



A New Tax System (Goods and Services Tax Transition) Act 1999

Act No. 57 of 1999 as amended

This compilation was prepared on 20 November 2009
taking into account amendments up to Act No. 111 of 2009

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Contents

Part 1—Introduction	1
1 Short title [see Note 1].....	1
2 Commencement [see Note 1].....	1
3 Schedule(s).....	1
4 Overview.....	2
5 Definitions.....	2
6 Time of supply or acquisition.....	2
6A Trading periods spanning midnight on 30 June 2000.....	3
Part 2—Start of GST	5
7 Start of GST.....	5
9 GST registration before 1 July 2000.....	5
10 Invoice or consideration before 1 July 2000.....	5
11 Supply of rights exercisable on or after 1 July 2000.....	6
Part 3—Agreements spanning 1 July 2000	7
Division 1—General	7
12 Progressive or periodic supplies.....	7
13 Existing agreements: no opportunity to review.....	8
14 Rights granted for life.....	10
15 Funeral agreements.....	11
Division 2—Agreements also spanning 1 July 2005	12
Subdivision A—Introduction	12
15A Explanation of this Division.....	12
15B Definitions.....	14
Subdivision B—Payment of GST payable by recipients of supplies	14
15C GST payable by recipients of supplies.....	14
15D Amounts of GST.....	16
15E Rules for recipients who are not registered or required to be registered.....	16
15F Rule for recipients whose registration is cancelled.....	17
15G Bad debts.....	17
15H Tax invoices and adjustment notes.....	18
15I Attributing the GST.....	18
15IA Application of section 105-55 in Schedule 1 to the <i>Taxation Administration Act 1953</i>	19
Subdivision C—Arbitrated offers	19
15J Arbitrated offers.....	19
15K Initial offer.....	19
15L Arbitration.....	20

15M	Final offer	21
Part 4—Stock on hand on 1 July 2000		22
17	Stock later applied for private or domestic purpose.....	22
18	Second-hand goods.....	23
Part 5—Special transitional rules		24
19	Construction agreements made before 1 July 2000	24
19A	Sales of motor vehicles held under operating leases since 2 December 1998.....	25
21	Acupuncture, naturopathy and herbal medicine	25
22	Event before 1 July 2000 giving rise to claim	26
23	Input tax credits relating to compulsory third party schemes	26
24	Gambling.....	27
24A	Unredeemed vouchers	27
24B	Commissioner may make determinations relating to rounding	28
24C	Supplies from certain coin-operated devices may be input taxed	28
Part 6—Regulations		30
25	Regulations.....	30
Notes		31

An Act to implement A New Tax System by making transitional provisions for the start of the goods and services tax, and for related purposes

Part 1—Introduction

1 Short title [see Note 1]

This Act may be cited as the *A New Tax System (Goods and Services Tax Transition) Act 1999*.

2 Commencement [see Note 1]

- (1) This Act commences, or is taken to have commenced:
 - (a) after all the Acts listed in subsection (2) have received the Royal Assent; and
 - (b) on the day after the last day on which any of those Acts received the Royal Assent.
- (2) These are the Acts:
 - (a) the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (b) the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;
 - (c) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;
 - (d) the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*;
 - (e) the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

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.

4 Overview

The following provisions deal with the transition from sales tax to GST, as well as other matters relating to the start of the GST.

This Act should be read in conjunction with the GST law and the sales tax law.

5 Definitions

- (1) In this Act:

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

- (2) Other expressions in this Act have the same meaning as in the GST Act.
- (3) However, the table lists expressions that have the same meaning as in another Act.

Expressions with same meaning		
Item	This expression...	has the same meaning as in...
3A	hire purchase agreement	<i>Income Tax Assessment Act 1997</i>
4	motor vehicle	<i>Income Tax Assessment Act 1997</i>
8	trading stock	<i>Income Tax Assessment Act 1997</i>

6 Time of supply or acquisition

- (1) This section sets out how to determine when a supply or acquisition is made for the purposes of this Act.

Note: Many of the rules in this Act rely on this concept.

- (2) A supply or acquisition of goods is made:
- (a) when the goods are removed; or
 - (b) if the goods are not to be removed—when the goods are made available to the recipient; or
 - (c) if the goods are removed before it is certain that a supply will be made (for example, if the goods are given or taken on

approval, sale or return, or similar terms)—when it becomes certain that a supply has been made.

Note: Subsection 20(8) provides a rule stating when motor vehicles and other goods covered by subsection 20(1) are taken to be removed.

(3) A supply or acquisition of real property is made when the property is made available to the recipient.

(4) A supply or acquisition of services is made when the services are performed.

Note: However, section 12 provides a different rule for progressive and periodic contracts.

(5) A supply or acquisition of any other thing is made when the thing is performed or done.

Note: However, section 12 provides a different rule for progressive and periodic contracts.

6A Trading periods spanning midnight on 30 June 2000

(1) Despite section 6, if:

- (a) an entity has chosen to apply this section; and
- (b) the entity makes a supply that, under section 6, would be taken to be made on 1 July 2000 but before:
 - (i) 6 am on that day; or
 - (ii) if the entity has chosen to stop the application of this section at an earlier time on that day—the time so chosen; and
- (c) the part of the entity's enterprise through which the supply is made was open for business both immediately before 1 July 2000 and immediately after 30 June 2000; and
- (d) that part of the entity's enterprise remains open for business during 1 July 2000 until at least the time at which, under section 6, the supply would be taken to be made;

the supply, and the acquisition made by the recipient of the supply, is taken, for the purposes of this Act, to be made immediately before 1 July 2000.

(2) If an entity makes a supply to which subsection (1) applies, then, in relation to that supply:

- (a) section 12 has effect as if the reference in paragraph 12(1)(b) to a period that begins before 1 July 2000 and ends on or

Section 6A

- after 1 July 2000 were a reference to a period that begins before the end of the transition trading period and ends on or after the end of the transition trading period; and
- (b) Part 4 has effect as if references to having goods on hand at the start of 1 July 2000 were references to having goods on hand immediately after the end of the transition trading period; and
- (f) section 24 has effect as if:
- (i) the reference to making gambling supplies before 1 July 2000 were a reference to making gambling supplies before the end of the transition trading period; and
 - (ii) the reference to a gambling event happening on or after 1 July 2000 were a reference to a gambling event happening on or after the end of the transition trading period; and
 - (iii) the references to gambling events that happened before 1 July 2000 were references to gambling events that happened before the end of the transition trading period; and
- (g) section 24A has effect as if the references to vouchers supplied before, not redeemed before, or supplied after, 1 July 2000 were references to vouchers supplied before, not redeemed before, or supplied after, the end of the transition trading period (as the case requires).
- (3) This section does not apply if, but for this section, the supply would be input taxed.
- (4) In this section:
- transition trading period*** means the period ending:
- (a) at the first time after 30 June 2000 that the part of the entity's enterprise through which the supply in question was made was not open for business; or
 - (b) at:
 - (i) 6 am on 1 July 2000; or
 - (ii) if the entity has chosen to stop the application of this section at an earlier time on that day—the time so chosen;
- whichever occurs sooner.

