



Taxation Laws Amendment Act (No. 8) 2000

No. 156, 2000



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**An Act to amend the law relating to taxation, and
for related purposes**

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No. 156, 2000

An Act to amend the law relating to taxation, and for related purposes

[Assented to 21 December 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Taxation Laws Amendment Act (No. 8) 2000*.

2 Commencement

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

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- (2) Items 41 and 44 to 46 of Schedule 6 are taken to have commenced on 1 July 2000.
 - (3) Items 1 to 7 of Schedule 7 are taken to have commenced immediately after the commencement of items 1 to 9 of Schedule 1 to the *Indirect Tax Legislation Amendment Act 2000*.
 - (4) Item 8 of Schedule 7 is taken to have commenced immediately after the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999* received the Royal Assent.
 - (5) Items 9 and 10 of Schedule 7 are taken to have commenced immediately after the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999* received the Royal Assent.
 - (6) Items 11 and 12 of Schedule 7 are taken to have commenced immediately after the commencement of Schedule 4B to the *A New Tax System (Tax Administration) Act (No. 2) 2000*.
 - (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.
 - (8) Items 19 and 20 of Schedule 7 are taken to have commenced immediately after the commencement of 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Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—GST-free supplies and input taxed supplies

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

1 Subsection 11-15(3)

Repeal the subsection, substitute:

- (3) An acquisition is not treated, for the purposes of paragraph (2)(a), as relating to making supplies that would be *input taxed to the extent that the supply is made through an *enterprise, or a part of an enterprise, that you *carry on outside Australia.

2 Subsection 15-10(3)

Repeal the subsection, substitute:

- (3) An importation is not treated, for the purposes of paragraph (2)(a), as relating to making supplies that would be *input taxed to the extent that the supply is made through an *enterprise, or a part of an enterprise, that you *carry on outside Australia.

3 Sections 38-140 and 38-145

Repeal the sections, substitute:

38-140 Child care—registered carers under the family assistance law

A supply is *GST-free* if it is a supply of child care by a registered carer (within the meaning of section 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*).

38-145 Child care—approved child care services under the family assistance law

A supply is *GST-free* if:

- (a) it is a supply of child care by an approved child care service (within the meaning of section 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*); or

- (b) it is a supply of an excursion that is directly related to a supply of child care covered by paragraph (a).

4 At the end of Subdivision 38-K

Add:

38-360 Travel agents arranging overseas supplies

A supply is *GST-free* if:

- (a) the supplier makes it in the course of *carrying on an *enterprise as a travel agent; and
- (b) it consists of arranging for the making of a supply, the effective use or enjoyment of which is to take place outside Australia.

5 Subdivision 38-N (heading)

Repeal the heading, substitute:

Subdivision 38-N—Grants of land by governments

6 After subsection 38-445(1)

Insert:

- (1A) A supply by the Commonwealth, a State or a Territory of land is *GST-free* if:
 - (a) the supply is of a freehold interest in the land, or is by way of *long-term lease; and
 - (b) the Commonwealth, State or Territory had previously supplied the land, by way of lease, to the *recipient of the supply; and
 - (c) at the time of that previous supply, there were no improvements on the land; and
 - (d) because conditions to which that lease was subject had been satisfied, the recipient was entitled to the supply of the freehold interest or the supply by way of long-term lease.

7 At the end of Subdivision 38-N

Add:

38-450 Leases preceding grants of freehold and similar interests by governments

- (1) A supply by the Commonwealth, a State or a Territory of land on which there are no improvements is ***GST-free*** if:
 - (a) the supply is by way of lease (other than *long-term lease); and
 - (b) the lease is subject to conditions the satisfaction of which will entitle the *recipient of the supply to the grant of a freehold interest in the land or a long-term lease of the land.
- (2) A supply consisting of the surrender, to the Commonwealth, a State or Territory, of a lease over land is ***GST-free*** if:
 - (a) the supplier acquired the land under a supply that:
 - (i) was GST-free under subsection (1); or
 - (ii) if the supply was made before 1 July 2000—would have been GST-free under subsection (1) if it had been made on or after that day; and
 - (b) solely or partly in return for the surrender of the lease, the Commonwealth, State or Territory makes a supply of the land to the supplier that is GST-free under section 38-445.

8 After subsection 40-35(1)

Insert:

- (1A) A supply of a berth at a marina that is by way of lease, hire or licence (including a renewal or extension of a lease, hire or licence) is ***input taxed*** if:
 - (a) the berth is occupied, or is to be occupied, by a *ship used as a residence; and
 - (b) the supply is of *commercial accommodation and Division 87 (which is about long-term accommodation in commercial premises) would apply to the supply but for a choice made by the supplier under section 87-25.

9 At the end of Subdivision 40-C

Add:

40-75 Meaning of *new residential premises*

- (1) *Residential premises are ***new residential premises*** if they:

- (a) have not previously been sold as residential premises and have not previously been the subject of a *long-term lease; or
 - (b) have been created through *substantial renovations of a building; or
 - (c) have been built, or contain a building that has been built, to replace demolished premises on the same land.
- (2) However, the premises are not new residential premises if, for the period of at least 5 years since:
- (a) if paragraph (1)(a) applies (and neither paragraph (1)(b) nor paragraph (1)(c) applies)—the premises first became *residential premises; or
 - (b) if paragraph (1)(b) applies—the premises were last *substantially renovated; or
 - (c) if paragraph (1)(c) applies—the premises were last built; the premises have only been used for making supplies that are *input taxed because of paragraph 40-35(1)(a).
- (3) To avoid doubt, if the *residential premises are new residential premises because of paragraph (1)(b) or (c), the new residential premises include land of which the new residential premises are a part.

10 Subsection 60-20(3)

Repeal the subsection, substitute:

- (3) An acquisition or importation is not treated, for the purposes of paragraph (2)(a), as relating to making supplies that would be *input taxed to the extent that the supply is made through an *enterprise, or a part of an enterprise, that the company will *carry on outside Australia.

11 Subsection 70-5(1A)

Omit “if”, substitute “to the extent (if any) that”.

12 Subsection 75-10(3) (after table item 2)

Insert:

- 2A The supplier acquired the interest, unit or lease on or after 1 July 2000, but the supply to the supplier: 1 July 2000
- (a) was *GST-free under subsection 38-445(1A); and
 - (b) related to a supply before 1 July 2000, by way of lease, that would have been GST-free under section 38-450 had it been made on or after 1 July 2000.

13 Section 165-1

Omit “to register under the *Childcare Rebate Act 1993* (registration”, substitute “to be approved under the *A New Tax System (Family Assistance) (Administration) Act 1999* (this”.

14 Section 195-1 (definition of *Child Care Minister*)

After “1972”, insert “and the family assistance law (within the meaning of section 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999*”.

15 Section 195-1 (definition of *family*)

Repeal the definition.

15A Section 195-1 (at the end of subparagraph (a)(i) of the definition of *first aid or life saving course*)

Add “including personal aquatic survival skills but not including swimming lessons”.

