withholding payment or an alienated services payment from that entity, and they want that entity to take a prescribed matter into account when making the payment. This declaration is required to be in the approved form (see generally section 388-50 of Schedule 1 to the *TAA 1953*). Prescribed matters are individually listed in regulation 26 of the *Taxation Administration Regulations 1976*.

1.73 These amendments remove the need to ‘prescribe’ specific matters that can be included in these declarations. Instead, the Commissioner can have regard to any relevant matters when preparing the approved form(s). This is also more administratively efficient and flexible. [*Schedule #, items 155-160, section 15-50 of Schedule 1 to the TAA 1953*]

1.74 Currently, there are a number of prescribed matters in regulations 24 and 26 of the *Taxation Administration Regulations 1976*. After these amendments, these regulations will become redundant and will be repealed from the *Taxation Administration Regulations 1976* at the first convenient opportunity.

Lodgement of returns under the Customs Act 1901

1.75 The amendments in Schedule # provide that lodgement of particular returns in relation to taxable importations under paragraphs 69(8)(a), (b), (c) and (d) of the *Customs Act 1901* (Customs Act), result in a deemed assessment. [*Schedule #, item 162, subsection 155-15(1) in Schedule 1 to the TAA*]

1.76 In 2012, changes were made to section 69 of the Customs Act to insert paragraphs 69(8)(a), (b), (c) and (d) which deal with returns relating to the importation of goods. Prior to this amendment returns relating to the importation of goods were dealt with under paragraph 69(5)(c). The amendment in Schedule # amends the table of self-assessed amounts in subsection 155-15(1) to accurately reflect the current provision in the Customs Act under which assessable amounts arise concerning importations.

1.77 This amendment applies to GST payable on or after the day following Royal Assent. [*Schedule #, item 163*]

1.78 This amendment addresses TIES issue 12/2012.

Machinery provisions for penalties

1.79 The uniform penalty rules in Division 298 of Schedule 1 to the TAA 1953 contain a range of machinery provisions for various penalties, which allow the Commissioner to impose, enforce and collect penalties. Section 298-5 of Schedule 1 to the TAA 1953 sets out the administrative penalties that are subject to these provisions. No penalties are established under Division 298. [*Schedule #, item 165, subsection 298-5 in Schedule 1 to the TAA*]

1.80 Regulations have recently been made under Division 420 of Schedule 1 to the TAA 1953 that prescribe various quarterly reporting obligations for entities in the building and construction services industry.

Entities that fail to comply with these reporting obligations are liable to an administrative penalty of 20 penalty units. To ensure that the Commissioner is able to collect and enforce these penalties a reference to section 420 is added to section 298-5. *[Schedule #, item 165, subsection 298-5 in Schedule 1 to the TAA]*

Hardship discretion and the General Interest Charge

1.81 Division 340 of Schedule 1 to the TAA 1953 allows the Commissioner to release certain taxpayers from certain liabilities in the case of serious hardship.

1.82 Section 340-10 of the Schedule refers to the general interest charge imposed under a now-repealed provision of the ITAA 1936.

1.83 The amendment corrects this and clarify that the Commissioner's discretion applies to charges imposed under the old provision. *[Schedule #, item 166, section 340-10 in Schedule 1 to the TAA 1953]*

Disclosure of Protected Taxpayer Information to Centrelink

1.84 Table item 5A of subsection 355-65(2) of Schedule 1 to the TAA 1953 allows taxation officers to disclose protected information relating to taxpayers to the Chief Executive Officer of Centrelink for the purposes of administering the *Paid Parental Leave Act 2010*.

1.85 On 1 July 2011, the title of 'Chief Executive Officer of Centrelink' changed to become 'Chief Executive Centrelink'. This amendment updates the reference to reflect the change. *[Schedule #, item 167, subsection 355-65(2) to Schedule 1 to the TAA 1953]*

1.86 The amendment applies retrospectively from 1 July 2011. This clarifies that disclosures made after 1 July 2011 are permitted notwithstanding the change in the recipient's title. *[Schedule #, item 168]*

Style, spelling, grammatical and typographical errors

1.87 The following amendments are made to correct minor style, spelling and typographical errors:

Table 1.1: Style, spelling, grammatical and typographical errors

<i>Item(s)</i>	<i>Provision Affected</i>
<i>[Schedule #, item 120]</i>	Paragraph 43-7(2)(a) of the <i>Fuel Tax Act 2006</i>
<i>[Schedule #, items 130 and 131]</i>	Section 104-255 of the ITAA 1997
<i>[Schedule #, item 139]</i>	The note to section 355-400 of the ITAA 1997
<i>[Schedule #, item 153]</i>	Paragraph 14ZW(1AABA)(b) of the TAA 1953
<i>[Schedule #, item 161]</i>	Section 45-235 of Schedule 1 to the TAA 1953
<i>[Schedule #, item 164]</i>	Section 280-170 of Schedule 1 to the TAA 1953

Part 5: Corrections to Previous Amending Acts

1.88 Part 5 of Schedule # makes a number of corrections to previous amending Acts to ensure that the amendments made under the earlier Acts are effective.

1.89 With the exception of the amendments made to the *Superannuation Legislation Amendment (Stronger Super) Act 2012*, the amendments in this Part commence immediately following the commencement of the provisions they amend. This retrospectivity is necessary to ensure the amending Acts operate as intended.

1.90 The amendments to the *Superannuation Legislation Amendment (Stronger Super) Act 2012* introduce new provisions, which commence from the date of Royal Assent for this Act or 1 July 2014, whichever is earlier.

