

# EXPOSURE DRAFT

1 Inserts for

2 **Tax Laws Amendment (2011**  
3 **Miscellaneous Measures) Bill (No. 1)**  
4 **2011: tax exempt body “in Australia”**  
5 **requirements**

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**Commencement information**

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Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details

1. Schedule 1	The day this Act receives the Royal Assent.	
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3.		
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9 **Schedule 1—Tax exempt entities and**  
10 **deductible gift recipients**

11 **Part 1—Deductible gift recipients**

12 *Income Tax Assessment Act 1997*

13 **1 Subsection 30-15(2) (paragraph (a) of table item 1, column**  
14 **headed “Special conditions”)**

15 Repeal the paragraph, substitute:

16 (a) the fund, authority or institution must satisfy the conditions in section 30-18; and

17 **2 At the end of Subdivision 30-A**

18 Add:

19 **30-18 Fund, authority or institution must operate in Australia etc.**

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

22 (a) it is established in Australia; and

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- 1 (b) it operates solely in Australia at all times; and  
2 (c) it pursues its purposes solely in Australia at all times; and  
3 (d) it satisfies the requirement in subsection (3) at all times.
- 4 (2) Despite subsection (1), a fund, authority or institution that operates  
5 or pursues its purposes outside Australia does not fail the  
6 conditions in paragraphs (1)(b) and (c) if:  
7 (a) its overseas activities are merely incidental to the Australian  
8 activities of the fund, authority or institution; or  
9 (b) its overseas activities are minor in extent and importance  
10 when considered with reference to the Australian activities of  
11 the fund, authority or institution.
- 12 (3) The fund, authority or institution must not donate money or  
13 property to any entity that is not a \*deductible gift recipient.
- 14 (4) An entity covered by section 30-80 (international affairs deductible  
15 gift recipients) satisfies the conditions in this section if it satisfies  
16 the conditions in subsection (1)(a).

### 17 **3 Subsection 30-20(1) (table item 1.1.2, column headed** 18 **“Fund, authority or institution”)**

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

### 22 **4 Subsection 30-25(1) (paragraph (c) of table item 2.1.10,** 23 **column headed “Fund, authority or institution”)**

24 Repeal the paragraph, substitute:

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

### 26 **5 Subsection 30-25(2) (cell at table item 2.2.9, column headed** 27 **“Fund, authority or institution”)**

28 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

### 29 **6 Paragraph 30-35(4)(c)**

30 Repeal the paragraph, substitute:

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(c) a company that is a \*not-for-profit entity.

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

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

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

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

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## 2 **Part 2—Tax exempt entities**

### 3 *Income Tax Assessment Act 1936*

#### 4 **9 Paragraph 23AG(1AA)(c)**

5 Omit “paragraph 50-50(c) or (d)”, substitute “paragraph 50-51(3)(b)”.

### 6 *Income Tax Assessment Act 1997*

#### 7 **10 Before Subdivision 50-A**

8 Insert:

### 9 **Guide**

#### 10 **50-1 What this Division is about**

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

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

- 15 • it operates principally in Australia;
- 16 • it pursues its purposes principally in Australia;
- 17 • it complies with all the requirements in its governing rules;
- 18 • it uses its income and assets solely to pursue the purposes for  
19 which it was established;
- 20 • it is a not-for-profit entity;
- 21 • it does not donate money to any other entity, unless the other  
22 entity is an exempt entity.

23 Some entities are not required to satisfy these requirements.

#### 24 **11 Section 50-1**

25 Renumber as section 50-3.

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1 **12 Section 50-5 (cells at table items 1.3 and 1.4, column**  
2 **headed “Special conditions”)**

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

4 **13 Section 50-5 (cells at table items 1.5A and 1.5B, column**  
5 **headed “Special conditions”)**

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

7 **14 Section 50-5 (cells at table items 1.6 and 1.7, column**  
8 **headed “Special conditions”)**

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

10 **15 Section 50-10 (cell at table item 2.1, column headed**  
11 **“Special conditions”)**

12 Repeal the cell, substitute:  
see section 50-50

13 **16 Section 50-15 (paragraph (b) of table item 3.1, column**  
14 **headed “Special conditions”)**

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

17 **17 Section 50-15 (cell at table item 3.2, column headed**  
18 **“Special conditions”)**

19 Repeal the cell, substitute:  
see section 50-50

20 **18 Section 50-20 (cell at table item 4.1, column headed**  
21 **“Special conditions”)**

