

Chapter X1

Assessment of amounts under indirect tax laws

Outline of chapter

1.1 Schedule X1 to this bill amends the *Taxation Administration Act 1953* (TAA), the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and other taxation acts to establish generic assessment provisions to apply to goods and services tax (GST), luxury car tax (LCT), wine equalisation tax (WET) and fuel tax credits.

1.2 The Schedule harmonises the current self actuating system that applies to GST, LCT, WET and fuel tax credits with the self assessment based system that applies to companies and certain other entities for income tax purposes. The Schedule also provides for the period of review to be refreshed when an amendment is made to a taxpayer's assessment.

1.3 The amendments in Schedule X1 have been drafted in a way that provides a framework for a future consolidation of other assessment based taxes in the TAA.

Context of amendments

Generic assessment provisions

1.4 In 1998, the (then) Government announced that 'the tax laws will be brought together in a code that supports a more cohesive approach to compliance and administration' (*Tax Reform: not a new tax, a new tax system*, page 149). One important feature of the tax code is to 'integrate all the tax rules, using consistent terminology and definitions'. This framework for consolidation of the assessment provisions in the TAA is part of this project.

Indirect taxes

1.5 The measure implements recommendations 19 and 21 arising from the Board of Taxation's *Review of the Legal Framework for the Administration of the Goods and Services Tax*.

1.6 Recommendation 19 of the Board of Taxation's report provides that the four year period of review for GST, LCT, WET and fuel tax credits should be refreshed in cases where the Commissioner amends the

amount of tax or refund payable based on the information provided by the taxpayer, but only in respect of the particular that led to the review.

1.7 Recommendation 21 provides that greater harmonisation should be introduced between the current self actuating system for GST, WET, LCT and fuel tax credits and the income tax system of self assessment. These amendments, which involve establishing a set of generic assessment provisions that apply to indirect taxes, comprise most of Schedule X1 to this bill.

Administrative framework for indirect taxes

1.8 The system currently operating for GST, LCT, WET and fuel tax credits is a self actuating system. Under this system, a taxpayer is automatically liable for tax or entitled to a refund based on the liabilities and entitlements attributable to a tax period (see for example Divisions 31, 33 and 35 of the GST Act). Even if the taxpayer incorrectly states their net amount or net fuel amount in their return, they remain liable to pay the correct amount (or entitled to a refund if the amount is negative). Under a self actuating system, this is always the case even if this error is not detected.

1.9 However, a limitation period applies under sections 105-50 and 105-55 of Schedule 1 to the TAA, after which the Commissioner may no longer recover any unpaid liabilities and the taxpayer may no longer recover any unpaid entitlements unless either the Commissioner has notified the taxpayer or the taxpayer has notified the Commissioner of a liability or entitlement within four years from the date the liability was due and payable or the entitlement to the refund arose.

1.10 GST, WET and LCT liabilities that arise upon importation of goods and in certain other circumstances are not part of the net amount under section 17-5 of the GST Act. These liabilities are not attributable to tax periods, although certain registered taxpayers may choose to defer their GST liabilities on importations until the end of the relevant tax period. Although these deferred liabilities are reported on the taxpayer's GST return, they are not part of the net amount. However, input tax credits arising from creditable importations are included in the net amount (section 17-5 of the GST Act).

Income tax self assessment

1.11 The full self assessment system, which applies to companies and superannuation funds for income tax purposes, differs from the self actuating system. At the end of an income tax period, taxpayers are required to assess their total tax liability and lodge a return with the Commissioner specifying their taxable income and the tax payable.

1.13 Section 166A of the *Income Tax Assessment Act 1936* (ITAA36) provides that the Commissioner is taken to have made an assessment of

these amounts on the date of lodgment of the return. The return lodged by the taxpayer is treated as the notice of assessment and is served on the taxpayer on the day the assessment is made, or taken to have been made.

1.14 Returns are generally accepted at face value; however, they may be subject to post-assessment audits or other verification activities by the Commissioner.

1.15 Taxpayers are required to pay the assessed amount by a specified date, even if the assessment was based on an error of law or fact. Once a liability or entitlement has been established in an assessment under the self assessment system, there is no limit on the period in which the Commissioner may seek to recover that liability.

1.16 An assessment may be amended during a limited amendment period. The limited amendment period commences on the day the notice of assessment is issued, and generally ends four years after that date (subsection 170(1) of the ITAA36). Where an amendment is made during the limited amendment period, the Commissioner provides a notice of amended assessment to the taxpayer. Once the limited amendment period has expired, the assessment cannot be amended except in specified circumstances (subsection 170(2) of the ITAA36).

1.17 The limited amendment period is refreshed in relation to the particular that was amended (subsection 170(3) of the ITAA36).

1.18 The income tax self assessment system is supported by the rulings regime that permits the Commissioner to issue binding public and private rulings, a regime of penalties for understatements of income tax liability, provisions for the extension of the period within which a taxpayer may object against an assessment, and a system of interest for underpayments and late payments of income tax.

Summary of new law

1.17 Schedule X1 amends the TAA, GST Act, *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act), *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act), *Fuel Tax Act 2006* (Fuel Tax Act) and the *Customs Act 1901* to establish an assessment based system for amounts under indirect tax laws.

1.18 The amendment replaces the current self actuating system for GST, WET, LCT and fuel tax with a system where liabilities and entitlements are dependent on an assessment. Where applicable, elements of the income tax self assessment regime have been adopted, however, some elements of the current administration systems for indirect taxes have been retained to reflect the unique nature of the indirect tax laws.

1.19 It is envisaged that the application of the new assessment provisions will eventually be expanded to apply to income tax and other

taxes and tax-related liabilities that are the subject of self assessment or assessment by the Commissioner. For this reason, the new assessment provisions use terminology that is generic and capable of applying to any tax-related liability or entitlement and the provisions are structured such that they can apply to any tax-related liability or entitlement.

Assessments and time limits on recovery of liabilities and entitlements

1.20 Under an assessment system, taxpayers are only liable to pay, or entitled to be paid, liabilities and entitlements that have been established by an assessment.

1.21 Once the liability or entitlement has been assessed, there is no time limit imposed on the Commissioner or the taxpayer to recover unpaid amounts.

1.22 However, where the Commissioner suspects that incorrect information has been given by the taxpayer, the Commissioner may retain the refund until he or she is satisfied that the information is correct, or the assessment has been amended.

Self assessment

1.23 The assessment system allows a majority of taxpayers to self assess their tax-related liabilities and tax-related entitlements through the lodgment of the relevant return for a tax period. On lodgment, the Commissioner is treated as having made an assessment for the reported tax period and the return is deemed to be the notice of assessment for that tax period. The assessment is worked out in accordance with the information set out in the return.

1.24 Similarly, the Commissioner is deemed to have made an assessment of GST, LCT or WET payable on importations when a taxpayer lodges an import declaration with Australian Customs and Border Protection Service (Customs) and Customs issues an import declaration advice. The two documents are deemed to be a notice of assessment.

Assessment by the Commissioner

1.25 A limited number of taxpayers, such as non-business taxpayers claiming fuel credits, are not be able to self assess. Instead, the Commissioner is required to make an assessment from the information given to him or her by the taxpayer, and is required to issue the taxpayer with a notice of assessment.

