

# EXPOSURE-DRAFT

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Inserts for  
**Tax Laws Amendment (2012 Measures  
No. 4) Bill 2012: tax exempt body “in  
Australia” requirements**

<b>EXPOSURE DRAFT</b>
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**Commencement information**

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

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2 **Schedule 1—Restating and standardising the**  
3 **special conditions for tax concession**  
4 **entities**

5 **Part 1—Deductible gift recipients**

6 *Income Tax Assessment Act 1997*

7 **1 Subsection 30-15(2) (paragraph (a) of the cell at table**  
8 **item 1, column headed “Special conditions”)**

9 Repeal the paragraph.

10 **2 At the end of Subdivision 30-A**

11 Add:

12 **30-18 Fund, authority or institution must operate in Australia etc.**

13 (1) A fund, authority or institution satisfies the conditions in this  
14 section if:

- 15 (a) it is established in Australia; and  
16 (b) it operates solely in Australia; and  
17 (c) it pursues its purposes solely in Australia.

18 (2) Despite subsection (1), a fund, authority or institution that operates  
19 or pursues purposes outside Australia does not fail the conditions  
20 in paragraphs (1)(b) and (c) if:

- 21 (a) its activities outside Australia are merely incidental to its  
22 activities in Australia; or  
23 (b) its activities outside Australia are minor in extent and  
24 importance when considered with reference to its activities in  
25 Australia.

26 (3) If a \*deductible gift recipient gives money or property to another  
27 entity that is not a deductible gift recipient, take into account the  
28 use of the money or property by that other entity (or any other  
29 entity) into account when determining whether the deductible gift  
30 recipient satisfies the requirements in paragraphs (1)(b) and (c).

31 (4) A fund, authority or institution covered by section 30-80  
32 (international affairs deductible gift recipients) satisfies the

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1 conditions in this section if it satisfies the conditions in  
2 paragraph (1)(a).

3 (5) A fund, authority or institution covered by item 6.1.1 of the table in  
4 subsection 30-55(1) (register of environmental organisations)  
5 satisfies the conditions in this section if:

- 6 (a) it satisfies the condition in paragraph (1)(a); and  
7 (b) the \*Environment Secretary makes a determination in relation  
8 to the fund, authority or institution under subsection  
9 30-19(1).

## 10 **30-19 Determination by Environment Secretary**

11 (1) The \*Environment Secretary may make a determination in relation  
12 to a fund, authority or institution if the Environment Secretary  
13 considers that the fund, authority or institution meets the  
14 requirements specified in the regulations for the purposes of this  
15 subsection.

### 16 *Review of determination*

17 (2) A fund, authority or institution may apply to the \*AAT for review  
18 of a decision (as defined in the *Administrative Appeals Tribunal*  
19 *Act 1975*):

- 20 (a) to make a determination under subsection 30-19(1) for the  
21 fund, authority or institution; or  
22 (b) to not make a determination under that subsection for the  
23 fund, authority or institution.

## 24 **3 Subsection 30-20(1) (table item 1.1.2, column headed** 25 **“Fund, authority or institution”)**

26 Omit “otherwise than for the purposes of profit or gain to the individual  
27 members of the society or association”, substitute “that is a  
28 \*not-for-profit entity”.

## 29 **4 Subsection 30-25(1) (paragraph (c) of the cell at table** 30 **item 2.1.10, column headed “Fund, authority or** 31 **institution”)**

32 Repeal the paragraph, substitute:

- (c) a society or association  
that is a \*not-for-profit  
entity

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1 **5 Subsection 30-25(2) (cell at table item 2.2.9, column headed**  
2 **“Fund, authority or institution”)**

3 Repeal the cell, substitute:  
a company that conducts life  
education programs under the  
auspices of the Life  
Education Centre if the  
company is a \*not-for-profit  
entity

4 **6 Paragraph 30-35(4)(c)**

5 Repeal the paragraph, substitute:  
6 (c) a company that is a \*not-for-profit entity.

7 **7 Subsection 30-70(1) (table item 8.1.1, column headed**  
8 **“Fund, authority or institution”)**

9 Omit “\*non-profit company”, substitute “company that is a  
10 \*not-for-profit entity”.

11 **8 Subsection 30-70(1) (paragraph (a) of the cell at table**  
12 **item 8.1.2, column headed “Fund, authority or**  
13 **institution”)**

14 Omit “\*non-profit company”, substitute “company that is a  
15 \*not-for-profit entity”.

16 **9 Subsection 30-280(1)**

17 Repeal the section, substitute:

- 18 (1) The \*Environment Secretary must enter on the register:  
19 (a) each \*environmental organisation, and the public fund that it  
20 maintains, that he or she has been directed to enter by the  
21 Treasurer and the \*Environment Minister; and  
22 (b) each environmental organisation for which a determination  
23 has been made under subsection 30-19(1).  
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## 2 **Part 2—Tax exempt entities**

### 3 *Income Tax Assessment Act 1936*

#### 4 **10 Paragraph 23AG(1AA)(c)**

5 Omit “paragraph 50-50(c) or (d)”, substitute “paragraph 50-51(2(c) or  
6 (d)”.

### 7 *Income Tax Assessment Act 1997*

#### 8 **11 Before Subdivision 50-A**

9 Insert:

### 10 **Guide to Division 50**

#### 11 **50-1 What this Division is about**

12

Certain entities that satisfy the conditions in this Division may be endorsed as exempt from income tax.

