



Taxation Laws Amendment Act (No. 3) 1999

No. 11, 1999



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An Act to amend the law relating to taxation

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Taxation Laws Amendment Act (No. 3) 1999

No. 11, 1999

An Act to amend the law relating to taxation

[Assented to 31 March 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Taxation Laws Amendment Act (No. 3) 1999*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

-
- (2) If Part 2 of Schedule 1 to the *Taxation Laws Amendment Act (No. 1) 1999* does not commence before the day on which this Act receives the Royal Assent, then Schedule 2 to this Act commences immediately after the commencement of that Part.
- (3) Subject to subsections (4) and (5), Schedule 1 commences on 1 July 1999.
- (4) An item of Schedule 1 that is specified in the third column of the following table commences immediately after the commencement of the matching item in the second column:

Commencement of items of Schedule 1		
Item	First commencing item	Second commencing item
1	118	119
2	185	186
3	192	193
4	195	196
5	211	213
6	212	211
7	222	224
8	223	222
9	304	305

- (5) Items 3 and 4 of Schedule 3 are taken to have commenced immediately after the commencement of section 2 of the *Taxation Laws Amendment Act (No. 1) 1998*.
- (6) Items 5 and 6 of Schedule 3 are taken to have commenced immediately after the commencement of item 6 of Schedule 2 to the *Taxation Laws Amendment (Private Health Insurance Incentives) Act 1997*.
- (7) Items 7 and 8 of Schedule 3 are taken to have commenced immediately after the commencement of item 322 of Schedule 1 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Running balance accounts, general interest charge and related matters

Part 1—Amendments

Fringe Benefits Tax Assessment Act 1986

1 Section 93

Repeal the section, substitute:

93 Unpaid tax

- (1) If any of the tax, or the additional tax under Part VIII, which a person is liable to pay remains unpaid after the time by which the tax or the additional tax is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the tax or the additional tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax or the additional tax;
 - (ii) general interest charge on any of the tax or the additional tax.
- (2) The amount of the general interest charge is taken to be ***additional tax*** payable under this section.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

2 Subsection 94(2)

Omit “section 93 or”.

3 Subsection 95(2)

Omit “section 93 or”.

4 Subsection 104(1)

Omit all the words after paragraph (b), substitute “the employer is entitled to a credit equal to the amount so paid.”.

5 Subsection 104(2)

Repeal the subsection.

6 Section 109

Insert:

GIC period, in relation to an instalment in relation to a standard year of tax, means:

- (a) in the case of a first instalment—the period starting at the beginning of 29 July in the year of tax and finishing at the end of 28 October in the year of tax; or
- (b) in the case of a second instalment—the period starting at the beginning of 29 October in the year of tax and finishing at the end of 28 January in the year of tax; or
- (c) in the case of a third instalment—the period starting at the beginning of 29 January in the year of tax and finishing at the end of 28 April in the next succeeding year of tax.

7 Section 109 (definition of *penalty period*)

Repeal the definition.

8 Subsection 112(4)

Omit “additional tax, by way of penalty, in respect of the penalty period, is due and payable by the employer to the Commissioner at the rate of 16% per annum”, substitute “the employer is liable to pay, for each day in the GIC period, the general interest charge”.

9 After subsection 112(4)

Insert:

- (4A) The amount of the general interest charge is taken to be *additional tax* payable under subsection (4).

10 Subsections 112(6) and (7)

Repeal the subsections.

11 Subsection 136(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Income Tax Assessment Act 1936

12 Subsection 6(1) (paragraph (ab) of the definition of assessment)

Repeal the paragraph.

13 Subsection 6(1)

Insert:

failure to notify penalty means the penalty worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

14 Subsection 6(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

15 Subsection 6(1)

Insert:

late reconciliation statement penalty means the penalty worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

16 Section 102AAB (definition of basic statutory interest rate)

Omit “, less 4 percentage points.”.

17 Paragraph 102AAM(5)(b)

Omit “, less 4 percentage points”.

18 Subsection 102AAM(14)

Omit “207, 207A,”.

19 Subsection 128C(1)

Omit “him”, substitute “the person”.

20 Subsection 128C(3)

Repeal the subsection, substitute:

- (3) If any of the withholding tax which a person is liable to pay remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the withholding tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the withholding tax;
 - (ii) general interest charge on any of the withholding tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

21 Subsection 128C(4)

Repeal the subsection.

22 Subsection 128C(4AA)

Omit “Without limiting the generality of subsection (4), where”, substitute “If”.

23 Paragraph 128C(4AA)(a)

Omit “additional tax is due and payable by a person under subsection (3) in relation to an amount of withholding tax”, substitute “a person is liable to pay the general interest charge on an amount of withholding tax which is”.

24 Subsection 128C(4AA)

Omit “additional tax as”, substitute “general interest charge as”.

25 Subsection 128C(4A)

Repeal the subsection.

26 Subsection 128C(5)

Omit “, and any unpaid additional tax payable under this section,”.

27 Subsection 128TE(5)

Omit “207, 207A,”.

28 Section 159GDA

Omit all the words after paragraph (b), substitute “the owner is entitled to a credit equal to the amount so deducted.”.

29 Subsection 159GZZZZH(4)

Omit “207, 207A,”.

30 Subsection 160AN(1)

Omit “Subject to this section, the”, substitute “The”.

31 Subsection 160AN(2)

Repeal the subsection.

32 Subsection 160AN(3)

Omit “Where, under subsection (2)”, substitute “If, under section 8AAZL of the *Taxation Administration Act 1953*”.

33 Subsection 160AN(4)

Omit “the provisions of this section”, substitute “section 8AAZL of the *Taxation Administration Act 1953*”.

34 Paragraph 160APAAA(3)(b)

Repeal the paragraph, substitute:

- (b) an amount, in respect of a credit under section 221AZM, applied by the Commissioner against a liability of the company; or

35 Subparagraph 160APYA(b)(ii)

Repeal the subparagraph, substitute:

- (ii) the Commissioner applies an amount, in respect of a credit under section 221AZM, against a liability of the company; and

36 Paragraph 160APYBB(b)

Omit “subsection 160AN(2)”, substitute “section 8AAZL of the *Taxation Administration Act 1953*”.

37 At the end of section 160ARU

Add:

- (3) If any of the franking deficit tax which a company is liable to pay remains unpaid after the time by which the franking deficit tax is due to be paid, the company is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the franking deficit tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the franking deficit tax;
 - (ii) general interest charge on any of the franking deficit tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

38 At the end of section 160ARUA

Add:

- (2) If any of the deficit deferral tax which a company is liable to pay remains unpaid after the time by which the deficit deferral tax is due to be paid, the company is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the deficit deferral tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the deficit deferral tax;

- (ii) general interest charge on the deficit deferral tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

39 At the end of section 160ARV

Add:

- (2) If any of the franking additional tax which a company is liable to pay remains unpaid after the time by which the franking additional tax is due to be paid, the company is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the franking additional tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the franking additional tax;
 - (ii) general interest charge on the franking additional tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

40 Subsection 160ARW(1)

Omit “207, 207A,”.

41 Subsection 160ARW(2)

Omit all the words after paragraph (b), substitute:

- ; and (c) the company has not paid the excess amount of the franking deficit tax by the 30th day after the day on which the assessment was amended;

the company is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

42 At the end of section 160ARW

Add:

- (3) The company is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the 30th day after the day on which the assessment was amended; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the excess amount of the franking deficit tax;
 - (ii) general interest charge on any of the excess amount.

43 At the end of subsection 163A(3)

Add:

Note: A person who fails to pay on time some or all of the penalty is liable to pay the general interest charge on the unpaid amount: see section 163AA.

44 Subsection 163A(8)

Omit “207, 207A,”.

45 After section 163A

Insert:

163AA General interest charge on unpaid penalty

A person who fails to pay some or all of a penalty under section 163A by the time by which the penalty is due to be paid is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the penalty was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty;
 - (ii) general interest charge on any of the penalty.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

46 Subsection 163B(1)

Omit all the words after paragraph (c), substitute:

the person is liable to pay the general interest charge on the amount in subsection (2) and the amount of the charge is taken to be **additional tax** payable under this section.

Note: The heading to section 163B is altered by omitting “**Late lodgement penalty—additional tax for**” and substituting “**Late lodgment of returns by**”.

47 At the end of subsection 163B(1)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

48 After subsection 163B(1)

Insert:

- (1A) The person is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the day by which the return was required to be furnished; and
 - (b) finishes at the end of the day before the return is furnished, or the day before the Commissioner made the assessment, whichever is earlier.

49 Subsection 163B(4)

Repeal the subsection.

50 Subsection 163B(7)

Repeal the subsection.

51 Subsection 163B(8)

Omit “204, 205, 206, 207, 207A, 208, 209, 214,”, substitute “205, 206,”.

52 Subsection 163B(10) (definition of *income tax crediting amount*)

Omit all the words after “an amount”, substitute “of a credit applied under section 8AAZL of the *Taxation Administration Act 1953* against the income tax;”.

53 Section 163C

Repeal the section.

54 Subsections 170AA(1) and (1A)

Omit “interest to the Commissioner, calculated in accordance with subsection (4),” (wherever occurring), substitute “the general interest charge, for each day in the period in subsection (4),”.

Note: The heading to section 170AA is altered by omitting “**Payment of interest by**” and substituting “**Liability of**”.

55 Paragraph 170AA(3)(a)

Omit “interest”, substitute “general interest charge”.

56 Paragraph 170AA(3)(b)

Omit “interest”, substitute “general interest charge”.

57 Subsection 170AA(3)

Omit “interest to the Commissioner, calculated in accordance with subsection (4),”, substitute “the general interest charge, for each day in the period in subsection (4),”.

58 Subsection 170AA(3)

Omit “the interest referred”, substitute “the general interest charge referred”.

59 Subsection 170AA(4)

Omit “Interest”, substitute “The general interest charge”.

60 Subsection 170AA(4)

Omit “shall be calculated”, substitute “is payable for each day in the period that”.

61 Paragraph 170AA(4)(a)

Omit “in respect of the period commencing on”, substitute “started at the beginning of”.

62 Subparagraph 170AA(4)(a)(ii)

Omit “amendment,”, substitute “amendment; and”.

63 Paragraph 170AA(4)(a)

Omit all the words after subparagraph (ii).

64 Paragraph 170AA(4)(b)

Repeal the paragraph, substitute:

- (b) finishes at the end of the day before the current amended assessment or the amended determination is made.

65 At the end of subsection 170AA(4)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

66 Subsection 170AA(5)

Repeal the subsection, substitute:

- (5) If general interest charge (the *primary general interest charge*) is payable by a taxpayer under subsection (1), (1A) or (3), the Commissioner may give a notice to the taxpayer specifying a date after which general interest charge will apply under subsection (5A). The specified date must be at least 30 days after the notice is given.
- (5A) If the primary general interest charge remains unpaid after the day specified in the notice, the taxpayer is liable to pay general interest charge on the unpaid amount.
- (5B) The taxpayer is liable to pay the general interest charge for each day in the period that:
 - (a) started at the beginning of the day specified in the notice; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) primary general interest charge;
 - (ii) general interest charge on primary general interest charge.

67 Subsection 170AA(8)

Omit “interest” (wherever occurring), substitute “the general interest charge”.

68 Subsections 170AA(9) to (13)

Repeal the subsections, substitute:

- (9) Unless the contrary intention appears, in sections 172, 205, 206, 215, 216, 254, 255, 258, 259 and 265, but not in any other section, *income tax* or *tax* includes the general interest charge payable under this section.

69 Subsection 172(1)

Omit “sections 170AA, 207 and 207A”, substitute “provisions of this Act that apply the general interest charge”.

70 Subsection 172(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII”.

71 At the end of subsection 172(2)

Add:

- Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.
- Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

72 At the end of section 204

Add:

- (3) If any of the tax which a person is liable to pay remains unpaid after the time by which the tax is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax;

(ii) general interest charge on any of the tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

73 Sections 207 and 207A

Repeal the sections.

74 Subsection 208(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

75 At the end of subsection 208(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

76 Section 208B

Repeal the section.

77 Subsection 209(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

78 At the end of subsection 209(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

79 Subsection 214(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

80 At the end of subsection 214(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

81 Subsection 214A(1)

Repeal the subsection, substitute:

(1) In this section:

Treasury Note yield rate has the meaning given by section 8AAD of the *Taxation Administration Act 1953*.

82 Paragraph 214A(2)(a)

Omit “170AA, 207A,”.

83 Paragraphs 214A(2)(b) and (c)

Repeal the paragraphs.

84 Paragraph 214A(e)

After “section 8C, 8I,”, insert “8P, 8T, 8X, 8ZB,”.

85 Paragraphs (f), (fa) and (g)

Repeal the paragraphs.

86 Subsection 214A(2)

Omit all the words after “for any”, substitute “day is the Treasury Note yield rate for that day.”.

87 Subsections 214A(3) to (8)

Repeal the subsections.

88 Subsection 215(6) (paragraphs (a) and (b) of the definition of tax)

Repeal the paragraphs, substitute:

- (a) the general interest charge under a provision of this Act; and
- (b) additional tax under Part VII; and

89 At the end of subsection 215(6)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

90 Subsection 216(3)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

91 At the end of subsection 216(3)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

92 Subsection 218(6B) (paragraph (a) of the definition of tax)

Repeal the paragraph, substitute:

(a) additional tax under Part VII;

93 Subsection 218(6B) (after paragraph (a) of the definition of tax)

Insert:

(ab) the general interest charge under a provision of this Act;

94 Subsection 218(6B) (paragraph (ba) of the definition of tax)

Omit “, 170AA or 207A”.