Period of review

1.26 As part of establishing an assessment system, Schedule X1 introduces a four year period of review during which the assessment may be amended. The period of review commences when the taxpayer is issued with a notice of the assessment (in most cases, this will be the same

day the taxpayer lodges his or her return). The period of review may be extended in certain circumstances.

Refreshed period of review

1.27 An amended assessment gives rise to a refreshed period of review for four years from the day notice of the amended assessment is provided or is taken to have been provided. The refreshed period of review only applies in relation to the amended particular and is subject to restrictions.

Time limits on credit entitlements

1.28 As a consequence of the removal of time limits in the recovery of liabilities and entitlements, taxpayers will cease to be entitled to credits if they have not been taken into account in working out the net amount or net fuel amount during the period of review for the assessment for that tax period.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
<p>Self assessment A taxpayer’s indirect tax law liabilities and entitlements are determined by an assessment. A taxpayer is only liable to pay or entitled to receive indirect tax liabilities and entitlements that are stated in their assessment.</p>	<p>Self actuating A taxpayer is automatically liable to pay or entitled to a refund of indirect tax based on the liabilities and entitlements attributable to a tax period or fuel tax return period. An assessment is not necessary to determine liabilities and entitlements.</p>
<p>Period of review A four year period of review applies during which time the Commissioner may amend a taxpayer’s assessment, either at the request of a taxpayer or at the Commissioner’s discretion. Established liabilities and entitlements remain payable or refundable following the period of review. The period of review may be extended in certain circumstances to allow the Commissioner to establish a liability that has not yet been assessed. Where an assessment is amended, it is subject to a refreshed four year</p>	<p>Limitation period A limitation period (typically four years) applies after which time the Commissioner and the taxpayer may no longer require payment of any liabilities or entitlements. The Commissioner may preserve his right to recover a liability if he notifies the taxpayer of the liability within the four year limitation period. Similarly, the taxpayer may notify the Commissioner of an unpaid refund during the four year limitation period to preserve their entitlement to a refund.</p>

period of review, in relation to the amended particular.	
<p>Deemed assessment</p> <p>For deemed assessments, the Commissioner will be taken to have made an assessment of an amount determined in the GST return or fuel tax return for a tax period and the return will be treated as the notice of assessment.</p> <p>A deemed assessment will not apply where liabilities and entitlements arise outside of the net amount or net fuel amount for a tax period. Where a deemed assessment does not apply, the Commissioner will issue a notice of assessment. For example, a taxpayer who is not registered or required to be registered for GST claims a fuel tax credit for a fuel tax return period. In this case, the Commissioner will make an assessment and issue a notice of assessment.</p>	<p>No deemed assessment</p> <p>There are no deemed assessments. The Commissioner may make an assessment of the taxpayer's liabilities and entitlements which is conclusive evidence of the assessed debt, but the taxpayer remains liable to pay the 'correct' or 'true' amount as the liability and entitlement are not dependent upon an assessment.</p>
<p>Importations</p> <p>For GST, WET and LCT payable on importations, the Commissioner is deemed to have made an assessment and to have served a notice of assessment where an import declaration (within the meanings of the Customs Act) has been received and Customs has provided an import declaration advice.</p>	<p>Importations</p> <p>Amounts of GST, WET and LCT payable on importations are not included in a GST registered taxpayer's net amount, but are payable to Customs on arrival. Certain taxpayers registered for GST can defer their importation liabilities to be included in a later GST return. These amounts are not assessed.</p>
<p>Time limit on entitlement to credits</p> <p>A taxpayer's entitlement to a credit ceases if it is not taken into account in working out the taxpayer's net amount or net fuel amount for the tax period to which it would be attributable during the period of review for the assessment for that tax period.</p>	<p>Time limit on entitlement to credits</p> <p>A taxpayer's entitlement to a credit ceases if it is not taken into account in working out the taxpayer's net amount or net fuel amount for the tax period to which it would be attributable during the period of four years after the day the GST return for the tax period was due.</p>

Detailed explanation of new law

Generic assessment provisions

1.29 Part 1 of Schedule X1 inserts Part 4-1 (Returns and assessments) into Schedule 1 to the TAA to establish generic assessment provisions that can be applied broadly across the tax system. As inserted, it contains only Division 155, dealing with assessments, and currently applies only to the assessment of assessable amounts arising under indirect tax laws.

1.30 Schedule X1 also inserts Part 4-90 (Evidence) into Schedule 1 to the TAA. Part 4-90 contains Division 350, which deals with the evidentiary effect of official tax documents.

Assessable amounts

1.31 As part of creating a generic framework for the assessment of other taxes, the amendments introduce a new term ‘assessable amount’ in subsection 995-1(1) of the *Income Tax Assessment Act 1997* (ITAA97). The term is defined to be any part of a tax-related liability or tax-related entitlement. ‘Tax-related liability’ is defined in section 255-1 in Schedule 1 to the TAA. [*Schedule X1, item 24, subsection 995-1(1) (definition of assessable amount) of the ITAA97*]

1.32 Existing subsection 250-10(2) in Schedule 1 to the TAA provides a list of tax-related liabilities, including net amounts, amounts of taxable importations, fuel tax credits and LCT and WET payable on importations.

1.33 On the other hand, ‘tax-related entitlement’ is a new term introduced so that refunds of net amounts less than zero, amongst others, are covered by the Division. Its definition mirrors that of tax-related liability and is defined as ‘a pecuniary entitlement from the Commonwealth arising under a taxation law’. [*Schedule X1, item 35, subsection 995-1(1) (definition of tax-related entitlement) of the ITAA97*]

1.34 Tax-related entitlements include, but are not limited to:

- net amounts less than zero (refunds under section 35-5 of the GST Act);
- wine tax credits for entities not registered or required to be registered under subsection 17-10(2) of the WET Act;
- credits and producer rebates paid to New Zealand wine producers under subsection 17-10(2A) and paragraph 19-5(a) of the WET Act;
- net fuel amounts less than zero (refunds under section 61-5 of the Fuel Tax Act);

- refunds of wine tax and GST where goods are taken overseas as accompanied baggage under the Tourist Refund Scheme under section 25-5 of the WET Act and section 168-5 of the GST Act; and
- interest on overpayments.

1.35 Input tax credit (ITC) entitlements are not tax-related entitlements as they are taken into account in working out the net amount.

Assessments

1.36 Division 155 contains generic assessment provisions for GST, WET, LCT and fuel tax credit liabilities and entitlements. Where appropriate, the amendments adopt many aspects of the income tax self assessment regime whilst ensuring that the amendments are framed in a way that can accommodate the unique nature of indirect taxes.