13

14

An entity will *not* generally be exempt from income tax unless it satisfies all the following conditions:

15

16

- it operates principally in Australia;

17

- it pursues its purposes principally in Australia;

18

- it complies with all the substantive requirements in its governing rules;

19

20

- it uses its income and assets solely to pursue the purposes for which it was established;

21

22

- it is a not-for-profit entity.

23

Some entities are not required to satisfy some of these requirements.

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#### 25 **12 Section 50-1**

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Renumber as section 50-3.

**13 Section 50-5 (cells at table items 1.3 and 1.4, column headed “Special conditions”)**

Repeal the cells, substitute:  
see section 50-50

**14 Section 50-5 (cells at table items 1.5A and 1.5B, column headed “Special conditions”)**

Repeal the cells, substitute:  
see sections 50-50 and 50-52

**15 Section 50-5 (cells at table items 1.6 and 1.7, column headed “Special conditions”)**

Repeal the cells, substitute:  
see section 50-50

**16 Section 50-10 (cell at table item 2.1, column headed “Special conditions”)**

Repeal the cell, substitute:  
see section 50-50

**17 Section 50-15 (paragraph (b) of the cell at table item 3.1, column headed “Special conditions”)**

Repeal the paragraph, substitute:  
(b) satisfies the conditions in  
section 50-50

**18 Section 50-15 (cell at table item 3.2, column headed “Special conditions”)**

Repeal the cell, substitute:  
see section 50-50

**19 Section 50-20 (cell at table item 4.1, column headed “Special conditions”)**

Repeal the cell, substitute:  
see sections 50-50 and 50-52

**20 Section 50-30 (cells at table items 6.1 and 6.2, column headed “Special conditions”)**

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1 Repeal the cells, substitute:  
see section 50-50

2 **21 Section 50-30 (cell at table item 6.3, column headed**  
3 **“Special conditions”)**

4 Repeal the cell, substitute:  
the entity is a \*not-for-profit  
entity

5 **22 Section 50-40 (cells at table items 8.1, 8.2 and 8.3, column**  
6 **headed “Special conditions”)**

7 Repeal the cells, substitute:  
the entity is a \*not-for-profit  
entity

8 **23 Section 50-45 (cells at table items 9.1 and 9.2, column**  
9 **headed “Special conditions”)**

10 Repeal the cells, substitute:  
see section 50-50

11 **24 Section 50-50**

12 Repeal the section, substitute:

13 **50-50 Special conditions for certain items**

14 *General*

15 (1) An entity covered by item 1.1, 1.2, 1.3, 1.4, 1.5A, 1.5B, 1.6, 1.7,  
16 2.1, 3.1, 3.2, 4.1, 6.1, 6.2, 9.1 or 9.2 is not exempt from income tax  
17 unless it:

- 18 (a) is a \*not-for-profit entity; and  
19 (b) satisfies the conditions in subsection (2) (about operating and  
20 pursuing its purposes in Australia); and  
21 (c) satisfies the conditions in subsection (3).

22 *Operating and pursuing purposes in Australia*

- 23 (2) The entity must:  
24 (a) operate principally in Australia; and  
25 (b) pursue its purposes principally in Australia.

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*Other conditions*

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- 2 (3) The entity must:
- 3 (a) comply with all the substantive requirements in its governing
- 4 rules; and
- 5 (b) use its income and assets solely for the purpose for which the
- 6 entity is established and operated and for which it is entitled
- 7 to be exempt from tax.
- 8 (4) If an entity gives money or property to another entity that is not an
- 9 \*exempt entity, the use of the money by the recipient (or any other
- 10 entity) must be taken into account when determining whether the
- 11 first mentioned entity satisfies the requirements in paragraph (2)(a)
- 12 and (b).
- 13 (5) If the entity complies with the conditions (if any) prescribed in the
- 14 regulations for the purposes of this subsection, disregard the use of
- 15 the following amounts in determining for the purposes of this
- 16 Subdivision whether an entity operates and pursues its purposes in
- 17 Australia:
- 18 (a) an amount received by the entity as a grant from a
- 19 \*government entity; or
- 20 (b) an amount received by the entity as a gift or contribution
- 21 (whether of money or other property) in circumstances where
- 22 the provider was not entitled to a deduction under
- 23 Division 30 in respect of the gift or contribution.

24 **50-51 Exemption from conditions about not-for-profit entities and**

25 **entities pursuing their purposes in Australia**

- 26 (1) The condition in paragraph 50-50(1)(a) does not apply to the
- 27 following entities:
- 28 (a) an entity covered by section 50-15 (about employers and
- 29 employees);
- 30 (b) a \*government entity covered by item 1.4 in the table in
- 31 section 50-5 (about public educational institutions);
- 32 (c) a government entity covered by item 6.1 in the table in
- 33 section 50-30 (about public hospitals).
- 34 (2) The conditions in subsection 50-50(2) do not apply to any of the
- 35 following:
- 36 (a) an entity endorsed as a \*deductible gift recipient (other than
- 37 in respect of operating a fund, authority or institution); or



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- (b) an entity endorsed as a deductible gift recipient for the operation of a fund, authority or institution, to the extent that it operates that fund, authority or institution; or
  - (c) an entity that:
    - (i) is a foreign resident that is exempt from \*foreign income tax in the country in which it is resident; and
    - (ii) is prescribed in the regulations for the purposes of this subsection; and
    - (iii) satisfies the conditions (if any) prescribed in the regulations for the purposes of this subsection.
  - (d) an entity that:
    - (i) is an Australian resident; and
    - (ii) operates and pursues its purposes principally outside Australia; and
    - (iii) is prescribed in the regulations for the purposes of this subsection; and
    - (iv) satisfies the conditions (if any) prescribed in the regulations for the purposes of this subsection.