95 Subsection 218(6B) (subparagraph (c)(ii) of the definition of tax)

Repeal the subparagraph, substitute:

(ii) additional tax under Part VII;

96 Subsection 218(6B) (after subparagraph (c)(ii) of the definition of tax)

Insert:

(ia) the general interest charge under a provision of this Act;

97 Subsection 218(6B) (subparagraph (c)(iv) of the definition of tax)

Omit “, 170AA or 207A”.

98 Subsection 218(6B) (at the end of the definition of tax)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

99 Subsection 220(5)

Omit “and any additional tax under section 207 or interest under section 207A”, substitute “any general interest charge under a provision of this Act”.

100 At the end of subsection 220(5)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

101 Subsections 220AAE(2) and (3)

Repeal the subsections, substitute:

(3) If any of the amount (the *deducted amount*) which a large remitter must pay to the Commissioner remains unpaid after the time by which it is due to be paid, the large remitter is liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the deducted amount was due to be paid; and

- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the deducted amount;
 - (ii) general interest charge on any of the deducted amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

102 Section 220AAF

Omit “a penalty”, substitute “the general interest charge”.

103 At the end of section 220AAF

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

104 After section 220AAG

Insert:

220AAGA Commissioner must be notified of amounts

- (1) A large remitter that must pay an amount to the Commissioner under section 220AAE must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2) If the large remitter fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the large remitter is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the large remitter, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (3) The notification must be in a form approved in writing by the Commissioner, unless:
-

- (a) it is by way of a statement under section 220AAG accompanying a payment; and
- (b) the Commissioner requires statements under that section to be in a particular form, contain particular information or be given in a particular manner; and
- (c) the statement meets those requirements.

105 Subsection 220AAM(1)

Omit “not later than the 7th day”, substitute “by the end of the 21st day”.

106 After subsection 220AAM(1)

Add:

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* does not apply for the purposes of this subsection.

107 Subsections 220AAM(2) and (3)

Repeal the subsections, substitute:

- (3) If any of the amount (the *deducted amount*) which a medium remitter must pay to the Commissioner remains unpaid after the time by which it is due to be paid, the medium remitter is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the deducted amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the deducted amount;
 - (ii) general interest charge on any of the deducted amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

108 After section 220AAO

Insert:

220AAOA Commissioner must be notified of amounts

- (1) A medium remitter that must pay an amount to the Commissioner under section 220AAM must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
 - (2) If the medium remitter fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the medium remitter is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the medium remitter, or otherwise becomes aware, of the correct amount.
- Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.
- (3) The notification must be in a form approved in writing by the Commissioner, unless:
 - (a) it is by way of a statement under section 220AAO accompanying a payment; and
 - (b) the Commissioner requires statements under that section to be in a particular form, contain particular information or be given in a particular manner; and
 - (c) the statement meets those requirements.

109 Subsection 220AAR(1)

Omit “not later than the 7th day”, substitute “by the end of the 21st day”.

110 After subsection 220AAR(1)

Add:

Note: Subsection 36(2) of the *Acts Interpretation Act 1901* does not apply for the purposes of this subsection.

111 Subsections 220AAR(2) and (3)

Repeal the subsections, substitute:

- (3) If any of the amount (the *deducted amount*) which a small remitter must pay to the Commissioner remains unpaid after the time by which it is due to be paid, the small remitter is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the deducted amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the deducted amount;
 - (ii) general interest charge on any of the deducted amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

112 After section 220AAT

Insert:

220AATA Commissioner must be notified of amounts

- (1) A small remitter that must pay an amount to the Commissioner under section 220AAR must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2) If the small remitter fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the small remitter is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the small remitter, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (3) The notification must be in a form approved in writing by the Commissioner, unless:

- (a) it is by way of a statement under section 220AAT accompanying a payment; and
- (b) the Commissioner requires statements under that section to be in a particular form, contain particular information or be given in a particular manner; and
- (c) the statement meets those requirements.

113 Section 220AAV

Repeal the section.

114 Section 220AAW

Repeal the section, substitute:

220AAW Large remitters—non-electronic payment

- (1) A large remitter that pays an amount other than by electronic transfer is liable to pay the general interest charge on the amount for each day in the period that:
 - (a) started at the beginning of the day by which the payment was due to be paid; and
 - (b) finishes at the end of the 6th day after that day.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) However, if the amount of the general interest charge is less than \$500, the large remitter is instead liable to pay a penalty of \$500.
- (3) The Commissioner may remit all or a part of the penalty that a large remitter is liable to pay because of subsection (2).

Note: The Commissioner may remit an amount of the general interest charge under section 8AAG of the *Taxation Administration Act 1953*.

- (4) This section does not apply to an exempt Australian government agency (within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*).

115 Sections 220AAX and 220AAY

Repeal the sections.

116 Subsections 220AAZA(8) and (9)

Repeal the subsections.

117 At the end of section 220AJ

Add:

- (5) If the payer fails to give the Commissioner the report by the time by which it must be given to the Commissioner, the payer is liable to pay the late reconciliation statement penalty.

Note: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

118 Section 220AS

Repeal the section, substitute:

220AS Failure to make deduction from reportable payment

- (1) If a person, other than a government body, making a reportable payment to a payee does not deduct from the payment the amount required to be deducted under this Division, the person is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount not deducted.
- (2) The person must pay the penalty amount by the time by which, if the person had deducted the amount required to be deducted, the person would have been required to pay that amount to the Commissioner.
- (3) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
- (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

119 At the end of section 220AS

Add:

Government bodies

- (4) If a government body making a reportable payment to a payee does not deduct from the payment the amount required to be deducted under this Division, the government body is liable to pay the general interest charge on the amount not deducted for each day in the period that:
- (a) started at the beginning of the day on which the payment was made; and
 - (b) finishes at the end of 30 June in the financial year in which the payment is made.

Note: The general interest charge does not apply to the Commonwealth or authorities of the Commonwealth: see subsection 8AAB(3) of the *Taxation Administration Act 1953*.

120 Section 220AU

Repeal the section, substitute:

220AU Commissioner may remit penalty for failure to deduct

- (1) The Commissioner may remit all or a part of the penalty a person is liable to pay under subsection 220AS(1).
- (2) The Commissioner must give written notice to the person if the Commissioner decides:
 - (a) to remit a part only of the penalty; or
 - (b) not to remit any part of the penalty.

121 Section 220AV

Repeal the section.

122 Subsection 220AY(8)

Repeal the subsection.

123 Subsection 220AZC(1)

Omit “Subject to this section, the”, substitute “The”.

124 Subsections 220AZC(2) to (5)

Repeal the subsections.

125 Subsection 220AZC(6)

Omit “subsection (2), (3), (4) or (5)”, substitute “section 8AAZL of the *Taxation Administration Act 1953*”.

126 Subsections 220AZC(8) and (9)

Repeal the subsections.

127 At the end of subsection 221AZK(2)

Add:

Note: An instalment taxpayer who fails to pay on time some or all of an instalment is liable to pay the general interest charge on the unpaid amount: see section 221AZMAA.

128 Subsection 221AZK(5)

Repeal the subsection, substitute:

(5) Instalments are to be treated as tax for the purposes of sections 206, 208, 209, 214, 254, 255, 258 and 259.

129 Section 221AZM

Repeal the section, substitute:

221AZM Entitlement to instalment credit

A taxpayer who pays an instalment is entitled to a credit equal to the amount of the instalment.

130 At the end of Subdivision B of Division 1C of Part VI

Add:

221AZMAA Late payment of instalments

- (1) An instalment taxpayer who fails to pay some or all of an instalment, by the time by which the instalment is due to be paid under section 221AZK, is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the instalment was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the instalment;
 - (ii) general interest charge on any of the instalment.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) For the purpose of working out any unpaid amount of a final instalment:
 - (a) despite section 221AZT, the final instalment is taken to be due to be paid on the day specified in section 221AZK; and
 - (b) the final instalment is first reduced by any credits or offsets specified in paragraph 221AZP(1)(b).

131 Subsection 221AZP(1)

Omit “is liable to pay a penalty under this section in respect of an estimate lodged by the taxpayer for the current year”, substitute “who lodges an estimate for the current year is liable to pay the general interest charge on the amount in subsection (2)”.

Note: The heading to section 221AZP is altered by omitting “**Penalty applies**” and substituting “**Liability**”.

132 At the end of subsection 221AZP(1)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

133 Subsection 221AZP(2)

Omit “The penalty applies to”, substitute “The taxpayer is liable to pay the general interest charge on the amount that is”.

134 Subsection 221AZP(3)

Omit “The penalty is calculated at the rate of 16% per year for”, substitute “The general interest charge is payable for each day in”.

135 Paragraph 221AZP(3)(a)

Omit “starts on the”, substitute “started at the beginning of the”.

136 Paragraph 221AZP(3)(b)

Omit “ends on the”, substitute “finishes at the end of the”.

137 Subsection 221AZP(4)

Repeal the subsection.

138 Subsection 221AZP(5)

Omit “Penalty”, substitute “The amount of the general interest charge payable”.

139 Subsection 221AZP(5)

Omit “208, 209, 214,”.

140 Section 221EAA

Repeal the section, substitute:

221EAA Failure to make deductions from salary or wages

- (1) If an employer, other than a government body, paying salary or wages to an employee does not deduct from the salary or wages the amount required to be deducted under this Division, the employer is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount not deducted.
- (2) The employer must pay the penalty amount by the time by which, if the employer had deducted the amount required to be deducted, the employer would have been required to pay that amount to the Commissioner.
- (3) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the employer is liable to pay the general

interest charge on the unpaid penalty amount for each day in the period that:

- (a) started at the beginning of the day by which the penalty amount was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

141 At the end of section 221EAA

Add:

Government bodies

- (4) If a government body paying salary or wages to an employee does not deduct from the salary or wages the amount required to be deducted under this Division, the government body is liable to pay the general interest charge on the amount not deducted for each day in the period that:
 - (a) started at the beginning of the day by which the government body was required to deduct the amount; and
 - (b) finishes at the end of 30 June in the financial year in which that day occurred.

Note: The general interest charge does not apply to the Commonwealth or authorities of the Commonwealth: see subsection 8AAB(3) of the *Taxation Administration Act 1953*.

142 After subsection 221F(5J)

Insert:

- (6) An employer who fails to give the Commissioner a statement under paragraph (5J)(b), on or before the day on which it must be given to the Commissioner, is liable to pay the late reconciliation statement penalty.

Note 1: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection (15) provides an alternative liability for failing to give the statement to the Commissioner.

143 At the end of subsection 221F(15)

Add:

Note: Subsection (6) provides an alternative liability for contravening paragraph (5J)(b).

144 Subsection 221H(2)

Repeal the subsection, substitute:

(2) If:

- (a) an employer has made any deductions in respect of an employee under this Division during a year of income; and
- (b) an assessment has been made of the tax payable, or the Commissioner is satisfied that no tax is payable, by the employee in relation to the year of income;

the employee is entitled to a credit equal to the sum of the deductions.

145 Subsection 221H(3)

Repeal the subsection, substitute:

(3) If:

- (a) a person has purchased one or more tax vouchers during a year of income; and
- (b) an assessment has been made of the tax payable, or the Commissioner is satisfied that no tax is payable, by the purchaser in relation to the year of income;

the purchaser is entitled to a credit equal to the sum of the amounts of the purchases.

146 Subsections 221H(4) and (4A)

Repeal the subsections.

147 Subsection 221H(10)

Repeal the subsection.

148 Section 221N

Repeal the section, substitute:

221N Remission of penalty

- (1) The Commissioner may remit all or a part of the penalty a person is liable to pay under subsection 221EAA(1).
- (2) The Commissioner must give written notice to the person if the Commissioner decides:
 - (a) to remit a part only of the penalty; or
 - (b) not to remit any part of the penalty.

149 Section 221NA

Repeal the section.

150 Subsection 221R(1A)

Repeal the subsection.

151 Subsection 221YA(1)

Insert:

GIC period, in relation to an instalment of provisional tax for a year of income (the *current instalment*), means:

- (a) if the current instalment is not the last instalment of provisional tax for the year of income—the period starting at the beginning of the due date for payment of the current instalment and finishing at the end of the due date for payment of the next instalment of provisional tax for the year of income; or
- (b) if the current instalment is the last instalment of provisional tax for the year of income—the period starting at the beginning of the due date for payment of the current instalment and finishing at the end of the due date for payment of the tax payable in respect of the taxable income of the year of income.

152 Subsection 221YA(1) (definition of *penalty period*)

Repeal the definition.

153 Subsection 221YA(2)

Omit “207, 207A,”.

154 Paragraph 221YAB(1)(a) (definition of *Credited amounts*)

Repeal the definition, substitute:

Credited amounts means the sum of the following amounts:

- (i) amounts applied under section 27CA in respect of payments made to the taxpayer during the preceding year of income;
- (ii) amounts applied, in respect of credits under section 159GDA, in payment of the tax payable by the taxpayer in respect of income of the preceding year of income;
- (iii) amounts applied, in respect of credits under Division 18, 18A or 18B of Part III or under the *Income Tax (International Agreements) Act 1953*, being credits in relation to income derived by the taxpayer during the preceding year of income;
- (iv) amounts applied, in respect of credits under section 221H, being credits in relation to deductions from the salary or wages paid to the taxpayer during the preceding year of income;
- (v) amounts applied, in respect of credits under section 220AZ, 220AZA, 220AZB, 221YHF or 221YHZK, being credits in relation to deductions from payments made to the taxpayer during the preceding year of income.

155 Subsection 221YAB(1) (definition of *PAYE deductions*)

Repeal the definition, substitute:

PAYE deductions means the sum of amounts applied, in respect of credits under section 221H, in respect of deductions from the salary or wages paid to the taxpayer during the preceding year of income.

156 Paragraph 221YBA(6)(g)

Omit “sections 207 and 207A apply”, substitute “the general interest charge under section 221YD applies”.