16 Section 195-1 (definition of *new residential premises*)

Repeal the definition, substitute:

new residential premises has the meaning given by section 40-75.

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

17 At the end of Part 5

Add:

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.

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.

Schedule 2—Imports

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

1 After subsection 13-20(2)

Insert:

- (2A) If an amount to be taken into account under paragraph (2)(b) is not an amount in Australian currency, the amount so taken into account is the equivalent in Australian currency of that amount, ascertained in the way provided in section 161J of the *Customs Act 1901*.

2 Section 13-99 (table item 6)

Omit “taxable importations of goods that were exported for repair or renovation”, substitute “re-imported goods”.

3 Section 37-1 (table item 16)

Repeal the item.

4 Section 37-1 (after table item 36A)

Insert:

36B Valuation of re-imported goods Division 117

5 At the end of section 42-10 (before the note)

Add:

- (2) An importation of goods is a *non-taxable importation* if:
- (a) the importer had manufactured, acquired or imported the goods before 1 July 2000; and
 - (b) the goods were exported from Australia before, on or after 1 July 2000; and
 - (c) the goods are returned to Australia on or after 1 July 2000, without having been subject to any treatment, industrial processing, repair, renovation, alteration or any other process since their export; and

- (d) the importer was not entitled to, and did not claim, a payment under Division 168 (about the tourist refund scheme) related to the export of the goods; and
- (e) the ownership of the goods when they are returned to Australia is the same as their ownership on 1 July 2000.

6 Division 117 (heading)

Repeal the heading, substitute:

Division 117—Valuation of re-imported goods

7 Section 117-1

Repeal the section, substitute:

117-1 What this Division is about

Taxable importations of goods that were exported, and then re-imported, are in some cases given a lower value than would otherwise apply. The GST then applies only to the lower value, and not to the entire value, of the goods.

8 After subsection 117-5(1)

Insert:

- (1A) If an amount to be taken into account under paragraph (1)(b) is not an amount in Australian currency, the amount so taken into account is the equivalent in Australian currency of that amount, ascertained in the way provided in section 161J of the *Customs Act 1901*.

9 At the end of Division 117

Add:

117-10 Valuation of taxable importations of live animals that were exported

- (1) If there is a *taxable importation of a live animal that was exported, and the difference between:

-
- (a) what would have been the value of the importation if this section did not apply; and
 - (b) what would have been the value of a taxable importation of the animal if it had been imported immediately before the time of the exportation;
- is greater than zero, the *value* of the *taxable importation is an amount equal to that difference.
- (2) In any other case, the *value* of a *taxable importation of a live animal that was exported is nil.
 - (3) However, this section does not apply if the ownership of the animal when it is imported is different from its ownership when it was last exported.
 - (4) This section has effect despite subsection 13-20(2) (which is about the value of taxable importations).

117-15 Refunds of GST on certain re-importations of live animals

- (1) If:
 - (a) you were liable to pay the GST on a *taxable importation to which section 117-10 applied; and
 - (b) the importation was not a *creditable importation; and
 - (c) the circumstances specified in the regulations occur;the Commissioner must, on behalf of the Commonwealth, pay to you an amount equal to the amount of the GST payable on the taxable importation.
- (2) The amount is payable within the period and in the manner specified in the regulations.

10 Paragraph 171-5(1)(c)

Repeal the paragraph, substitute:

- (c) either:
 - (i) the goods are exported within the relevant period mentioned in paragraph 162(3)(b) of that Act; or
 - (ii) one or more of the circumstances or conditions specified in the regulations mentioned in paragraph 162(3)(b) of that Act apply in relation to the goods.

11 Paragraph 171-5(1A)(c)

Repeal the paragraph, substitute:

- (c) one or more of the following applies:
 - (i) the goods are exported within the relevant period mentioned in paragraph 162A(5)(b) of that Act;
 - (ii) if the goods are described in subsection 162A(5A) of that Act—the goods are exported before the end of the relevant day mentioned in paragraph 162A(5A)(b) of that Act;
 - (iii) one or more of the circumstances or conditions specified in the regulations mentioned in paragraph 162A(5)(b) of that Act apply in relation to the goods.

12 Section 195-1 (paragraph (a) of the definition of *value*)

Omit “and 117-5”, substitute “, 117-5 and 117-10”.

A New Tax System (Luxury Car Tax) Act 1999

13 Paragraph 7-10(3)(c)

Omit “17,”.

14 At the end of subsection 7-10(3)

Add:

- ; or (d) the importation of the car is a *non-taxable re-importation.

15 At the end of Division 7

Add:

7-20 Meaning of *non-taxable re-importation*

- (1) An *importation of a *car is a *non-taxable re-importation* if:
 - (a) the car was exported from Australia and is returned to Australia, without having been subject to any treatment, industrial processing, repair, renovation, alteration or any other process since its export; and
 - (b) the importer:
 - (i) is the manufacturer of the car; or

-
- (ii) has previously acquired the car, and the supply by means of which the importer acquired the goods was a *taxable supply of a luxury car; or
 - (iii) has previously imported the car, and the previous importation was a *taxable importation of a luxury car.
- (2) An importation of a *car is a ***non-taxable re-importation*** if:
- (a) the importer had manufactured, acquired or imported the car before 1 July 2000; and
 - (b) the car was exported from Australia before, on or after 1 July 2000; and
 - (c) the car is returned to Australia on or after 1 July 2000, without having been subject to any treatment, industrial processing, repair, renovation, alteration or any other process since its export; and
 - (d) the ownership of the car when it is returned to Australia is the same as its ownership on 1 July 2000.

Note: An importation covered by this section may also be duty-free under item 17 of Schedule 4 to the *Customs Tariff Act 1995*.

16 Paragraph 13-25(1)(c)

Repeal the paragraph, substitute:

- (c) either:
 - (i) the car is exported within the relevant period mentioned in paragraph 162(3)(b) of that Act; or
 - (ii) one or more of the circumstances or conditions specified in the regulations mentioned in paragraph 162(3)(b) of that Act apply in relation to the car.

17 Paragraph 13-25(1A)(c)

Repeal the paragraph, substitute:

- (c) one or more of the following applies:
 - (i) the car is exported within the relevant period mentioned in paragraph 162A(5)(b) of that Act;

- (ii) if the car is goods described in subsection 162A(5A) of that Act—the goods are exported before the end of the relevant day mentioned in paragraph 162A(5A)(b) of that Act;
- (iii) one or more of the circumstances or conditions specified in the regulations mentioned in paragraph 162A(5)(b) of that Act apply in relation to the car.

18 Section 27-1

Insert:

non-taxable re-importation has the meaning given by section 7-20.

A New Tax System (Wine Equalisation Tax) Act 1999

19 Section 7-15

Omit “17,”.