Part 2—Start of GST

7 Start of GST

- (1) GST is only payable on a supply or importation to the extent that it is made on or after 1 July 2000.

Note: GST may not apply to supplies during trading periods spanning midnight on 30 June 2000: see section 6A.

- (2) An entitlement to an input tax credit only arises on an acquisition or importation to the extent that it is made on or after 1 July 2000.

Note: There are special rules about input tax credits for motor vehicles etc.: see section 20.

9 GST registration before 1 July 2000

- (1) Parts 2-5 and 4-5 of the GST Act, and any other provisions of the GST law so far as they relate to registration, apply on and after the day determined by the Commissioner (even if that day is before the commencement of the GST Act).

Note: From that day, you may apply to be registered if you are entitled to do so under section 23-10 of the GST Act.

- (2) However, you are not required to be registered before 1 June 2000.

Example: On 1 May 2000, you start carrying on a business whose annual turnover meets the registration turnover threshold. Although you would normally be required to apply within 21 days, you can apply anytime before 1 June 2000. But if instead you start carrying on a business on 20 May, you have until 10 June (21 days later) to apply to be registered.

10 Invoice or consideration before 1 July 2000

If, before 1 July 2000:

- (a) any consideration is received in connection with a supply, or provided in connection with an acquisition, that you will make on or after that day; or
- (b) an invoice is issued relating to a supply or acquisition that you will make on or after that day;

Section 11

for the purposes of determining the tax period to which GST or input tax credits are attributable, the consideration is taken to have been received or provided, or invoice taken to have been issued, during your first tax period after that day.

Note: Division 29 of the GST Act contains rules about attributing GST and input tax credits to tax periods.

11 Supply of rights exercisable on or after 1 July 2000

- (1) A supply of a right that has been or is granted on or after 2 December 1998 (other than a supply of a right granted on or after 1 July 2000) is taken to be a supply made on or after 1 July 2000 if, and to the extent that, the right could reasonably be expected to be exercised on or after 1 July 2000.
- (1A) However, this section does not apply to:
 - (a) a supply to which section 12 applies; or
 - (b) a supply of a right that is an option to purchase, under a hire purchase agreement, goods hired under that agreement; or
 - (c) a supply of a right to use software if:
 - (i) the value of the right was included in the price of the software; and
 - (ii) the right to use the software is for an indefinite period.
- (1B) This section does not apply to:
 - (a) a supply of a long-term lease made before 1 July 2000; or
 - (b) a supply of a voucher made before 1 July 2000 if, on redemption of the voucher, the holder of the voucher is entitled to supplies up to a monetary value stated on the voucher.
- (2) The Commissioner may make a written ruling determining methods for working out the extent to which a right could reasonably be expected to be exercised on or after 1 July 2000 where that extent is not readily ascertainable.
- (3) This section does not affect the operation of section 13.
- (4) If this section has an effect in relation to a supply, it has a corresponding effect in relation to the acquisition to which the supply relates.

Part 3—Agreements spanning 1 July 2000

Division 1—General

12 Progressive or periodic supplies

- (1) This section applies if:
 - (a) you make a supply under an agreement, or an enactment, that provides (expressly or impliedly) that the thing supplied is to be supplied:
 - (i) for a period; or
 - (ii) progressively over a period;
whether or not at regular intervals; and
 - (b) that period begins before 1 July 2000 and ends on or after 1 July 2000.

Note: Section 11 does not apply to supplies covered by this section: see paragraph 11(1A)(a).

- (1A) However, this section does not apply to a supply of a warranty (whether express, implied or required by law) that relates to goods or a service, if the value of the warranty was included in the price of the goods or service.
- (2) For the purposes of this Act, the supply is taken to be made continuously and uniformly throughout that period.
- (3) For the purposes of this section, a supply by way of lease, hire or similar arrangement is taken to be a supply for the period of the lease, hire or arrangement.
- (4) This section does not apply to a supply of a long-term lease made before 1 July 2000.
- (5) In this section:

warranty, in relation to goods or a service, means an undertaking or obligation in relation to:

 - (a) the quality, performance or characteristics of the goods or service; or

Section 13

- (b) the provision of services that are or may at any time be required in respect of the goods or service; or
 - (c) the supply of parts that are or may at any time be required for the goods;
given or made in connection with the supply of the goods or service.
- (6) If this section has an effect in relation to a supply, it has a corresponding effect in relation to the acquisition to which the supply relates.

13 Existing agreements: no opportunity to review

- (1) This section applies if:
 - (a) a written agreement specifically identifies a supply and identifies the consideration in money, or a way of working out the consideration in money, for the supply; and
 - (b) the agreement was made before the day on which this Act received the Royal Assent.
- (2) The supply is GST-free to the extent that it is made before the earlier of the following:
 - (a) 1 July 2005;
 - (b) if a review opportunity arises on or after the day of Royal Assent—when that opportunity arises.
- (3) If all of the consideration was paid before 2 December 1998, the supply is also GST-free to the extent it is made on or after 1 July 2005 but before a review opportunity has arisen as mentioned in paragraph (2)(b).
- (4) However, if the recipient of the supply would not be entitled to a full input tax credit for it, treat the references in paragraphs (1)(b) and (2)(b) to the day of Royal Assent as references instead to 2 December 1998.
- (4A) For the purposes of this section, an untaxable Commonwealth entity is to be treated as if it were entitled or not entitled to a full input tax credit (whichever is relevant) if it would be so entitled or not entitled if it were an entity other than an untaxable Commonwealth entity.