Note: Different requirements apply to deductible gift recipients: see section 30-18.

## **25 Sections 50-55, 50-60, 50-65, 50-70 and 50-72**

Repeal the sections.

## **26 Section 50-75**

Repeal the section.

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## 2 Part 3—Miscellaneous amendments

### 3 *Income Tax Assessment Act 1936*

#### 4 **27 Section 121C (paragraph (a) of the definition of overseas** 5 ***charitable institution*)**

6 Omit “if the institution had a physical presence in Australia and  
7 incurred its expenditure and pursued its objectives principally in  
8 Australia;”, substitute “if it satisfied the conditions in subsection  
9 50-50(2) of that Act;”.

### 10 *Income Tax Assessment Act 1997*

#### 11 **28 Section 207-117**

12 Repeal the section, substitute:

#### 13 **207-117 Residency requirement**

14 An entity satisfies the *residency requirement* for the purposes of  
15 determining whether, at the time a \*franked distribution is made,  
16 the entity is an \*exempt institution that is eligible for a refund, if it  
17 satisfies the conditions in section 50-50 at all times during the  
18 income year in which the distribution is made.

#### 19 **29 Subsection 995-1(1)**

20 Insert:

21 *not-for-profit entity* means an entity that:

- 22 (a) is not carried on for the profit or gain of its owners or  
23 \*members, neither while it is operating nor upon winding up;  
24 and  
25 (b) under an \*Australian law, \*foreign law, or the entity’s  
26 governing rules, is prohibited from distributing, and does not  
27 distribute, its profits or assets to its owners or members  
28 (whether in money, property or other benefits), neither while  
29 it is operating nor upon winding up, unless the distribution:  
30 (i) is made to another not-for-profit entity with a similar  
31 purpose; or  
32 (ii) is genuine compensation for services provided to, or  
33 reasonable expenses incurred on behalf of, the entity.

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## *Taxation Administration Act 1953*

### **30 At the end of Division 353 in Schedule 1**

Add:

#### **353-30 Checking status of tax exempt entities**

- (1) The Commissioner may require an entity that is a prescribed entity mentioned in paragraph 50-51(2)(c) or (d) of the *Income Tax Assessment Act 1997* to give the Commissioner information or a document that is relevant to its status as a prescribed entity. The entity must comply with the requirement.

Note: Failure to comply with this subsection is an offence against section 8C of this Act.

- (2) If the Commissioner is satisfied of any of the matters set out in subsection (4) in relation to an entity that is a prescribed entity mentioned in paragraph 50-51(2)(c) or (d) of the *Income Tax Assessment Act 1997*, the Commissioner must, within 28 days, give written notice to the Minister about that fact.

- (3) The Minister may only disclose information provided under subsection (2) for a purpose relating to the entity's status as a prescribed entity mentioned in paragraph 50-51(2)(c) or (d) of the *Income Tax Assessment Act 1997*.

- (4) The matters are as follows:

- (a) there is a change in the principal purpose of the entity;
- (b) the entity fails or ceases to comply with any rules or conditions made by the Prime Minister or any other Minister relating to the recipient being a prescribed entity mentioned in paragraph 50-51(2)(c) or (d) of the *Income Tax Assessment Act 1997*.

- (5) The requirement in subsection (1):

- (a) is to be made by notice in writing to the entity; and
- (b) may ask the entity to give the information in writing; and
- (c) must specify:
  - (i) the information or document the entity is to give; and
  - (ii) the period within which the entity is to give the information or document.

The period specified under subparagraph (c)(ii) must end at least 28 days after the notice is given.

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- (6) In a prosecution of a person for an offence against section 8C of this Act because of this section as it applies because of Division 444 in this Schedule (about obligations of entities on behalf of other entities), it is a defence if the person proves that the person:
- (a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and
  - (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

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## 2 **Part 4—Consequential amendments**

### 3 *A New Tax System (Australian Business Number) Act 1999*

#### 4 **31 Section 5 (heading)**

5 Repeal the heading, substitute:

6 **5 Application to government entities, not-for-profit sub-entities,**  
7 **superannuation funds and certain RSE licensees**

#### 8 **32 Subsection 5(1)**

9 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

#### 10 **33 Section 41 (definition of *Non-profit sub-entity*)**

11 Repeal the definition.

#### 12 **34 Section 41**

13 Insert:

14 *not-for-profit sub-entity* has the meaning given by the *A New Tax*  
15 *System (Goods and Services Tax) Act 1999*.