157 Paragraph 221YBA(6)(h)

Repeal the paragraph, substitute:

- (h) if the taxpayer has paid an amount in respect of the superseded instalment, the taxpayer is entitled to a credit equal to the amount so paid.

158 At the end of subsection 221YBA(6)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

159 Paragraph 221YCA(2)(e)

Repeal the paragraph, substitute:

- (e) where an amount of an instalment is reduced and the taxpayer has paid an amount in respect of the instalment, the taxpayer is entitled to a credit equal to the amount overpaid.

160 Subparagraph 221YCA(3)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) where an amount of an instalment is reduced and the taxpayer has paid an amount in respect of the instalment, the taxpayer is entitled to a credit equal to the amount overpaid;

161 At the end of section 221YD

Add:

- (3) If any of the provisional tax, or the instalment of provisional tax, which a taxpayer is liable to pay remains unpaid after the time by which it is due to be paid, the taxpayer is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the provisional tax or the instalment was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the provisional tax or the instalment;

- (ii) general interest charge on any of the provisional tax or the instalment.

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

162 Subsection 221YDA(2AC)

Omit “sections 207, 207A and”, substitute “section”.

163 Subsection 221YDA(2A)

Omit “sections 207 and 207A”, substitute “the general interest charge under section 221YD”.

164 At the end of subsection 221YDA(2A)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

165 Subsection 221YDB(1)

Omit “to the Commissioner additional tax, by way of penalty, equal to 16% of”, substitute “, for each day in the period in subsection (1AAB), the general interest charge on”.

166 At the end of subsection 221YDB(1)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

167 Subsection 221YDB(1AAA)

Omit “to the Commissioner additional tax, by way of penalty, equal to 16% of”, substitute “, for each day in the period in subsection (1AAB), the general interest charge on”.

168 At the end of subsection 221YDB(1AAA)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

169 After subsection 221YDB(1AAA)

Insert:

- (1AAB) A taxpayer that is liable to pay the general interest charge under subsection (1) or (1AAA) is liable to pay the charge for each day in the period that:
- (a) started at the beginning of the day by which the provisional tax payable in respect of the estimated taxable income was due to be paid; and
 - (b) finishes at the end of the day by which the tax payable in respect of the taxable income is due to be paid.

170 Subsection 221YDB(1AA)

Omit “additional tax, by way of penalty, in respect of the penalty period, is due and payable by the taxpayer to the Commissioner at the rate of 16% per annum”, substitute “the taxpayer is liable to pay, for each day in the GIC period, the general interest charge”.

Note: The heading to section 221YDB is altered by omitting “**Additional tax**” and substituting “**Liability**”.

171 At the end of subsection 221YDB(1AA)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

172 Subsection 221YDB(1ABA)

Omit “additional tax, by way of penalty, in respect of the penalty period, is due and payable by the taxpayer to the Commissioner at the rate of 16% per annum”, substitute “the taxpayer is liable to pay, for each day in the GIC period, the general interest charge”.

173 At the end of subsection 221YDB(1ABA)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

174 Subsection 221YDB(1AB)

Repeal the subsection.

175 Subsections 221YDB(1B) to (4)

Repeal the subsections, substitute:

- (2) The amount of the general interest charge payable under subsection (1), (1AAA), (1AA) or (1ABA) is taken to be *additional tax* payable under this section.

176 Section 221YE

Repeal the section, substitute:

221YE Entitlement to provisional tax credit

If a taxpayer has paid provisional tax, or an instalment of provisional tax, in respect of income of any year of income, and:

- (a) an assessment of income tax in respect of that income has been made; or
(b) the Commissioner is satisfied that no income tax will be payable in respect of that income;

the taxpayer is entitled to a credit equal to the amount of that provisional tax or that instalment of provisional tax.

177 Paragraph 221YG(2)(b)

Repeal the paragraph, substitute:

- (b) if the amount of provisional tax payable is reduced, the taxpayer is entitled to a credit equal to the amount of any provisional tax overpaid.

178 Paragraph 221YHAAE(4)(a)

Omit “sections 207 and 207A”, substitute “the general interest charge under sections 221YD and 221YDB”.

179 At the end of subsection 221YHAAE(4)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

180 After subsection 221YHDC(9)

Insert:

Late reconciliation statement penalty

- (9A) An eligible paying authority that fails to give the Commissioner a reconciliation statement form under subparagraph (5)(b)(iii) or (6)(d)(iii), on or before the day on which it must be given to the Commissioner, is liable to pay the late reconciliation statement penalty.

Note 1: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection (10) provides an alternative liability for failing to give the form to the Commissioner.

181 Subsection 221YHG(1)

Omit “Subject to this section, the”, substitute “The”.

182 Subsections 221YHG(2) to (4A)

Repeal the subsections.

183 Subsection 221YHG(5)

Omit “Where, under subsection (2), (3), (4) or (4A)”, substitute “If, under section 8AAZL of the *Taxation Administration Act 1953*”.

184 Subsections 221YHG(6A) and (7)

Repeal the subsections.

185 Section 221YHH

Repeal the section, substitute:

221YHH Failure to make deductions from prescribed payments

- (1) If an eligible paying authority, other than a government body, which makes a prescribed payment to a payee does not deduct from the payment the amount required to be deducted under this Division, the eligible paying authority is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount not deducted.
- (2) The eligible paying authority must pay the penalty amount by the time by which the eligible paying authority, if it had deducted the

amount required to be deducted, would have been required to pay that amount to the Commissioner.

- (3) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the eligible paying authority is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
- (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

186 At the end of section 221YHH

Add:

Government bodies

- (4) If a government body that is an eligible paying authority makes a prescribed payment to a payee and does not deduct from the payment the amount required to be deducted under this Division, the government body is liable to pay the general interest charge on the amount not deducted for each day in the period that:
- (a) started at the beginning of the day by which, if the government body had deducted the amount, the government body would have been required to pay that amount to the Commissioner; and
 - (b) finishes at the end of 30 June in the financial year in which that day occurred.

Note: The general interest charge does not apply to the Commonwealth or authorities of the Commonwealth: see subsection 8AAB(3) of the *Taxation Administration Act 1953*.

187 Subsection 221YHL(1)

Repeal the subsection.

188 Subsection 221YHL(2)

Omit “paragraph 221YHH(1)(a) or subsection 221YHH(2)”, substitute “subsection 221YHH(1)”.

189 Section 221YHLA

Repeal the section.

190 Subsection 221YHN(4)

Repeal the subsection.

191 At the end of subsection 221YHZC(1)

Add:

Note: For an alternative sanction for failing to deduct the amount required to be deducted, see subsection (3).

192 At the end of subsection 221YHZC(1A)

Add:

Note 1: For an alternative sanction for failing to deduct the amount required to be deducted, see subsection (3).

193 At the end of subsection 221YHZC(1A)

Add:

Note 2: Subsection (1AAA) provides an alternative liability for failing to give the statement under paragraph (f) to the Commissioner.

194 After subsection 221YHZC(1A)

Insert:

(1AAA) If the investment body in relation to a Part VA investment fails to give the Commissioner a statement under paragraph (1A)(f) by the time by which it must be given to the Commissioner, the investment body is liable to pay the late reconciliation statement penalty.

Note: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

195 Subsections 221YHZC(3) and (4)

Repeal the subsections, substitute:

- (3) If a person, other than a government body, making a payment to a non-resident or an investor does not deduct from the payment the amount required to be deducted under subsection (1) or (1A), the person is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount not deducted.
- (4) The person must pay the penalty amount by the time by which, if the person had deducted the amount required to be deducted, the person would have been required to pay that amount to the Commissioner.
- (5) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
 - (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

196 At the end of section 221YHZC

Add:

Government bodies

- (6) If a government body making a payment to a non-resident or an investor does not deduct from the payment the amount required to be deducted under this Division, the government body is liable to pay the general interest charge on the amount not deducted for each day in the period that:
 - (a) started at the beginning of the day by which, if the government body had deducted the amount, the government body would have been required to pay that amount to the Commissioner; and
 - (b) finishes at the end of 30 June in the financial year in which that day occurred.

Note: The general interest charge does not apply to the Commonwealth or authorities of the Commonwealth: see subsection 8AAB(3) of the *Taxation Administration Act 1953*.

197 After section 221YHZC

Insert:

221YHZCA Duty to notify Commissioner of amount deducted

- (1) A person, or an investment body in relation to a Part VA investment, that must pay an amount to the Commissioner under subsection 221YHZD(1) or (1A) must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2) If the person or investment body fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the person or investment body is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the person or investment body, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (3) The notification must be in a form approved in writing by the Commissioner.

198 Subsection 221YHZD(1)

Omit all the words from and including “shall”, to and including “payment to the non-resident”, substitute “must notify the Commissioner in writing of the date on which the amount was deducted within 14 days after the end of the month in which the person makes the payment to the non-resident”.

199 At the end of subsection 221YHZD(1)

Add:

Note: The person must also notify the Commissioner of the amount on or before the day on which the person must pay it: see section 221YHZCA.

200 Subsection 221YHZD(1A) (penalty)

Repeal the penalty.

201 Subsection 221YHZD(2)

Repeal the subsection, substitute:

- (2) If any of the amount which a person is liable to pay under subsection (1), (1A) or (1B) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the amount;
 - (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

202 Subsection 221YHZE(1)

Repeal the subsection.

203 Subsection 221YHZE(2)

Omit “paragraph 221YHZC(3)(a), subsection 221YHZC(4) or sub-subparagraph 221YHZD(2)(b)(ii)(A)”, substitute “subsection 221YHZC(3)”.

204 Section 221YHZF

Repeal the section.

205 Subsections 221YHZJ(3) and (4)

Repeal the subsections.

206 Subsection 221YHZL(1)

Omit “Subject to this section, the”, substitute “The”.

207 Subsections 221YHZL(2) to (5)

Repeal the subsections.

208 Subsection 221YHZL(6)

Omit “Where, under subsection (2), (3), (4) or (5)”, substitute “If, under section 8AAZL of the *Taxation Administration Act 1953*”.

209 Subsection 221YHZL(8)

Repeal the subsection.

210 Section 221YHZLA

Repeal the section.

211 After subsection 221YN(1)

Insert:

- (2) A person who must pay an amount to the Commissioner under paragraph (1)(a) must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2A) If the person fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the person is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the person, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (2B) The notification must be in a form approved in writing by the Commissioner.

212 Subsection 221YN(2)

Repeal the subsection.

213 After subsection 221YN(2B)

Insert:

- (2C) A person who fails to give the Commissioner a statement under paragraph (1)(b), by the time by which it must be given to the Commissioner, is liable to pay the late reconciliation statement penalty.

Note 1: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection (3) provides an alternative liability for failing to give the statement to the Commissioner.

214 Subsections 221YN(4) to (7)

Repeal the subsections, substitute:

- (4) If any of the amount which a person is liable to pay under paragraph (1)(a) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the amount;
 - (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

215 Paragraph 221YQ(1)(b)

Omit “additional tax”, substitute “general interest charge”.

216 Subsection 221YQ(4)

Omit “the additional tax or any part of the additional tax to which the amount relates is remitted by the Commissioner under subsection 128C(4)”, substitute “some or all of the general interest charge is remitted by the Commissioner”.

217 Paragraphs 221YQ(4)(a) and (b)

Omit “additional tax” (wherever occurring), substitute “amount of the general interest charge”.

218 Subsection 221YT(1)

Omit “Subject to this section, the”, substitute “The”.

219 Subsection 221YT(2)

Repeal the subsection.

220 Subsection 221YT(3)

Omit “Where, under subsection (2)”, substitute “If, under section 8AAZL of the *Taxation Administration Act 1953*”.

221 At the end of subsection 221ZB(2)

Add:

Note: For an alternative sanction for contravening subsection (1), see subsection 221ZD(1).

222 After subsection 221ZC(1)

Insert:

- (2) A person who must pay an amount to the Commissioner under paragraph (1)(a) must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2A) If the person fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the person is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the person, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (2B) The notification must be in a form approved in writing by the Commissioner.

223 Subsection 221ZC(2)

Repeal the subsection.

224 After subsection 221ZC(2B)

Insert:

- (2C) A person who fails to give the Commissioner a statement under paragraph (1)(b), by the time by which it must be given to the Commissioner, is liable to pay the late reconciliation statement penalty.

Note 1: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection (3) provides an alternative liability for failing to give the statement to the Commissioner.

225 Subsections 221ZC(4) and (5)

Repeal the subsections, substitute:

- (4) If any of the amount which a person is liable to pay under paragraph (1)(a) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the amount;
 - (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

226 Subsection 221ZD(1)

Repeal the subsection, substitute:

- (1) A person, other than the Commonwealth or an authority of the Commonwealth, who contravenes subsection 221ZB(1) in relation
-

to a mining payment is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount of any unpaid mining withholding tax payable in respect of that mining payment.

- (1A) The person must pay the penalty amount within 21 days after the end of the month in which the mining payment was made.
- (1B) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
- (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

227 Subsections 221ZD(2) and (3)

Omit “paragraph (1)(a)” (wherever occurring), substitute “subsection (1)”.

228 Section 221ZDA

Repeal the section.

229 Subsection 221ZG(1)

Omit “Subject to this section, the”, substitute “The”.

230 Subsection 221ZG(2)

Repeal the subsection.

231 Subsection 221ZG(3)

Omit “Where, under subsection (2)”, substitute “If, under section 8AAZL of the *Taxation Administration Act 1953*”.

232 Paragraph 221ZN(1)(d)

Repeal the paragraph.

233 At the end of subsection 221ZN(1)

Add:

Note: The person must also notify the Commissioner of the amount on or before the day on which the person must pay it: see section 221ZNA.