20 At the end of Division 7

Add:

7-25 Goods returned to Australia in an unaltered condition

- (1) A ^{*}local entry of wine is not taxable if:
 - (a) the wine was exported from Australia and is returned to Australia, without having been subject to any treatment, industrial processing, alteration or any other process since its export; and
 - (b) the importer was not entitled to, and did not claim, a payment under Division 25 (about the tourist refund scheme) related to the export of the wine; and
 - (c) the importer:
 - (i) is the manufacturer of the wine; or
 - (ii) has previously acquired the wine, and the supply by means of which the importer acquired the wine was a ^{*}taxable dealing; or
 - (iii) has previously imported the goods, and the previous importation was a ^{*}taxable dealing.

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- (2) A *local entry of wine is not taxable if:
- (a) the importer had manufactured, acquired or imported the wine before 1 July 2000; and
 - (b) the wine was exported from Australia before, on or after 1 July 2000; and
 - (c) the wine is returned to Australia on or after 1 July 2000, without having been subject to any treatment, industrial processing, alteration or any other process since its export; and
 - (d) the importer was not entitled to, and did not claim, a payment under Division 25 (about the tourist refund scheme) related to the export of the wine; and
 - (e) the ownership of the wine when it is returned to Australia is the same as its ownership on 1 July 2000.

Note: An importation covered by this section may also be duty-free under item 17 of Schedule 4 to the *Customs Tariff Act 1995*.

Customs Act 1901

21 Paragraph 162(3)(b)

Repeal the paragraph, substitute:

(b) either:

- (i) the goods are exported within a period of 12 months after the date on which the goods were imported, or within such further period as the CEO, on the application of the person who imported the goods, allows; or
- (ii) one or more of the circumstances or conditions specified in the regulations apply in relation to the goods;

22 Subsection 162(4)

Repeal the subsection, substitute:

- (4) If the circumstances described in paragraphs (3)(a) and (b) do not exist in relation to the goods:
 - (a) the security may be enforced according to its tenor; or
 - (b) if an undertaking to pay the amount of the duty (if any), the GST (if any) and the luxury car tax (if any) has been given, that amount may be recovered at any time in a court of

competent jurisdiction by proceedings in the name of the Collector.

23 Paragraph 162A(5)(b) (but not the note)

Repeal the paragraph, substitute:

(b) the goods are not exported:

- (i) within such period, not exceeding 12 months, after the date on which the goods were imported as is notified to the person who imported the goods by the Collector when he or she grants permission to take delivery of the goods; or
- (ii) within such further period as the CEO, on the application of the person who imported the goods and of the person who gave the security or undertaking with respect to the goods, allows;

and none of the circumstances or conditions specified in the regulations apply in relation to the goods.

24 Paragraph 162A(5A)(b)

Repeal the paragraph, substitute:

(b) the goods are not exported before the end of:

- (i) 31 December 2000; or
- (ii) if the CEO specifies a later day on the application of the person who imported the goods and the person who gave the security or undertaking with respect to the goods—that later day;

and none of the circumstances or conditions specified in the regulations mentioned in paragraph (5)(b) apply in relation to the goods.

25 Application

- (1) The amendments made by items 1 and 8 of this Schedule apply, and are taken to have applied, to importations into Australia on or after the day on which the Bill that became the *Taxation Laws Amendment Act (No. 8) 2000* was introduced into the House of Representatives.
- (2) The rest of the amendments made by this Schedule apply, and are taken to have applied, to importations into Australia on or after 1 July 2000.

Schedule 3—Fringe benefits

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

1 Section 11-99 (table item 3A)

Repeal the item, substitute:

3A Fringe benefits provided by input taxed suppliers Division 71

2 Section 15-99 (table item 1A)

Repeal the item, substitute:

1A Fringe benefits provided by input taxed suppliers Division 71

3 Section 17-99 (after table item 9)

Insert:

9AA Non-deductible expenses Division 69

4 Section 19-99 (after table item 1)

Insert:

2 Non-deductible expenses Division 69

5 Section 29-39 (after table item 8A)

Insert:

8B Non-deductible expenses Division 69

6 Section 37-1 (table item 10B)

Repeal the item.

7 Section 37-1 (after table item 11)

Insert:

11A Fringe benefits provided by input taxed suppliers Division 71

8 After section 69-1

Insert:

Subdivision 69-A—Non-deductible expenses generally

9 After subsection 69-5(3)

Insert:

- (3A) An acquisition or importation is also a *non-deductible expense* to the extent that it is not deductible under Division 8 of the *ITAA 1997 because of one of the following:
- (a) section 51AEA of the *ITAA 1936 (Meal entertainment—election to use the 50/50 split method);
 - (b) section 51AEB of the ITAA 1936 (Meal entertainment—election to use the 12 week register method);
 - (c) section 51AEC of the ITAA 1936 (Entertainment facility—election to use the 50/50 split method).

9A Subsection 69-5(4)

After “subsection (3)”, insert “or (3A)”.

10 At the end of Division 69

Add:

Subdivision 69-B—Elections for GST purposes relating to meal entertainment and entertainment facilities

69-15 What this Subdivision is about

The GST consequences of incurring certain expenses for the provision of meal entertainment and entertainment facilities depend on elections made under fringe benefits tax law. These elections might not be made until after GST returns are due.

This Subdivision allows elections to be made for GST purposes so that GST returns can take into account the likely application of subsection 69-5(3A) to those expenses, before the fringe benefits tax elections are made.

69-20 Effect of elections on net amounts

- (1) If you make an election under this Subdivision that has effect during a particular tax period, your *net amount for the tax period must be worked out on the basis of that election.

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- (2) This section has effect despite section 17-5 (which is about working out your net amount).

69-25 Election to use the 50/50 split method for meal entertainment

You may elect to have acquisitions or importations treated, for the purposes of this Subdivision, as *non-deductible expenses because of paragraph 69-5(3A)(a), to the extent that the acquisitions or importations would be non-deductible expenses because of that paragraph if:

- (a) an election were in force under section 37AA of the *Fringe Benefits Tax Assessment Act 1986* (but no further election were in force under section 37CA of that Act); and
- (b) section 51AEA of the *ITAA 1936 were to apply, because of that election, to expenses relating to the acquisitions or importations.

69-30 Election to use the 12 week register method for meal entertainment

- (1) You may elect to have acquisitions or importations treated, for the purposes of this Subdivision, as *non-deductible expenses because of paragraph 69-5(3A)(b), to the extent that the acquisitions or importations would be non-deductible expenses because of that paragraph if:

- (a) an election were in force under section 37CA of the *Fringe Benefits Tax Assessment Act 1986*; and
- (b) section 51AEB of the *ITAA 1936 were to apply, because of that election, to expenses relating to the acquisitions or importations.

- (2) However, you cannot make the election unless you have a *valid meal entertainment register.

69-35 Election to use the 50/50 split method for entertainment facilities

You may elect to have acquisitions or importations treated, for the purposes of this Subdivision, as *non-deductible expenses because of paragraph 69-5(3A)(c), to the extent that the acquisitions or importations would be non-deductible expenses because of that paragraph if:

- (a) an election were in force under section 152B of the *Fringe Benefits Tax Assessment Act 1986*; and
- (b) section 51AEC of the *ITAA 1936 were to apply, because of that election, to expenses relating to the acquisitions or importations.