### 16 *A New Tax System (Goods and Services Tax) Act 1999*

#### 17 **35 Paragraph 9-15(3)(b)**

18 Omit “non-profit body”, substitute “body that is a \*not-for-profit  
19 entity”.

#### 20 **36 Subsection 23-15(1)**

21 Omit “non-profit body”, substitute “body that is a \*not-for-profit  
22 entity”.

#### 23 **37 Subsection 23-15(2)**

24 Omit “non-profit body”, substitute “body that is a \*not-for-profit  
25 entity”.

#### 26 **38 Paragraph 40-130(1)(a)**

27 Omit “non-profit body”, substitute “body that is a \*not-for-profit  
28 entity”.

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## 39 Paragraph 40-130(1)(b)

Omit “non-profit body”, substitute “body”.

## 40 Subsection 40-130(2)

Repeal the subsection, substitute:

(2) However, the \*not-for-profit entity:

(a) cannot revoke the choice within 12 months after the day on which it made the choice; and

(b) cannot make a further choice within 12 months after the day on which it revoked a previous choice.

## 41 Paragraph 40-165(3)(b)

Omit “non-profit”, substitute “not-for-profit”.

## 42 Section 48-1

Omit “non-profit bodies”, substitute “not-for-profit entities”.

## 43 Subsection 48-10(2)

Repeal the subsection, substitute:

(2) Paragraph (1)(b) does not apply if:

(a) the entity is a \*not-for-profit entity; and

(b) all the other \*members of the \*GST group or proposed GST group are not-for-profit entities; and

(c) the entity and all those other members are members of the same entity (all the members of which are not-for-profit entities).

Note 1: For the membership requirements of not-for-profit sub-entities, see section 63-50.

Note 2: For the membership requirements of a GST group of government related entities, see section 149-25.

## 44 Paragraph 63-5(2)(aa)

Omit “non-profit body”, substitute “body that is a \*not-for-profit entity”.

## 45 Paragraph 63-5(2)(b)

Omit “non-profit body”, substitute “body that is a not-for-profit entity”.

## 46 Subsection 63-15(3)

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1 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

2 **47 Section 63-25 (heading)**

3 Repeal the heading, substitute:

4 **63-25 Registration turnover threshold for not-for-profit sub-entities**

5 **48 Paragraph 63-25(2)(a)**

6 Omit “\*non-profit sub-entities”, substitute “\*not-for-profit sub-entities”.

7 **49 Paragraph 63-25(2)(a)**

8 Omit “non-profit entities”, substitute “\*not-for-profit entities”.

9 **50 Paragraph 63-25(2)(b)**

10 Omit “\*non-profit sub-entities”, substitute “not-for-profit sub-entities”.

11 **51 Paragraph 63-25(2)(b)**

12 Omit “non-profit entities”, substitute “not-for-profit entities”.

13 **52 Section 195-1 (definition of *non-profit association*)**

14 Repeal the definition.

15 **53 Section 195-1 (definition of *Non-profit sub-entity*)**

16 Repeal the definition.

17 **54 Section 195-1**

18 Insert:

19 *not-for-profit entity* has the meaning given by the \*ITAA 1997.

20 **55 Section 195-1**

21 Insert:

22 *not-for-profit sub-entity* has the meaning given by subsection  
23 63-15(3).

24 ***Extension of Charitable Purpose Act 2004***

25 **56 Subsection 4(1)**

26 Omit “non-profit”, substitute “not-for-profit”.

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1 *Fringe Benefits Tax Assessment Act 1986*

2 **57 Subsection 5B(1E) (method statement, paragraph (d) of**  
3 **step 2)**

4 Omit “by non-profit societies and associations”, substitute “by societies  
5 and associations that are rebatable employers”.

6 **58 Subparagraph 57A(2)(b)(iii)**

7 Repeal the subparagraph, substitute:

8 (iii) a hospital carried on by a society or association that is a  
9 rebatable employer;

10 **59 Subsection 57A(4)**

11 Repeal the subsection, substitute:

12 (4) A benefit provided in respect of the employment of an employee is  
13 an exempt benefit if the employer of the employee is a hospital  
14 carried on by a society or association that is a rebatable employer.

15 **60 Subparagraph 58(1)(a)(ii)**

16 Repeal the subparagraph, substitute:

17 (ii) a religious institution; or

18 **61 After subparagraph 58(1)(a)(ii)**

19 Insert:

20 (iii) a company that is a not-for-profit entity;

21 **62 Paragraph 58G(2)(a)**

22 Repeal the paragraph, substitute:

23 (a) a scientific institution that is a not-for-profit entity; or

24 **63 Section 65J (heading)**

25 Repeal the heading, substitute:

26 **65J Rebate for certain not-for-profit employers etc.**

27 **64 Subsections 65J(1) and (1A)**

28 Repeal the subsections, substitute:



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## *Rebatable employer*

- (1) An employer is a **rebatable employer** for a year of tax if the employer:
- (a) is exempt from income tax at any time during the year of tax under any of the provisions set out in the following table; and
  - (b) satisfies the special conditions (if any) set out in the table.