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

23 **19 Section 50-30 (cells at table items 6.1 and 6.2, column**  
24 **headed “Special conditions”)**

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

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1 **20 Section 50-30 (cell at table item 6.3, column headed**  
2 **“Special conditions”)**

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

4 **21 Section 50-40 (cells at table items 8.1, 8.2 and 8.3, column**  
5 **headed “Special conditions”)**

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

7 **22 Section 50-45 (cells at table items 9.1 and 9.2, column**  
8 **headed “Special conditions”)**

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

10 **23 Section 50-50**

11 Repeal the section, substitute:

12 **50-50 Special conditions for certain items**

13 *General*

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

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

21 *Operating and pursuing purposes in Australia*

- 22 (2) The entity must:  
23 (a) operate principally in Australia; and  
24 (b) pursue its purposes principally in Australia; and  
25 (c) not donate money to any other entity, unless the other entity  
26 is an \*exempt entity.

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*Other conditions*

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- 2 (3) The entity must:
- 3 (a) comply with all the requirements in its governing rules; and
- 4 (b) use its income and assets solely to pursue the purposes for
- 5 which it was established.

6 **50-51 Exemption from conditions about not-for-profit entities and**

7 **entities pursuing their purposes in Australia**

- 8 (1) The condition in paragraph 50-50(1)(a) does not apply to an entity
- 9 referred to in section 50-15 (about employers and employees).
- 10 (2) The condition in paragraph 50-50(2)(c) does not apply to an entity
- 11 covered by item 3.2 (trade unions).
- 12 (3) The conditions in subsection 50-50(2) do not apply to:
- 13 (a) an entity that is a \*deductible gift recipient; or
- 14 (b) an entity that:
- 15 (i) is a foreign resident that is exempt from \*foreign income
- 16 tax in the country in which it is resident; and
- 17 (ii) is prescribed in the regulations for the purposes of this
- 18 subsection; and
- 19 (iii) satisfies the conditions (if any) prescribed in the
- 20 regulations for the purposes of this subsection.

21 Note: Different requirements apply to deductible gift recipients: see

22 section 30-18.

23 **24 Sections 50-55, 50-60, 50-65, 50-70, 50-72 and 50-75**

24 Repeal the sections.

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## 2 Part 3—Miscellaneous amendments

### 3 *Income Tax Assessment Act 1936*

#### 4 **25 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 condition in subsection  
9 50-50(2) of the *Income Tax Assessment Act 1997*”.

### 10 *Income Tax Assessment Act 1997*

#### 11 **26 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 **27 Subsection 995-1(1)**

20 Insert:

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

- 22 (a) does not carry on its activities for the purposes of profit or  
23 gain for particular entities, including its owners or members,  
24 either while it is operating or upon winding up; and  
25 (b) does not distribute its profits or assets to particular entities,  
26 including its owners or members, either while it is operating  
27 or upon winding up.

### 28 *Taxation Administration Act 1953*

#### 29 **28 At the end of Division 353 in Schedule 1**

30 Insert:

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## 1 353-30 Checking status of tax exempt entities

2 (1) The Commissioner may require an entity that is a prescribed entity  
3 under subsection 50-51(3) of the *Income Tax Assessment Act 1997*  
4 to give the Commissioner information or a document that is  
5 relevant to its status as a prescribed entity. The entity must comply  
6 with the requirement.

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

9 (2) If the Commissioner is satisfied of any of the matters set out in  
10 subsection (4) in relation to an entity that is a prescribed entity  
11 under subsection 50-51(3) of the *Income Tax Assessment Act 1997*,  
12 the Commissioner must, within 28 days, give written notice to the  
13 Minister about that fact.

14 (3) The Minister may only disclose information provided under  
15 subsection (2) for a purpose relating to the entity's status as a  
16 prescribed entity under subsection 50-51(3) of the *Income Tax*  
17 *Assessment Act 1997*.

18 (4) The matters are as follows:

- 19 (a) there is a change in the principal purpose of the entity;  
20 (b) the entity fails or ceases to comply with any rules or  
21 conditions made by the Prime Minister or any other Minister  
22 relating to the recipient being a prescribed entity under  
23 subsection 50-51(3) of the *Income Tax Assessment Act 1997*.