- (4B) If:
- (a) a change is made to the consideration for supplies that are specifically identified by an agreement of the kind referred to in subsection (1); and
 - (b) the change is made after the commencement of this subsection; and
 - (c) the change applies to supplies made before 1 July 2005; supplies that are specifically identified by the agreement are not GST-free under this section to the extent that the supplies are made on or after the day on which the change takes effect.
- (4C) Whether a supply made before 1 July 2005 is GST-free under this section is not affected by:
- (a) a change (made after the commencement of this subsection), whether agreed to before, on or after 1 July 2005, to the consideration for supplies made on or after 1 July 2005 that are specifically identified by an agreement; or
 - (b) the carrying out, whether before, on or after 1 July 2005, of any of the processes referred to in Subdivision C of Division 2 in relation to supplies made on or after 1 July 2005 that are specifically identified by an agreement.
- (4D) In subsections (4B) and (4C):
- change**, to the consideration for a supply, means a change to that consideration (including a change to the method by which the consideration is worked out) not provided for in an agreement of the kind referred to in subsection (1).
- (5) In this section:
- review opportunity**, for an agreement to which this section applies, means an opportunity that arises under the agreement:
- (a) for the supplier under the agreement (acting either alone or with the agreement of one or more of the other parties to the agreement) to change the consideration directly or indirectly because of the imposition of GST; or
 - (b) for the supplier under the agreement (acting either alone or with the agreement of one or more of the other parties to the agreement) to conduct, on or after 1 July 2000, a general review, renegotiation or alteration of the consideration; or

- (c) for the supplier under the agreement (acting either alone or with the agreement of one or more of the other parties to the agreement) to conduct, before 1 July 2000, a general review, renegotiation or alteration of the consideration that takes account of the imposition of the GST.

14 Rights granted for life

- (1) This section applies if:
 - (a) you supply services or any other things (other than goods or real property) under an agreement or enactment; and
 - (b) the agreement or enactment provides (expressly or impliedly) that a right is to be granted or exercisable for the rest of an individual's life; and
 - (c) the right is granted or first exercisable before 1 July 2000.
- (2) To the extent that the supply is constituted by the supply of the right, so much of the supply as is made before 1 July 2000 is instead taken, for the purposes of this Act, to be made on 1 July 2000.
- (3) However, in the case of an agreement entered into before 2 December 1998 that is also covered by section 13:
 - (a) subsections 13(2) and (3) do not apply; and
 - (b) instead, the supply is GST-free to the extent that the consideration for the supply is paid before the earlier of the following:
 - (i) 1 July 2005;
 - (ii) if a review opportunity as mentioned in paragraph 13(2)(b) arises—when that opportunity arises.
- (4) If:
 - (a) an agreement is for the supply of a life membership; and
 - (b) the entity to which the supply is made would be entitled to a full input tax credit for it;subsection (3) has effect as if the reference to 2 December 1998 were a reference to 8 July 1999.
- (5) For the purposes of this section, an untaxable Commonwealth entity is to be treated as if it were entitled or not entitled to a full input tax credit (whichever is relevant) if it would be so entitled or

not entitled if it were an entity other than an untaxable Commonwealth entity.

- (6) If this section has an effect in relation to a supply, it has a corresponding effect in relation to the acquisition to which the supply relates.

15 Funeral agreements

- (1) If, before 1 July 2000, you enter, or have entered, into an agreement for a supply consisting of the provision of a funeral (or a right to the provision of a funeral):
- (a) section 11 and this Part (apart from this section) do not apply; and
 - (b) the supply of any right under the agreement relating to the provision of a funeral is taken to be a supply made on or after 1 July 2000 only if the funeral is provided on or after that day.
- (2) If you entered into the agreement before 1 December 1999 and the funeral is provided on or after 1 July 2000, the supply is GST-free to the extent that the consideration for the supply is paid before 1 July 2005.

Part 3 Agreements spanning 1 July 2000

Division 2 Agreements also spanning 1 July 2005

Section 15A

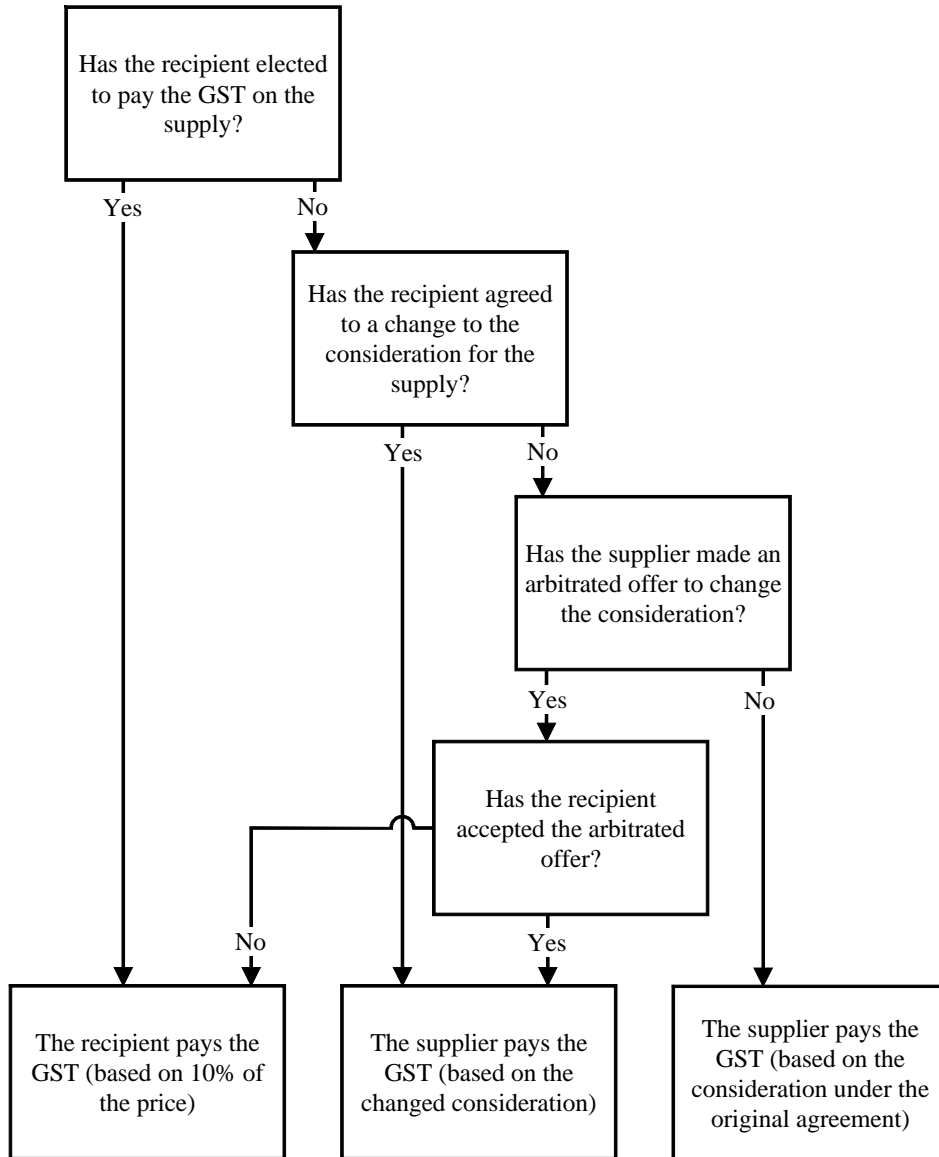
Division 2—Agreements also spanning 1 July 2005