69-40 When elections take effect

- (1) An election under this Subdivision is taken to have effect, or to have had effect, from the start of the tax period specified in the election.
- (2) The tax period may be a future tax period or the current tax period. It cannot be a tax period that has already come to an end.

69-45 When elections cease to have effect

If a circumstance specified in the second column of the following table occurs, the election ceases to have effect from the start of the tax period specified in the third column:

When elections cease to have effect			
Item	Kind of election	Circumstance	Tax period
1	Any election under this Subdivision	You withdraw the election	The tax period (which must not be a past tax period) specified in the withdrawal
2	An election under section 69-25	You make an election under section 69-30	The tax period at the start of which the election under section 69-30 takes effect
3	An election under section 69-30	You make an election under section 69-25	The tax period at the start of which the election under section 69-25 takes effect
4	An election under section 69-30	You cease to have a *valid meal entertainment register	The tax period during which you cease to have such a register
5	An election under section 69-25 or 69-30	You make an election under section 37AA or 37CA of the <i>Fringe Benefits Tax Assessment Act 1986</i>	The tax period during which the election is made

When elections cease to have effect

Item	Kind of election	Circumstance	Tax period
6	An election under section 69-35	You make an election under section 152B of that Act	The tax period during which the election is made

69-50 Adjustment events relating to elections

- (1) The following are *adjustment events* if they have the effect of changing the extent to which an acquisition you made is a *creditable acquisition:
 - (a) an election you make under this Subdivision ceases to have effect at a time other than the start of an *FBT year;
 - (b) an election is made under section 37AA, 37CA or 152B of the *Fringe Benefits Tax Assessment Act 1986* for an FBT year, without one or more corresponding elections under this Subdivision having been made covering all the tax periods in that year;
 - (c) an election is not made under section 37AA, 37CA or 152B of that Act for an FBT year, but one or more corresponding elections have been made under this Subdivision covering one or more of the tax periods in that year.
- (2) However, an *adjustment event under this section arises only in respect of a tax period in which:
 - (a) the day occurs by which you are required, under section 68 of the *Fringe Benefits Tax Assessment Act 1986*, to furnish a return to the Commissioner relating to an *FBT year; or
 - (b) if you are not required under that section to lodge a return relating to that FBT year—the day occurs by which you would have been required under that section to lodge a return relating to that FBT year, if you were required to lodge the return.
- (3) Subdivision 19-C applies to the acquisition in question as if every *adjustment event under this section that occurred during the *FBT year, and that relates to the acquisition, occurred during the tax period referred to in paragraph 19-70(a).
- (4) This table sets out when elections that you make or fail to make under section 37AA, 37CA or 152B of the *Fringe Benefits Tax*

Assessment Act 1986 correspond to elections under this Subdivision:

Corresponding elections		
Item	These elections under the <i>Fringe Benefits Tax Assessment Act 1986</i>...	correspond to these elections under this Subdivision...
1	an election under section 37AA, but without a further election under section 37CA	an election under section 69-25
2	an election under section 37AA, together with a further election under section 37CA	an election under section 69-30
3	an election under section 152B	an election under section 69-35

69-55 Adjustment notes not required

Subsection 29-20(3) does not apply to a *decreasing adjustment arising from an *adjustment event of a kind referred to in section 69-50.

11 Division 71 (heading)

Repeal the heading, substitute:

Division 71—Fringe benefits provided by input taxed suppliers

12 Section 71-1

Omit “Financial suppliers”, substitute “Suppliers making input taxed supplies”.

13 Section 71-5 (heading)

Repeal the heading, substitute:

71-5 Acquisitions by input taxed suppliers to provide fringe benefits**14 Subsections 71-5(1) and (2)**

Repeal the subsections, substitute:

- (1) An acquisition that solely or partly relates to making supplies that are *input taxed is not a *creditable acquisition if:
 - (a) the acquisition would (but for this section) be an acquisition of a kind referred to in paragraph 149A(2)(b) of the *Fringe Benefits Tax Assessment Act 1986*; and
 - (b) the acquisition specifically relates to the provision of a particular benefit (within the meaning of that Act) in respect of which *fringe benefits tax is or will be payable.
- (2) However, this section does not apply to an acquisition if:
 - (a) the only reason it relates to making supplies that are *input taxed is because it relates to making *financial supplies; and
 - (b) you do not *exceed the financial acquisitions threshold.

15 Section 71-10 (heading)

Repeal the heading, substitute:

71-10 Importations by input taxed suppliers to provide fringe benefits**16 Subsections 71-10(1) and (2)**

Repeal the subsections, substitute:

- (1) An importation that solely or partly relates to making supplies that are *input taxed is not a *creditable importation if:
 - (a) the importation would (but for this section) be an importation of a kind referred to in paragraph 149A(2)(b) of the *Fringe Benefits Tax Assessment Act 1986*; and
 - (b) the importation specifically relates to the provision of a particular benefit (within the meaning of that Act) in respect of which *fringe benefits tax is or will be payable.
- (2) However, this section does not apply to an importation if:
 - (a) the only reason it relates to making supplies that are *input taxed is because it relates to making *financial supplies; and

(b) you do not *exceed the financial acquisitions threshold.

17 Section 111-1

Omit “reimbursing employees, agents, officers or partners for expenses they incur in connection with the carrying on of your enterprise”, substitute “some reimbursements you make to employees (or associates of employees), agents, officers or partners for expenses they incur”.

18 Subsection 111-5(1)

Omit “If:”, substitute “If one or more of the following applies:”.

19 Paragraph 111-5(1)(a)

Omit “agent; or”, substitute “agent;”.

20 After paragraph 111-5(1)(a)

Insert:

- (ab) you reimburse an employee (whether or not you are the employee’s employer) for an expense that the employee or the employee’s *associate incurs, and the reimbursement constitutes an *expense payment benefit;
- (ac) you reimburse an associate of an employee (whether or not you are the employee’s employer) for an expense that the associate or employee incurs, and the reimbursement constitutes an expense payment benefit;

21 Paragraph 111-5(1)(b)

Omit “officer; or”, substitute “officer;”.

22 Subsection 111-5(1)

After “employee,” (last occurring), insert “associate,”.

23 Paragraph 111-5(3)(a)

Repeal the paragraph, substitute:

- (a) is not a *creditable acquisition to the extent (if any) that:
 - (i) the employee, *associate, agent, *officer or partner is entitled to an input tax credit for acquiring the thing acquired in incurring the expense; or
 - (ii) the acquisition would not, because of Division 69, be a creditable acquisition if you made it; and

24 Paragraph 111-5(3)(b)

After “employee,” insert “associate,”.

25 At the end of subsection 111-5(3)

Add:

- ; and (c) is not a creditable acquisition if you would, because of Division 71, not have been entitled to an input tax credit if you had made the acquisition that the employee, associate, agent, officer or partner made.