1.37 Section 155-5 limits the application of these provisions to assessable amounts under an indirect tax law. ***[Schedule XI, item 1, section 155-5 in Schedule 1 to the TAA]***

1.38 The assessment provisions apply to entities under the GST law, as well as entities under other taxation laws. ***[Schedule XI, item 1, section 155-7 in Schedule 1 to the TAA]***

Assessment by the Commissioner

1.39 The Commissioner is given a general power to make an assessment of an assessable amount at any time. However, the Commissioner's power to make assessments is restricted by the operation of other sections within the Division, including the rules for amending assessments beyond the period of review. ***[Schedule XI, item 1, section 155-10 in Schedule 1 to the TAA]***

1.40 The definition of 'assessment' is amended to include an ascertainment of the assessable amount to which Division 155 in Schedule 1 to the TAA applies. The existing meaning of 'assessment', as it applies to other taxes, is not affected. ***[Schedule XI, item 28, subsection 995-1(1) (definition of assessment) of the ITAA97]***

1.41 The Commissioner is required to issue a notice of assessment of the assessable amount to the taxpayer as soon as practicable after an assessment is made. ***[Schedule XI, item 1, section 155-15 in Schedule 1 to the TAA]***

Self assessment

1.42 A majority of taxpayers will be able to self assess their assessable amount when they lodge a return listed in subsection 155-17(1) for a tax period. Currently the list only includes a GST return, a fuel tax return and returns given under sections 69 and 70 of the *Customs Act 1901*. On lodgment of the return, the Commissioner will be taken to have

made an assessment of the taxpayer's assessable amount and the return is treated as being a notice of assessment that satisfies the notice of assessment requirement under section 155-15. **[Schedule X1, item 1, section 155-17 in Schedule 1 to the TAA]**

1.43 A taxpayer may not self assess their assessable amount for a tax period if an assessment has already been made (either deemed or by the Commissioner) for the assessable amount for the tax period. **[Schedule X1, item 1, subsection 155-17(5) in Schedule 1 to the TAA]**

Example 1.1

Patrick runs a furniture shop that is registered for GST. On 28 October 2013, Patrick lodges his GST return for the tax period ending 30 September 2013 with the Commissioner. Patrick's net amount for that tax period will be treated as assessed on 28 October 2013, and the GST return will constitute a notice of assessment issued by the Commissioner on that date.

Taxable importations

1.44 Similarly, the Commissioner will be taken to have made an assessment of a taxpayer's GST, LCT or WET liability (including a nil amount) on a taxable importation, taxable importation of a luxury car or customs dealing if an import declaration or a self-assessed clearance declaration has been communicated to Customs, and Customs issues an import declaration advice or a self-assessed clearance declaration advice (defined in the *Customs Act 1901*) as applicable in respect of the importation or dealing. **[Schedule X1, item 1, subsections 155-18(1) and 155-18(2) in Schedule 1 to the TAA]**

1.45 The import declaration and the import declaration advice, or the self-assessed clearance declaration and the self-assessed clearance declaration advice, are together treated as being a notice of assessment. **[Schedule X1, item 1, subsection 155-18(3) in Schedule 1 to the TAA]**

Example 1.2

Peter makes a importation of a luxury car and lodges an import declaration with Customs on 1 September 2012. On 5 September 2012, Customs issues Peter with an import declaration advice in respect of his importation. The amount of taxable importation that Peter is liable to pay will be deemed to be assessed on 5 September 2012 (the day Customs issued the advice), and the import declaration and the import declaration advice are collectively taken to be a notice of assessment issued by the Commissioner.

1.46 Similar to section 155-17, an assessment for GST, luxury car tax or wine tax on a taxable importation is not deemed under section 155-18 if an assessment of the GST, luxury car tax or wine tax has already been made, either deemed or by the Commissioner. **[Schedule X1, item 1, subsection 155-18(5) in Schedule 1 to the TAA]**

Requesting a notice of assessment

1.47 Taxpayers who are not able to self assess under sections 155-17 or 155-18 may request the Commissioner to issue a notice of assessment of an assessable amount if the taxpayer has furnished a return in the approved form and has not received a notice of assessment in relation to the assessable amount within six months of lodging the return. **[Schedule XI, item 1, subsection 155-19(1) in Schedule 1 to the TAA]**

1.48 If no notice of assessment has been served within three months of the request, then the furnished return and the request will together be deemed to be a notice of assessment given on the last day of the three month period. The period of review for that assessment will commence on that day. **[Schedule XI, item 1, subsections 155-19(2), 155-19(3) and 155-19(5) in Schedule 1 to the TAA]**

1.49 The amount assessed is worked out in accordance with the information stated in the return and the request. **[Schedule XI, item 1, subsection 155-19(4) in Schedule 1 to the TAA]**

1.50 The provision is most relevant for non-business taxpayers claiming fuel credits, taxpayers who have liabilities under Divisions 78 and 105 of the GST Act and some liabilities arising on taxable importations.

No return lodged

1.51 Where a taxpayer has failed to lodge a return, the Commissioner may rely on section 155-10 to make an assessment of an assessable amount based on the information available to him or her. This is similar to the Commissioner's power to make default and special assessments under sections 167 and 168 of the ITAA36. **[Schedule XI, item 1, section 155-10 in Schedule 1 to the TAA]**

Multiple assessments

1.52 The first assessment made for a particular tax period, whether it was deemed (under sections 155-17 or 155-18) or made by the Commissioner (under his general powers in section 155-10), is the 'original assessment'. Any subsequent amendments made by the Commissioner (including those at the instigation of the taxpayer) are amended assessments and the rules for amending assessments apply. **[Schedule XI, item 1, subsection 155-20(3) in Schedule 1 to the TAA]**

1.53 If the Commissioner has already made an assessment for the tax period before the taxpayer lodges their return under sections 155-17 or 155-18, the assessment will not be taken to be deemed, and lodgment of a subsequent return for the tax period will be treated as an application for an amendment under section 155-25. **[Schedule XI, item 1, subsections 155-17(5) and 155-18(5) in Schedule 1 to the TAA]**

Example 1.3

Sue operates a bookstore that is registered for GST. On 28 October 2013, Sue lodges her GST return for the tax period ending 30 September 2013.

On 23 March 2014, Sue lodges an amended GST return for the tax period ending 30 September 2013. The amended return lodged by Sue will be treated as an application for an amendment by the Commissioner.

Time limits

1.54 A main feature of an assessment regime is that there is no time limit for the Commissioner to recover unpaid amounts, or for taxpayers to be paid unpaid refunds, arising out of assessments for tax periods and fuel tax periods commencing after 1 July 2012. However, the amount that can be recovered must be crystallised by an assessment within the period of review (or the refreshed period of review if applicable). [*Schedule XI, item 70, section 35-10 of the GST Act; item 181, sections 61-7 and 61-10 of the Fuel Tax Act; items 226 and 227, repeal of sections 105-50 and 105-55 in Schedule 1 to the TAA*]

1.55 The time in which an assessment may be amended is restricted by the period of review and the refreshed period of review. Once the period of review and the refreshed period of review are over, the Commissioner may no longer amend the assessment (except in specific circumstances, such as to give effect to a decision on review or appeal or in cases of fraud and evasion). An amount that has not been assessed within the period of review or refreshed period of review ceases to be recoverable. [*Schedule XI, item 1, sections 155-20, 155-40 and 155-45 in Schedule 1 to the TAA*]

1.56 Tax periods and fuel tax periods commencing before 1 July 2012 continue to have a four year time limit for recovery under existing sections 105-50 and 105-55 in Schedule 1 to the TAA. [*Schedule XI, items 226 and 227, sections 105-50 and 105-55 in Schedule 1 to the TAA*]