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### **Rebatable employer**

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<b>Item</b>	<b>Column 1 Type of employer</b>	<b>Column 2 Special conditions</b>
1	a charitable institution covered by item 1.1 of the table in section 50-5 of the <i>Income Tax Assessment Act 1997</i>	The charitable institution is not a rebatable employer for the year of tax if it: <ul style="list-style-type: none"><li>(a) is a public benevolent institution; or</li><li>(b) is a health promotion charity; or</li><li>(c) is an institution of the Commonwealth, a State or a Territory; or</li><li>(d) has not been endorsed under subsection 123E(1).</li></ul>
2	a religious institution covered by item 1.2 of the table in section 50-5 of the <i>Income Tax Assessment Act 1997</i>	None
3	a scientific institution covered by item 1.3 of the table in section 50-5 of the <i>Income Tax Assessment Act 1997</i>	The institution is not an institution of the Commonwealth, a State or a Territory unless it: <ul style="list-style-type: none"><li>(a) is an institution established by a law of the Commonwealth, a State or a Territory; and</li><li>(b) is not conducted by or on behalf of the Commonwealth, a State or a Territory; and</li><li>(c) is engaged solely in research into the causes, prevention or cure of diseases in humans.</li></ul>
4	a public educational institution covered by item 1.4 of the table in section 50-5 of the <i>Income Tax Assessment Act 1997</i>	The institution is not an institution established by a law of the Commonwealth, a State or a Territory unless it:

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<b>Rebatable employer</b>		
<b>Item</b>	<b>Column 1 Type of employer</b>	<b>Column 2 Special conditions</b>
		(a) is not conducted by or on behalf of the Commonwealth, a State or a Territory; and (b) is a preschool or school (other than a tertiary institution).
5	a society, association or club: (a) established for the encouragement of science; and (b) covered by item 1.7 of the table in section 50-5 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.
6	a society, association or club: (a) established for community service purposes (except political or lobbying purposes); and (b) covered by item 2.1 of the table in section 50-10 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.
7	an employer association or an employee association covered by item 3.1 of the table in section 50-15 of the <i>Income Tax Assessment Act 1997</i>	None
8	a trade union covered by item 3.2 of the table in section 50-15 of the <i>Income Tax Assessment Act 1997</i>	None
9	a society or association: (a) established for the purpose of promoting the development of: (i) aviation; or (ii) tourism; and (b) covered by item 8.1 of the table in section 50-40 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.
10	a society or association: (a) established for the purpose of promoting the development of any of the following Australian resources:	See subsection (5) of this section.

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<b>Rebatable employer</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Type of employer</b>	<b>Special conditions</b>
	(i) agricultural resources; (ii) horticultural resources; (iii) industrial resources; (iv) manufacturing resources; (v) pastoral resources; (vi) viticultural resources; (vii) aquacultural resources; (viii) fishing resources; and (b) covered by item 8.2 of the table in section 50-40 of the <i>Income Tax Assessment Act 1997</i>	
11	a society or association: (a) established for the purpose of promoting the development of Australian information and communications technology resources; and (b) covered by item 8.3 of the table in section 50-40 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.
12	a society, association or club: (a) established for the encouragement of any of the following: (i) animal racing; (ii) art; (iii) a game or sport; (iv) literature; (v) music; and (b) covered by item 9.1 of the table in section 50-45 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.
13	a society, association or club: (a) established for musical purposes; and (b) covered by item 9.2 of the table in section 50-45 of the <i>Income Tax Assessment Act 1997</i>	See subsection (5) of this section.

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Note: Subsection (3) affects the kind of employers that may be considered to be an institution of government.

## 65 Subsection 65J(5)

Repeal the subsection, substitute:

(5) A society, association or club is not covered by item 5, 6, 9, 10, 11, 12 or 13 for a year of tax if it is:

(a) an incorporated company where all the stock or shares in the capital of the company is or are beneficially owned by:

(i) the Commonwealth, a State or a Territory; or

(ii) an authority or institution of the Commonwealth, a State or a Territory; or

(b) an incorporated company where the company is limited by guarantee and the interests and rights of the members in or in relation to the company are beneficially owned by:

(i) the Commonwealth, a State or a Territory; or

(ii) an authority or institution of the Commonwealth, a State or a Territory.

## 66 Section 123E

Repeal the section, substitute:

### **123E Endorsement by Commissioner as a charitable institution (other than public benevolent institution or health promotion charity)**

(1) The Commissioner must endorse an entity if:

(a) it is a charitable institution covered by item 1 of the table in subsection 65J(1); and

(b) it has applied for endorsement in accordance with Division 426 in Schedule 1 to the *Taxation Administration Act 1953*; and

(c) it has an ABN.

## 67 Subsection 135Q(1) (note)

Omit “non-profit companies”, substitute “not-for-profit entities”.

## 68 Subsection 136(1) (definition of *business operations*)

Repeal the definition, substitute:

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1                    *business operations*, in relation to a government body or a  
2                    company that is a not-for-profit entity, includes any operations or  
3                    activities carried out by that body or company.

4                    **69 Subsection 136(1) (definition of *non-profit company*)**

5                    Repeal the definition.

6                    **70 Subsection 136(1)**

7                    Insert:

8                    *not-for-profit entity* has the meaning given by subsection 995-1(1)  
9                    of the *Income Tax Assessment Act 1997*.

10                  **71 Subsection 136(1)**

11                  Insert:

12                  *rebtable employer* has the meaning given by section 65J.

13                  **72 Paragraph 140(1B)(c)**

14                  Repeal the paragraph, substitute:

15                          (c) a hospital carried on by a not-for-profit entity that is a  
16                          rebtable employer;

17                  **73 Subparagraph 140(1C)(b)(iii)**

18                  Repeal the subparagraph, substitute:

19                                  (iii) a hospital carried on by a not-for-profit entity that is a  
20                                  rebtable employer.

