

EXPOSURE-DRAFT

1 Inserts for
2 **Tax Laws Amendment (2013 Measures**
3 **No. 2) Bill 2013: Monthly PAYG**
4 **instalments**
5

6 **EXPOSURE DRAFT**

7 **Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1.	The day this Act receives the Royal Assent.	
2.		
3.		

8 **Schedule 00—Monthly PAYG instalments**

9 **Part 1—Main amendments**

10 *Taxation Administration Act 1953*

11 **1 Section 45-1 in Schedule 1**

12 Omit:

13 Generally, instalments are payable for each quarter of your income
14 year.

15 substitute:

16 Generally, instalments are payable for each quarter of your income
17 year. Alternatively, instalments could be payable monthly or
18 annually.

19 **2 Section 45-1 in Schedule 1**

20 Omit:

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1 If you are not required to be registered for GST purposes, you may
2 be able to choose to pay an annual instalment after the end of the
3 income year. (In this case, you are an annual payer).

4 substitute:

5 If you are a corporate tax entity and your business or investment
6 income exceeds a certain limit, you may have to pay an instalment
7 after the end of each month. (In this case, you are a monthly
8 payer).

9 If you are not required to be registered for GST purposes, you may
10 be able to choose to pay an annual instalment after the end of the
11 income year. (In this case, you are an annual payer).

12 **3 After subsection 45-5(2) in Schedule 1**

13 Insert:

14 (2A) Alternatively:

- 15 (a) you may be required to pay instalments after the end of each
16 *instalment month worked out on the basis of your instalment
17 income for that month; or
18 (b) you may be able to choose to pay an annual instalment for
19 the income year.

20 **4 After subsection 45-50(2) in Schedule 1**

21 Insert:

22 (2A) Subject to subsection (4), you are liable to pay an instalment for an
23 *instalment month if, at the end of that month, you are a *monthly
24 payer.

25 **5 Subsection 45-50(4) in Schedule 1**

26 After “an *instalment quarter”, insert “, an *instalment month”.

27 **6 Paragraph 45-50(4)(b) in Schedule 1**

28 After “quarter”, insert “, month”.

29 **7 After section 45-61 in Schedule 1**

30 Insert:

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1 45-65 Meaning of *instalment month*

2 For an income year (whether it ends on 30 June or not), the
3 following are *instalment months*:

- 4 (a) the month that starts on the first day of the income year; and
5 (b) each subsequent month.

6 Note: For the meaning of *month*, see section 2G of the *Acts Interpretation*
7 *Act 1901*.

8 45-67 When monthly instalments are due—payers of monthly 9 instalments

10 *You are not a deferred BAS payer*

- 11 (1) If you are a *monthly payer, the instalment for an *instalment
12 month that you are liable to pay is due on or before the 21st day of
13 the next instalment month.

14 *You are a deferred BAS payer*

- 15 (2) If:
16 (a) subsection (1) would, but for this subsection, have applied to
17 you in relation to an *instalment month; but
18 (b) you are a *deferred BAS payer on the 21st day of the next
19 instalment month;
20 the instalment for that month is instead due on or before the 28th
21 day of that next instalment month.

22 8 After section 45-112 in Schedule 1

23 Insert:

24 45-114 How to work out amount of monthly instalment

- 25 (1) Work out the amount of an instalment you are liable to pay for an
26 *instalment month as follows if, at the end of that instalment
27 month, you are a *monthly payer:

28
$$\text{Applicable instalment rate} \times \frac{\text{Your *instalment income}}{\text{for that instalment month}}$$

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

30 *Applicable instalment rate* means:

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- 1 (a) unless paragraph (b) or (c) applies—the most recent
2 instalment rate given to you by the Commissioner under
3 section 45-15 before the end of that month; or
4 (b) if you have chosen an instalment rate for that month under
5 section 45-205—that rate; or
6 (c) if you have chosen an instalment rate under section 45-205
7 for an earlier *instalment month in that income year (and
8 paragraph (b) does not apply)—that rate.

9 Note: If you believe the Commissioner's rate is not appropriate for the
10 current income year, you may choose a different instalment rate under
11 Subdivision 45-F.

12 **9 Paragaraph 45-125(1)(a) in Schedule 1**

13 Omit “you are not an *annual payer”, substitute “you are not a *monthly
14 payer or an *annual payer”.

15 **10 Subsection 45-125(5) in Schedule 1**

16 Repeal the subsection, substitute:

17 *How and when you stop being such a payer*

- 18 (5) If you are a *quarterly payer who pays on the basis of instalment
19 income because of paragraph (1)(a) you stop being such a payer at
20 the start of the first *instalment quarter in the *next* income year if:
21 (a) at the end of that quarter, you become:
22 (i) a *quarterly payer who pays on the basis of
23 GDP-adjusted notional tax; or
24 (ii) an *annual payer; or
25 (b) at the end of the first *instalment month of that quarter, you
26 become a *monthly payer.

