

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2022: Adjustment
to tax on certain payments or credits
paid to Indian firms**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1.

2. Schedule #	The later of: (a) the day this Act receives the Royal Assent; and (b) the day the Australia-India Economic Cooperation and Trade Agreement, done at Melbourne and New Delhi on 2 April 2022, enters into force for Australia. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. The Minister must announce, by notifiable instrument, the day the Agreement enters into force for Australia.
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3.

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Schedule #—Adjustment to tax on certain payments or credits paid to Indian firms

International Tax Agreements Act 1953

1 Subsection 5(1) (table item dealing with the Indian agreement)

Omit “nil”, substitute “section 11J”.

2 Subsection 5(1) (table item dealing with the Indian protocol (No. 1))

Omit “nil”, substitute “section 11J”.

3 After section 11H

Insert:

11J Agreement with India

The Indian agreement (as amended by the Indian protocol (No. 1)) does not have the effect of subjecting to Australian tax any payments or credits, whether periodical or not, and however described or computed, to the extent to which they:

- (a) are made as consideration for the rendering of any services covered by paragraph 12(3)(g) of that Agreement (as amended); and
- (b) are not royalties (within the meaning of the *Income Tax Assessment Act 1936*); and
- (c) would, apart from paragraph 12(3)(g) and Article 23 of that Agreement (as amended), not be subject to Australian tax.

Note: This section does not prevent payments or credits from being subjected to Australian tax because of another provision of that Agreement. For example, because of Articles 7 and 23 of that Agreement.

4 Application of amendments

The amendments made by this Schedule apply in relation to assessments for years of income starting on or after the commencement of this Schedule.