26 Subsection 111-10(2)

Repeal the subsection, substitute:

(2) However, if:

- (a) the person incurring the expense incurs it in the capacity of an agent, *officer or partner; and
- (b) the incurring of the expense is only in part related directly to his or her activities as your agent or officer, or as a partner, as the case requires;

the amount of the input tax credit under subsection (1) is reduced by an extent equivalent to the extent to which the incurring of the expense is not related directly to those activities.

27 Section 111-25

Repeal the section, substitute:

111-25 Employers paying expenses of employees etc.

If you make, or are liable to make:

- (a) a payment on behalf of your employee for an expense that he or she incurs that is related directly to his or her activities as your employee; or
- (b) a payment:
 - (i) on behalf of an employee (whether or not you are the employee’s employer) for an expense that the employee or the employee’s *associate incurs; or
 - (ii) on behalf of an associate of an employee (whether or not you are the employee’s employer) for an expense that the associate or employee incurs;that constitutes an *expense payment benefit;

this Division applies to you as if you reimbursed your employee, or you reimbursed the employee or associate, for the expense.

111-30 Reimbursements etc. of former or future employees etc.

This Division applies in relation to:

- (a) reimbursements, of a kind referred to in paragraph 111-5(1)(ab) or (ac), of former employees and future employees, and of the *associates of former employees and future employees; and
- (b) payments, of a kind referred to in paragraph 111-25(b), that you make or are liable to make on behalf of former employees and future employees, and of the *associates of former employees and future employees;

in the same way that this Division applies to such reimbursements of, and such payments that you make or are liable to make to, employees and their associates.

28 Section 195-1 (definition of *adjustment event*)

Omit “section 19-10”, substitute “sections 19-10 and 69-50”.

29 Section 195-1

Insert:

expense payment benefit means a *fringe benefit that is a benefit of a kind referred to in section 20 of the *Fringe Benefits Tax Assessment Act 1986*.

30 Section 195-1

Insert:

FBT year means a year beginning on 1 April.

31 Section 195-1 (definition of *GST-creditable benefit*)

Repeal the definition.

32 Section 195-1 (definition of *non-deductible expense*)

Omit “subsection 69-5(3)”, substitute “subsections 69-5(3) and (3A)”.

33 Section 195-1

Insert:

valid meal entertainment register means a valid meal entertainment register within the meaning of section 37CA of the *Fringe Benefits Tax Assessment Act 1986*.

34 Application

- (1) Subject to this item, 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 the day on which the Bill that became the *Taxation Laws Amendment Act (No. 8) 2000* was introduced into the House of Representatives.
- (2) The amendments made by items 1, 2, 6, 7, 11 to 16, 25 and 31 apply, and are taken to have applied, in relation to net amounts for tax periods ending on or after the day on which the Bill that became the *Taxation Laws Amendment Act (No. 8) 2000* was introduced into the House of Representatives.
- (3) The amendments made by items 17 to 24, 26, 27 and 29 apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 1 July 2000.

Schedule 4—Adjustments

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

1 Section 17-99 (table item 15)

Omit “, imported or applied to make financial supplies”, substitute “etc. without full input tax credits”.

2 Section 21-99 (table item 1A)

Omit “partly taxable or creditable transactions”, substitute “transactions that are not taxable or creditable to the fullest extent”.

3 Section 29-39 (table item 13)

Omit “, imported or applied to make financial supplies”, substitute “etc. without full input tax credits”.

4 Section 37-1 (table item 3A)

Omit “partly taxable or creditable transactions”, substitute “transactions that are not taxable or creditable to the fullest extent”.

5 Section 37-1 (table item 33)

Omit “, imported or applied to make financial supplies”, substitute “etc. without full input tax credits”.

6 Division 132 (heading)

Repeal the heading, substitute:

Division 132—Supplies of things acquired etc. without full input tax credits

7 At the end of section 132-1

Add “or for a private or domestic purpose”.

8 Section 132-5 (heading)

Repeal the heading, substitute:

132-5 Decreasing adjustments for supplies of things acquired, imported or applied for a purpose that is not fully creditable**9 Paragraph 132-5(1)(c)**

Repeal the paragraph, substitute:

- (c) your acquisition, importation or subsequent *application of the thing, related solely or partly to making *financial supplies, or was solely or partly of a private or domestic nature.

10 Subsection 132-5(4)

Omit all the words from and including “that the acquisition, importation or application”, substitute:

that the acquisition, importation or application:

- (a) relates to the making of *financial supplies; or
(b) is of a private or domestic nature.

11 Paragraph 135-5(1)(b)

Omit “some, but not all,”, substitute “some or all”.

12 Division 136 (heading)

Repeal the heading, substitute:

Division 136—Bad debts relating to transactions that are not taxable or creditable to the fullest extent**Table of Subdivisions**

- 136-A Bad debts relating to partly taxable or creditable transactions
136-B Bad debts relating to transactions that are taxable or creditable at less than $\frac{1}{11}$ of the price

13 Section 136-1

Repeal the section, substitute:

136-1 What this Division is about

The amount of an adjustment that you have under Division 21 for a bad debt is reduced under this Division if the transaction to which the adjustment relates:

- was a supply that was partly taxable or an acquisition that was partly creditable; or
- was fully taxable or creditable, but not to the extent of $\frac{1}{11}$ of the price or consideration for the transaction.

Subdivision 136-A—Bad debts relating to partly taxable or creditable transactions

14 Section 136-5

Omit “section 21-5 or 21-10” (wherever occurring), substitute “section 21-5, 21-10, 136-30 or 136-35”.

15 Subsections 136-10(1) and (2)

Omit “section 21-15 or 21-20” (wherever occurring), substitute “section 21-15, 21-20, 136-40 or 136-45”.

16 At the end of Division 136

Add:

Subdivision 136-B—Bad debts relating to transactions that are taxable or creditable at less than $\frac{1}{11}$ of the price

136-30 Writing off bad debts (taxable supplies)

- (1) The amount of a *decreasing adjustment that you have under section 21-5, relating to a *taxable supply that is *taxable at less than $\frac{1}{11}$ of the price, is worked out under this section and not under section 21-5.
- (2) This is how to work out the amount:

Method statement

- Step 1.* Work out the amount of GST (if any) that was payable on the supply, taking into account any previous *adjustments for the supply. This amount is the ***previous GST amount***.
- Step 2.* Add together:
- (a) the amount or amounts written off as bad from the debt to which the decreasing adjustment relates; and
 - (b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).
- Step 3.* Subtract the step 2 amount from the *price of the supply.
- Step 4.* Work out the amount of GST (if any), taking into account any previous *adjustments for the supply (but not adjustments relating to bad debts or debts overdue), that would be payable on the supply if the *price of the supply were the step 3 amount. This amount of GST is the ***adjusted GST amount***.
- Step 5.* Subtract the adjusted GST amount from the previous GST amount.