21                  ***Fuel Tax Act 2006***

22                  **74 Division 41 (heading)**

23                  Repeal the heading, substitute:

24                  **Division 41—Fuel tax credits for business taxpayers and  
25                  not-for-profit entities**

26                  **75 Section 41-1**

27                          Omit “non-profit bodies”, substitute “bodies that are not-for-profit  
28                          entities”.

29                  **76 Paragraph 41-5(3)(a)**

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1 Omit “non-profit body”, substitute “body that is a \*not-for-profit  
2 entity”.

3 **77 Section 70-1**

4 Omit “non-profit sub-entities”, substitute “not-for-profit sub-entities”.

5 **78 Section 70-30 (heading)**

6 Repeal the heading, substitute:

7 **70-30 Application of fuel tax law to GST branches, resident agents**  
8 **and not-for-profit sub-entities**

9 **79 Section 70-30 (table heading)**

10 Omit “non-profit sub-entities”, substitute “not-for-profit  
11 sub-entities”.

12 **80 Section 70-30 (table item 3, column 1)**

13 Omit “non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

14 **81 Section 110-5**

15 Insert:

16 *not-for-profit entity* has the meaning given by subsection 995-1(1)  
17 of the *Income Tax Assessment Act 1997*.

18 **82 Section 110-5**

19 Insert:

20 *not-for-profit sub-entity* has the meaning given by section 195-1 of  
21 the *A New Tax System (Goods and Services Tax) Act 1999*.

22 ***Income Tax Act 1986***

23 **83 Subsection 3(1)**

24 Insert:

25 *friendly society dispensary* has the meaning given by subsection  
26 995-1(1) of the *Income Tax Assessment Act 1997*.

27 **84 Subsection 3(1) (definition of *non-profit company*)**

28 Repeal the definition.

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## 85 Subsection 3(1)

Insert:

*not-for-profit entity* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

## 86 Subsection 5(3)

Omit “a non-profit company”, substitute “a company that is a not-for-profit entity or a friendly society dispensary”.

## *Income Tax Assessment Act 1936*

## 87 Subsection 6(1)

Insert:

*not-for-profit entity* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

## 88 Paragraph 103A(2)(c)

Repeal the paragraph, substitute:

(c) at all times since its formation and, during the year of income, the company has been a not-for-profit entity; or

## *Income Tax Assessment Act 1997*

## 89 Subsection 50-52(3) (note)

Omit “sections 50-50, 50-57, 50-60 and 50-72”, substitute “sections 50-50 and 50-57”.

## 90 Subparagraph 50-110(5)(b)(ii)

Omit “covers the entity; or”, substitute “, or item 4.1 of the table in section 50-20, covers the entity.”.

## 91 Paragraph 50-110(5)(c)

Repeal the paragraph.

## 92 Subsection 165-12(7A)

Repeal the subsection, substitute:

(7A) If the company is:

(a) a \*not-for-profit entity; or

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1 (b) a \*friendly society dispensary; or  
2 (c) a \*mutual affiliate company; or  
3 (d) a \*mutual insurance company;  
4 during the whole of the \*ownership test period, the conditions in  
5 subsections (3) and (4) are taken to have been satisfied by the  
6 company.

## 93 Subsection 165-37(4A)

7 Repeal the subsection, substitute:  
8  
9 (4A) If the company is:  
10 (a) a \*not-for-profit entity; or  
11 (b) a \*friendly society dispensary; or  
12 (c) a \*mutual affiliate company; or  
13 (d) a \*mutual insurance company;  
14 during the whole of the \*ownership test period, the conditions in  
15 paragraphs (1)(b) and (c) are taken to have been satisfied by the  
16 company.

## 94 Subsection 165-115C(4A)

17 Repeal the subsection, substitute:  
18  
19 (4A) If the company is:  
20 (a) a \*not-for-profit entity; or  
21 (b) a \*friendly society dispensary; or  
22 (c) a \*mutual affiliate company; or  
23 (d) a \*mutual insurance company;  
24 during the whole of the period from the reference time to the \*test  
25 time, the test time is taken not to be a \*changeover time in respect  
26 of the company because of the application of paragraphs (1)(b) and  
27 (c).

## 95 Subsection 165-115L(5)

28 Repeal the subsection, substitute:  
29  
30 (5) If the company is:  
31 (a) a \*not-for-profit entity; or  
32 (b) a \*friendly society dispensary; or  
33 (c) a \*mutual affiliate company; or  
34 (d) a \*mutual insurance company;



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1 during the whole of the period from the reference time to the \*test  
2 time, the test time is taken not to be an \*alteration time in respect of  
3 the company because of the application of paragraphs (1)(b) and  
4 (c).