234 Subsection 221ZN(5)

Repeal the subsection, substitute:

- (5) A person must not refuse or fail to comply with paragraph (1)(a), (b) or (e).

Penalty: 10 penalty units.

Note: For an alternative sanction for failing to deduct the amount required to be deducted, see subsection 221ZO(1).

235 After section 221ZN

Insert:

221ZNA Notification of amount deducted

- (1) A person who must pay an amount to the Commissioner under paragraph 221ZN(1)(c) must notify the Commissioner of the amount on or before the day on which the amount is due to be paid (regardless of whether it is paid).
- (2) If the person fails to do so, or notifies the Commissioner of an amount that is less than the correct amount, the person is liable to pay the failure to notify penalty on the amount, or on the amount of the shortfall, for each day in the period that:
- (a) started at the beginning of the day by which the amount was due to be paid; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the person, or otherwise becomes aware, of the correct amount.

Note: The failure to notify penalty is worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

- (3) The notification must be in a form approved in writing by the Commissioner.

236 Subsection 221ZO(1)

Omit all the words after “Division from an amount”, substitute “withdrawn from a film account, the person is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount that the person failed or refused to deduct.”.

237 After subsection 221ZO(1)

Insert:

- (1A) The person must pay the penalty amount within 21 days after the amount was withdrawn from the film account.

238 Subsection 221ZO(3)

Repeal the subsection, substitute:

- (3) If any of the penalty amount which a person is liable to pay under subsection (1) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
- (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty amount;
 - (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

239 Subsection 221ZO(4)

Omit “paragraph (1)(a)”, substitute “subsection (1)”.

240 Section 221ZP

Repeal the section, substitute:

221ZP Late payment of deduction

If any of the amount which a person is liable to pay under paragraph 221ZN(1)(c) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the amount was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the amount;
 - (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

241 Sections 221ZQ and 221ZQA

Repeal the sections.

242 Section 221ZS

Omit “paragraph 221ZO(1)(a)” (wherever occurring), substitute “subsection 221ZO(1)”.

243 Subsection 221ZT(1)

Omit “Subject to this section, the”, substitute “The”.

244 Subsections 221ZT(2) and (3)

Repeal the subsections.

245 Subsection 221ZXC(2)

Repeal the subsection, substitute:

- (2) If any of the amount which the financial institution must pay to the Commissioner remains unpaid after the time by which it is due to be paid, the financial institution is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the amount was due to be paid; and

(b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:

- (i) the amount;
- (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

246 At the end of section 221ZXD

Add:

- (4) A financial institution that fails to give the Commissioner the report, by the time by which it must be given to the Commissioner, is liable to pay the late reconciliation statement penalty.

Note: The late reconciliation statement penalty is worked out under Division 3 of Part IIA of the *Taxation Administration Act 1953*.

247 Section 221ZXG

Omit “the Commissioner a penalty of 20% per annum of”, substitute “general interest charge, for each day in the period in subsection (2), on”.

248 Paragraph 221ZXG(c)

Omit “amount;”, substitute “amount.”.

249 Section 221ZXG

Omit all the words after paragraph (c).

250 At the end of section 221ZXG

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

251 At the end of section 221ZXG (after the note)

Add:

- (2) The depositor is liable to pay the general interest charge for each day in the period that:

- (a) started at the beginning of the day on which the repayment was made; and
- (b) finishes at the end of the day before the making of the owner's assessment for the year of income in which the repayment is made.

252 Sections 221ZXH, 221ZXI and 221ZXJ

Repeal the sections.

253 Division 7 of Part VI

Repeal the Division.

254 Subdivision E of Division 8 of Part VI (heading)

Repeal the heading, substitute:

Subdivision E—Late payment of estimate

255 Subsections 222AJA(3), (4) and (5)

Repeal the subsections, substitute:

- (3) The person is also liable to pay the general interest charge on the unpaid amount of the estimate for each day in the period that:
 - (a) started at the beginning of the day by which the estimate was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the estimate;
 - (ii) general interest charge on any of the estimate.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note: The heading to section 222AJA is altered by omitting “**penalty**” and substituting “**the general interest charge**”.

256 Subsection 222AJB(1)

Omit “a penalty payable under a provision of”, substitute “pay the general interest charge under”.

Note: The heading to section 222AJB is altered by omitting “**paying penalty**” and substituting “**paying the general interest charge**”.

257 Paragraph 222AJB(1)(a)

Omit “penalty”, substitute “general interest charge”.

258 Paragraphs 222AJB(1)(d) and (e)

Repeal the paragraphs, substitute:

- (d) a liability of the person to pay interest carried by a judgment debt, to the extent that the judgment debt is based on the liability to pay the estimate or on the liability to pay the general interest charge under subsection 222AJA(3) on an unpaid amount of the estimate.

259 Section 222AJC

Repeal the section.

260 Subsection 222ALB(2)

Repeal the subsection.

261 At the end of section 227

Add:

- Note: Section 204 sets out when the additional tax is payable and the consequences of not paying it on time.

262 Subsection 251M(1)

Omit “any additional tax or any interest under section 170AA or 207A”, substitute “the general interest charge under a provision of this Act”.

263 Subsection 251M(1)

Omit “penalty, additional tax or interest”, substitute “penalty, additional tax or general interest charge”.

264 At the end of subsection 251M(1)

Add:

- Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.
- Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

265 Subsection 254(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

266 At the end of subsection 254(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

267 Subsection 255(4)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

268 At the end of subsection 255(4)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

269 Subsection 258(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

270 At the end of subsection 258(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

271 Subsection 259(2)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

272 At the end of subsection 259(2)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

273 Subsection 265(12)

Omit all the words after “includes”, substitute “the general interest charge under a provision of this Act and additional tax under Part VII.”.

274 At the end of subsection 265(12)

Add:

Note 1: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note 2: Subsection 8AAB(4) of that Act lists the provisions that apply the charge.

275 Subsection 555(2) (definition of *basic statutory interest rate*)

Omit “, less 4 percentage points,”.

276 Subsection 592(2) (definition of *basic statutory interest rate*)

Omit “, less 4 percentage points,”.

Income Tax Assessment Act 1997

277 After subsection 20-25(2)

Insert:

Remission of general interest charge

(2A) If:

(a) you have incurred expenditure that consists of general interest charge under Division 1 of Part IIA of the *Taxation Administration Act 1953*; and

(b) the Commissioner remits any of that charge;

then you are taken to receive the remitted amount as *recoupment* of that expenditure.

278 Paragraph 25-5(1)(c)

Repeal the paragraph, substitute:

(c) the general interest charge under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

279 Division 786

Repeal the Division.

280 Subsection 995-1(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Petroleum Resource Rent Tax Assessment Act 1987

281 Section 2

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

282 Subsection 65(1)

Omit “interest to the Commissioner, calculated in accordance with”, substitute “the general interest charge for each day in the period in”.

Note: The heading to section 65 is altered by omitting “**interest**” and substituting “**the general interest charge**”.

283 At the end of subsection 65(1)

Add:

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

284 Subsection 65(2)

Omit “interest” (wherever occurring), substitute “general interest charge”.

285 Subsection 65(3)

Omit “interest” (wherever occurring), substitute “general interest charge”.

286 Subsection 65(3)

Omit “to the Commissioner, calculated in accordance with”, substitute “for each day in the period in”.

287 Subsection 65(4)

Omit “Interest”, substitute “The general interest charge”.

288 Subsection 65(4)

Omit “shall be calculated”, substitute “is payable for each day in the period that”.

289 Paragraph 65(4)(a)

Omit “in respect of the period commencing on”, substitute “started at the beginning of”.

290 Subparagraph 65(4)(a)(ii)

Omit “amendment,”, substitute “amendment; and”.

291 Subsection 65(4)

Omit all the words after subparagraph (ii).

292 Paragraph 65(4)(b)

Repeal the paragraph, substitute:

(b) finishes at the end of the day before the current amended assessment is made.

293 Subsections 65(8) to (11)

Repeal the subsections.

294 Subsections 65(12) and (13)

Omit “interest” (wherever occurring), substitute “the general interest charge”.

295 At the end of section 65

Add:

- (14) The amount of the general interest charge that a person is liable to pay is called *interest* payable under this section.

296 Section 85

Repeal the section, substitute:

85 Unpaid tax

- (1) If any of the tax which a person is liable to pay remains unpaid after the time by which the tax is due to be paid, the person is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) The person is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the day by which the tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax;
 - (ii) general interest charge on any of the tax.
- (3) The amount of the general interest charge is taken to be *additional tax* payable under this section.
- (4) In this section:
- tax* includes additional tax under Part IX.

Sales Tax Assessment Act 1992

297 Section 5

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

298 Section 5 (definition of *late-payment penalty*)

Repeal the definition, substitute:

late-payment penalty means the general interest charge under section 68.

299 Section 55

Repeal the section.

300 Section 56

Omit “section 55”, substitute “section 8AAZL of the *Taxation Administration Act 1953*”.

301 Section 68

Repeal the section, substitute:

68 Unpaid tax

- (1) If any of the tax which a person is liable to pay remains unpaid after the time by which the tax is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
 - (a) started at the beginning of the day by which the tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax;
 - (ii) general interest charge on any of the tax.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) In this section:

tax includes penalty under Part 9.

302 Subsection 76(2)

Repeal the subsection.

303 After subsection 91Z(2)

Insert:

- (2A) If the person fails to send to the Commissioner the form notifying the amounts, or notifies the Commissioner of one or more amounts that are less than the correct amount, the person is liable to pay the failure to notify penalty on the total of the amounts, or on the amount of the shortfall, for each day in the period that:
- (a) started at the beginning of the day by which the person was required to send the form to the Commissioner; and
 - (b) finishes at the end of the day before the Commissioner receives from the person the form notifying the correct amounts, or the Commissioner otherwise becomes aware of the correct amounts.

304 Section 91ZB

Repeal the section, substitute:

91ZB Failure to make deductions from payments

- (1) If a person, other than a government body, making a payment does not deduct from the payment the amount required to be deducted under this Division, the person is liable to pay to the Commissioner an amount, by way of penalty, equal to the amount not deducted.
 - (2) The person must pay the penalty amount by the time by which, if the person had deducted the amount required to be deducted, the person would have been required to pay that amount to the Commissioner.
 - (3) If any of the penalty amount remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid penalty amount for each day in the period that:
 - (a) started at the beginning of the day by which the penalty amount was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
-

- (i) the penalty amount;
- (ii) general interest charge on any of the penalty amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

305 At the end of section 91ZB

Add:

Government bodies

- (4) If a government body making a payment does not deduct from the payment the amount required to be deducted under this Division, the government body is liable to pay the general interest charge on the amount not deducted for each day in the period that:
 - (a) started at the beginning of the day by which, if the government body had deducted the amount, the government body would have been required to pay the amount to the Commissioner; and
 - (b) finishes at the end of 30 June in the financial year in which that day occurred.

Note: The general interest charge does not apply to the Commonwealth or authorities of the Commonwealth: see subsection 8AAB(3) of the *Taxation Administration Act 1953*.

306 Section 91ZC

Repeal the section, substitute:

91ZC Failure to pay deducted amounts

If any of the amount which a person must pay to the Commissioner under subsection 91Z(1) remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the amount was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the amount;
 - (ii) general interest charge on any of the amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

307 Before section 96

Insert:

95A Failure to notify of assessable dealings with goods

- (1) A taxpayer who fails to notify an assessable dealing with goods in a return on or before the day on which the taxpayer must lodge a return under section 61 is liable to pay the failure to notify penalty on the amount of the assessable dealing.
- (2) A taxpayer who notifies an amount of an assessable dealing with goods in a return that is less than the correct amount of the assessable dealing is liable to pay the failure to notify penalty on the amount of the shortfall.
- (3) The failure to notify penalty is payable for each day in the period that:
 - (a) started at the beginning of the day by which the taxpayer was required to lodge the return; and
 - (b) finishes at the end of the day before the Commissioner receives notification from the taxpayer, or otherwise becomes aware, of the correct amount.
- (4) The *failure to notify penalty* means the penalty worked out under Division 2 of Part IIA of the *Taxation Administration Act 1953*.

308 Section 96

Omit “a return or other information”, substitute “information (other than information in a return covered by section 95A)”.

Note: The heading to section 96 is altered by omitting “**return or**”.

Superannuation Contributions Tax (Assessment and Collection) Act 1997

309 Section 6

Omit “interest is payable on the additional surcharge”, substitute “the general interest charge is payable on the additional surcharge”.

310 Section 6

Omit:

- | |
|---|
| <ul style="list-style-type: none">• The Commissioner may remit interest or late payment penalty: a refusal to remit is reviewable by the Administrative Appeals Tribunal. |
|---|

311 Subsections 21(1) and (2)

Repeal the subsections, substitute:

- (1) If an amendment of an assessment increasing a person’s liability to pay surcharge for a financial year is made, the person is liable to pay the general interest charge on the amount of the increase for each day in the period that:
- (a) started at the beginning of 15 June in the financial year; and
 - (b) finishes at the end of the day before the amended assessment is made.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note: The heading to section 21 is altered by omitting “**interest to Commonwealth**” and substituting “**the general interest charge**”.

312 Subsections 21(4), (5) and (6)

Repeal the subsections.

313 Section 22

Repeal the section, substitute:

22 Payment of general interest charge if surcharge payable under a further assessment

If, under an assessment (the *new assessment*) made under subsection 15(1) because of subsection 20(3), a person is liable to pay an amount of surcharge for a financial year, the person is liable

to pay the general interest charge on that amount for each day in the period that:

- (a) started at the beginning of 15 June in the financial year; and
- (b) finishes at the end of the day before the new assessment is made.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

314 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Recovery of unpaid surcharge, advance instalment, general interest charge or late payment penalty

315 Subsections 25(1) to (3A)

Repeal the subsections, substitute:

Liability to pay general interest charge

- (1) If an amount of surcharge or advance instalment that a person is liable to pay remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

General interest charge period

- (2) The person is liable to pay the general interest charge for each day in the period that:
 - (a) started at the beginning of the day by which the surcharge or advance instalment was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the surcharge;
 - (ii) the advance instalment;

- (iii) general interest charge on any of the surcharge or the advance instalment.