Commissioner's power to retain refunds

1.57 Where a taxpayer has self assessed his or her assessable amount under section 155-17, the Commissioner may retain a refund he or she would otherwise have to pay to the taxpayer if the Commissioner considers the amount included in a notification to be incorrect and that the amount he or she is required to refund to the taxpayer would be less if the notification contained the correct information. [*Schedule XI, item 192, subsection 8AAZLGA(1) of the TAA*]

1.58 The Commissioner may retain a refund under section 8AAZLGA of the TAA until he or she is satisfied that the information is correct or he or she amends the assessment. Interest will be payable in

accordance with section 12AF of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*. [**Schedule X1, item 192, subsection 8AAZLGA(2) of the TAA**]

1.59 A review right under Part IVC of the TAA is available to taxpayers where the Commissioner has retained a refund (under section 8AAZLGA) for a period of six months plus any periods of time in which the Commissioner has requested further information from the taxpayer and the taxpayer has not provided that information to the Commissioner. [**Schedule X1, item 192, subsections 8AAZLGA(4) and 8AAZLGA(5) of the TAA**]

1.60 The Commissioner is treated as having issued a notice of the decision to the taxpayer on the last day of the six month period for the purposes of section 14ZW of the TAA (which requires a taxation decision to have been made). [**Schedule X1, item 192, subsection 8AAZLGA(6) of the TAA**]

Example 1.4

Duncan runs a shoe shop that is registered for GST. On 28 July 2014, Duncan lodges his GST return for the tax period ending 30 June 2014. Duncan's GST return indicates a net amount less than zero.

However, the Commissioner has reason to believe that the amounts on Duncan's GST return are incorrect. Under section 8AAZLGA of the TAA, the Commissioner may retain the refund notwithstanding the amount has been assessed.

On 30 September 2014, the Commissioner requests additional information from Duncan. Duncan provides this information to the Commissioner on 30 October 2014.

If Duncan still has not received the refund by 28 February 2015 (six months from lodgment of the return plus the 30 days Duncan took to provide the requested information to the Commissioner), he may object under Part IVC of the TAA.

Period of review

1.61 Subdivision 155-C introduces a period of review in which an assessment of an assessable amount may be amended. Once the period of review has ended, the Commissioner may only amend an amended assessment in limited circumstances. [**Schedule X1, item 1, Subdivision 155-C in Schedule 1 to the TAA**]

1.62 The period of review commences on the day the Commissioner gives notice of the assessment to the taxpayer and expires four years after the day after the notice of assessment is issued (unless extended). In cases where the assessment is deemed under section 155-17 and 155-18, the period of review will commence when the return is lodged, regardless of whether the return is lodged early or late. [**Schedule X1, item 1, subsection 155-20(2) in Schedule 1 to the TAA**]

1.63 The period of review may be extended by Federal Court order or by the consent of the Commissioner. ***[Schedule X1, item 1, subsections 155-20(4) and 155-20(5) in Schedule 1 to the TAA]***

Extending the period of review – Federal Court order

1.64 Prior to the conclusion of the period of review (including any extension previously granted), the Commissioner may apply to the Federal Court of Australia for an order to extend the period of review for a specified period of time. The Court may grant this order for a specified period if it is satisfied that it is either not reasonably practical or not appropriate for the Commissioner to complete the examination of a taxpayer's assessable amount in the remainder of the period of review due to actions or a failure to take reasonable actions on the part of the taxpayer. ***[Schedule X1, item 1, subsection 155-20(4) in Schedule 1 to the TAA]***

1.65 The term 'examination' is a very broad concept and takes its ordinary meaning. The term covers not only audits, but any examination of an entity's affairs including reviews, investigations or enquiries.

Extending the period of review – request by Commissioner

1.66 The period of review may also be extended if the Commissioner requests an extension before the end of the period of review and the taxpayer consents in writing to the extension for a specified period. A precondition to this is that the Commissioner must have started examining the taxpayer's affairs (as is required for an extension by Federal Court order). ***[Schedule X1, item 1, subsection 155-20(5) in Schedule 1 to the TAA]***

Example 1.5

Huey is a taxpayer who has complex tax affairs. Joanne is involved in investigating, on behalf of the Commissioner, an activity statement that was lodged almost four years ago. She has been reviewing a number of different entries in the activity statement, making a number of enquiries about Huey's affairs, and has made several requests for information which is taking Huey sometime to complete.

Joanne becomes aware that it is unlikely that the examination of Huey's affairs will be completed before the end of the period of review for the assessment associated with the particular activity statement. Joanne contacts Huey and requests a three month extension to the period of review. After consulting with his tax advisers, Huey agrees to the extension. This consent will extend the four year period of review by three months. If Joanne has not completed the examination of Huey's affairs within this extra period of time, she may request a further extension of time from Huey or she could apply to the Federal Court for an order for an extension of time to the period of review.

1.67 The period of review may be extended more than once. ***[Schedule X1, item 1, subsection 155-20(6) in Schedule 1 to the TAA]***

Amending assessments

1.68 Subsection 155-20(1) empowers the Commissioner to amend an assessment within the period of review. Once the period of review has expired, the Commissioner may only amend an assessment in limited circumstances ***[Schedule X1, item 1, subsection 155-20(1) in Schedule 1 to the TAA]***

Amending assessments – application by taxpayer

1.69 The Commissioner may make an amendment at any time (including after the period of review has expired) if a taxpayer applies for an amendment in the approved form within the period of review. ***[Schedule X1, item 1, subsection 155-25(1) in Schedule 1 to the TAA]***

1.70 Where the taxpayer has requested an amendment in the approved form and the Commissioner makes the amendment to give full effect to the application, the document in which the taxpayer makes the request will be taken to be a notice of the amended assessment. ***[Schedule X1, item 1, subsection 155-25(2) in Schedule 1 to the TAA]***

1.71 The notice will be taken to have been served on the day the Commissioner adjusts the taxpayer's running balance account (RBA), or the day Customs issues an import declaration advice or self-assessed clearance declaration advice to the taxpayer in respect of the relevant taxable importation, taxable importation of a luxury car or customs dealing as a result of the amendment. Deeming the amendment to be made from the day the RBA is amended allows the Commissioner time to review and make the amendment if he or she agrees. ***[Schedule X1, item 1, subsection 155-25(3) in Schedule 1 to the TAA]***

1.72 However, if the Commissioner does not make the amendment, or only amends the assessment to partly give effect to the application for amendment, the Commissioner will be required to issue the taxpayer with a notice of amended assessment in accordance with section 155-15. ***[Schedule X1, item 1, subsection 155-25(1) (note) in Schedule 1 to the TAA]***

Amending assessments – private rulings

1.73 The Commissioner may amend an assessment at any time to give effect to a private ruling issued to a taxpayer if:

- the taxpayer applies for a private ruling before the end of the period of review; and
- the Commissioner makes a private ruling because of the taxpayer's application.

[Schedule X1, item 1, section 155-30 in Schedule 1 to the TAA]

Example 1.6

Janine runs a clothing store that is registered for GST. On 28 April 2014, Janine lodges her GST return for the tax period ending 30 March 2014. On 15 February 2018, Janine applies for a private ruling in relation to her assessment for that tax period and the Commissioner issues the ruling to her on 1 May 2018.