Subdivision A—Introduction

15A Explanation of this Division

- (1) This Division provides for the payment of GST on taxable supplies made on or after 1 July 2005 that would have been GST-free under section 13 if they had been made immediately before 1 July 2005.
- (2) The following diagram shows how, as a result of this Division and the GST law in general, each of the 3 possible ways to treat the GST on such a taxable supply will apply in particular cases.

**Long-term non-reviewable contracts: taxable supplies on or after
1 July 2005**



Section 15B

15B Definitions

In this Division:

applicable day, for a supply, has the meaning given by subsection 15C(2).

arbitrated offer has the meaning given by section 15J.

arbitrator means a person or body specified in, or included in a class of persons or bodies specified in, the regulations.

change, to the consideration for a supply, includes a change to the method by which the consideration is worked out.

Subdivision B—Payment of GST payable by recipients of supplies

15C GST payable by recipients of supplies

- (1) To the extent that a taxable supply is made on or after the applicable day for the supply under subsection (2), the GST on the supply is payable by the recipient of the supply, and is not payable by the supplier, if:
 - (a) the supply is specifically identified by an agreement:
 - (i) that is of the kind referred to in subsection 13(1); and
 - (ii) that does not provide that the consideration for the supply is not to be changed to take account of GST or similar value added tax imposed on the supply; and
 - (b) had the supply been made immediately before 1 July 2005, it would have been GST-free under section 13; and
 - (c) either:
 - (i) the recipient notifies the supplier in writing that the recipient elects to pay the GST on the supply; or
 - (ii) the recipient has failed to accept an arbitrated offer by the supplier to change the consideration for supplies that are made on or after 1 July 2005 and that are specifically identified by the agreement.
- (2) The *applicable day* for the supply is:
 - (a) if subparagraph (1)(c)(i) applies:

- (i) the day on which the recipient notifies the supplier as mentioned in that subparagraph; or
 - (ii) 1 July 2005;whichever is later; or
 - (b) if subparagraph (1)(c)(ii) applies:
 - (i) the day on which the recipient fails to accept an arbitrated offer as mentioned in that subparagraph; or
 - (ii) 1 July 2005;whichever is later.
- (3) Subsection (1) does not apply if:
- (a) before either of the events referred to in paragraph (1)(c) happens, the supplier and the recipient agree (whether or not an arbitrated offer is made) to change the consideration for supplies that are made on or after 1 July 2005 and that are specifically identified by the agreement; or
 - (b) subsection 13(3) applies to the supply.
- (4) For the purposes of subparagraph (1)(c)(ii), the recipient is taken to have failed to accept the offer referred to in that subparagraph if:
- (a) the recipient gives to the supplier a written rejection of the offer; or
 - (b) the final offer period referred to in section 15M expires without the recipient having notified the supplier that the recipient accepts the offer.
- Note: If an offer is accepted, any GST on the supply will be payable by the supplier, on the basis of the consideration as changed, in accordance with the GST Act: see in particular Division 19 of that Act.
- (5) For the purposes of subparagraph (2)(b)(i), the day on which the recipient fails to accept an arbitrated offer is:
- (a) the day applicable under paragraph (4)(a) or (b); or
 - (b) if a day is applicable under both of those paragraphs—the earlier of those days.
- (6) To avoid doubt, the fact that the GST on the supply is payable by the recipient does not affect any entitlement of the recipient to an input tax credit for the acquisition to which the supply relates.
- (7) An election referred to in subparagraph (1)(c)(i) cannot be revoked.

Section 15D

- (8) This section has effect despite section 9-40 of the GST Act (which is about liability for the GST on taxable supplies).

15D Amounts of GST

- (1) If GST is payable by the recipient of the taxable supply because of this Division, the amount of GST on the supply is 10% of the price of the supply to the extent that it is made on or after the applicable day for the supply.
- (2) If the supplier and the recipient are associates and:
- (a) the supply is without consideration; or
 - (b) the consideration for the supply is less than the GST exclusive market value of the supply;
- the reference in subsection (1) to the price of the supply is taken to be a reference to the GST exclusive market value of the supply.
- (3) Subsection (2) does not apply if:
- (a) the recipient acquires the thing supplied solely for a creditable purpose; and
 - (b) the recipient is registered or required to be registered.
- (4) This section has effect despite section 9-70 of the GST Act (which is about the amount of GST on taxable supplies).

15E Rules for recipients who are not registered or required to be registered

- (1) This section has effect if:
- (a) you are the recipient of any taxable supplies for which the GST is payable by you because of this Division; and
 - (b) you are not registered or required to be registered.

Tax periods

- (2) Despite section 7-10 of the GST Act, you have tax periods applying to you.
- (3) Subsection 27-40(1A) of the GST Act (which is about an entity ceasing to carry on any enterprise) does not apply to you.

GST returns

- (4) Division 31 of the GST Act applies to you as if you were registered or required to be registered.

15F Rule for recipients whose registration is cancelled

- (1) This section has effect if:
- (a) you are the recipient of any taxable supplies for which the GST is payable by you because of this Division; and
 - (b) your registration is cancelled.
- (2) Subsection 27-40(2) of the GST Act (which is about the effect of an entity's registration being cancelled) has effect but only in relation to your liabilities and entitlements to input tax credits that arise otherwise than because of this Division.