316 Subsection 25(3B)

Omit “interest”, substitute “general interest charge”.

317 Subsection 25(4)

Repeal the subsection.

318 After section 25

Insert:

25A Additional liability to pay general interest charge

Commissioner may give notice

- (1) If general interest charge (the *primary general interest charge*) is payable by a person under section 21 or 22, the Commissioner may give a notice to the person specifying a date after which general interest charge will apply under this section. The specified date must be at least 30 days after the notice is given.

Liability to pay general interest charge

- (2) If any of the primary general interest charge remains unpaid after the day specified in the notice, the person is liable to pay general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

General interest charge period

- (3) The person is liable to pay the general interest charge for each day in the period that:
 - (a) started at the beginning of the day specified in the notice; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) primary general interest charge;

- (ii) general interest charge on primary general interest charge.

319 Paragraph 26(c)

Omit “interest”, substitute “general interest charge under section 21 or 22”.

320 Section 27

Omit “interest”, substitute “general interest charge”.

Note: The heading to section 27 is altered by omitting “**interest**” and substituting “**general interest charge**”.

321 Section 28

Repeal the section.

322 Section 29

Repeal the section.

323 Subsection 37(4)

Omit “interest”, substitute “general interest charge”.

324 Section 43

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

325 Section 43 (definition of *interest*)

Omit “interest”, substitute “general interest charge”.

326 Section 43 (definition of *late payment penalty*)

Repeal the definition, substitute:

late payment penalty means general interest charge payable under section 25 or 25A.

***Superannuation Contributions Tax (Members of
Constitutionally Protected Superannuation Funds)
Assessment and Collection Act 1997***

327 Section 6

Omit “interest”, substitute “general interest charge”.

328 Section 6

Omit:

- | |
|---|
| <ul style="list-style-type: none">• The Commissioner may remit interest or late payment penalty: a refusal to remit is reviewable by the Administrative Appeals Tribunal. |
|---|

329 Subsections 18(1) and (2)

Repeal the subsections, substitute:

Liability to pay general interest charge

- (1) If an amendment of an assessment increasing a member’s liability to pay surcharge for a financial year is made, the member is liable to pay the general interest charge on the amount of the increase for each day in the period that:
- (a) started at the beginning of 15 June in the financial year; and
 - (b) finishes at the end of the day before the amended assessment is made.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Note: The heading to section 18 is altered by omitting “**interest to Commonwealth**” and substituting “**the general interest charge**”.

330 Subsections 18(4), (5) and (6)

Repeal the subsections.

331 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Recovery of unpaid surcharge, general interest charge or late payment penalty

332 Subsections 21(1) to (4)

Repeal the subsections, substitute:

Liability to pay general interest charge

- (1) If an amount of surcharge that a person is liable to pay remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

General interest charge period

- (2) The person is liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day by which the surcharge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the surcharge;
 - (ii) general interest charge on any of the surcharge.

333 Subsection 21(6)

Repeal the subsection.

334 Paragraph 22(b)

Omit “interest”, substitute “general interest charge under section 21”.

335 Section 23

Omit “interest”, substitute “general interest charge”.

Note: The heading to section 23 is altered by omitting “**interest**” and substituting “**general interest charge**”.

336 Section 24

Repeal the section.

337 Section 25

Repeal the section.

338 Subsection 31(4)

Omit “interest”, substitute “general interest charge”.

339 Section 38

Insert:

general interest charge means the charge worked out under
Division 1 of Part IIA of the *Taxation Administration Act 1953*.

340 Section 38 (definition of *interest*)

Repeal the definition.

341 Section 38 (definition of *late payment penalty*)

Repeal the definition, substitute:

late payment penalty means general interest charge payable under
section 21.

Superannuation Entities (Taxation) Act 1987

342 Section 15A

Repeal the section.

343 Section 15DG

Repeal the section.

Superannuation Guarantee (Administration) Act 1992

344 Subsection 6(1)

Insert:

general interest charge means the charge worked out under
Division 1 of Part IIA of the *Taxation Administration Act 1953*.

345 Section 49

Repeal the section, substitute:

49 Unpaid superannuation guarantee charge

- (1) If any of the superannuation guarantee charge which an employer is liable to pay remains unpaid after the time by which it is due to be paid, the employer is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) However, the unpaid amount must be reduced by those amounts in respect of:

- (a) the employer's administration component for the year; and
- (b) the employer's nominal interest component for the year.

- (3) The employer is liable to pay the general interest charge for each day in the period that:

- (a) started at the beginning of the day by which the superannuation guarantee charge was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the superannuation guarantee charge;
 - (ii) general interest charge on any of the superannuation guarantee charge.

- (4) The amount of the general interest charge is taken to be ***additional superannuation guarantee charge*** payable under this section.

- (5) In this section:

superannuation guarantee charge includes additional superannuation guarantee charge under Part 7.

Taxation Administration Act 1953

346 Section 2

Insert:

exempt Australian government agency has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

347 Section 2

Insert:

failure to notify penalty means the penalty worked out under Division 2 of Part IIA.

348 Section 2

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA.

349 Section 2

Insert:

late reconciliation statement penalty means the penalty worked out under Division 3 of Part IIA.

350 After Part II

Insert:

Part IIA—Charges and penalties for failing to meet obligations

Division 1—The general interest charge

8AAA Overview

This Division explains how to work out the general interest charge on an amount.

Usually, a person is liable to pay the charge if an amount that the person must pay to the Commissioner is not paid on time. But there are also other circumstances in which a person can be liable.

A person is only liable to pay the charge if a provision of an Act makes the person liable. (Most of the provisions are in the *Income Tax Assessment Act 1936*.)

8AAB When the general interest charge applies

- (1) There are certain provisions of this Act and other Acts that make persons liable to pay the general interest charge. Subsections (4) and (5) list the provisions.
- (2) A person is only liable to pay the charge on an amount if a provision specifies that the person is liable to pay the charge on the amount.
- (3) The charge does not apply to the Commonwealth or an authority of the Commonwealth.
- (4) The following table is an index of the provisions of the *Income Tax Assessment Act 1936* that deal with liability to the charge.

Liability to the charge under the <i>Income Tax Assessment Act 1936</i>		
Item	Section	Topic
1	128C	payment of withholding tax
2	160ARU	payment of franking deficit tax
3	160ARUA	payment of deficit deferral tax
4	160ARV	payment of franking additional tax
5	160ARW	payment of franking deficit tax—amended assessments
6	163AA	returns by instalment taxpayers
7	163B	returns by persons other than instalment taxpayers
8	170AA	amended assessments
9	204	payment of tax assessed
10	220AAE	payment of RPS, PAYE and PPS deductions (large remitters)
11	220AAM	payment of RPS, PAYE and PPS deductions (medium remitters)

Schedule 1 Running balance accounts, general interest charge and related matters
Part 1 Amendments

Liability to the charge under the <i>Income Tax Assessment Act 1936</i>		
Item	Section	Topic
12	220AAR	payment of RPS, PAYE and PPS deductions (small remitters)
13	220AAW	non-electronic payment of RPS, PAYE and PPS deductions (large remitters)
14	220AS	deductions from reportable payments (RPS)
15	221AZMAA	payment of instalments by companies etc.
16	221AZP	underestimation of instalments by companies etc.
17	221EAA	deductions from salary or wages (PAYE)
18	221YD	payment of provisional tax or instalments of provisional tax
19	221YDB	provisional tax—income under-estimated or PAYE deductions over-estimated
20	221YHH	deductions from prescribed payments (PPS)
21	221YHZC	deductions from certain payments
22	221YHZD	payment of certain payments
23	221YN	payment of withholding tax
24	221ZC	payment of mining withholding tax
25	221ZD	deductions of mining withholding tax
26	221ZO	deductions—Australian Film Industry Trust Fund accounts
27	221ZP	payments—Australian Film Industry Trust Fund accounts
28	221ZXC	payments of farm management deposits
29	221ZXG	understated farm management deposits
30	222AJA	payments of estimates of certain amounts

- (5) The following table is an index of the provisions of Acts other than the *Income Tax Assessment Act 1936* that deal with liability to the charge.

Liability to the charge under other Acts		
Item	Section	Act
1	93	<i>Fringe Benefits Tax Assessment Act 1986</i>
2	112	<i>Fringe Benefits Tax Assessment Act 1986</i>
3	65	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>
4	85	<i>Petroleum Resource Rent Tax Assessment Act 1987</i>
5	68	<i>Sales Tax Assessment Act 1992</i>
6	91ZB	<i>Sales Tax Assessment Act 1992</i>
7	91ZC	<i>Sales Tax Assessment Act 1992</i>
8	21	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>
9	22	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>
10	25	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i>
11	18	<i>Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997</i>
12	21	<i>Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997</i>
13	49	<i>Superannuation Guarantee (Administration) Act 1992</i>
14	8AAN	<i>Taxation Administration Act 1953</i>
15	8AAT	<i>Taxation Administration Act 1953</i>
16	8AAZF	<i>Taxation Administration Act 1953</i>
17	8AAZN	<i>Taxation Administration Act 1953</i>
18	13	<i>Taxation (Unpaid Company Tax) Assessment Act 1982</i>
19	13	<i>Termination Payments Tax (Assessment and Collection) Act 1997</i>
20	16	<i>Termination Payments Tax (Assessment and Collection) Act 1997</i>

Liability to the charge under other Acts		
Item	Section	Act
21	18	<i>Tobacco Charges Assessment Act 1955</i>
22	38	<i>Wool Tax (Administration) Act 1964</i>

8AAC Amount of the general interest charge

- (1) The general interest charge for a day is worked out in accordance with this section.
- (2) If the charge is payable under section 8AAZF on the RBA deficit at the end of that day, then the charge is worked out by multiplying the general interest charge rate for that day by the RBA deficit at the end of that day.
- (3) If the charge is not payable under section 8AAZF, but applies to an amount that remains unpaid (the *original unpaid amount*), then the charge is worked out by multiplying the general interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:
 - (a) the charge from previous days;
 - (b) the original unpaid amount.
- (4) If the charge applies to an amount that is specified in the provision that imposes the charge, but neither subsection (2) nor (3) applies, then the charge is worked out by multiplying the general interest charge rate for that day by the sum of the following amounts:
 - (a) so much of the charge from previous days as remains unpaid;
 - (b) the specified amount.

8AAD What is the general interest charge rate

- (1) The *general interest charge rate* for a day is the rate worked out by adding 8 percentage points to the Treasury Note yield rate for that day, and dividing that total by the number of days in the calendar year.
 - (2) The *Treasury Note yield rate* for a day depends on which quarter of the year the day is in. For each day in a quarter in the second column of the table, it is the weighted average yield set at the last
-

weekly tender for the 13 week Treasury Note before the end of the month in the third column of the table.

Treasury Note yield rate		
Item	For days in this quarter...	the last weekly tender before the end of this month applies...
1	1 January to 31 March	the preceding November
2	1 April to 30 June	the preceding February
3	1 July to 30 September	the preceding May
4	1 October to 31 December	the preceding August

- (3) The Treasury Note yield rate must be rounded to the second decimal place (rounding .005 upwards).

8AAE When the charge is due and payable

The general interest charge for a day is due and payable to the Commissioner at the end of that day.

Note: For rules about how the charge can be recovered, see Division 4.

8AAF Notification by Commissioner

- (1) The Commissioner may give notice to a person liable to pay the charge of the amount of the charge for a particular day or days.
- (2) If the amount of the charge specified in the notice is not a multiple of 5 cents, the Commissioner may round it down to the nearest multiple of 5 cents.
- (3) The notice may be included in any other notice issued by the Commissioner in respect of the person.

8AAG Remission of the charge

- (1) The Commissioner may remit all or a part of the charge payable by a person.

- (2) However, if a person is liable to pay the charge because an amount remains unpaid after the time by which it is due to be paid, the Commissioner may only remit all or a part of the charge in the circumstances set out in subsection (3), (4) or (5).
- (3) The Commissioner may remit all or a part of the charge referred to in subsection (2) if the Commissioner is satisfied that:
 - (a) the circumstances that contributed to the delay in payment were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (b) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances.
- (4) The Commissioner may remit all or a part of the charge referred to in subsection (2) if the Commissioner is satisfied that:
 - (a) the circumstances that contributed to the delay in payment were due to, or caused directly or indirectly by, an act or omission of the person; and
 - (b) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances; and
 - (c) having regard to the nature of those circumstances, it would be fair and reasonable to remit all or a part of the charge.
- (5) The Commissioner may remit all or a part of the charge referred to in subsection (2) if the Commissioner is satisfied that there are special circumstances because of which it would be fair and reasonable to remit all or a part of the charge.

8AAH Judgment for payment of an unpaid amount

- (1) This section applies if judgment is given by, or entered in, a court for the payment of:
 - (a) all or a part of an amount in respect of which a person is, or was, liable to pay the charge because the amount remains unpaid after the time by which it is due to be paid; or
 - (b) an amount that includes all or a part of the unpaid amount.
 - (2) The consequences of judgment being given or entered are:
 - (a) the unpaid amount is not taken, for the purposes of a provision that makes, or would make, the person liable to pay
-

the charge on the unpaid amount, to have ceased to be due and payable by reason only of the giving or entering of the judgment; and

- (b) if the judgment debt carries interest, the amount of the charge that the person would, if not for this paragraph, be liable to pay on the unpaid amount is reduced by:
- (i) in a case to which paragraph (1)(a) applies—the amount of the interest; or
 - (ii) in a case to which paragraph (1)(b) applies—the amount worked out using the formula:

$$\frac{\text{Unpaid amount or part of unpaid amount}}{\text{Judgment debt}} \leftrightarrow \text{Interest}$$

Division 2—The failure to notify penalty

8AAI Overview

This Division explains how to work out the failure to notify penalty on an amount.