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

1.91 Schedule 3 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012* replaced the term ‘mining operations’ with ‘mining and quarrying operations’ in the capital allowance provisions in the *Income Tax Assessment Act 1997*. The rationale for this change was to reduce confusion with the term ‘mining operations’ as used in the Minerals Resource Rent Tax provisions.

1.92 Due to a misdescribed amendment, not all references to ‘mining operations’ were updated to ‘mining and quarrying operations’, resulting in the capital allowance provisions containing references to both the new and old terms. This amendment resolves this issue, ensuring the last remaining reference to the term ‘mining operations’ in the capital allowance provisions is updated to ‘mining and quarrying operations’.

1.93 This amendment is taken to have commenced immediately after the commencement of item 16 of Schedule 3 of the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*. This ensures that all the references in the capital allowance provisions to ‘mining and quarrying operations’ commence at the same time. [Schedule #, item 169, item 16 of Schedule 3 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*]

New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002

1.94 Schedule 13 of the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* inserted components of the simplified imputation system relating to the treatment of exempting entities into the ITAA 1997.

1.95 Schedule 15 of the Act inserted control and common ownership rules relevant to the operation of the value shifting rules into the ITAA 1997.

1.96 These amendments make some drafting corrections to ensure that minor technical consequential amendments made by Schedules 13 and 15 of the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002* are effective. [Schedule #, items 170 to 172, item 34 of Schedule 13 and item 19 of Schedule 15 to the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002*]

Superannuation Legislation Amendment (Stronger Super) Act 2012 - Clarifying the date that employers are subject to the superannuation data and payment standards

1.97 The *Superannuation Legislation Amendment (Stronger Super) Act 2012* amended the *Superannuation Industry (Supervision) Act 1993* and the *Retirement Savings Accounts Act 1997* to introduce data and payment standards relating to certain superannuation transactions undertaken by superannuation entities, retirement savings account providers and employers.

1.98 The application provision in Schedule 1 to the *Superannuation Legislation Amendment (Stronger Super) Act 2012* included a point in

time test based on the number of employees an employer has on 1 July 2014. A ‘medium to large’ employer (with 20 or more employees) will apply the data and payment standards from 1 July 2014, and a ‘small’ employer (with less than 20 employees) will apply the data and payments standards from 1 July 2015. The application provision omitted to explain what happens to an employer that becomes a ‘medium to large’ employer in the period 2 July 2014 to 30 June 2015.

1.99 The amendments provide that an entity that becomes a medium to large employer during the period 2 July 2014 to 30 June 2015 will apply the data and payment standards at the time it becomes a medium to large employer. The amendments also clarify that all employers will be subject to the data and payment standards from 1 July 2015 onwards. *[Schedule #, items 173 and 174, subitems 20(1) and (3) of Schedule 1 to the Superannuation Legislation Amendment (Stronger Super) Act 2012]*

Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009

1.100 Schedule 1 to *Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009* contained amendments relating to the taxation treatment of employee share schemes. Item 55 of that Schedule made a consequential technical correction to a note to subsection 707-325(1) of the ITAA 1997 (which is part of the consolidation provisions in the law).

1.101 The amendment makes a minor technical correction to clarify that the amendment made by item 55 of the Act is to note 1 to subsection 707-325(1). *[Schedule #, item 175, item 55 of Schedule 1 to the Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009]*

Tax Laws Amendment (2012 Measures No. 9) Act 2012 – Failures to Provide Information to the Commissioner

1.102 An error concerning the commencement dates of certain amendments prevented them from operating as intended.

1.103 The amendments clarify that an offence under paragraph 8C(1)(a) of the TAA 1953, which concerns failures to provide information to the Commissioner, is not limited to failures to furnish an approved form. *[Schedule #, items 152 and 176, paragraph 8C(1)(a) of the TAA 1953 and item 29 of Schedule 6 to the Tax Laws Amendment (2012 Measures No. 9) Act 2012]*

Tax Laws Amendment (2011 Measures No. 9) Act 2012 – Guide Material

1.104 Amendments correct two minor description errors in the 2012 amending Act, ensuring that the amendments made by that Act operate as intended.

1.105 These amendments commence retrospectively from 21 March 2012, the date of commencement for the amended provisions. *[Schedule #, items 177 and 178, items 83 and 140 of Schedule 6 to the Tax Laws Amendment (2011 Measures No. 9) Act 2012]*

Tax Laws Amendment (2012 Measures No 3) Act 2012 - Seasonal Labour Mobility Program

1.106 An error concerning the location of certain amendments prevented them from operating as intended.

1.107 The amendments will correct a cross-referencing error to the Seasonal Labour Mobility Program withholding tax provisions. *[Schedule #, item 179, item 12 of Schedule 1 to the Tax Laws Amendment (2012 Measures No 3) Act 2012]*

Tax Laws Amendment (2012 Measures No. 6) Act 2013 - Farm Management Deposits

1.108 The *Tax Laws Amendment (2012 Measures No. 6) Act 2013*, amended Division 393 of the ITAA 1997 (the farm management deposit provisions) to clarify, with retrospective effect, that the 12 month period in which amounts withdrawn from a farm management deposit (FMD) would be taken never to have been part of an FMD ended before, not on, the one year anniversary of the deposit.

1.109 These amendments ensure that assessments may be amended to give effect to this clarification even where the amendment period for the taxpayer might otherwise have passed. *[Schedule #, items 180 and 181, section 4 of the Tax Laws Amendment (2012 Measures No. 6) Act 2013]*

Tax Laws Amendment (Research and Development) Act 2011

1.110 Amendments correct two minor description errors in the 2011 amending Act, ensuring that the amendments made by that Act operate as intended. *[Schedule #, items 182 and 183, items 49 and 50 of Schedule 3 to the Tax Laws Amendment (Research and Development) Act 2011]*