The Commissioner may amend Janine's assessment for the tax period ending 30 March 2014 to give effect to the ruling, even though the period of review for the relevant tax period ceased on 29 April 2018.

Amending assessments – declarations, objections, review, fraud, evasion

1.74 There are no time restrictions on when the Commissioner may amend an assessment:

- to give effect to a declaration made by the Commissioner under subsection 165-45(3) of the GST Act or subsection 75-45(3) of the Fuel Tax Act; [*Schedule XI, item 1, section 155-33 in Schedule 1 to the TAA*]
- to give effect to a decision on review or appeal; [*Schedule XI, item 1, paragraph 155-35(a) in Schedule 1 to the TAA*]
- as a result of an objection made by a taxpayer, or pending a review or appeal; or [*Schedule XI, item 1, paragraph 155-35(b) in Schedule 1 to the TAA*]
- if the Commissioner is of the opinion that there has been fraud or evasion. [*Schedule XI, item 1, paragraph 155-35(c) in Schedule 1 to the TAA*]

1.75 Where the Commissioner makes an amendment under sections 155-30, 155-33 and 155-35, he or she must issue a notice of assessment as required by section 155-15.

Example 1.7

Maxwell runs a toy store and is registered for GST. On 28 October 2015, Maxwell lodges a GST return for the tax period ending 30 September 2015. On 17 September 2019, the Commissioner amends Maxwell's assessment for that tax period and increases his net amount by \$1,000.

On 18 October 2019, Maxwell objects to the amended assessment under Part IVC of the TAA. The Commissioner reviews his decision and decides to allow the objection on 30 October 2019. The Commissioner may amend Maxwell's assessment to give effect to his decision on the objection, even though the period of review for the assessment ceased on 29 October 2019.

1.76 An assessment may be amended more than once within the period of review. [*Schedule XI, item 1, subsection 155-20(1) in Schedule 1 to the TAA*]

Amending amended assessments and the refreshed period of review

1.77 Once the period of review has ended, assessments may not be amended except in a limited number of circumstances. ***[Schedule XI, item 1, section 155-40 in Schedule 1 to the TAA]***

1.78 An amendment to an assessment under section 155-20 gives rise to a refreshed period of review for the particulars that the amendment related to. ‘Particular’ takes on the same meaning as is currently applied in the context of objections. ***[Schedule XI, item 1, subsection 155-45(1) in Schedule 1 to the TAA]***

1.79 The refreshed period of review starts on the day the Commissioner gives the taxpayer a notice of amended assessment for the last amendment made to the particular and ends four years after that day. The refreshed period of review cannot be extended. ***[Schedule XI, item 1, paragraph 155-45(2)(a) in Schedule 1 to the TAA]***

1.80 The new amendment must relate to the particular that was previously amended. This includes any input tax credits the taxpayer may be entitled to because of the amendment, as long as the taxpayer’s entitlement to the input tax credits have not ceased under Division 93 of the GST Act. ***[Schedule XI, item 1, paragraph 155-45(2)(b) in Schedule 1 to the TAA]***

1.81 An assessment may only be amended under section 155-45 once in relation to a particular. This can be initiated either by the Commissioner or on application by the taxpayer. ***[Schedule XI, item 1, paragraphs 155-45(2)(c) and 155-25(1)(b) in Schedule 1 to the TAA]***

1.82 Once an amendment has been made to a particular under section 155-45, the only rights available to the taxpayer are objection rights under Part IVC of the TAA. ***[Schedule XI, item 1, section 155-75 in Schedule 1 to the TAA]***

1.83 Amendments under sections 155-25, 155-30, 155-33 and 155-35 do not give rise to a refreshed period of review. However, a taxpayer retains his or her right to object to an amended assessment under Part IVC of the TAA.

Example 1.8

Jenny operates a cafe that is registered for GST. On 28 October 2012, she lodges a GST return for the tax period ending 30 September 2012.

On 14 May 2015, the Commissioner amends the assessment for that tax period to increase Jenny’s assessed net amount for the tax period ending 30 September 2012. The amendment gives rise to a refreshed period of review (until 14 May 2019) in relation to the particular that resulted in the amendment.

On 22 August 2017, Jenny applies to the Commissioner to amend her net amount to decrease the particular that was previously amended. As

Jenny provides sufficient information to the Commissioner in regards to the amendment, the Commissioner accepts Jenny's statement and may amend the assessment to decrease Jenny's net amount.

General rules

1.84 An amended assessment is an assessment and the requirements applying to assessments, such as the requirement that the Commissioner issue a notice of assessment for each assessment, also apply to amended assessments. To the extent that two assessments for the same assessable amount are inconsistent, a later assessment is treated as being an amendment of an earlier assessment and the later assessment applies.

[Schedule X1, item 1, sections 155-55 and 155-65 in Schedule 1 to the TAA]

1.85 As with the current GST regime, general interest charge is payable from the date lodgment was required (under section 105-80 in Schedule 1 to the TAA).

Refunds of overpaid amounts

1.86 If an amendment of an assessment results in a taxpayer's tax-related liability being reduced, the amount is treated as though it was never payable and Commissioner must apply that amount in accordance with the rules for running balance accounts under Divisions 3 and 3A of Part IIB of the TAA. ***[Schedule X1, item 1, section 155-60 in Schedule 1 to the TAA]***

Validity

1.87 The validity of an assessment is not affected by any non-compliance with the provisions of the Act or any other taxation law. ***[Schedule X1, item 1, section 155-70 in Schedule 1 to the TAA]***

Objections and judicial review

1.88 Section 14ZQA of the TAA is amended to clarify that the objection provisions apply to entities under the GST law and other taxation laws in the same way as they apply to entities under the income tax law. ***[Schedule X1, item 194, section 14ZQA of the TAA]***

1.89 Consistent with income tax law, decisions under Part 4-1 are not reviewable decisions under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). ***[Schedule X1, item 36, paragraph (e) of Schedule 1 to the ADJR Act]***

1.90 Instead, assessments are reviewable taxation decisions under Part IVC of the TAA. ***[Schedule X1, item 1, section 155-75 in Schedule 1 to the TAA]***

1.91 A taxpayer has four years after notice of the original assessment is issued to make a taxation objection. ***[Schedule X1, item 195, paragraph 14ZW(1)(bf) of the TAA]***

1.92 In the case of an amended assessment, a taxpayer may lodge an objection in relation to the particulars of the amended assessment, either within four years of the notice of the original assessment, or 60 days after the relevant notice of amended assessment was received, whichever is later (section 14ZW(1B) of the TAA).