Generally, a person is liable to pay the penalty if the person must notify the Commissioner by a certain time of an amount that the person is liable to pay, and fails to do so.

A person is only liable to pay the penalty if a provision of an Act makes the person liable. (Most of the provisions are in the *Income Tax Assessment Act 1936*.)

8AAJ When the failure to notify penalty applies

- (1) There are certain provisions of other Acts that make persons liable to pay the failure to notify penalty. Subsection (4) lists the provisions.

(2) A person is only liable to pay the penalty on an amount if a provision specifies that the person is liable to pay the penalty on the amount.

(3) The penalty does not apply to exempt Australian government agencies.

Note: *Exempt Australian government agency* is defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

(4) The following table is an index of the provisions in the *Income Tax Assessment Act 1936* that deal with liability to the penalty. Sections 91Z and 95A of the *Sales Tax Assessment Act 1992* also deal with liability to the penalty.

Liability to the penalty under the <i>Income Tax Assessment Act 1936</i>		
Item	Section	Topic
1	220AAGA	payment of RPS, PAYE and PPS deductions (large remitter)
2	220AAOA	payment of RPS, PAYE and PPS deductions (medium remitter)
3	220AATA	payment of RPS, PAYE and PPS deductions (small remitter)
4	221YHZCA	deductions from certain payments
5	221YN	withholding tax
6	221ZC	mining withholding tax
7	221ZNA	Australian Film Industry Trust Fund accounts

8AAK Amount of the failure to notify penalty

(1) The failure to notify penalty on an amount is payable by a person for each day in the period that is specified in the provision which makes the person liable to pay the penalty.

(2) The penalty on an amount is worked out at the rate of 8% per annum of the amount.

8AAL Notification by Commissioner

(1) The Commissioner must give written notice to the person of:

- (a) the amount of the penalty; and
 - (b) the day on which that amount of the penalty is due and payable, which must be at least 30 days after the notice is given to the person.
- (2) The amount of the penalty is due and payable to the Commissioner on the day specified.
- (3) The notice may be included in any other notice issued by the Commissioner in respect of the person.

Note: For rules about how the penalty can be recovered, see Division 4.

8AAM Remission of the penalty

The Commissioner may remit all or a part of the penalty payable by a person if the Commissioner is satisfied that:

- (a) the circumstances that contributed to the failure to notify, or delay in notifying, the Commissioner were not due to, or caused directly or indirectly by, an act or omission of the person; and
- (b) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances.

8AAN Failure to pay the penalty

If any of the amount of penalty that a person is liable to pay remains unpaid after the day by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the amount of the penalty was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty;
 - (ii) general interest charge on any of the penalty.

Note: The general interest charge is worked out under Division 1.

Division 3—The late reconciliation statement penalty

8AAO Overview

This Division explains how to work out the late reconciliation statement penalty on an amount.

Generally, a person is liable to pay the penalty if the person must give the Commissioner a reconciliation statement, report or form by a certain time, and fails to do so.

A person is only liable to pay the penalty if a provision of an Act makes the person liable. (All of the provisions are in the *Income Tax Assessment Act 1936*.)

8AAP When the late reconciliation statement penalty applies

- (1) There are certain provisions of the *Income Tax Assessment Act 1936* that make persons liable to pay the late reconciliation statement penalty. Subsection (4) lists the provisions.
- (2) A person is only liable to pay the penalty if a provision specifies that the person is liable to pay the penalty.
- (3) The penalty does not apply to exempt Australian government agencies.

Note: *Exempt Australian government agency* is defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

- (4) The following table is an index of the provisions of the *Income Tax Assessment Act 1936* that deal with liability to the penalty.

Liability to the penalty under the <i>Income Tax Assessment Act 1936</i>		
Item	Subsection	Topic
1	220AJ(5)	RPS payment report
2	221F(6)	PAYE deductions reconciliation statement
3	221YHDC(9A)	PPS payment summary

Liability to the penalty under the <i>Income Tax Assessment Act 1936</i>		
Item	Subsection	Topic
4	221YHZC(1AAA)	statement of deductions from certain payments
5	221YN(2C)	statement of withholding tax deductions
6	221ZC(2C)	statement of mining withholding tax deductions
7	221ZXD(4)	farm management deposits report

8AAQ Amount of the late reconciliation statement penalty

- (1) The late reconciliation statement penalty is payable by a person for each week in the period that:
 - (a) starts on the day by which the statement, report or form referred to in the provision which makes the person liable to pay the penalty is due to be given to the Commissioner; and
 - (b) ends on the day before the Commissioner is given the statement, report or form.
- (2) The penalty is \$10 for each week, or part of a week. However, the penalty for a particular reconciliation statement cannot exceed \$200.

8AAR Notification by Commissioner

- (1) The Commissioner must give written notice to the person of:
 - (a) the amount of the penalty; and
 - (b) the day on which that amount of the penalty is due and payable, which must be at least 30 days after the notice is given to the person.
- (2) The amount of the penalty is due and payable to the Commissioner on the day specified.
- (3) The notice may be included in any other notice issued by the Commissioner in respect of the person.

Note: For rules about how the penalty can be recovered, see Division 4.

8AAS Remission of the penalty

- (1) The Commissioner may remit all or a part of the penalty payable by a person if the Commissioner is satisfied that:
 - (a) the circumstances that contributed to the failure to give, or delay in giving, the Commissioner the statement, report or form referred to in the provision which makes the person liable to pay the penalty were not due to, or caused directly or indirectly by, an act or omission of the person; and
 - (b) the person has taken reasonable action to mitigate, or mitigate the effects of, those circumstances.
- (2) The Commissioner may also remit all or a part of the penalty if the Commissioner is satisfied that there are special circumstances because of which it would be fair and reasonable to remit all or a part of the penalty.

8AAT Failure to pay the penalty

If any of the amount of penalty that a person is liable to pay remains unpaid after the day by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the amount of the penalty was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the penalty;
 - (ii) general interest charge on any of the penalty.

Note: The general interest charge is worked out under Division 1.

Division 4—Recovery of charges and penalties

8AAU Overview

This Division sets out how the Commissioner can recover unpaid amounts of the general interest charge, the failure to notify penalty and the late reconciliation statement penalty.

8AAV Recovery of amounts by Commissioner

- (1) This Division applies to the following amounts if the amount is not paid to the Commissioner on or before the day by which the amount is due to be paid:
 - (a) an amount of the general interest charge under Division 1;
 - (b) an amount of the failure to notify penalty under Division 2;
 - (c) an amount of the late reconciliation statement penalty under Division 3.
- (2) The amount may be sued for and recovered in a court of competent jurisdiction by the Commissioner, or a Deputy Commissioner, suing in his or her official name.
- (3) The provisions of section 8ZL (which deals with averments) apply in proceedings for the recovery of the amount in a corresponding way to the way in which they apply in relation to a prosecution for a prescribed taxation offence within the meaning of Part III.
- (4) A notice under section 8AAF, 8AAL or 8AAR given to a person by the Commissioner is prima facie evidence of the matters stated in the notice.

Note: Notices under those sections notify persons liable to pay amounts of how much the amounts are.

8AAW Substituted service

If the Commissioner is satisfied, after reasonable enquiry, that a person against whom proceedings for recovery of amounts are taken:

- (a) is absent from Australia and does not have any attorney or agent in Australia on whom service of process can be effected; or
- (b) cannot be found;

service of any process in the proceedings may, without the leave of the Court, be effected on the person by posting the process or a sealed copy of it in a letter addressed to the person at the person's last known place of business or residence in Australia.

351 Before Part III

Insert:

Part IIB—Running balance accounts, application of payments and credits, and related matters

Division 1—Preliminary

8AAZA Definitions

In this Part, unless the contrary intention appears:

company includes any body or association (whether or not it is incorporated), but does not include a partnership.

deficit, in relation to an RBA, means a balance in favour of the Commissioner, based on tax debts that remain unpaid after they are due for payment.

entity means any of the following:

- (a) a company;
- (b) a partnership;
- (c) a person in a particular capacity of trustee;
- (d) a body politic;
- (e) a corporation sole;
- (f) any other person.

FS assessment debt has the same meaning as in the *Student Assistance Act 1973*.

HEC assessment debt has the same meaning as in Chapter 5A of the *Higher Education Funding Act 1988*.

non-RBA tax debt means a tax debt other than an RBA deficit debt.

primary tax debt means any amount due to the Commonwealth directly under a taxation law, including any such amount that is not yet payable.

RBA means a running balance account established under section 8AAZC.

RBA class means a class of tax debts covered by paragraph 8AAZC(1)(a), (b), (c) or (d).

RBA deficit means a deficit on an RBA.

Note: See also the definition of *deficit*.

RBA deficit debt means an RBA deficit that is a debt under section 8AAZH.

RBA statement means a statement prepared by the Commissioner under section 8AAZG.

secondary tax debt means an amount that is not a primary tax debt, but is due to the Commonwealth in connection with a primary tax debt.

Note: An example of a secondary tax debt is an amount due to the Commonwealth under an order of a court made in a proceeding for recovery of a primary tax debt.

special priority credit means a credit under section 220AZ, section 221H, section 221YE, subsection 221YHF(1) or section 221YHZK of the *Income Tax Assessment Act 1936*.

tax debt means a primary tax debt or a secondary tax debt.

tax debtor means:

- (a) in relation to a tax debt—the person or persons who are liable for the tax debt; and
- (b) in relation to an RBA—the person or persons who are liable for the tax debts that are allocated to the RBA.

8AAZB Trustee to be treated as separate entity for each capacity

For the purposes of this Part, a person who is a trustee in more than one capacity is to be treated as a separate entity in relation to each of those capacities.

Division 2—Running balance accounts (or RBAs)

8AAZC Establishment of RBAs

- (1) The Commissioner may establish a system of accounts for each of the following 4 classes of primary tax debts:
 - (a) primary tax debts due under the *Sales Tax Assessment Act 1992*;
 - (b) primary tax debts due:
 - (i) under Division 1AA of Part VI of the *Income Tax Assessment Act 1936*; or
 - (ii) under Division 1AAA of that Part in relation to deductions made under Division 1AA of that Part;
 - (c) primary tax debts due:
 - (i) under Division 2 of Part VI of the *Income Tax Assessment Act 1936*; or
 - (ii) under Division 1AAA of that Part in relation to deductions made under Division 2 of that Part;
 - (d) primary tax debts due:
 - (i) under Division 3A of Part VI of the *Income Tax Assessment Act 1936*; or
 - (ii) under Division 1AAA of that Part in relation to deductions made under Division 3A of that Part.
- (2) Each account is to be known as a Running Balance Account (or RBA).
- (3) An RBA may be established for any entity.

Note: The same *person* might be part of different *entities*. For example, a person might have a trustee capacity and also be a partner in a partnership. The person would then be a tax debtor in relation to each of the separate RBAs established for the trustee capacity and the partnership.
- (4) Within an RBA class, RBAs for entities may be established on any basis that the Commissioner determines.
- (5) Without limiting subsection (4), separate RBAs may be established for:

- (a) different businesses or undertakings conducted by the same entity; or
- (b) different parts of the same business or undertaking; or
- (c) different periods.

8AAZD Allocation of tax debts to RBAs

- (1) Each primary tax debt in an RBA class must be allocated as follows:
- (a) if there is only one RBA for that class for the tax debtor—the tax debt must be allocated to that RBA;
 - (b) if there are several RBAs for that class for the tax debtor—the tax debt must be allocated to one of those RBAs, or between 2 or more of those RBAs, in the manner determined by the Commissioner.

Note: Under section 8AAZF, any general interest charge on an RBA deficit is also allocated to an RBA.

- (2) In this section:

primary tax debt does not include:

- (a) general interest charge; or
- (b) an RBA deficit debt; or
- (c) a penalty under subsection 220AAW(2) of the *Income Tax Assessment Act 1936*.

8AAZE Allocation of payments and credits to RBAs

If a payment or credit is applied under section 8AAZL against:

- (a) a tax debt that has been allocated to one or more RBAs; or
- (b) general interest charge on a tax debt, where the tax debt has been allocated to one or more RBAs; or
- (c) a judgment debt in respect of:
 - (i) a tax debt that has been allocated to one or more RBAs; or
 - (ii) general interest charge on a tax debt, where the tax debt has been allocated to one or more RBAs;

then the amount so applied must also be allocated as follows:

- (d) if the tax debt was allocated to one RBA—the amount so applied must be allocated to that RBA;
- (e) if the tax debt was allocated between 2 or more RBAs—the amount so applied must be allocated between those RBAs in the proportions in which the tax debt was allocated.

8AAZF General interest charge on RBA deficit

- (1) If there is a deficit on an RBA at the end of a day, then general interest charge is payable by the tax debtor on that deficit for that day.
- (2) The general interest charge for each day must be allocated to the RBA.

8AAZG RBA statements

The Commissioner may at any time prepare a statement for an RBA, containing such particulars as the Commissioner determines.

8AAZH Recovery of RBA deficit

- (1) An RBA deficit:
 - (a) is a debt due to the Commonwealth by the tax debtor; and
 - (b) is payable to the Commissioner; and
 - (c) may be recovered in a court of competent jurisdiction by the Commissioner, or by a Deputy Commissioner, suing in his or her official name.
- (2) If there are several tax debtors, their liability for the debt is of the same kind as their liability for the tax debts that were allocated to the RBA.