15G Bad debts

- (1) This section has effect if:
- (a) you are the recipient of a taxable supply for which the GST is payable by you because of this Division; and
 - (b) the whole or part of the consideration for the supply has not been received by the supplier; and
 - (c) the supplier writes off as bad the whole or a part of the debt, or the whole or a part of the debt has been overdue for 12 months or more.
- (2) Section 21-5 of the GST Act does not apply to the taxable supply.
- (3) Instead, you have a decreasing adjustment equal to 10% of the amount written off, or 10% of the amount that has been overdue for 12 months or more, as the case requires. However, you cannot have an adjustment under this section if you account on a cash basis.
- (4) You have an increasing adjustment if:
- (a) you were the recipient of a taxable supply in relation to which you had a decreasing adjustment under subsection (3); and
 - (b) you subsequently pay to the supplier the whole or a part of the amount written off, or the whole or a part of the amount

Section 15H

that has been overdue for 12 months or more, as the case requires.

The amount of the increasing adjustment is 10% of the amount paid.

15H Tax invoices and adjustment notes

- (1) If the GST on a taxable supply is payable by the recipient of the supply because of this Division:
 - (a) the supplier is not required to issue a tax invoice for the supply; and
 - (b) the supplier is not required to issue an adjustment note for an adjustment that arises from an adjustment event relating to the taxable supply.
- (2) Subsection (1) has effect despite sections 29-70 and 29-75 of the GST Act (which are about the requirement to issue tax invoices and adjustment notes).
- (3) If the GST on a taxable supply is payable by the recipient of the supply because of this Division, subsection 29-10(3) of the GST Act (which is about attributing input tax credits) does not apply to the creditable acquisition constituted by that taxable supply.
- (4) If the GST on a taxable supply is payable by the recipient of the supply because of this Division, subsection 29-20(3) of the GST Act (which is about attributing adjustments) does not apply to an adjustment that arises from an adjustment event relating to the taxable supply.

15I Attributing the GST

- (1) To the extent that the recipient of a taxable supply who is liable for the GST on the supply because of this Division would, apart from this section, attribute that GST to a tax period ending before the applicable day for the supply, the recipient must instead attribute that GST to the first tax period starting on or after the applicable day for the supply.
- (2) Subsection (1) has effect subject to Division 156 of the GST Act (which is about supplies and acquisitions made on a progressive or periodic basis).

- (3) This section has effect despite section 29-5 of the GST Act (which is about attributing the GST).

15IA Application of section 105-55 in Schedule 1 to the *Taxation Administration Act 1953*

Section 105-55 in Schedule 1 to the *Taxation Administration Act 1953* does not apply to a refund under section 35-5 of the GST Act in respect of a tax period to the extent that the refund arises because:

- (a) the GST on a taxable supply was attributable to that tax period and was payable by the supplier; and
- (b) the recipient of the supply becomes liable for the GST on the supply because of section 15C of this Act.

Subdivision C—Arbitrated offers

15J Arbitrated offers

An offer (the *final offer*) to change the consideration for supplies, that are made on or after 1 July 2005 and that are specifically identified by an agreement of a kind referred to in subsection 13(1), is an *arbitrated offer* if:

- (a) the supplier has, in accordance with section 15K, made an offer (the *initial offer*) to the recipient of the supplies to change the consideration; and
- (b) change to the consideration has been arbitrated in accordance with section 15L; and
- (c) the supplier makes the final offer in accordance with section 15M.

15K Initial offer

- (1) The initial offer:
 - (a) must be in writing; and
 - (b) must set out a change to the consideration for the supplies; and
 - (c) must state the period (the *initial offer period*) for which the offer remains open.

Section 15L

- (2) The initial offer period must be a period of at least 28 days after the supplier gives the initial offer to the recipient.

15L Arbitration

- (1) Change to the consideration must be arbitrated as follows:
- (a) the supplier must apply to an arbitrator for the appointment of an assessor to determine an appropriate change to the consideration;
 - (b) the arbitrator must appoint as an assessor a person whom the arbitrator is satisfied:
 - (i) is suitably qualified to determine an appropriate change to the consideration; and
 - (ii) is independent of both the supplier and the recipient;
 - (c) in determining an appropriate change, the assessor must only take into account the impact of the New Tax System changes on the supplier's costs and expenses;
 - (d) the assessor's determination of an appropriate change must be made within 28 days of the end of the offer period and:
 - (i) be in writing, signed and dated by the assessor; or
 - (ii) be in the form specified in the regulations.
- (2) The supplier must not apply under paragraph (1)(a) until after:
- (a) the end of the initial offer period; or
 - (b) the recipient gives to the supplier a written rejection of the initial offer;
- whichever happens earlier.

- (3) In this section:

New Tax System changes means the following:

- (a) the amendment of the former *Sales Tax (Exemptions and Classifications) Act 1992* made by this Act;
- (b) the ending of sales tax, as provided for in the former *A New Tax System (End of Sales Tax) Act 1999*;
- (c) the imposition of GST;
- (d) any other changes (including changes to Commonwealth, State or Territory laws) prescribed by the regulations for the purposes of this definition.

15M Final offer

- (1) The final offer:
 - (a) must be in writing; and
 - (b) must set out as a change to the consideration the assessor's determination of an appropriate change; and
 - (c) must state the period (the *final offer period*) for which the offer remains open.
- (2) The final offer period must be a period of at least 21 days after the supplier gives the final offer to the recipient.

Part 4—Stock on hand on 1 July 2000

17 Stock later applied for private or domestic purpose

- (1) If:
 - (a) you have on hand, at the start of 1 July 2000, assessable goods that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and
 - (b) on or after 1 July 2000, you apply the goods to any extent for a private or domestic purpose; and
 - (c) you are registered, or required to be registered, when you apply the goods;you are taken, for the purposes of the GST law, to have made a taxable supply that is attributable to the tax period during which you apply the goods.
- (2) The value of the supply is the market value of the goods (to the extent that they are applied for that purpose) when they were applied.
- (3) If:
 - (a) you have on hand, at the start of 1 July 2000, assessable goods that are held for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and
 - (b) on or after 1 July 2000, you cease to be registered; and
 - (c) you still hold the goods at the time of the cessation;you are taken, for the purposes of the GST law, to have made a taxable supply that is attributable to the tax period that was in progress immediately before the cessation.
- (4) The value of the supply is the market value of the goods as at the time of the cessation.
- (5) In this section:

assessable goods has the same meaning as in the former *Sales Tax Assessment Act 1992*.