27 **11 After subparagraph 45-130(1)(c)(ii) in Schedule 1**

28 Insert:

- 29 (ia) you are not a *monthly payer;

30 **12 Subsection 45-130(4) in Schedule 1**

31 Repeal the subsection, substitute:

- 32 (4) In addition, you stop being such a payer at the start of the first
33 *instalment quarter in the *next* income year if:
34 (a) at the end of that quarter, you become:

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- 1 (i) a *quarterly payer who pays on the basis of instalment
2 income; or
3 (ii) an *annual payer; or
4 (b) at the end of the first *instalment month of that quarter, you
5 become a *monthly payer.

13 Subsection 45-132(4) in Schedule 1

6 Repeal the subsection, substitute:

- 8 (4) In addition, you stop being such a payer at the start of the first
9 *instalment quarter in the *next* income year if:
10 (a) at the end of that quarter, you become:
11 (i) a *quarterly payer who pays on the basis of instalment
12 income; or
13 (ii) an *annual payer; or
14 (b) at the end of the first *instalment month of that quarter, you
15 become a *monthly payer.

14 After Subdivision 45-D in Schedule 1

16 Insert:

17 Subdivision 45-DA—Monthly payers

18 Table of sections

19 45-136A Monthly payer

- 20 (1) You are a *monthly payer* at a time if:
21 (a) you are a *corporate tax entity at that time; and
22 (b) either:
23 (i) you satisfy the requirement in subsection 45-136B(1)
24 for the income year in which that time occurs; or
25 (ii) if subparagraph (i) does not apply—you were a monthly
26 payer immediately before that time.
27
28 Note: If subparagraph (b)(i) applies, see subsection (3) for the time at which
29 you become a monthly payer.
- 30 (2) The *starting instalment month* in an income year (the *current*
31 *year*) is:
32 (a) if the Commissioner gives you an instalment rate for the first
33 time during an *instalment month in the current year—the
34 next instalment month in the current year; or

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- 1 (b) if the Commissioner has given you an instalment rate during
2 a previous income year and your instalment rate has not been
3 withdrawn—the first instalment month in the current year.

4 *How and when you become such a payer*

- 5 (3) Despite subsection (1), if subparagraph (1)(b)(i) applies, you
6 become a *monthly payer just before the end of the *starting
7 instalment month in the income year.

8 *How and when you stop being such a payer*

- 9 (4) Despite subsection (1), you stop being a *monthly payer at the start
10 of the first *instalment month in a later income year if:
11 (a) you do not satisfy the requirement in subsection 45-136B(1)
12 for that later income year; and
13 (b) you give the Commissioner a notice (the **MP stop notice**) in
14 the approved form for that later income year before the start
15 of that later income year.

16 **45-136B Monthly payer requirement**

- 17 (1) You satisfy the requirement in this subsection for an income year if
18 at the start of the *MPR test day for that income year, your base
19 assessment instalment income (within the meaning of
20 section 45-320) for the *base year equals or exceeds:
21 (a) \$20 million; or
22 (b) if regulations made for the purposes of this paragraph specify
23 a different amount—that amount.
- 24 (2) However, you do *not* satisfy the requirement in subsection (1) for
25 an income year if, at the start of the MPR test day:
26 (a) you have (or, if you are a *member of a *GST group, the
27 *representative member of the GST group has) an obligation
28 to give the Commissioner a *GST return for a quarterly *tax
29 period; and
30 (b) you are *not* the *head company of a *consolidated group nor
31 the *provisional head company of a *MEC group; and
32 (c) your base assessment instalment income (within the meaning
33 of section 45-320) for the *base year is less than \$100
34 million.
- 35 (3) For the purposes of subsections (1) and (2), at the start of an
36 entity's *MPR test day:

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- 1 (a) determine the amount of the entity's base assessment
2 instalment income (within the meaning of section 45-320) for
3 the *base year only on the basis of the information provided
4 by the Commissioner to the entity before that start of that
5 day; and
6 (b) in determining on that day whether an entity has an
7 obligation mentioned in paragraph (2)(a), disregard any
8 creation or removal of such an obligation after that day (even
9 if that change is made retrospective to that day).
- 10 (4) An entity's *MPR test day* for an income year is:
11 (a) if the Commissioner gives the entity an instalment rate for
12 the first time during an *instalment month in the income
13 year—the last day of that month; or
14 (b) otherwise—the first day of the 3rd last month of the previous
15 income year.

16 **15 Section 45-200 in Schedule 1**

17 Before "This", insert "(1)".

18 **16 At the end of section 45-200 in Schedule 1**

19 Add:

- 20 (2) If you are a *monthly payer, this Subdivision has effect in relation
21 to you in respect of an *instalment month in the same way in which
22 it has effect in relation to a *quarterly payer in respect of an
23 *instalment quarter.

24 **17 Before section 45-230 in Schedule 1**

25 Insert:

26 **45-225 Effect of Subdivision in relation to monthly payers**

27 If you are a *monthly payer, this Subdivision has effect in relation
28 to you in respect of an *instalment month in the same way in which
29 it has effect in relation to a *quarterly payer in respect of an
30 *instalment quarter.