## 96 Subsection 165-123(7A)

5 Repeal the subsection, substitute:

6 (7A) If the company is:

- 7 (a) a \*not-for-profit entity; or
- 8 (b) a \*friendly society dispensary; or
- 9 (c) a \*mutual affiliate company; or
- 10 (d) a \*mutual insurance company;

11 during the whole of the \*ownership test period, the conditions in  
12 subsections (3) and (4) are taken to have been satisfied by the  
13 company.  
14

## 97 Paragraph 165-202(1)(f)

15 Repeal the paragraph, substitute:

- 16 (f) a company that is a \*not-for-profit entity;

## 98 Subsection 166-145(6)

17 Repeal the subsection, substitute:

18 *Conditions in subsections (3) and (4) satisfied by not-for-profit and*  
19 *mutual companies*

20 (6) If the company is:

- 21 (a) a \*not-for-profit entity; or
- 22 (b) a \*friendly society dispensary; or
- 23 (c) a \*mutual affiliate company; or
- 24 (d) a \*mutual insurance company;

25 during the whole of the \*test period, the conditions in  
26 subsections (3) and (4) are taken to have been satisfied by the  
27 company.  
28  
29

## 99 Paragraph 315-15(a) (note)

30 Repeal the note, substitute:

31 Note: Item 6.3 of the table in section 50-30 applies to a private  
32 health insurer (within the meaning of the *Private Health*  
33 *Insurance Act 2007*) that is a not-for-profit entity.  
34

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1 **100 Subsection 703-15(2) (paragraph (c) of the cell at table**  
2 **item 2, column 2)**

3 Repeal the paragraph, substitute:

4 (c) the entity must *not* be a \*friendly society dispensary or a company that is a  
5 \*not-for-profit entity.

6 **101 Subsection 719-10(1) (table, column 1)**

7 Omit “The entity must not be a non-profit company (as defined in the  
8 *Income Tax Rates Act 1986*)”, substitute “The entity must *not* be a  
9 \*friendly society dispensary or a company that is a \*not-for-profit  
10 entity”.

11 **102 Subparagraph 719-15(3)(a)(vii)**

12 Repeal the subparagraph, substitute:

13 (vii) a \*friendly society dispensary, or a company that is a  
14 \*not-for-profit entity, that is a wholly-owned subsidiary  
15 of another tier-1 company of the top company;

16 **103 Subsection 995-1(1) (subparagraph (b)(vi) of the**  
17 **definition of *eligible Division 166 company*)**

18 Repeal the subparagraph, substitute:

19 (vi) a company that is a \*not-for-profit entity; or

20 **104 Subsection 995-1(1) (subparagraph (b)(viii) of the**  
21 **definition of *eligible Division 166 company*)**

22 Omit “(iv) to (vii).”, substitute “(iv) to (vii); or”.

23 **105 Subsection 995-1(1) (at the end of the definition of**  
24 ***eligible Division 166 company*)**

25 Add:

26 (ix) a \*friendly society dispensary.

27 **106 Subsection 995-1(1) (definition of *non-profit company*)**

28 Repeal the definition.

29 **107 Subsection 995-1(1) (definition of *non-profit sub-entity*)**

30 Repeal the definition.

31 **108 Subsection 995-1(1)**

32 Insert:

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1 *not-for-profit sub-entity* has the meaning given by section 195-1 of  
2 the \*GST Act.

## 3 ***Income Tax Rates Act 1986***

### 4 **109 Subsection 3(1)**

5 Insert:

6 *friendly society dispensary* has the meaning given by subsection  
7 995-1(1) of the *Income Tax Assessment Act 1997*.

### 8 **110 Subsection 3(1) (definition of *non-profit company*)**

9 Repeal the definition.

### 10 **111 Subsection 3(1)**

11 Insert:

12 *not-for-profit entity* has the meaning given by subsection 995-1(1)  
13 of the *Income Tax Assessment Act 1997*.

### 14 **112 Subsection 23(6)**

15 Omit “a non-profit company”, substitute “a company that is a  
16 not-for-profit entity or a friendly society dispensary”.

## 17 ***Taxation Administration Act 1953***

### 18 **113 Subsection 16-142(2) in Schedule 1**

19 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

### 20 **114 Subsection 110-50(2) in Schedule 1 (table item 50, 21 column headed “Decision”)**

22 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

### 23 **115 Subsection 382-5(7) in Schedule 1**

24 Omit “(non-profit sub-entities)”, substitute “(not-for-profit  
25 sub-entities)”.

### 26 **116 Paragraphs 426-5(f) and 426-65(1)(f) in Schedule 1**

27 Omit “paragraph 65J(1)(baa)”, substitute “item 1 of the table in  
28 subsection 65J(1)”.

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1 **117 Section 444-85 in Schedule 1 (heading)**

2 Repeal the heading, substitute:

3 **444-85 Not-for-profit sub-entities**

4 **118 Subsection 444-85(1) in Schedule 1**

5 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

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2 **Part 5—Definition changes to the A New Tax System**  
3 **(Goods and Services Tax) Act 1999**

4 *A New Tax System (Goods and Services Tax) Act 1999*

5 **119 Section 17-99 (cell at table item 9A, column headed “For**  
6 **this case ...”)**

7 Repeal the cell, substitute:  
Not-for-profit sub-entities

8 **120 Section 23-99 (cell at table item 1B, column headed “For**  
9 **this case ...”)**

10 Repeal the cell, substitute:  
Not-for-profit sub-entities

11 **121 Section 25-49 (cell at table item 2, column headed “For**  
12 **this case...”)**

13 Repeal the cell, substitute:  
Not-for-profit sub-entities

14 **122 Section 25-99 (cell at table item 1B, column headed “For**  
15 **this case...”)**

16 Repeal the cell, substitute:  
Not-for-profit sub-entities

17 **123 Section 37-1 (cell at table item 20A, column headed “For**  
18 **this case...”)**