18 Second-hand goods

- (1) Division 66 of the GST Act applies to second-hand goods you acquired before 1 July 2000 only if:
 - (a) you held them at the start of that day for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and
 - (b) you had not previously held them for any other purpose.
- (1A) However, if:
 - (a) because of this section, you are entitled to an input tax credit for an acquisition of second-hand goods; and
 - (b) the *consideration for the acquisition was \$300 or less; the input tax credit is treated as though it were an input tax credit attributable to any one tax period of your choice.
- (2) This section does not apply to second-hand goods in respect of which you are entitled to a special credit under former section 16.

Part 5—Special transitional rules

19 Construction agreements made before 1 July 2000

- (1) This section applies to the extent that a supply of goods or real property is the construction, major reconstruction, manufacture or extension of a building or of a civil engineering work by the supplier, and the goods or real property are:
 - (a) supplied in accordance with a written agreement made before 1 July 2000; and
 - (b) made available to the recipient on or after 1 July 2000.
- (2) The value of all work and materials permanently incorporated in or affixed on the site of the building or civil engineering work in accordance with the agreement must be determined, as at the start of 1 July 2000.
- (3) GST is only payable on the supply to the extent that the price of the supply (less the amount of any GST payable on the supply) exceeds the value determined under subsection (2).

Note: Division 29 of the GST Act and section 10 of this Act contain rules about attributing the GST to tax periods.
- (4) This section only applies to the extent that the value mentioned in subsection (2) is determined:
 - (a) in a manner specified by the Commissioner; and
 - (b) on or before the end of the supplier's first tax period after 1 July 2000, or a later day allowed by the Commissioner.
- (5) If section 13 applies to the agreement, treat the references to 1 July 2000 in subsections (2) and (4) of this section and in section 10 as references instead to the earlier of the following:
 - (a) 1 July 2005;
 - (b) the time when a review opportunity as mentioned in paragraph 13(2)(b) first arises.

19A Sales of motor vehicles held under operating leases since 2 December 1998

- (1) If, in relation to a supply of a motor vehicle, all of the following conditions are met, the supplier of the vehicle is entitled to a special credit equal to $\frac{1}{11}$ of the price of the supply:
 - (a) the supply is the first sale of the motor vehicle to take place on or after 1 July 2000;
 - (b) the supplier was, immediately before the sale, the lessor of the motor vehicle under an operating lease;
 - (c) the supplier bought the motor vehicle before 2 December 1998 for the purpose of leasing it under an operating lease;
 - (d) the motor vehicle has been the subject of sales tax.
- (2) The special credit is treated as though it were an input tax credit attributable to any one tax period of your choice.
- (3) In this section:

operating lease means a lease under which the lessor effectively retains substantially all risks and benefits incidental to the ownership of the motor vehicle.

21 Acupuncture, naturopathy and herbal medicine

- (1) Paragraph 38-10(1)(b) of the GST Act does not apply in relation to a supply of a service of:
 - (a) acupuncture; or
 - (b) naturopathy; or
 - (c) herbal medicine (including traditional Chinese herbal medicine);if the service is performed before 1 July 2003.
- (2) However, such a service of acupuncture, naturopathy or herbal medicine performed before 1 July 2003 is not GST-free if the supplier of the service does not meet the requirements (if any) in regulations made for the purposes of this subsection in relation to a supplier of an acupuncture, naturopathy or herbal medicine service, as the case requires.
- (3) The requirements may relate to one or more of the following:
 - (a) educational qualifications;

- (b) membership of a professional body;
- (c) any other qualifications.

22 Event before 1 July 2000 giving rise to claim

- (1) The settlement of an insurance claim does not give rise to any adjustment, and is not a taxable supply, under Division 78 of the GST Act to the extent that the event giving rise to the claim happened before 1 July 2000.
- (2) However, if:
 - (a) the claim relates to an insurance policy covering a period that started before 1 July 2000 and ends after that day; and
 - (b) it cannot be ascertained whether the event giving rise to the claim happened before 1 July 2000;subsection (1) does not apply, and the settlement does not give rise to any adjustment, and is not a taxable supply, under Division 78 of the GST Act if the claim was made before 1 July 2000.
- (3) The settlement of a claim for compensation does not give rise to any adjustment, and is not a taxable supply, under Division 79 or 80 of the GST Act to the extent that the event giving rise to the claim happened before 1 July 2000.
- (4) However, if:
 - (a) the claim is one mentioned in section 79-25 of the GST Act and the insurance policy concerned covers a period that started before 1 July 2000 and ends after that day; and
 - (b) it cannot be ascertained whether the event giving rise to the claim happened before 1 July 2000;subsection (3) does not apply and the settlement does not give rise to any adjustment, and is not a taxable supply, under Division 79 or 80 of the GST Act if the claim was made before 1 July 2000.

23 Input tax credits relating to compulsory third party schemes

- (1) You are not entitled to an input tax credit for:
 - (a) a premium, contribution or similar payment made under, or a levy paid in connection with, a compulsory third party scheme, if the premium, contribution or similar payment relates to a period commencing before 1 July 2003; or

- (b) a premium paid, in respect of a period of cover commencing before 1 July 2003, on an insurance policy issued under a compulsory third party scheme.
- (1AA) It does not matter, for the purposes of subsection (1), whether the payment occurred before, on or after 1 July 2003.
- (1A) If, because of subsection (1), you are not entitled to an input tax credit for an acquisition you make, section 29-70 of the GST Act (which is about tax invoices) does not apply in relation to the supply to which the acquisition relates.
- (2) A **compulsory third party scheme** is:
- (a) a statutory compensation scheme; or
 - (b) a scheme or arrangement, established by an Australian law, under which insurance policies are issued;
- that is specified in the regulations, or that is of a kind specified in the regulations.

24 Gambling

- (1) If you make a gambling supply before 1 July 2000 relating to a gambling event that happens on or after 1 July 2000, the gambling supply is instead taken to have been made on 1 July 2000 and is attributable to your first tax period after that day.
- (2) In applying section 126-10 of the GST Act to work out your global GST amount, disregard:
 - (a) all monetary prizes you are liable to pay at any time on the outcome of gambling events that happened before 1 July 2000; and
 - (b) all amounts of money you are liable to pay, of a kind referred to in paragraph (b) of the definition of **total monetary prizes** in subsection 126-10(1), to the extent that they relate to gambling events that happened before 1 July 2000.