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

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

31 The period specified under subparagraph (c)(ii) must end at least  
32 28 days after the notice is given.

33 (6) In a prosecution of a person for an offence against section 8C of  
34 this Act because of this section as it applies because of  
35 Division 444 in this Schedule (about obligations of entities on  
36 behalf of other entities), it is a defence if the person proves that the  
37 person:

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- (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 **29 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 **30 Subsection 5(1)**

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

#### 10 **31 Section 41 (definition of *Non-profit sub-entity*)**

11 Repeal the definition.

#### 12 **32 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 **33 Paragraph 9-15(3)(b)**

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

#### 20 **34 Subsection 23-15(1)**

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

#### 23 **35 Subsection 23-15(2)**

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

#### 26 **36 Paragraph 40-130(1)(a)**

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

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

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

## 38 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.

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

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

## 40 Section 48-1

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

## 41 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.

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

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

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

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

## 44 Subsection 63-15(3)

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1 Repeal the subsection, substitute:

2 (3) At all times during its treatment as an entity, the branch is a  
3 *not-for-profit sub-entity*.

4 **45 Section 63-25 (heading)**

5 Repeal the heading, substitute:

6 **Registration turnover threshold for not-for-profit sub-entities**

7 **46 Paragraph 63-25(a)**

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

9 **47 Section 63-25(a)**

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

11 **48 Paragraph 63-25(b)**

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

13 **49 Section 63-25(b)**

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

15 **50 Section 195-1 (definition of *non-profit association*)**

16 Repeal the definition.

17 **51 Section 195-1 (definition of *Non-profit sub-entity*)**

18 Repeal the definition.

19 **52 Section 195-1**

20 Insert:

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

22 **53 Section 195-1**

23 Insert:

24 *not-for-profit sub-entity* has the meaning given by subsection  
25 63-15(3).

26 ***Extension of Charitable Purpose Act 2004***

27 **54 Subsection 4(1)**

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

## 2 *Fringe Benefits Tax Assessment Act 1986*

### 3 **55 Subsection 5B(1E) (method statement, paragraph (d) of** 4 **step 2)**

5 Omit “by non-profit societies and associations”, substitute “by  
6 not-for-profit societies and associations”.

### 7 **56 Subparagraph 57A(2)(b)(iii)**

8 Repeal the subparagraph, substitute:

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

### 11 **57 Subsection 57A(4)**

12 Repeal the subsection, substitute:

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

### 16 **58 Subparagraph 58(1)(a)(ii)**

17 Repeal the subparagraph, substitute:

- 18 (ii) a religious institution; or

### 19 **59 After subparagraph 58(1)(a)(ii)**

20 Insert:

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

### 22 **60 Paragraph 58G(2)(a)**

23 Repeal the paragraph, substitute:

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

### 25 **61 Subsections 65J(1) and (1A)**

26 Repeal the subsections, substitute:

27 *Rebatable employer*

- 28 (1) An employer is a *rebatable employer* for a year of tax if:

- 29 (a) the employer is exempt from income tax at any time during  
30 the year of tax under any of the provisions set out in the  
31 following table; and

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(b) satisfies the special conditions (if any) set out in the table.

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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: (a) is a public benevolent institution; or (b) is a health promotion charity; or (c) is an institution of the Commonwealth, a State or a Territory; or (d) has not been endorsed under subsection 123E(1).
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>	
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: (a) it is an institution established by a law of the Commonwealth, a State or a Territory; and (b) that is not conducted by or on behalf of the Commonwealth, a State or a Territory; and (c) is engaged solely in research into the causes, prevention or cure of diseases in humans.
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 of the Commonwealth, a State or a Territory unless: (a) it is an institution established by a law of the Commonwealth, a State or a Territory; and (b) that is not conducted by or on behalf of the Commonwealth, a State or a Territory; and (c) is a school (including a pre-school but not including a tertiary institution).

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<b>Item</b>	<b>Column 1 Type of employer</b>	<b>Column 2 Special conditions</b>
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 (4) 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 (4) 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>	
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>	
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 (4) of this section



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<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Type of employer</b>	<b>Special conditions</b>
10	a society or association: (a) established for the purpose of promoting the development of any of the following Australian resources: (i) agricultural resources; (ii) horticultural resources; (iii) industrial resources; (iv) manufacturing resources; (v) pastoral resources; (vi) viticultural resources; (vii) aqua cultural 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>	See subsection (4) of this section
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 (4) of this section
12	a society, association or club: (a) established for the encouragement of: (i) animal racing; or (ii) art; or (iii) a game or sport; or (iv) literature; or (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 (4) of this section

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<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Type of employer</b>	<b>Special conditions</b>
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 (4) of this section

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1 Note: Subsection (3) affects what employers may be considered an  
2 institution of government.