Example: If the tax debtors are jointly and severally liable for the tax debts that were allocated to the RBA, they will also be jointly and severally liable for the deficit on the RBA.

8AAZI RBA statement to be evidence

- (1) The production of an RBA statement:
 - (a) is prima facie evidence that the RBA was duly kept; and
-

(b) is prima facie evidence that the amounts and particulars in the statement are correct.

(2) In this section:

RBA statement includes a document that purports to be a copy of an RBA statement and is signed by the Commissioner or a delegate of the Commissioner or by a Second Commissioner or Deputy Commissioner.

8AAZJ Evidentiary certificate about RBA transactions etc.

(1) In proceedings for recovery of an RBA deficit debt, a Commissioner's certificate stating any of the following matters in respect of a specified RBA is prima facie evidence of those matters:

- (a) that no tax debts (other than general interest charge on the RBA deficit) were allocated to the RBA after the balance date shown on a specified RBA statement for the RBA;
- (b) that general interest charge was allocated to the RBA, as specified in the certificate;
- (c) that payments and credits were allocated to the RBA, as specified in the certificate;
- (d) that a specified amount was the RBA deficit on the date of the certificate.

(2) In this section:

Commissioner's certificate means a certificate signed by the Commissioner or a delegate of the Commissioner, or by a Second Commissioner or Deputy Commissioner.

8AAZK Effect of judgment in proceedings to recover RBA deficit debt

If:

- (a) the Commissioner obtains judgment against a tax debtor in a proceeding to recover an RBA deficit debt; and
- (b) an amount (the **recovered amount**) is paid or applied in satisfaction of the judgment debt;

then the Commissioner must apply the recovered amount in reduction of the liability of the tax debtor for:

- (c) tax debts that were allocated to the RBA; and
- (d) general interest charge on tax debts that were allocated to the RBA.

Example: If the Commissioner obtains judgment for \$1,000 and \$600 is paid in satisfaction of the judgment debt, then the Commissioner must apply a total of \$600 in reducing the debts referred to in paragraphs (c) and (d).

Division 3—Application of payments and credits against tax debts

8AAZL Application of payments and credits against tax debts

- (1) Any payment received by the Commissioner in respect of a tax debt or tax debts of a tax debtor must be applied against one or more non-RBA tax debts of that tax debtor, in the manner determined by the Commissioner.

Note: If a payment is applied against a tax debt, it might also be allocated to an RBA under section 8AAZE.

- (2) If a tax debtor is entitled to a credit under a taxation law, the Commissioner may apply the credit in reduction of one or more non-RBA tax debts of that tax debtor, in the manner determined by the Commissioner. The Commissioner must refund any amount that is not so applied.

Note: If a credit is applied against a tax debt, it might also be allocated to an RBA under section 8AAZE.

- (3) If the credit is a special priority credit, then it must be applied:
- (a) firstly against any HEC assessment debt of the tax debtor; and
 - (b) then against any FS assessment debt of the tax debtor;
- before it is applied against other non-RBA tax debts of the tax debtor.
- (4) In applying this section, the Commissioner is not required to take account of any instructions of any person in respect of the payment or credit.
-

Division 4—Miscellaneous provisions about tax debts

8AAZM When payments are treated as received

For the purposes of taxation laws, a payment in respect of a tax debt is taken not to have been made until it is received by:

- (a) the Commissioner; or
- (b) a person acting on behalf of the Commissioner.

8AAZN Overpayments made by the Commissioner under taxation laws

- (1) An administrative overpayment (the *overpaid amount*):
 - (a) is a debt due to the Commonwealth by the person to whom the overpayment was made (the *recipient*); and
 - (b) is payable to the Commissioner; and
 - (c) may be recovered in a court of competent jurisdiction by the Commissioner, or by a Deputy Commissioner, suing in his or her official name.

(2) If:

- (a) the Commissioner has given a notice to the recipient in respect of the overpaid amount, specifying a due date for payment that is at least 30 days after the notice is given; and
- (b) any of the overpaid amount remains unpaid at the end of that due date;

then the recipient is liable to pay the general interest charge on the unpaid amount for each day in the period that:

- (c) started at the beginning of that due date; and
- (d) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the overpaid amount;
 - (ii) general interest charge on any of the overpaid amount.

(3) In this section:

administrative overpayment means an amount that the Commissioner has paid to a person by mistake, being an amount to which the person is not entitled.

352 Subsection 16B(2) (definition of *tax liability*)

After “liability”, insert “(other than a liability to pay the general interest charge)”.

***Taxation (Interest on Overpayments and Early Payments) Act
1983***

353 Subsection 3(1) (definition of *income tax crediting amount*)

Repeal the definition, substitute:

income tax crediting amount, in relation to income tax payable by a person for a year of income, means:

- (a) any of the following that is applied against the income tax under section 8AAZL of the *Taxation Administration Act 1953*:
 - (i) any amount of a credit under Division 18, 18A or 18B of Part III of the Tax Act or under the *Income Tax (International Agreements) Act 1953*, to the extent to which it is not applied to provide correlative relief in respect of the taxing of an amount under a law of a foreign country;
 - (ii) any amount of a credit under Division 18, 18A or 18B of Part III of the Tax Act or under the *Income Tax (International Agreements) Act 1953*, to the extent to which it is applied to provide correlative relief in respect of the taxing of an amount under a law of a foreign country, provided that the following requirements are met:
 - (A) the law of the foreign country requires the payment of late payment interest in respect of the amount taxed;
 - (B) the late payment interest was paid by the time the applying of the amount took place;
 - (iii) any amount of a credit that does not arise under Division 18, 18A or 18B of Part III of the Tax Act or under the *Income Tax (International Agreements) Act 1953*; or

(b) any offset under section 160AQK of the Tax Act.

354 Subsection 3(1) (paragraph (a) of the definition of relevant tax)

Repeal the paragraph, substitute:

(a) any of the following:

- (i) tax as defined in subsection 6(1) of the Tax Act;
- (ii) additional tax under Part VII of that Act;
- (iii) general interest charge under section 170AA of that Act;
- (iv) interest under section 102AAM of that Act;
- (v) provisional and additional tax under section 221YDB of that Act;
- (vi) instalments under section 221AZK of that Act;
- (vii) amounts that are treated under subsection 106U(1) of the *Higher Education Funding Act 1988* as if they were income tax;
- (viii) amounts that are treated under subsection 12ZN(1) of the *Student and Youth Assistance Act 1973* as if they were income tax;

355 Subsection 3(1) (paragraph (baa) of the definition of relevant tax)

Omit “paragraph 220AS(2)(a) or 220AT(3)(a)”, substitute “subsection 220AS(1), 220AAE(3), 220AAM(3) or 220AAR(3)”.

356 Subsection 3(1) (paragraph (ba) of the definition of relevant tax)

Omit “paragraph 221EAA(1)(a) or sub-subparagraph 221F(12)(b)(ii)(A)”, substitute “subsection 221EAA(1)”.

357 Subsection 3(1) (paragraph (bb) of the definition of relevant tax)

Omit “paragraph 221YHH(1)(a) or sub-subparagraph 221YHJ(1)(b)(ii)(A)”, substitute “subsection 221YHH(1)”.

358 Subsection 3(1) (paragraph (bc) of the definition of relevant tax)

Omit “paragraph 221YHZC(3)(a) or sub-subparagraph 221YHZD(2)(b)(ii)(A)”, substitute “subsection 221YHZC(3) or 221YHZD(2)”.

359 Subsection 3(1) (paragraph (caa) of the definition of relevant tax)

Omit “subparagraph 222AJA(3)(b)(i)”, substitute “subsection 222AJA(3)”.

360 Subsection 3(1) (paragraph (ha) of the definition of relevant tax)

Omit “within the meaning of”, insert “, or additional tax, referred to in”.

361 Subparagraph 8A(1)(a)(iv)

Omit “section 163B or”.

362 Subparagraph 8A(1)(a)(v)

Omit “, 163C or 170AA”.

363 After subparagraph 8A(1)(a)(va)

Insert:

(vb) general interest charge under section 163B or 170AA of the Tax Act;

364 Sections 8C and 8I

Omit “, less 4 percentage points” (wherever occurring).

365 Subsection 8K(4)

Repeal the subsection.

366 Sections 8P, 8T and 8X

Omit “, less 4 percentage points” (wherever occurring).

367 Paragraph 9(5)(a)

Repeal the paragraph, substitute:

(a) an amount of provisional tax paid by a person to the Commissioner in respect of income of a year of income (the

relevant year of income) is applied or refunded in respect of a credit under subsection 221YCA(2) or (3) or section 221YE of the Tax Act;

368 Paragraph 10(1)(b)

Omit “, less 4 percentage points”.

369 Subparagraph 12A(1)(a)(i)

Repeal the subparagraph, substitute:

- (i) remits, under section 8AAG of the *Taxation Administration Act 1953*, the whole or part of an amount that has been paid to the Commissioner in respect of general interest charge payable under subsection 221AZP(1) and section 221YDB; or

370 Subparagraph 12A(1)(a)(iii)

Repeal the subparagraph, substitute:

- (iii) applies or refunds the whole or part of an amount, in respect of a credit under subsection 221YBA(6), 221YCA(2) or 221YG(2) of the Tax Act; or

371 Section 12C

Omit “, less 4 percentage points”.

Taxation (Interest on Underpayments) Act 1986

372 The whole of the Act

Repeal the Act.

Taxation (Unpaid Company Tax) Assessment Act 1982

373 Subsection 3(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

374 Section 12

Repeal the section.

375 Section 13

Repeal the section, substitute:

13 Late payment of tax

- (1) If any of the recoupment tax which a person is liable to pay remains unpaid after the time by which it is due to be paid, the person is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) The person is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the day by which the recoupment tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the recoupment tax;
 - (ii) general interest charge on any of the recoupment tax.
- (3) The amount of the general interest charge is taken to be **additional tax** payable under this section.
- (4) In this section:

recoupment tax includes additional tax under Part VII of the Assessment Act as that Part applies for the purposes of this Act.

Termination Payments Tax (Assessment and Collection) Act 1997

376 Section 6

Omit “interest is payable on the additional surcharge”, substitute “the general interest charge is payable on the additional surcharge”.

377 Section 6

Omit:

- The Commissioner may remit interest or late payment penalty: a refusal to remit is reviewable by the Administrative Appeals Tribunal.

378 Section 13

Repeal the section, substitute:

13 Payment of general interest charge if liability increased by amended assessment

Liability to pay general interest charge

- (1) If an amendment of an assessment increasing a taxpayer's liability to pay surcharge for a financial year is made, the taxpayer is liable to pay the general interest charge on the amount of the increase for each day in the period that:
 - (a) started at the beginning of 15 June in the financial year; and
 - (b) finishes at the end of the day before the amended assessment is made.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

Amendment of nil assessment

- (2) If:
 - (a) the Commissioner has calculated that no surcharge is payable by a taxpayer for a financial year; and
 - (b) the Commissioner afterwards makes an assessment of surcharge payable by the taxpayer for the financial year; that assessment is taken to be an amended assessment.

379 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Recovery of unpaid surcharge, general interest charge or late payment penalty

380 Subsections 16(1) to (3A)

Repeal the subsections, substitute:

Liability to pay general interest charge

- (1) If an amount of surcharge payable by a taxpayer remains unpaid after the time by which it is due to be paid, the taxpayer is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

General interest charge period

- (2) The taxpayer is liable to pay the general interest charge for each day in the period that:
 - (a) started at the beginning of the day by which the surcharge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the surcharge;
 - (ii) general interest charge on any of the surcharge.

381 Subsection 16(3B)

Omit “interest”, substitute “general interest charge”.

382 Subsection 16(4)

Repeal the subsection.

383 After section 16

Insert:

16A Additional liability to pay general interest charge

Commissioner may give notice

- (1) If general interest charge (the *primary general interest charge*) is payable by a person under section 13, the Commissioner may give a notice to the person specifying a date after which general interest charge will apply under this section. The specified date must be at least 30 days after the notice is given.

Liability to general interest charge

- (2) If any of the primary general interest charge remains unpaid after the day specified in the notice, the person is liable to pay general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

General interest charge period

- (3) The person is liable to pay the general interest charge for each day in the period that:
 - (a) started at the beginning of the day specified in the notice; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) primary general interest charge;
 - (ii) general interest charge on primary general interest charge.

384 Paragraph 17(b)

Omit “interest”, substitute “general interest charge”.

385 Section 18

Omit “interest”, substitute “general interest charge”.

Note: The heading to section 18 is altered by omitting “**interest**” and substituting “**general interest charge**”.

386 Section 19

Repeal the section.

387 Section 20

Repeal the section.

388 Subsection 25(4)

Omit “interest”, substitute “general interest charge under section 13”.

389 Subsection 28A(10) (paragraphs (b) and (d) of the definition of *surcharge debt*)

Omit “interest” (wherever occurring), substitute “general interest charge under section 13”.

390 Section 31

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

391 Section 31 (definition of *interest*)

Repeal the definition.

392 Section 31 (definition of *late payment penalty*)

Repeal the definition, substitute:

late payment penalty means general interest charge payable under section 16 or 16A.

Tobacco Charges Assessment Act 1955

393 Subsection 4(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

394 Section 18

Repeal the section, substitute:

18 Unpaid charge

- (1) If any of a charge which a person is liable to pay remains unpaid after the time by which the charge is due to be paid, the person is liable to pay the general interest charge (**GIC**) on the unpaid amount.
- Note 1: The GIC is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.
- Note 2: If a broker is also liable under section 12 to pay the charge, the person is only liable to pay the GIC in certain circumstances: see subsection (3).
- (2) The person is liable to pay the GIC for each day in the period that:
- (a) started at the beginning of the day by which the charge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the charge;
 - (ii) GIC on any of the charge.
- (3) However, if a broker is required to pay the charge under section 12, a person liable under section 11 for the same charge is only liable to pay the GIC on the unpaid amount of the charge if the Commissioner gives the person a notice of assessment in respect of the charge.
- (4) If a person has been given a notice under subsection (3), the person is liable to pay the GIC on the unpaid amount for each day in the period that:
- (a) started at the beginning of the day specified in the notice as the day by which the charge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the charge;
 - (ii) GIC on any of the charge.
- (5) The amount of the GIC a person is liable to pay under this section is taken to be **additional charge** payable under this section.
- (6) In this section:
-

charge includes additional charge under section 29.