24A Unredeemed vouchers

Section 100-15 of the GST Act applies to vouchers supplied before 1 July 2000, and not redeemed before that day, in the same way that it applies to vouchers supplied after that day.

24B Commissioner may make determinations relating to rounding

- (1) The Commissioner may determine in writing a way in which amounts of GST for taxable supplies recorded on invoices may be rounded for the purposes of:
 - (a) subsection 9-90(1) of the GST Act; and
 - (b) subparagraph 9-90(2)(a)(ii) of the GST Act; and
 - (c) step 4 in the method statement in subsection 9-90(2) of the GST Act.
- (2) However, the determination only applies:
 - (a) to the entity specified in the determination; and
 - (b) to taxable supplies attributable under the GST Act to tax periods that end on or before the day specified in the determination.
- (3) The entity may round amounts of GST, for the purposes of the provisions referred to in paragraphs (1)(a), (b) and (c):
 - (a) in the way specified in the determination; or
 - (b) in the way specified in the provisions referred to in those paragraphs.
- (4) The day specified under paragraph (2)(b) must not be later than 30 June 2002.
- (5) An entity may apply to the Commissioner in writing for a determination under this section.

Note: Refusing an application for a determination under this section, and making determinations under this section, are reviewable GST transitional decisions (see Subdivision 110-F in Schedule 1 to the *Taxation Administration Act 1953*).
- (6) If one or more taxable supplies, none of which are recorded on an invoice, are recorded on a document that is not an invoice, this section applies as if the document were an invoice.

24C Supplies from certain coin-operated devices may be input taxed

- (1) A supply of tangible personal property or a service from a mechanical coin-operated device is input taxed if:
 - (a) the maximum consideration for the supply is \$1 and is paid by depositing up to 2 coins in the device; and

- (b) the device accepts only one denomination of coin and does not give change; and
- (c) the device was operating on 1 July 2000; and
- (d) the supply is made before 1 July 2005; and
- (e) the supply is not a gambling supply; and
- (f) you choose to have all of your supplies made from the device on or after 1 July 2000 treated as input taxed.

Note: If a supply is input taxed, there is no entitlement to an input tax credit for the things that are acquired or imported to make the supply (see sections 11-15 and 15-10 of the GST Act).

- (2) However, if you revoke the choice, you can no longer choose to have all of your supplies from the device treated as input taxed.

Part 6—Regulations

25 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for other transitional measures relating to the end of sales tax, the start of GST, or the transition from sales tax to GST.

Table of Acts**Notes to the *A New Tax System (Goods and Services Tax Transition) Act 1999*****Note 1**

The *A New Tax System (Goods and Services Tax Transition) Act 1999* as shown in this compilation comprises Act No. 57, 1999 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>A New Tax System (Goods and Services Tax Transition) Act 1999</i>	57, 1999	8 July 1999	9 July 1999	
<i>A New Tax System (Indirect Tax and Consequential Amendments) Act 1999</i>	176, 1999	22 Dec 1999	Schedule 6 (items 1–12): (a)	—
<i>A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999</i>	177, 1999	22 Dec 1999	Schedule 2: (b)	—
<i>Indirect Tax Legislation Amendment Act 2000</i>	92, 2000	30 June 2000	Schedule 6 (item 7), Schedule 8 (items 6, 7) and Schedule 11 (items 13A, 14–16, 16A–16E): (c) Schedule 10 (items 1A, 1B): (c) Schedule 10A (items 2–4): Royal Assent (c)	Ss. 2(2), (4) (am. by 156, 2000, Sch. 7 (items 16, 17))
as amended by <i>Taxation Laws Amendment Act (No. 8) 2000</i>	156, 2000	21 Dec 2000	Schedule 7 (items 16, 17): (ca)	—
<i>Taxation Laws Amendment Act (No. 8) 2000</i>	156, 2000	21 Dec 2000	Schedule 1 (items 17, 18): Royal Assent (d) Schedule 6 (item 41): 1 July 2000 (d)	Sch. 1 (item 18)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 3) 2001</i>	73, 2001	30 June 2001	Schedule 1 (items 69–78): 23 May 2001 Schedule 2 (items 48–52): 1 Jan 2001 Schedule 3 (items 34–36): 1 Apr 2001 Remainder: Royal Assent	Sch. 1 (item 78)
<i>Taxation Laws Amendment Act (No. 3) 2002</i>	97, 2002	10 Nov 2002	Schedule 1 (item 7): Royal Assent	—
<i>Taxation Laws Amendment Act (No. 1) 2003</i>	12, 2003	2 Apr 2003	Schedule 1: 29 Aug 2001 Remainder: Royal Assent	Sch. 4 (item 4)
<i>Taxation Laws Amendment Act (No. 6) 2003</i>	67, 2003	30 June 2003	Schedule 11 (items 42, 43): Royal Assent	Sch. 11 (item 43)
<i>Tax Laws Amendment (Long-term Non-reviewable Contracts) Act 2005</i>	10, 2005	22 Feb 2005	Schedule 1 (items 12–14, 19): Royal Assent Schedule 1 (item 15): (e)	Sch. 1 (item 19)
<i>Tax Laws Amendment (2006 Measures No. 2) Act 2006</i>	58, 2006	22 June 2006	Schedule 7 (items 16, 17): Royal Assent	—
<i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i>	73, 2006	26 June 2006	Schedule 5 (items 138–139): 1 July 2006 (see s. 2(1))	—
<i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>	101, 2006	14 Sept 2006	Schedule 5 (items 6–13) and Schedule 6 (items 5–11): Royal Assent	Sch. 6 (items 5–11)
<i>Statute Stocktake (Regulatory and Other Laws) Act 2009</i>	111, 2009	16 Nov 2009	Schedule 1 (item 24): 17 Nov 2009	—