3 Note: The heading to section 65J is altered by omitting “**non-profit employers**” and  
4 substituting “**not-for-profit employers**”.

## 5 **62 Subsections 65J(3) and (5)**

6 Repeal the subsections, substitute:

7 (3) For the purposes of this section, an institution established by a law  
8 of the Commonwealth, a State or a Territory is taken to be an  
9 institution of the Commonwealth, the State or the Territory, as the  
10 case requires.

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

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

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

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

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

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

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

## 24 **63 Section 123E**

25 Repeal the section, substitute:

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1 **123E Endorsement by Commissioner as charitable institution (other**  
2 **than public benevolent institution or health promotion**  
3 **charity)**

- 4 (1) The Commissioner must endorse an entity as a charitable  
5 institution covered by item 1 of the table in subsection 65J(1) if:  
6 (a) it satisfies the conditions in item 1 of the table in subsection  
7 65J(1) (see subsection (2) of this section); and  
8 (b) it has applied for endorsement in accordance with  
9 Division 426 in Schedule 1 to the *Taxation Administration*  
10 *Act 1953*.
- 11 (2) An entity is entitled to be endorsed as a charitable institution  
12 covered by item 1 of the table in subsection 65J(1) if the entity:  
13 (a) satisfies the conditions in item 1 of the table in subsection  
14 65J(1); and  
15 (b) has an ABN.

16 **64 Subsection 135Q(1) (note)**

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

18 **65 Subsection 136(1) (definition of *business operations*)**

19 Repeal the definition, substitute:

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

23 **66 Subsection 136(1) (definition of *non-profit company*)**

24 Repeal the definition.

25 **67 Section 136(1)**

26 Insert:

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

29 **68 Subsection 136(1)**

30 Insert:

31 *rebatable employer* has the meaning given by section 65J.

32 **69 Paragraph 140(1B)(c)**

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1 Repeal the paragraph, substitute:

2 (c) a hospital carried on by a society or association that is a  
3 rebatable employer;

4 **70 Subparagraph 140(1C)(b)(iii)**

5 Repeal the subparagraph, substitute:

6 (iii) a hospital carried on by a society or association that is a  
7 rebatable employer.

8 ***Fuel Tax Act 2006***

9 **71 Division 41 (heading)**

10 Repeal the heading, substitute:

11 **Division 41—Fuel tax credits for business taxpayers and**  
12 **not-for-profit entities**

13 **72 Section 41-1**

14 Omit “non-profit bodies”, substitute “bodies that are not-for-profit  
15 entities”.

16 **73 Paragraph 41-5(3)(a)**

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

19 **74 Section 70-1**

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

21 **75 Section 70-30 (heading)**

22 Repeal the heading, substitute:

23 **70-30 Application of fuel tax law to GST branches, resident agents**  
24 **and not-for-profit sub-entities**

25 **76 Section 70-30 (table heading)**

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

27 **77 Section 70-30 (table item 3, column 1)**

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

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# EXPOSURE DRAFT

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## 78 Section 110-5

Insert:

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

## 79 Section 110-5

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

## *Income Tax Act 1986*

### 80 Subsection 3(1)

Insert:

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

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

Repeal the definition.

### 82 Subsection 3(1)

Insert:

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

### 83 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*

### 84 Subsection 6(1)

Insert:

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

# EXPOSURE DRAFT

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## 1 **85 Paragraph 103A(2)(c)**

2 Repeal the paragraph, substitute:

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

## 5 *Income Tax Assessment Act 1997*

## 6 **86 Subsection 165-12(7A)**

7 Repeal the subsection, substitute:

8 (7A) If the company is:

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

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

## 16 **87 Subsection 165-37(4A)**

17 Repeal the subsection, substitute:

18 (4A) If the company is:

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

23 during the whole of the \*ownership test period, the conditions in  
24 paragraphs (1)(b) and (c) are taken to have been satisfied by the  
25 company.

## 26 **88 Subsection 165-115C(4A)**

27 Repeal the subsection, substitute:

28 (4A) If the company is:

- 29 (a) a \*not-for-profit entity; or  
30 (b) a \*friendly society dispensary; or  
31 (c) a \*mutual affiliate company; or  
32 (d) a \*mutual insurance company;

33 during the whole of the period from the reference time to the \*test  
34 time, the test time is taken not to be a \*changeover time in respect

# EXPOSURE DRAFT

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1 of the company because of the application of paragraphs (1)(b) and  
2 (c).