Evidence

1.93 Division 350 in Part 4-90 contains the rules about the evidentiary effect of official tax documents.

1.94 The amount included in the assessment will be conclusive evidence of the assessment of the taxpayer's assessable amount, other than in proceedings commenced under Part IVC of the TAA, such as an objection against the assessment. [*Schedule X1, item 5, section 350-5 in Schedule 1 to the TAA*]

1.95 The table in section 350-5 provides that the production of a notice or assessment or a declaration is conclusive evidence that the assessment or declaration was properly made. Similarly, the production of a Gazette or document under the hand of the Commissioner, Second Commissioner, Deputy Commissioner or delegate, is conclusive evidence that the notice or document was so issued. [*Schedule X1, item 5, subsection 350-5(1) in Schedule 1 to the TAA*]

Record keeping

1.96 If the period of review for an assessment is extended beyond the period for which records must be retained in relation to the assessed liability or entitlement (typically five years), the period for which records must be retained will be extended to the end of the extended assessment period (including the refreshed period of review). [*Schedule X1, item 600, paragraph 382-5(1)(b) of the TAA*]

Amendments relating only to indirect taxes

Net amounts

1.97 Division 2 introduces the term 'assessed net amount'. An assessed net amount is a net amount which has been assessed by the Commissioner. [*Schedule X1, item 4, section 195-1 of the GST Act*]

1.98 Similarly, Division 2 introduces the terms:

- 'assessed GST' to be the GST assessed on the taxable importation; [*Schedule X1, item 3, section 195-1 of the GST Act*]
- 'assessed luxury car tax' to mean the luxury car tax assessed on the taxable importation; [*Schedule X1, item 10, section 27-1 of the LCT Act*]

- ‘assessed wine tax’ to mean the wine tax assessed on the customs dealing; and [*Schedule X1, item 12, section 33-1 of the WET Act*]
- ‘assessed net fuel amount’ to mean the net fuel amount assessed for the tax period or fuel tax return period. [*Schedule X1, item 20, section 110-5 of the Fuel Tax Act*]

Entitlement to refunds

1.99 Section 35-10 of the GST Act and Division 61 of the Fuel Tax Act provide that a taxpayer’s entitlement to a refund arises when a notice of assessment or notice of amended assessment is issued. [*Schedule X1, item 70, section 35-10 of the GST Act; item 181, section 61-10 of the Fuel Tax Act*]

Input tax credit and fuel tax credit entitlements

1.100 Division 93 of the GST Act is amended to provide that taxpayers will cease to be entitled to input tax credits if the credit has not been taken into account in an assessment of the net amount for a tax period during the period of review. Division 47 of the Fuel Tax Act is similarly amended in relation to fuel tax credits and net fuel amounts. [*Schedule X1, item 83, section 93-5 of the GST Act; item 172, section 47-5 of the Fuel Tax Act*]

Example 1.9

Stacey operates a bank that is registered for GST. On 5 August 2013, Stacey purchases a number of acquisitions. As Stacey believes the supply (to which the acquisitions relate) is input taxed, she does not claim any input tax credits for the tax period ending 30 September 2013 and the assessment does not take into account the ITCs. Stacey makes the supply in February 2017 and treats the supply as input taxed on the BAS for the tax period ending 30 March 2017. The assessment for that period does not include any GST payable on the supply.

In April 2018, the Commissioner amends the taxpayer’s assessment for the tax period ending 30 March 2017 to reflect that the supply is actually taxable. The Commissioner will therefore require payment of GST on the supply, however, because the period of review for the assessment of the tax period ending 30 September 2013 ended on 30 September 2017, Stacey will not be entitled to claim the input tax credits that would have been claimable even though the acquisitions would now be creditable acquisitions.

Application and transitional provisions

Application date

1.101 Division 155 will apply to indirect taxes from the start of the first quarterly tax period beginning 1 July 2012, and for fuel tax credits from the start of the first fuel tax return period after 1 July 2012.

1.102 The amendments in Schedule X1 relating to assessments will apply to assessable amounts for tax periods or fuel tax return periods commencing on or after 1 July 2012. The amendments will also apply to payments and refunds that do not relate to tax periods or fuel tax return periods, where the relevant liability or entitlement arose on or after 1 July 2012.

Transitional rules

1.103 Division 4 of Part 1 to Schedule X1 contains transitional arrangements for moving to an assessment based regime. In general, it preserves the existing rules for all tax periods and fuel tax return periods commencing prior to 1 July 2012. The current rules will also continue to apply to payments and refunds that do not relate to tax periods or fuel tax return periods, if the relevant liability or entitlement occurs prior to 1 July 2012.

1.104 Amendments commencing 1 January 2017 will remove provisions that are no longer in effect after 1 July 2016 (see paragraph 1.107).

Consequential amendments

1.105 Division 3 of this Schedule makes a number of consequential amendments as a result of implementing these measures.

1.106 A number of consequential amendments are made throughout the GST Act (and other Acts) to replace ‘net amount’ with ‘assessed net amount’ and ‘GST’ with ‘assessed GST’. Similar changes are made for WET, LCT and fuel tax credits. In some circumstances that replacement may differ in expression depending on the sentence. For example, it may reference multiple net amounts. Headings are also updated to reflect the new terminology.

Original	Replaced with	References
‘net amount’	‘assessed net amount’	<i>Schedule XI, item 38, section 7-15; item 50, section 33-1; items 32 to 55, section 33-3; items 56 to 59, section 33-5; items 60 to 63, section 33-10; item 66, paragraph 33-15(1)(b) (note); item 68, section 35-1; item 69, subsection 35-5(1); item 71, section 35-99 (note); items 73 and 74, section 51-55, items 75 and 76, section 51-50; items 77 and 78, section 54-60; items 79 and 80, section 54-65; items 93 to 96, section 151-50; items 97</i>

		<p><i>to 99, section 151-60; item 100, subsection 162-5(3); items 101 to 103, section 162-90; items 104 to 106, section 162-95; items 107 to 110, section 162-110; items 111 and 112, section 162-145; items 113 and 114, section 162-175; item 115, subsection 162-180(5); item 116, subparagraph 162-185(1)(c)(iii); item 117, paragraph 162-190(b); item 118, subsection 162-195(2); and item 119, paragraph 162-200(4)(b) of the GST Act</i></p> <p><i>Schedule XI, item 139, paragraph 13-20(1)(b) (note 1) of the LCT Act</i></p> <p><i>Schedule XI, item 152, section 23-5(1)(b) (note) of the WET Act</i></p> <p><i>Schedule XI, item 193, section 8AAZMA(1) of the TAA</i></p> <p><i>Schedule XI, items 200 and 201, subsection 105-65(2); item 210, paragraph 286-20(a); and item 211, section 357-55 in Schedule 1 to the TAA</i></p>
'GST'	'assessed GST'	<p><i>Schedule XI, item 45, section 29-1 (note); items 47 and 48, section 29-15; items 64 to 66, sections 33-15; item 72, subparagraph 42-10(1)(c)(iii); item 81, subparagraph 60-15(1)(e)(i); item 82, paragraph 80-30(1)(a); items 84 and 85, section 114-15; items 86 and 87, section 114-20; items 88 to 90, section 117-15; items 91 and 92, subsection 138-5(2); item 128, section 171-1; and items 129 to 133, section 171-5; of the GST Act</i></p> <p><i>Schedule XI, items 144 and 146, section 13-25 of the LCT Act</i></p> <p><i>Schedule XI, item 150, section 23-1 of the WET Act</i></p> <p><i>Schedule XI, items 156, 159 and 164, section 71AAAL; items 160 and 161, section 71C; item 165, subsection 105D(3) (note); item 166, paragraph 162(1)(b); and item 168, paragraph 162A(2)(b) of the Customs Act 1901</i></p>