Act Notes

- (a) The *A New Tax System (Goods and Services Tax Transition) Act 1999* was amended by Schedule 6 (items 1–12) only of the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999*, subsection 2(12) of which provides as follows:
- (12) Schedule 6 (other than items 13 and 14) commences, or is taken to have commenced, immediately after the commencement of the *A New Tax System (Goods and Services Tax Transition) Act 1999*.
- The *A New Tax System (Goods and Services Tax Transition) Act 1999* commenced on 9 July 1999.
- (b) The *A New Tax System (Goods and Services Tax Transition) Act 1999* was amended by Schedule 2 only of the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*, subsection 2(5) of which provides as follows:
- (5) Schedule 2 is taken to have commenced immediately after the commencement of Schedule 6 (other than the items for which specific commencement has been provided) to the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999*.
- (c) The *A New Tax System (Goods and Services Tax Transition) Act 1999* was amended by the *Indirect Tax Legislation Amendment Act 2000*, subsections 2(2) and (4) of which provide as follows:
- (2) Section 1 and this section, and Schedules 10 and 10A (other than items 1A and 1B of Schedule 10 and item 5 of Schedule 10A), commence on the day on which this Act receives the Royal Assent.
- (4) Item 7 of Schedule 6, items 6 and 7 of Schedule 8, items 1A and 1B of Schedule 10 and items 13A to 16E of Schedule 11 commence immediately after the commencement of Schedule 2 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*.
- Schedule 2 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999* commenced on 9 July 1999.
- (ca) The *Indirect Tax Legislation Amendment Act 2000* was amended by Schedule 7 (items 16 and 17) only of the *Taxation Laws Amendment Act (No. 8) 2000*, subsection 2(7) of which provides as follows:
- (7) Items 16 to 18 of Schedule 7 are taken to have commenced immediately after the *Indirect Tax Legislation Amendment Act 2000* received the Royal Assent.
- (d) The *A New Tax System (Goods and Services Tax Transition) Act 1999* was amended by Schedule 1 (item 17) and Schedule 6 (item 41) only of the *Taxation Laws Amendment Act (No. 8) 2000*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Items 41 and 44 to 46 of Schedule 6 are taken to have commenced on 1 July 2000.
- (e) Subsection 2(1) (item 4) of the *Tax Laws Amendment (Long-term Non-reviewable Contracts) Act 2005*, provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
4. Schedule 1, item 15	Immediately after the start of the day on which this Act receives the Royal Assent.	22 February 2005

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 5	am. No. 176, 1999; No. 92, 2000; No. 101, 2006
Note to s. 6(2)	ad. No. 73, 2001
S. 6A.....	ad. No. 92, 2000 am. No. 101, 2006
Part 2	
Note to s. 7(1).....	ad. No. 92, 2000
S. 8	rep. No. 101, 2006
Note 3 to s. 8(1).....	ad. No. 92, 2000 rep. No. 101, 2006
S. 11	am. Nos. 176 and 177, 1999; No. 92, 2000
Part 3	
Division 1	
Heading to Div. 1 of Part 3	ad. No. 10, 2005
S. 12	am. No. 177, 1999
Note to s. 12(1).....	ad. No. 92, 2000
S. 13	am. No. 176, 1999; No. 10, 2005; No. 58, 2006
S. 14.....	am. Nos. 176 and 177, 1999; No. 58, 2006
S. 15.....	rs. No. 177, 1999 am. No. 92, 2000
Division 2	
Div. 2 of Part 3.....	ad. No. 10, 2005
Subdivision A	
Ss. 15A, 15B	ad. No. 10, 2005
Subdivision B	
Ss. 15C–15I.....	ad. No. 10, 2005
Heading to s. 15IA.....	am. No. 73, 2006
S. 15IA.....	ad. No. 10, 2005 am. No. 73, 2006
Subdivision C	
Ss. 15J, 15K.....	ad. No. 10, 2005
S. 15L	ad. No. 10, 2005 am. No. 111, 2009
S. 15M	ad. No. 10, 2005
Part 4	
S. 16	am. No. 176 and 177, 1999 rep. No. 101, 2006
Note to s. 16(1).....	ad. No. 177, 1999 rep. No. 101, 2006
Note to s. 16(3).....	ad. No. 177, 1999 rep. No. 101, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 16A.....	ad. No. 177, 1999 rep. No. 101, 2006
S. 16AB.....	ad. No. 92, 2000 rep. No. 101, 2006
S. 16B.....	ad. No. 177, 1999 am. No. 92, 2000 rep. No. 101, 2006
S. 16C.....	ad. No. 177, 1999 rep. No. 101, 2006
S. 17.....	am. No. 101, 2006
S. 18.....	am. No. 177, 1999; No. 101, 2006
Part 5	
S. 19.....	am. No. 156, 2000
S. 19A.....	ad. No. 176, 1999
S. 19B.....	ad. No. 97, 2002 rep. No. 101, 2006
S. 20.....	am. Nos. 176 and 177, 1999; No. 92, 2000; No. 73, 2001 rep. No. 101, 2006
Heading to s. 22.....	rs. No. 67, 2003
S. 22.....	am. No. 177, 1999; No. 67, 2003
S. 23.....	rs. Nos. 176 and 177, 1999 am. No. 92, 2000; No. 12, 2003
S. 23A.....	ad. No. 177, 1999 rep. No. 92, 2000
S. 24A.....	ad. No. 177, 1999
S. 24B.....	ad. No. 92, 2000
Note to s. 24B(5).....	am. No. 73, 2006
S. 24C.....	ad. No. 156, 2000
Schedule 1.....	rep. No. 101, 2006

Table A

Application, saving or transitional provisions

Taxation Laws Amendment Act (No. 8) 2000 (No. 156, 2000)

Schedule 1

18 Application

The amendments made by this Schedule apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 1 July 2000.

Taxation Laws Amendment Act (No. 3) 2001 (No. 73, 2001)

Schedule 1

78 Application

The amendments made by this Part of this Schedule apply in relation to acquisitions and importations made on or after 23 May 2001.

Taxation Laws Amendment Act (No. 1) 2003 (No. 12, 2003)

Schedule 4

4 Application

The amendments made by this Schedule apply, and are taken to have applied, in relation to net amounts for tax periods starting, or that started, on or after 1 July 2000.

Table A

Taxation Laws Amendment Act (No. 6) 2003 (No. 67, 2003)

Schedule 11

43 Application

The amendments made by this Schedule apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 1 July 2000.

Tax Laws Amendment (Long-term Non-reviewable Contracts) Act 2005
(No. 10, 2005)

Schedule 1

19 Application

The amendment made by item 15 of this Schedule applies to tax periods starting on or after 1 July 2000.

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006
(No. 101, 2006)

Schedule 6

5 Application of Schedule 5 amendments

The repeals and amendments made by Schedule 5 apply to acts done or omitted to be done, or states of affairs existing, after the commencement of the amendments.

6 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

7 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the

Table A

exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

8 Saving of provisions about effect of assessments

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
 - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
 - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

10 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

11 Schedule does not limit operation of section 8 of the *Acts Interpretation Act 1901*

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.