136-35 Recovering amounts previously written off (taxable supplies)

- (1) The amount of an *increasing adjustment that you have under section 21-10, relating to a *taxable supply that is *taxable at less than $\frac{1}{11}$ of the price, is worked out under this section and not under section 21-10.
- (2) This is how to work out the amount:

Method statement

- Step 1.* Work out the amount of GST (if any) that was payable on the supply, taking into account any previous *adjustments for the supply. This amount is the ***previous GST amount***.

Step 2. Add together:

- (a) the amount or amounts previously written off as bad from the debt to which the increasing adjustment relates; and
- (b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).

Step 3. Subtract the step 2 amount from the *price of the supply.

Step 4. Add to the step 3 amount an amount equal to the amount or amounts, written off or overdue for 12 months or more, that have been recovered.

Step 5. Work out the amount of GST (if any), taking into account any previous *adjustments for the supply (but not adjustments relating to bad debts or debts overdue), that would be payable on the supply if the *price of the supply were the step 4 amount. This amount of GST is the ***adjusted GST amount***.

Step 6. Subtract the previous GST amount from the adjusted GST amount.

136-40 Bad debts written off (creditable acquisitions)

- (1) The amount of an *increasing adjustment that you have under section 21-15, relating to a *creditable acquisition that is *creditable at less than $\frac{1}{11}$ of the consideration, is worked out under this section and not under section 21-15.
- (2) This is how to work out the amount:

Method statement

Step 1. Work out the amount of the input tax credit (if any) to which you were entitled for the acquisition, taking into account any previous *adjustments for the acquisition. This amount is the ***previous credit amount***.

Step 2. Add together:

- (a) the amount or amounts previously written off as bad from the debt to which the increasing adjustment relates; and
- (b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).

Step 3. Subtract the step 2 amount from the total amount of the *consideration that you have either provided, or are liable to provide, for the acquisition.

Step 4. Work out the amount of the input tax credit (if any), taking into account any previous *adjustments for the acquisition (but not adjustments relating to bad debts or debts overdue), to which you would be entitled for the acquisition if the *consideration for the acquisition were the step 3 amount. This amount of GST is the ***adjusted credit amount***.

Step 5. Subtract the adjusted credit amount from the previous credit amount.

136-45 Recovering amounts previously written off (creditable acquisitions)

- (1) The amount of a *decreasing adjustment that you have under section 21-20, relating to a *creditable acquisition that is *creditable at less than $\frac{1}{11}$ of the consideration, is worked out under this section and not under section 21-20.
- (2) This is how to work out the amount:

Method statement

Step 1. Work out the amount of the input tax credit (if any) to which you were entitled for the acquisition, taking into

account any previous *adjustments for the acquisition. This amount is the *previous credit amount*.

Step 2. Add together:

- (a) the amount or amounts previously written off as bad from the debt to which the decreasing adjustment relates; and
- (b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).

Step 3. Subtract the step 2 amount from the total amount of the *consideration that you have either provided, or are liable to provide, for the acquisition.

Step 4. Add to the step 3 amount an amount equal to the amount or amounts, written off or overdue for 12 months or more, that you have paid.

Step 5. Work out the amount of the input tax credit (if any), taking into account any previous *adjustments for the acquisition (but not adjustments relating to bad debts or debts overdue), to which you would be entitled for the acquisition if the *consideration for the acquisition were the step 4 amount. This amount of GST is the *adjusted credit amount*.

Step 6. Subtract the previous credit amount from the adjusted credit amount.

136-50 Meanings of taxable at less than $\frac{1}{11}$ of the price and creditable at less than $\frac{1}{11}$ of the consideration

- (1) A *taxable supply is *taxable at less than $\frac{1}{11}$ of the price* if the amount of GST payable on the supply is an amount that is less than $\frac{1}{11}$ of the *price of the supply.

-
- (2) A *creditable acquisition is *creditable at less than 1/11 of the consideration* if the *taxable supply to which it relates is *taxable at less than 1/11 of the price.

17 Subsection 147-20(1)

Repeal the subsection, substitute:

- (1) If:
- (a) an *adjustment relates to a supply, acquisition or importation that an *incapacitated entity made before a *representative of the incapacitated entity was appointed; and
 - (b) the adjustment arises after that appointment; and
 - (c) in the case of an *increasing adjustment—the representative gives the Commissioner written notice that:
 - (i) states that the adjustment has arisen in these circumstances; and
 - (ii) specifies the amount of the adjustment;the adjustment is to be treated as if:
 - (d) the representative did not have the adjustment; and
 - (e) the incapacitated entity had the adjustment.

18 Section 195-1

Insert:

creditable at less than 1/11 of the consideration has the meaning given by subsection 136-50(2).

19 Section 195-1

Insert:

taxable at less than 1/11 of the price has the meaning given by subsection 136-50(1).

20 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.

Schedule 5—Administration

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

1 After section 25-55

Insert:

25-57 When the Commissioner may cancel your registration

- (1) The Commissioner may cancel your *registration if:
 - (a) less than 12 months after being registered, you apply for cancellation of registration in the *approved form; and
 - (b) the Commissioner is satisfied that you are not *required to be registered.

Note: Refusing to cancel your registration under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) In considering your application, the Commissioner may have regard to:
 - (a) how long you have been *registered; and
 - (b) whether you have previously been registered; and
 - (c) any other relevant matters.
- (3) The Commissioner must notify you of any decision he or she makes in relation to you under this section. If the Commissioner decides to cancel your registration, the notice must specify the date of effect of the cancellation.

2 Subsection 25-60(1)

After “or (2)”, insert “or section 25-57”.

3 After section 27-20

Insert:

27-22 Revoking elections of one month tax periods

- (1) The Commissioner may, if you so request in the *approved form, revoke your election under section 27-10, with effect from a day

occurring earlier than 12 months after the election took effect, unless the Commissioner is satisfied that your *annual turnover meets the *tax period turnover threshold.

Note: Refusing to revoke your election under this subsection is a reviewable GST decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

- (2) In considering your request, the Commissioner may have regard to:
- (a) for how long the tax periods applying to you have been each individual month; and
 - (b) whether you have previously been *registered, and whether such tax periods had applied to you; and
 - (c) any other relevant matters.
- (3) The revocation:
- (a) takes effect on the day specified in the instrument of revocation; or
 - (b) is taken to have had effect from a past day specified in the instrument of revocation.

However, the day specified must be 1 January, 1 April, 1 July or 1 October.

Note: Deciding the date of effect of the revocation is a reviewable decision (see Division 7 of Part VI of the *Taxation Administration Act 1953*).

Taxation Administration Act 1953

4 At the end of section 8AAZL (after the note)

Add:

- (3) However, the Commissioner does not have to treat an amount using either of those methods if doing so would require the Commissioner to apply the amount against a tax debt:
- (a) that is:
 - (i) not a BAS amount (as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997*); and
 - (ii) due but not yet payable; or
 - (b) in respect of which the taxpayer has complied with an arrangement under section 255-15 to pay the debt by instalments; or

- (c) in respect of which the Commissioner has agreed to defer recovery under section 255-5.