Trust Recoupment Tax Assessment Act 1985

395 Section 11

Repeal the section.

Wool Tax (Administration) Act 1964

396 Subsection 4(1)

Insert:

general interest charge means the charge worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

397 Section 38

Repeal the section, substitute:

38 Unpaid tax

- (1) If any of the tax which a person is liable to pay remains unpaid after the time by which the tax is due to be paid, the person is liable to pay the general interest charge on the unpaid amount.

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) The person is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the day by which the tax was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax;
 - (ii) general interest charge on any of the tax.
- (3) The amount of the general interest charge is taken to be ***additional tax*** payable under this section.

- (4) In this section:
-

tax includes additional tax under section 61.

Part 2—Application and transitional

398 Application

- (1) This item applies to amendments made by items 1 to 3, 11, 12, 14, 18 to 27, 29, 37 to 42, 69 to 75, 77 to 80, 88 to 101, 107, 111, 113, 118, 120, 121, 127, 128, 130, 140, 148, 149, 153, 156, 158, 161 to 169, 175, 178, 179, 185, 187 to 189, 191, 192, 195, 200 to 204, 212, 214 to 217, 221, 223, 225, 226 to 228, 234, 236 to 242, 245, 252, 254 to 278, 280, 281, 296 to 298, 301, 304, 306, 309, 310, 314, 315 to 320, 322 to 328, 331, 332 to 335, 337 to 341, 344, 345, 346, 348, 352, 355 to 360, 373, 375 to 377, 379 to 385, 387 to 394, 396 and 397.
- (2) The amendments apply in relation to amounts that are due to be paid on or after 1 July 1999.
- (3) The amendments, other than the amendments referred to in subitem (5), also apply in relation to amounts that are due to be paid before 1 July 1999 if:
 - (a) some or all of the amount remains unpaid on 1 July 1999; and
 - (b) the amendments would have applied to the unpaid amount if the day by which the amount is due to be paid had been on or after 1 July 1999.
- (4) In applying the amendments in that case:
 - (a) the unpaid amount is taken to be the sum of the unpaid amount and any unpaid penalty or interest that had accrued before 1 July 1999; and
 - (b) the day by which the unpaid amount is due to be paid is taken to be 1 July 1999; and
 - (c) the unpaid amount and the unpaid penalty or interest that had accrued before 1 July 1999 continues to be payable.
- (5) In addition to applying in relation to amounts that are due to be paid on or after 1 July 1999, the amendments made by items 101, 107, 111, 118, 140, 185, 195, 201, 214, 225, 226, 238, 240, 255, 301, 304, 306 and 355 to 359 also apply in relation to amounts that are due to be paid

before 1 July 1999, if some or all of the amount remains unpaid on that day, from the day by which the amount is due to be paid.

399 Application

- (1) This item applies to amendments made by items 6, 7, 8 to 10, 43 to 51, 53 to 68, 102, 103, 114, 115, 119, 131 to 139, 141, 151, 152, 170 to 174, 186, 196, 247 to 251, 282 to 295, 305, 311 to 313, 329, 330, 354, 361 to 363, 369 and 378.
- (2) The amendments apply where the period for which the person is liable to pay the general interest charge starts on or after 1 July 1999.

400 Application

- (1) This item applies to amendments made by items 13, 104, 108, 112, 197 to 199, 211, 222, 232, 233, 235, 303, 307, 308 and 347.
- (2) The amendments apply in relation to notifications that must be given to the Commissioner on or after 1 July 1999.

401 Application

- (1) This item applies to amendments made by items 15, 117, 142, 143, 180, 193, 194, 213, 224, 246 and 349.
- (2) The amendments apply in relation to reconciliation statements, reports or forms that must be given to the Commissioner on or after 1 July 1999.

402 Application

- (1) This item applies to amendments made by items 16, 17, 81 to 87, 275, 276, 364, 366, 368 and 371.
- (2) The amendments apply in relation to calculating interest for 1 July 1999 or a later day.

403 Application

- (1) This item applies to amendments made by items 105, 106, 109 and 110.

- (2) The amendments apply in relation to amounts deducted on or after 1 July 1999.

404 Application

- (1) This item applies to amendments made by items 4, 5, 28, 30, 31, 32, 33, 34, 35, 36, 52, 76, 116, 122, 123, 124, 125, 126, 129, 144, 145, 146, 147, 150, 155, 157, 159, 160, 176, 177, 181, 182, 183, 184, 190, 205, 206, 207, 208, 209, 210, 218, 219, 220, 229, 230, 231, 243, 244, 253, 279, 299, 300, 302, 321, 336, 342, 343, 365, 367, 370, 374, 386 and 395.
- (2) The amendments apply in relation to credits and payments to which section 8AAZL of the *Taxation Administration Act 1953* applies.

405 Application of new Part IIB of the Taxation Administration Act

- (1) Part IIB of the *Taxation Administration Act 1953*, so far as that Part relates to the establishment, operation and effect of RBAs, applies as follows:
- (a) tax debts owing at or after the commencing time may be allocated to an RBA after the commencing time, regardless of when the debts arose;
 - (b) in all other respects, the amendments apply from the commencing time.
- (2) Section 8AAZL of the *Taxation Administration Act 1953* applies as follows:
- (a) payments received by the Commissioner either before or after the commencing time (and not already applied before the commencing time) must be applied in accordance with that section after the commencing time;
 - (b) credits arising either before or after the commencing time (and not already applied before the commencing time) may be applied in accordance with that section after the commencing time.
- (3) Section 8AAZM of the *Taxation Administration Act 1953* applies to payments received after the commencing time.
-

(4) Section 8AAZN of the *Taxation Administration Act 1953* applies to overpayments made by the Commissioner after the commencing time.

(5) In this item:

commencing time means the beginning of 1 July 1999.

Schedule 2—Measures to deal with abuse of foreign tax credits

Income Tax Assessment Act 1936

1 Subsection 177A(1)

Insert:

foreign tax credit means a credit within the meaning of Division 19 of Part III.

2 At the end of paragraph 177C(1)(ba)

Add “or”.

3 After paragraph 177C(1)(ba)

Insert:

(bb) a foreign tax credit being allowable to the taxpayer where the whole or a part of that foreign tax credit would not have been allowable, or might reasonably be expected not to have been allowable, to the taxpayer if the scheme had not been entered into or carried out;

4 At the end of subsection 177C(1)

Add:

; and (f) in a case where paragraph (bb) applies—the amount of the whole of the foreign tax credit or of the part of the foreign tax credit, as the case may be, referred to in that paragraph.

5 At the end of subsection 177C(2)

Add:

; or (d) a foreign tax credit being allowable to the taxpayer the whole or a part of which would not have been, or might reasonably be expected not to have been, allowable to the taxpayer if the scheme had not been entered into or carried out, where:

(i) the allowance of the foreign tax credit to the taxpayer is attributable to the making of a declaration, agreement,

election, selection or choice, the giving of a notice or the exercise of an option by any person, being a declaration, agreement, election, selection, choice, notice or option expressly provided for by this Act; and

- (ii) the scheme was not entered into or carried out by any person for the purpose of creating any circumstance or state of affairs the existence of which is necessary to enable the declaration, agreement, election, selection, choice, notice or option to be made, given or exercised, as the case may be.

6 Subsection 177C(3)

Omit “or (c)(i)”, substitute “, (c)(i) or (d)(i)”.

7 At the end of paragraph 177C(3)(c)

Add “or”.

8 After paragraph 177C(3)(c)

Insert:

- (ca) the allowance of a foreign tax credit to a taxpayer;

9 At the end of subsection 177C(3)

Add:

- ; or (g) the foreign tax credit would not have been allowable.

10 At the end of paragraph 177F(1)(c)

Add “or”.

11 After paragraph 177F(1)(c)

Insert:

- (d) in the case of a tax benefit that is referable to a foreign tax credit, or a part of a foreign tax credit, being allowable to the taxpayer—determine that the whole or a part of the foreign tax credit, or the part of the foreign tax credit, as the case may be, is not to be allowable to the taxpayer;

12 At the end of paragraph 177F(3)(c)

Add “or”.

13 After paragraph 177F(3)(c)

Insert:

(d) if, in the opinion of the Commissioner:

- (i) an amount would have been allowed, or would be allowable, to the relevant taxpayer as a foreign tax credit if the scheme had not been entered into or carried out, being an amount that was not allowed or would not, apart from this subsection, be allowable, as the case may be, as a foreign tax credit to the relevant taxpayer; and
- (ii) it is fair and reasonable that the amount, or a part of the amount, should be allowable as a foreign tax credit to the relevant taxpayer;

determine that that amount or that part, as the case may be, should have been allowed or is allowable, as the case may be, as a foreign tax credit to the relevant taxpayer;

14 After section 177G

Insert:

177H Amendment of foreign tax credit determinations

- (1) Section 160AK does not prevent the amendment of a foreign tax credit determination at any time before the end of 6 years after the original determination date if the amendment is for the purposes of giving effect to subsection 177F(1).
- (2) Section 160AK does not prevent the amendment of a foreign tax credit determination at any time if the amendment is for the purpose of giving effect to subsection 177F(3).
- (3) For the purposes of this section, a *foreign tax credit determination* is a determination under Division 19 of Part III.
- (4) For the purposes of this section, the *original determination date* for a foreign tax credit determination has the same meaning as in section 160AK.

15 Subsection 222A(1) (definition of *scheme section*)

Omit “or 226”, substitute “, 226 or 226AA”.

16 Subsection 222A(1) (at the end of the definition of wrongful behaviour provision)

Add:

; or (d) in relation to section 226AA, paragraph 226AA(1)(c) or (2)(c).

17 After section 226

Insert:

226AA Penalty tax where Part IVA applies—foreign tax credits

(1) If:

- (a) for the purpose of making a foreign tax credit determination, the Commissioner has calculated the amount of a foreign tax credit that is allowable to a taxpayer; and
- (b) in calculating the amount of the foreign tax credit allowable to the taxpayer, one or more determinations made by the Commissioner under subsection 177F(1) were taken into account; and
- (c) the amount of the foreign tax credit that would have been allowable if those subsection 177F(1) determinations had not been made exceeds the amount of the foreign tax credit referred to in paragraph (a);

the taxpayer is liable to pay, by way of penalty, additional tax equal to the penalty percentage of the excess.

(2) If:

- (a) the Commissioner makes a foreign tax credit determination to the effect that a foreign tax credit is not allowable to a taxpayer; and
- (b) in determining that the foreign tax credit is not allowable to the taxpayer, one or more determinations made by the Commissioner under subsection 177F(1) were taken into account; and

- (c) a foreign tax credit would have been allowable to the taxpayer if those subsection 177F(1) determinations had not been made;
- the taxpayer is liable to pay, by way of penalty, additional tax equal to the penalty percentage of the amount of the foreign tax credit referred to in paragraph (c).
- (3) For the purposes of this Part, additional tax payable by a taxpayer under subsection (1) or (2) is in respect of a year of income if:
- (a) the additional tax is payable by the taxpayer in relation to an amount of a foreign tax credit that would have been allowable to the taxpayer if the subsection 177F(1) determinations referred to in paragraph (1)(c) or (2)(c) had not been made; and
- (b) the foreign tax credit relates to assessable income, or another amount, derived by the taxpayer during the year of income.
- (4) In this section:

foreign tax credit means a credit within the meaning of Division 19 of Part III.

foreign tax credit determination means a determination under Division 19 of Part III.

penalty percentage means:

- (a) subject to paragraph (b)—50%; or
- (b) if it is reasonably arguable that Part IVA does not apply—25%.

Note: The heading to section 226 is altered by adding at the end “—**general**”.

18 Paragraph 226A(a)

After “scheme section”, insert “(other than section 226AA)”.

19 Application

The amendments made by this Schedule apply in relation to schemes that were entered into after 4 pm, by legal time in the Australian Capital Territory, on 13 August 1998.

Schedule 3—Technical corrections

Income Tax Assessment Act 1936

1 Section 160AH (paragraph (b) of the definition of *credit*)

Repeal the paragraph, substitute:

(b) the *International Tax Agreements Act 1953*.

2 Subsection 222A(1) (paragraph (c) of the definition of *wrongful behaviour provision*)

Omit “226(c)(i) or (ii)”, substitute “226(1)(c)(i) or (ii)”.

Taxation Laws Amendment Act (No. 1) 1998

3 Subsection 2(1)

Omit “subsection (2)”, substitute “this section”.

4 Subsection 2(2) (second occurring)

Renumber as subsection (3).

Taxation Laws Amendment (Private Health Insurance Incentives) Act 1997

5 Item 6 of Schedule 2

Omit “After section 264A”, substitute “Before section 265”.

6 Item 6 of Schedule 2

Omit “264B”, substitute “264BA”.

Social Security Legislation Amendment (Parenting and Other Measures) Act 1997

7 Item 322 of Schedule 1

Omit “after paragraph (aaa)”, substitute “before paragraph (b)”.

8 Item 322 of Schedule 1

Omit “(aab)”, substitute “(aac)”.

*[Minister’s second reading speech made in—
House of Representatives on 10 December 1998
Senate on 17 February 1999]*

(240/98)