19 Repeal the cell, substitute:  
Not-for-profit sub-entities

20 **124 Division 63 (heading)**

21 Repeal the heading, substitute:

22 **Division 63—Not-for-profit sub-entities**

23 **125 Section 63-1**

24 Omit “non-profit entities”, substitute “not-for-profit entities”.

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1 **126 Section 63-20 (heading)**

2 Repeal the heading, substitute:

3 **63-20 Not-for-profit sub-entities may register**

4 **127 Subsection 63-20(1)**

5 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

6 **128 Subsection 63-30(2)**

7 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

8 **129 Subsection 63-25 (heading)**

9 Repeal the heading, substitute:

10 **63-25 Registration turnover threshold for not-for-profit sub-entities**

11 **130 Subsection 63-25(1)**

12 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

13 **131 Subsection 63-25(1)**

14 Omit “non-profit body”, substitute “not-for-profit entity”.

15 **132 Paragraph 63-25(2)(a)**

16 Omit “\*non-profit sub-entities”, substitute “\*not-for-profit sub-entities”.

17 **133 Paragraph 63-25(2)(a)**

18 Omit “non-profit entities”, substitute “not-for-profit entities”.

19 **134 Paragraph 63-25(2)(b)**

20 Omit “\*non-profit sub-entities”, substitute “\*not-for-profit  
21 sub-entities”.

22 **135 Paragraph 63-25(2)(b)**

23 Omit “non-profit entities”, substitute “not-for-profit entities”.

24 **136 Section 63-30 (heading)**

25 Repeal the heading, substitute:

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1 **63-30 When not-for-profit sub-entities must apply for cancellation of**  
2 **registration**

3 **137 Subsection 63-30(1)**

4 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

5 **138 Subsection 63-30(2)**

6 Omit “\*non-profit sub-entities”, substitute “\*not-for-profit sub-entities”.

7 **139 Section 63-35 (heading)**

8 Repeal the heading, substitute:

9 **63-35 When the Commissioner must cancel registration of**  
10 **not-for-profit sub-entities**

11 **140 Subsection 63-35(1)**

12 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

13 **141 Subsection 63-35(3)**

14 Omit “\*non-profit sub-entities”, substitute “\*not-for-profit sub-entities”.

15 **142 Section 63-40 (heading)**

16 Repeal the heading, substitute:

17 **63-40 Effect on adjustments of becoming a not-for-profit sub-entity**

18 **143 Subsection 63-40(1)**

19 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

20 **144 Subsection 63-40(1)**

21 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

22 **145 Paragraph 63-40(1)(a)**

23 Omit “non-profit sub-entity” (wherever occurring), substitute  
24 “not-for-profit sub-entity”.

25 **146 Subsection 63-40(2)**

26 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

27 **147 Paragraph 63-40(2)(a)**

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1 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

2 **148 Paragraph 63-40(2)(b)**

3 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

4 **149 Section 63-45 (heading)**

5 Repeal the heading, substitute:

6 **63-45 Effect on adjustments of ceasing to be a non-profit sub-entity**

7 **150 Subsection 63-45(1)**

8 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

9 **151 Subsection 63-45(1)**

10 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

11 **152 Subsection 63-45(2)**

12 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

13 **153 Section 63-50**

14 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

15 **154 Subparagraphs 63-50(e)(i) and (ii)**

16 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

17 **155 Section 72-92 (heading)**

18 Repeal the heading, substitute:

19 **72-92 Not-for-profit sub-entities**

20 **156 Section 72-92**

21 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

22 **157 Section 72-92**

23 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

24 **158 Paragraph 72-92(b)**

25 Omit “non-profit sub-entity”, substitute “not-for-profit sub-entity”.

26 **159 Paragraph 75-11(8)(b)**



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1 Omit “\*non-profit sub-entity”, substitute “\*not-for-profit sub-entity”.

2 **160 Subsection 184-1(4) (note)**

3 Omit “non-profit sub-entities”, substitute “not-for-profit sub-entities”.

4

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## 2 **Part 6—Application and transitional provisions**

### 3 **161 Application provisions**

4 (1) The amendments made by this Schedule apply to income years starting  
5 on or after the commencement of this item.

6 (2) Subitem (3) applies if:

7 (a) an entity is a not-for-profit entity; and

8 (b) the entity is required to amend its constitution or constituent  
9 documents as a result of the amendments made by Part 4 of  
10 this Schedule.

11 (3) Despite subitem (1), the amendments made by Part 4 of this Schedule  
12 apply in relation to the entity to income years starting on or after the  
13 period of 12 months starting at the commencement of this item.

### 14 **162 Transitional provisions**

15 (1) Regulations:

16 (a) made for the purposes of subsection 23-15(2) of the *A New*  
17 *Tax System (Goods and Services Tax) Act 1999*; and

18 (b) in force immediately before the commencement of this item;  
19 have effect from that commencement as if they had been made for the  
20 purposes of that subsection as amended by this Schedule.

21 (2) Regulations:

22 (a) made for the purposes of section 50-50, 50-55 or 50-70 of the  
23 *Income Tax Assessment Act 1997*; and

24 (b) in force immediately before the commencement of this item;  
25 have effect from that commencement as if they had been made for the  
26 purposes of subparagraphs 50-51(2)(c)(ii) and (2)(d)(iii) of that Act as  
27 substituted by this Schedule.