5 Subsection 14ZW(1AA) (first occurring)

Repeal the subsection, substitute:

- (1AAA) The person must lodge the taxation objection against a decision mentioned in item 1 of the table in subsection 62(3) of this Act before the end of whichever of the following ends last:
- (a) the 60 days after notice of the decision was served on the person;
 - (b) the 4 years after the end of the tax period, or after the importation of goods, to which the decision relates.

6 After subsection 52A(1)

Insert:

- (1A) The persons who are so responsible in respect of the sub-entity are jointly and severally liable to pay any amount that is payable under the GST law by the sub-entity.

7 Subsection 62(2) (after table item 5)

Insert:

- | | | |
|----|--------------------------------------|---------------|
| 5A | refusing to cancel your registration | section 25-57 |
|----|--------------------------------------|---------------|

8 Subsection 62(2) (after table item 8)

Insert:

- | | | |
|----|--|---------------------|
| 8A | refusing to revoke your election under section 27-10 | subsection 27-22(1) |
| 8B | deciding the date of effect of a revocation | subsection 27-22(3) |

9 Subsection 62(2) (after table item 31)

Insert:

- | | | |
|-----|---|---------------------|
| 31A | determining that the tax periods that apply to a resident agent are each individual month | subsection 57-35(1) |
| 31B | deciding the date of effect of a determination | subsection 57-35(2) |

10 Subsection 62(3) (table item 2)

Repeal the item.

11 Subsection 62(3) (note)

Repeal the note.

12 After paragraph 70(1)(c)

Insert:

- (ca) are entitled to a special credit under the *A New Tax System (Goods and Services Tax Transition) Act 1999* or the *A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999*;

13 Paragraph 70(1)(d)

Omit “or dealing”, substitute “, dealing or entitlement”.

14 After subsection 70(1)

Insert:

(1AAA) If you make any election, choice, estimate, determination or calculation under the GST law, you must:

- (a) keep records containing particulars of:
- (i) the election, choice, estimate, determination or calculation; and
 - (ii) in the case of an estimate, determination or calculation—the basis on which, and the method by which, the estimate, determination or calculation was made; and
- (b) retain those records:
- (i) if the GST law specifies circumstances in which the election, choice, estimate, determination or calculation ceases to have effect—for at least 5 years after the election, choice, estimate, determination or calculation ceased to have effect; or
 - (ii) in any other case—for at least 5 years after the election, choice, estimate, determination or calculation was made.

(1AAB) If you give the Commissioner a GST return that states a net amount that takes into account an input tax credit that is attributable to a tax period under subsection 29-10(4) of the GST Act, you must:

- (a) keep records that record and explain all transactions and other acts you engage in that are relevant to the acquisition in question; and
- (b) retain those records for at least 5 years after the GST return was given to the Commissioner.

15 Subsections 70(1AA) and (1AB)

Omit “Subsection (1)”, substitute “This section”.

16 Subsection 70(1A)

Omit “If”, substitute “Without limiting subsection (1AAA), if”.

17 Subsection 70(1B)

Repeal the subsection.

18 Application

- (1) The amendment made by item 2 of this Schedule authorises the Commissioner to decide, as a date on which the cancellation of a registration under section 25-57 takes effect, any day occurring on or after 1 July 2000.
- (1A) The amendment made by item 4 of this Schedule applies, and is taken to have applied, to a requirement that would otherwise arise, or have arisen, under section 8AAZL of the *Taxation Administration Act 1953* on or after 1 July 2000.
- (2) The amendments made by items 12 to 17 of this Schedule apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 1 July 2000.

Schedule 6—Other amendments

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

1 Section 11-99 (table item 12)

Repeal the item.

2 At the end of section 29-10

Add:

- (4) If the *GST return for the tax period referred to in paragraph (3)(b) states a *net amount that does not take into account an input tax credit attributable to that tax period:
 - (a) the input tax credit is not attributable to that tax period; and
 - (b) the input tax credit is attributable to the first tax period for which you give the Commissioner a GST return that does take it into account.

3 Section 29-39 (table item 11)

Repeal the item.

4 Section 29-99 (after table item 4)

Insert:

- 5 Sale of freehold interests etc. Division 75

5 Section 37-1 (table item 27)

Repeal the item.

6 Section 48-1

Before “intra-group”, insert “(in most cases)”.

7 Subsection 48-5(2) (but not the note)

Repeal the subsection, substitute:

- (2) If 2 or more entities would *satisfy the membership requirements of that *GST group, the application need not include all those entities.

8 Paragraphs 48-10(1)(d) and (e)

Omit “those other members”, substitute “the other members of the GST group or proposed GST group”.

9 At the end of subsection 48-10(1)

Add:

; and (g) does not have any branch that is registered under Division 54.

10 Subsection 48-10(2)

Omit “However, paragraph (1)(b)”, substitute “Paragraph (1)(b)”.

11 At the end of section 48-10

Add:

- (3) A *company does not satisfy the membership requirements of a *GST group, or a proposed GST group, if:
- (a) one or more other members of the GST group or proposed GST group are not companies; and
 - (b) none of the members of the GST group or proposed GST group that are companies satisfy section 48-15.

12 At the end of Subdivision 48-A

Add:

48-15 Relationship of companies and non-companies in a GST group

- (1) A *company that is a member of a *GST group, or a proposed GST group, satisfies this section if:
- (a) a *partnership, trust or individual that is a member of the GST group or proposed GST group would, if it were another company, have *at least a 90% stake in that company; or
 - (b) the company has only one member, and that member:
 - (i) is a partner in a partnership that is a member of the GST group or proposed GST group; or
 - (ii) is an individual that is a member of the GST group or proposed GST group; or
 - (iii) is a *family member of that partner or individual; or
 - (c) the company has more than one member, each of whom is:

-
- (i) a partner in the same partnership that is a member of the GST group or proposed GST group; or
 - (ii) a family member of any such partner;
- and one of the following applies:
- (iii) at least 2 of the partners are members of the company;
 - (iv) one of the partners is a member of the company, and at least one other member of the company is a family member of a different partner;
 - (v) none of the partners is a member of the company, and the members of the company are not all family members of the same partner and no other partner; or
- (d) the company has more than one member, each of whom is:
- (i) an individual who is a member of the GST group or proposed GST group; or
 - (ii) a family member of that individual; or
- (e) a trust is a member of the GST group or proposed GST group, and distributions of income or capital of the trust are not made except to an entity that is:
- (i) the company; or
 - (ii) any other company that is a member of the GST group or proposed GST group; or
 - (iia) a member of, or a family member of a member of, any company referred to in subparagraph (i) or (ii) that is a company to which subsection (1A) applies; or
 - (iii) a charitable institution, a trustee of a charitable fund or a *gift-deductible entity.
- (1A) This subsection applies to a company if:
- (a) the company has only one member; or
 - (b) the company has more than one member, and:
 - (i) at least 2 of the members are beneficiaries of the trust in question (either directly, or indirectly through one or more interposed trusts); or
 - (ii) one of the members is such a beneficiary, and at least one other such beneficiary is a *family member of a different member of the company; or
 - (iii) none of the members is such a beneficiary, and those family members (of the members of the company) who

are such beneficiaries are not all family members of the same member of the company and no other member.