31 **18 After section 45-595 in Schedule 1**

32 Insert:

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1 45-597 Effect of Subdivision in relation to monthly payers

2 If you are a *monthly payer, this Subdivision has effect in relation
3 to you in respect of an *instalment month in the same way in which
4 it has effect in relation to a *quarterly payer in respect of an
5 *instalment quarter.

6 19 Before section 45-705 in Schedule 1

7 Insert:

8 45-703 Effect of this Subdivision and Subdivision 45-R in relation to 9 monthly payers

10 (1) If:

11 (a) a company is the *head company of a *consolidated group;
12 and

13 (b) the company is a *monthly payer;

14 this Subdivision and Subdivision 45-R have effect in relation to the
15 company as the head company of the group in respect of an
16 *instalment month in the same way in which they have effect in
17 relation to a company that is a *quarterly payer as the head
18 company of a consolidated group in respect of an *instalment
19 quarter.

20 Note: Subdivision 45-S can also have effect in relation to a monthly payer
21 because of the operation of this section and section 45-910.

22 (2) However, that effect is subject to any modifications set out in those
23 Subdivisions.

24 20 After subsection 45-705(2) in Schedule 1

25 Insert:

26 (2A) Subsection (2B) applies if:

27 (a) a company is the *head company of a *consolidated group;
28 and

29 (b) the company is a *monthly payer.

30 (2B) Treat this Subdivision as starting to apply (under subsection (2)) to
31 the company as the *head company of the group at the start of an
32 *instalment month if, during the previous month, the
33 Commissioner gave the company (as that head company) the
34 *initial head company instalment rate.

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Note: For the application of this Subdivision to a monthly payer, see section 45-703.

21 After subsection 45-915(2) in Schedule 1

Insert:

- (2A) Subsection (2B) applies if:
 - (a) a company is the *provisional head company of a *MEC group; and
 - (b) the company is a *monthly payer.

- (2B) Treat Subdivision 45-Q as starting to apply (under subsection (2)) to the company as the *provisional head company of the group at the start of an *instalment month if, during the previous month, the Commissioner gave the company (as that provisional head company) the *initial head company instalment rate.

Note: For the application of this Subdivision to a monthly payer, see sections 45-703 and 45-910.

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1 **Part 2—Consequential amendments**

2 *Income Tax Assessment Act 1997*

3 **22 Subsection 995-1(1)**

4 Insert:

5 *instalment month* has the meaning given by section 45-65.

6 **23 Subsection 995-1(1)**

7 Insert:

8 *monthly payer* has the meaning given by section 45-136A.

9 **24 Subsection 995-1(1)**

10 Insert:

11 *MPR test day* has the meaning given by subsection 45-136B(4).

12 **25 Subsection 995-1(1) (definition of *quarterly payer*)**

13 Omit “*annual payer”, substitute “*annual payer or “monthly payer”:

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1 **Part 3—Application and transitional provisions**

2 **26 General application of provisions**

3 The amendments made by this Schedule apply to starting instalment
4 months that start on or after 1 January 2014.

5 **27 Transitional MPR thresholds**

6 (1) If the MPR test day for an income year mentioned in
7 subsection 45-136B(1) in Schedule 1 to the *Taxation Administration Act*
8 *1953* is before 1 October 2015, treat the reference in paragraph (a) of
9 that subsection to \$20 million as a reference to:

- 10 (a) if that MPR test day is before 1 October 2014—\$1 billion; or
11 (b) otherwise—\$100 million.

12 (2) Disregard the previous subitem for the purposes of
13 subsection 45-136A(4) in Schedule 1 to the *Taxation Administration*
14 *Act 1953* (MP stop notice).

15 **28 Additional 1 October MPR test days**

16 (1) This item applies apply if:

- 17 (a) (apart from this item) there is a time in an income year when
18 you are *not* a monthly payer; and
19 (b) that time is before 1 January 2016.

20 (2) In determining whether you satisfy the requirement in
21 subsection 45-136B(1) in Schedule 1 to the *Taxation Administration Act*
22 *1953* for the income year, treat the MPR test day for that income year as
23 being:

- 24 (a) if the income year includes 1 January 2014—1 October 2013;
25 or
26 (b) if the income year includes 1 January 2015—1 October 2014;
27 or
28 (c) if the income year includes 1 January 2016—1 October 2015.

29 (3) If you are a monthly payer at a time in an income year because of the
30 previous subitem, treat the starting instalment month in the income year
31 as being the first instalment month that starts after the latest of the
32 following instalment months:

- 33 (a) the instalment month ending just before that 1 January
34 occurs;
35 (b) if:
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- (i) apart from the previous subitem, you are a quarterly payer; and
 - (ii) that 1 January is not the first day of an instalment quarter;
the last month of the instalment quarter in which that 1 January occurs.

- (4) If you are an annual payer and, apart from this subitem, you would become a monthly payer at a time in the income year under paragraph (3)(a):
 - (a) you are taken *not* to satisfy the MPR for the income year because of the operation of subitem (2); and
 - (b) instead, you are taken to satisfy the MPR for the *next* income year.

Note: In this case, you become a monthly payer in that next income year at the time specified in subsection 45-136A(3) in Schedule 1 to the *Taxation Administration Act 1953*.