		<i>Schedule XI, items 189 and 190, section 27-15 of the ITAA97</i>
‘luxury car tax’	‘assessed luxury car tax’	<i>Schedule XI, items 130 and 132, section 171-5 of the GST Act</i> <i>Schedule XI, item 134, subsection 2-10(1); item 136, Subdivision 13-B (heading); items 137, 141 and 142, section 13-20; and items 143 to 146, section 13-25 of the LCT Act</i> <i>Schedule XI, items 157, 159 and 164, section 71AAAL; items 160 and 162, section 71C; item 167, paragraph 162(1)(c); and item 169, paragraph 162A(2)(c) of the Customs Act 1901</i>
‘wine tax’	‘assessed wine tax’	<i>Schedule XI, item 147, section 2-20; and items 151, 154 and 155, section 23-5 of the WET Act</i> <i>Schedule XI, items 158, 159 and 164, section 71AAAL; and items 160 and 163, section 71C of the Customs Act 1901</i>
‘net fuel amount’	‘assessed net fuel amount’	<i>Schedule XI, item 170, section 44-1; items 176, 178, 179 and 180, section 61-5; and item 183, section 75-1 of the Fuel Tax Act</i> <i>Schedule XI, item 202, paragraph 105-80(2)(a); and item 211, section 357-55 in Schedule 1 to the TAA</i>
‘amount of indirect tax’	‘assessed amount of indirect tax’	<i>Schedule XI, item 202, paragraph 105-80(2)(b) in Schedule 1 to the TAA</i>

Amendments commencing on 1 January 2017

1.107 Part 2 of Schedule X1 repeals provisions of the TAA, GST Act, *A New Tax System (Goods and Services Tax Transition) Act 1999*, Fuel Tax Act, ITAA97 and the TAA that are no longer in effect after 1 July 2016. [*Schedule XI, items 229 to 233, subsection 17-20(2), paragraph 17-20(2A)(b), section 93-1, subsection 93-5(1) (note) and section 93-10 of the GST Act; item 234, section 151A of the A New Tax System (Goods and Services Tax Transition) Act 1999; items 235 to 240,*

sections 47-1, 47-5 (note), 47-10 and section 60-10 of the Fuel Tax Act; item 241, subsection 995-1(1) (definition of reviewable indirect tax decision) of the ITAA97; items 242 and 243, section 14ZW of the TAA; items 244 to 247, sections 105-1, Subdivisions 105-A and 105-B, sections 105-50 and 105-55 and subsection 350-5(1) (table item 2) in Schedule 1 to the TAA]

Chapter X2

Correcting errors in working out amounts of indirect tax

Outline of chapter

2.1 Schedule X2 to this bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and the *Fuel Tax Act 2006* (Fuel Tax Act) to allow the Commissioner to make a determination allowing a taxpayer to take into account, on his or her GST or fuel tax return for the current tax period, errors made in working out net amounts and net fuel amounts for preceding tax periods or fuel tax return periods.

Context of amendments

2.2 Under the existing law, special concessions exist to allow for the correction of certain errors in GST returns and fuel tax returns without requiring the amendment of past assessments.

2.3 Section 17-20 of the GST Act currently allows the Commissioner to determine specified circumstances in which a taxpayer may correct an error made in working out his or her net amount in the immediately preceding tax period, in working out his or her net amount in the current tax period.

2.4 The Fuel Tax Act does not currently contain an equivalent discretion.

2.5 However, the Commissioner has exercised his power of general administration to permit, in certain specified circumstances, errors made in preceding tax periods or fuel tax return periods to be corrected, without penalty, in the GST or fuel tax return for the current tax period and fuel tax return periods.

Summary of new law

2.6 Schedule X2 allows the Commissioner to determine the circumstances in which taxpayers may, in a particular tax period or fuel tax return period, account for errors arising from mistakes relating to net amounts and net fuel amounts in prior tax periods or fuel tax return periods, provided the period of review relevant to the error has not expired. The amendments do not limit such determinations to relate to immediately preceding tax periods or fuel tax return periods.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Commissioner has the discretion to determine the circumstances in which a taxpayer may account for errors in relation to net amounts or net fuel amounts for prior tax periods and fuel tax return periods, as long as the error is corrected during the relevant period of review.	The Commissioner has the discretion to determine the circumstances in which taxpayers in specified circumstances may account for errors in the immediately preceding tax period in working out the net amount for the current tax period.

Detailed explanation of new law

2.7 Schedule X2 provides the Commissioner with a specific power to allow taxpayers (at his discretion) to, in a particular tax period or fuel tax return period, account for errors arising from errors relating to net amounts and net fuel amounts in prior tax periods or fuel tax return periods, provided the period of review relevant to the error has not expired.

2.8 These amendments allow the Commissioner to, in writing, determine the circumstances in which a taxpayer may calculate his or her net amount for a tax period to take account of errors arising from mistakes relating to net amounts for prior tax periods, provided that the period of review relevant to the assessment containing the error (whichever is applicable) has not expired. *[Schedule X2, item 1, subsection 17-20(2A) of the GST Act]*

2.9 An equivalent provision is inserted into the Fuel Tax Act in respect of errors made in working out net fuel amounts in fuel tax returns for preceding fuel tax return periods within time limits for the fuel tax return period under sections 105-50 and 105-55 or the period of review (whichever is applicable). *[Schedule X2, item 2, section 60-10 of the Fuel Tax Act]*

2.10 For tax periods commencing before 1 July 2012, errors may not be corrected if the time limits under sections 105-50 and 105-55 of the *Taxation Administration Act 1953* have ended. *[Schedule X2, item 1, subsection 17-20(2) of the GST Act; item 2, subsections 60-10(2) and 60-10(3) of the Fuel Tax Act]*

2.11 The amendment means that, if the Commissioner allows, taxpayers may correct errors arising from a previous GST or fuel tax return on their current return instead of amending the previous assessment. The taxpayer will also avoid paying general interest charge.

Application and transitional provisions

2.17 These amendments apply to tax periods and fuel tax return periods commencing on or after 1 July 2012.

Consequential amendments

2.18 None.

Chapter X3

Net amounts

Outline of chapter

3.17 Schedule X3 to this bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to clarify the definition of ‘net amount’.

Context of amendments

3.18 This measure implements recommendation 42 of the Board of Taxation’s *Review of the Legal Framework for the Administration of the Goods and Services Tax* (Board’s report).

3.19 Recommendation 42 of the Board’s report provided that the law should be amended to confirm that luxury car tax (LCT) and wine equalisation tax (WET) are part of the net amount that is calculated under the GST Act.

3.20 Section 17-5 of the GST Act defines the net amount to be the taxpayer’s total GST payable less any input tax credit entitlements, subject to any adjustments.

3.21 However, section 21-5 of the *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act) and section 13-5 of the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act) relevantly provide that amounts of WET and LCT payable or refundable are added to the net amount under the GST Act. These are not included in the definition of net amount in the GST Act.

3.22 For fuel tax, the net fuel amount is defined in section 60-5 of the *Fuel Tax Act 2006* (Fuel Tax Act). The net fuel amount is the taxpayer’s total fuel tax less any fuel tax credits, plus or minus fuel tax adjustments.