## 3 **89 Subsection 165-115L(5)**

4 Repeal the subsection, substitute:

5 (5) If the company is:

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

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

## 14 **90 Subsection 165-123(7A)**

15 Repeal the subsection, substitute:

16 (7A) If the company is:

- 17 (a) a \*not-for-profit entity; or
- 18 (b) a \*friendly society dispensary; or
- 19 (c) a \*mutual affiliate company; or
- 20 (d) a \*mutual insurance company;

21 during the whole of the \*ownership test period, the conditions in  
22 subsections (3) and (4) are taken to have been satisfied by the  
23 company.

## 24 **91 Paragraph 165-202(1)(f)**

25 Repeal the paragraph, substitute:

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

## 27 **92 Subsection 166-145(6)**

28 Repeal the subsection, substitute:

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

31 (6) If the company is:

- 32 (a) a \*not-for-profit entity; or
- 33 (b) a \*friendly society dispensary; or

# EXPOSURE DRAFT

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

## 6 **93 Paragraph 315-15(a) (note)**

7 Repeal the note, substitute:

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

## 11 **94 Subsection 703-15(2) (paragraph (c) of table item 2, 12 column 2)**

13 Repeal the paragraph, substitute:

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

## 16 **95 Subsection 719-10(1) (cell at column 1)**

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

## 21 **96 Subparagraph 719-15(3)(a)(vii)**

22 Repeal the subparagraph, substitute:

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

## 26 **97 Subsection 995-1(1) (subparagraph (b)(vi) of the definition 27 of *eligible Division 166 company*)**

28 Repeal the subparagraph, substitute:

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

## 30 **98 Subsection 995-1(1) (subparagraph (b)(viii) of the 31 definition of *eligible Division 166 Company*)**

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

## 33 **99 Subsection 995-1(1) (at the end of paragraph (b) of the 34 definition of *eligible Division 166 company*)**

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# EXPOSURE DRAFT

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Add:

(ix) a \*friendly society dispensary.

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

Repeal the definition.

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

Repeal the definition.

**102 Subsection 995-1(1)**

Insert:

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

***Income Tax Rates Act 1986***

**103 Subsection 3(1)**

Insert:

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

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

Repeal the definition.

**105 Subsection 3(1)**

Insert:

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

**106 Subsection 23(6)**

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

***Taxation Administration Act 1953***

**107 Subsection 16-142(2) in Schedule 1**

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

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1 **108 Subsection 110-50(2) in Schedule 1 (cell at table item 50,**  
2 **column headed “Decision”)**

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

4 **109 Subsection 382-5(7) in Schedule 1**

5 Omit “(non-profit sub-entities)”, substitute “(not-for-profit  
6 sub-entities)”.

7 **110 Paragraphs 426-5(f) and 426-65(1)(f) in Schedule 1**

8 Omit “paragraph 65J(1)(baa)”, substitute “item 1 of the table in  
9 subsection 65J(1)”

10 **111 Section 444-85 in Schedule 1 (heading)**

11 Repeal the heading, substitute:

12 **444-85 Not-for-profit sub-entities**

13 **112 Subsection 444-85(1) in Schedule 1**

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

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# EXPOSURE DRAFT

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

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4

*[To follow]*

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# EXPOSURE DRAFT

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

### 3 **113 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) However, the amendments made by Part 4 of this Schedule do not apply  
7 for a period of 12 months from the day this Act receives the Royal  
8 Assent in respect of a not-for-profit entity that is adversely impacted by  
9 the amendments made by this Schedule.

### 10 **114 Transitional provisions**

- 11 (1) Regulations:  
12 (a) made for the purposes of subsection 23-15(2) of the *A New*  
13 *Tax System (Goods and Services Tax) Act 1999*; and  
14 (b) in force just before the commencement of this item;  
15 have effect from that commencement as if they had been made for the  
16 purposes of that subsection as amended by this Schedule.
- 17 (2) Regulations:  
18 (a) made for the purposes of section 50-50, 50-55 or 50-70 of the  
19 *Income Tax Assessment Act 1997*; and  
20 (b) in force just before the commencement of this item;  
21 have effect from that commencement as if they had been made for the  
22 purposes of subparagraph 50-51(3)(b)(ii) of that Act as substituted by  
23 this Schedule.