Summary of new law

3.23 Schedule X3 clarifies that the term ‘net amount’ in the GST Act also accounts for amounts of LCT and WET payable or refundable. The amendments further create a single ‘net amount’ definition that applies differently to reflect differing circumstances.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The GST Act explicitly states that the ‘net amount’ is increased or decreased by amounts of WET and LCT payable or refundable.	The GST Act does not state that ‘net amount’ is increased or decreased by amounts of WET and LCT payable or refundable. However, these indirect tax amounts do increase or decrease the net amount (as provided in the LCT and WET Acts).
The term ‘net amount’ has a single definition that applies differently to reflect differing circumstances.	The term ‘net amount’ has multiple definitions relevant to different situations.

Detailed explanation of new law

3.24 Schedule X3 clarifies the definition of ‘net amount’ in the GST Act to account for amounts of LCT and WET payable or refundable. The amendments further create a single ‘net amount’ definition that applies differently to reflect differing circumstances.

3.25 The amendment clarifies in the GST Act the net amount may be increased or decreased by any amounts of WET or LCT payable and refundable. [*Schedule X3, item 1, subsection 17-5(2); item 4, subsection 123-15(1A); item 5, subsection 126-5(2) of the GST Act*]

3.26 Schedule X3 also clarifies that there is a single definition for ‘net amount’ applying differently to reflect differing circumstances (rather than multiple definitions relevant to different situations). [*Schedule X3, item 2, subsection 123-15(1); item 6, paragraph 162-105(a); item 7, section 195-1 of the GST Act*]

3.27 A further minor amendment is made to replace ‘method’ with ‘simplified accounting method’ in subsection 123-15(1). [*Schedule X3, item 3, subsection 123-15(1)*]

3.28 The amendments do not change the obligations of taxpayers or the Commissioner.

Application and transitional provisions

3.29 These amendments apply to tax periods and fuel tax periods commencing on or after 1 July 2012.

Consequential amendments

3.30 The Schedule makes consequential amendments to the LCT Act and the WET Act to clarify that net amounts are:

- increased by amounts of luxury car tax; [*Schedule X3, items 8 and 9, section 13-5 of the LCT Act*]
- increased by amounts of wine tax; and [*Schedule X3, items 10 and 11, section 21-5 of the WET Act*]
- reduced by amounts of wine tax credits. [*Schedule X3, items 12 and 13, section 21-15 of the WET Act*]

Chapter X4

Minor amendments

Outline of chapter

4.17 Schedule X4 to this bill makes consequential amendments to the taxation laws arising from the amendments contained in Schedules X1, X2 and X3 of this bill. Most of the amendments are of a minor nature.

Context of amendments

4.18 The amendments seek to ensure the taxation law operates as intended, by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. These amendments are part of the Government’s commitment to the care and maintenance of the taxation laws.

Summary of new law

4.19 The issues these amendments deal with include:

- ensuring consistent references to taxation Acts in definitions;
- repealing inoperative material;
- clarifying ambiguities;
- rectifying incorrect terminology; and
- correcting grammatical and spelling errors.

Detailed explanation of new law

4.20 Schedule X4 makes a number of minor amendments to tidy up the *A New Tax System (Goods and Services Tax) Act*, the *Taxation Administration Act 1953* and other taxation acts.

Table 4.1: Amendments to the *A New Tax System (Goods and Services Tax) Act 1999*

<i>Provision being amended</i>	<i>What the amendment does</i>
38-185(3)(f)(ii) and (4)(f)(ii) 48-1 (note)	These amendments update the references to the WET Act to insure consistency with the definition added in this measure. [<i>Schedule X4, item 1, subparagraphs 38-185(3)(f)(ii) and 38-185(4)(f)(ii); item 2, section</i>

51-1 (note) 165-1 177-12(4)(c) 195-1 (definition of local entry) 195-1 (definition of wine tax) 195-1 (definition of wine tax law)	48-1 (note); item 3, section 51-1 (note); item 7, section 165-1; item 8, paragraph 177-12(4)(c); item 9, section 195-1 (definition of local entry); item 11, section 195-1 (definition of wine tax); item 13, section 195-1 (definition of wine tax law)]
149-15 (heading)	This amendment updates the heading to replace “This Act” with “GST law” to make the expression uniform with the changes made in this measure. [Schedule X4, item 1, section 149-15 (heading)]
149-15	Replaces the reference to “this Act” with “the *GST law” to ensure that the treatment for government entities that are registered is consistent across all GST law. [Schedule X4, item 5, section 149-15]
162-5(4)	Repeals a subsection that refers to Section 16 that was repealed by the <i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i> . [Schedule X4, item 6, section 162-5(4)]
195-1 (definition of tax period)	Replaces the definition of tax period, to make the definition more readable and includes a previously missing reference to section 162-55. [Schedule X4, item 10, section 195-1 (definition of tax period)]
195-1	Inserts a definition for WET Act. [Schedule X4, item 12, section 195-1]

Table 4.2: Amendments to the Fuel Tax Act 2006

<i>Provision being amended</i>	<i>What the amendment does</i>
43-10(7)	Replaces “amount” with “*amount” to ensure that the correct definition is used. [Schedule X4, item 14, subsection 43-10(7)]
47-10(1)(b) and (3)(b)	These amendments replace “tax period” with “*tax period and *fuel tax return period” to ensure that the correct definition is used. [Schedule X4, item 15, paragraphs 47-10(1)(b) and (3)(b)]
Application Provisions	The application provision clarifies that a taxpayer’s entitlements under paragraphs 47-10(1)(b) and (3)(b) applied from 1 July 2010, when section 47-10 commenced.

Table 4.3: Amendments to the *Income Tax Assessment Act 1997*

<i>Provision being amended</i>	<i>What the amendment does</i>
995-1(1)	Inserts a definition of Deputy Commissioner to mean a Deputy Commissioner of Taxation. [<i>Schedule X4, item 17, subsection 995-1(1)</i>]
995-1(1)	Inserts a definition of Second Commissioner to mean a Second Commissioner of Taxation. [<i>Schedule X4, item 18, subsection 995-1(1)</i>]

Table 4.4: Amendments to the *Taxation Administration Act 1953*

<i>Provision being amended</i>	<i>What the amendment does</i>
250-10(2) in Schedule 1 (after table item 12)	Inserts references to GST on supplies made in settlement of claims under insurance policies and GST on supplies made in satisfaction of debts to the index of tax-related liabilities found in other Acts. [<i>Schedule X4, item 19, subsection 250-10(2) in Schedule 1 (after table item 12)</i>]
255-5(2) in Schedule 1 255-45(1)(b) in Schedule 1 355-30(2)(a) in Schedule 1 355-55(1)(c) and 355-70(1)(c) in Schedule 1 357-100(b) in Schedule 1	These amendments update the references to the Second Commissioner and Deputy Commissioner to take into account the definitions added to the ITAA97. [<i>Schedule X4, item 20 to 24, subsection 255-5(2) and paragraphs 255-45(1)(b), 355-30(2)(a), 355-55(1)(c), 355-70(1)(c) and 357-100(b) in Schedule 1</i>]

Application and transitional provisions

4.21 Unless otherwise specified, these amendments apply from 1 July 2012.

Consequential amendments

4.22 None.