- (2) A person is a *family member* of an individual if the individual's family, within the meaning of section 272-95 of Schedule 2F to the *ITAA 1936, includes that person. There are no family members of an entity that is not an individual.

13 Subsection 48-45(3)

Repeal the subsection, substitute:

- (3) However, an acquisition that an entity makes from another *member of the same *GST group is not a *creditable acquisition unless the supply of the thing acquired by the entity was a *taxable supply because of Division 84 (which is about offshore supplies other than goods or real property).

14 Paragraph 48-70(1)(a)

Omit “*company”, substitute “entity”.

15 Section 66-20

Repeal the section.

16 Subsection 69-10(1)

Omit “is an amount equal to $\frac{1}{11}$ of that limit”, substitute “is the amount of GST payable on the supply or importation of the car up to $\frac{1}{11}$ of that limit”.

17 Subsections 69-10(1A) and (2)

Repeal the subsections, substitute:

- (2) However, if:
- (a) the supply of the car is *GST-free to any extent under Subdivision 38-P; or
 - (b) the importation of the car is non-taxable to any extent under paragraph 13-10(b) because it would have been GST-free to any extent under Subdivision 38-P if it had been a supply;
- you are not entitled to the input tax credit for the acquisition or importation.

-
- (3) If your acquisition or importation is *partly creditable, the input tax credit is reduced to the extent (expressed as a percentage) to which the acquisition or importation is made for a *creditable purpose.
- (4) This section does not apply in relation to:
- (a) the acquisition or importation of a *car that is not a *luxury car because of subsection 25-1(2) of the *A New Tax System (Luxury Car Tax) Act 1999*; or
- Note: Emergency vehicles, cars fitted to transport disabled people, non-passenger commercial vehicles, motor homes and campervans are not luxury cars under that subsection.
- (b) the acquisition of a car by lease or hire.
- (5) This section has effect despite sections 11-25 and 15-20 (which are about the amount of input tax credits on creditable acquisitions and creditable importations).

18 After section 72-90

Insert:

72-92 Non-profit sub-entities

This Division applies to a *non-profit sub-entity of an entity as if the non-profit sub-entity were an *associate of:

- (a) that entity; and
- (b) every other non-profit sub-entity of that entity; and
- (c) any other associate of that entity.

19 At the end of Division 75

Add:

75-30 Tax invoices not required for supplies of real property under the margin scheme

- (1) You are not required to issue a *tax invoice for a *taxable supply that you make that is solely a supply of *real property under the *margin scheme.
- (2) This section has effect despite section 29-70 (which is about the requirement to issue tax invoices).

20 Subsection 78-15(4) (step 2 in the method statement)

Omit “those payments”, substitute “those payments (except to the extent that they are payments of excess to which section 78-18 applies)”.

21 After section 78-15

Insert:

78-18 Increasing adjustments for payments of excess under insurance policies

- (1) An insurer has an *increasing adjustment* if:
 - (a) there is a payment of an excess to the insurer under an *insurance policy; and
 - (b) the insurer makes, or has made, payments or supplies in settlement of a claim under the policy; and
 - (c) the insurer makes, or has made, *creditable acquisitions or *creditable importations directly for the purpose of settling the claim.
- (2) The amount of the increasing adjustment is $\frac{1}{11}$ of the amount that represents the extent to which the payment of excess relates to *creditable acquisitions and *creditable importations made by the insurer directly for the purpose of settling the claim.
- (3) An insurer has an *increasing adjustment* if:
 - (a) there is a payment of an excess to the insurer under an *insurance policy; and
 - (b) the insurer makes, or has made, *creditable acquisitions or *creditable importations directly for the purpose of settling the claim; and
 - (c) the insurer has not made any payments or supplies in settlement of the claim.

The amount of the increasing adjustment is $\frac{1}{11}$ of the amount of the payment of the excess.

22 Section 78-30 (heading)

Repeal the heading, substitute:

78-30 Acquisitions by insurers in the course of settling claims under non-taxable policies

23 Subsection 78-30(1)

Omit “of *goods”.

24 Paragraph 78-30(1)(a)

Repeal the paragraph, substitute:

- (a) the insurer makes the acquisition:
 - (i) to the extent that the acquisition is an acquisition of goods—solely for the purpose of supplying the goods in the course of settling a claim under an *insurance policy; or
 - (ii) otherwise—solely for a purpose directly related to settling a particular claim under an *insurance policy; and

25 Paragraph 78-30(1)(b)

Omit “was not a *taxable supply”, substitute “was *GST-free”.

25A At the end of Subdivision 78-A

Add:

78-42 Adjustment events relating to increasing adjustments under section 78-18

Division 19 applies in relation to an *increasing adjustment that an insurer has under section 78-18 as if:

- (a) payments of excess under an *insurance policy to which the adjustment relates were *consideration for a *taxable supply that the insurer made; and
- (b) the adjustment were the GST payable on the taxable supply; and
- (c) any refund of that payment of excess made by the insurer were a reduction in the consideration for the supply.

26 Paragraph 78-50(1)(b)

After “the entity”, insert “, or the *representative member of the *GST group of which the entity is a *member,”.

27 Subparagraph 78-50(1)(c)(i)

Omit “that the entity was entitled”, substitute “of the entitlement”.

28 Subsection 78-65(1)

Omit “to the extent that the payment is made in settlement of a claim under an *insurance policy under which the entity is not insured”, substitute:

to the extent that:

- (a) the payment is made in settlement of a claim under an *insurance policy under which the entity is not insured; and
- (b) the payment is to discharge a liability owed to that entity by the entity insured.

29 Subsection 78-65(2)

Omit “to the extent that the supply is made in settlement of a claim under an *insurance policy under which the entity is not insured”, substitute:

to the extent that:

- (c) the supply is made in settlement of a claim under an *insurance policy under which the entity is not insured; and
- (d) the supply is to discharge a liability owed to that entity by the entity insured.

30 After section 84-13

Insert:

84-14 Supplies relating to employee share ownership schemes

This Division does not apply to a supply, to the extent that it is a supply relating to an *employee share scheme, if:

- (a) the *recipient of the supply is not an entity that has acquired, or may in the future acquire, a share or right under the scheme; and
- (b) Division 13A of Part III of the *ITAA 1936 applies to discounts (within the meaning of that Division) given in relation to any acquisitions of shares or rights under the scheme; and
- (c) either:

- (i) the *recipient of the supply is a *100% subsidiary of the supplier; or
- (ii) the supply is a transfer that is taken to be a supply because of section 84-15.

31 Division 93

Repeal the Division.

32 At the end of Division 188

Add:

188-40 Supplies of employee services by overseas entities to be disregarded for the registration turnover threshold

- (1) In working out a *non-resident's *current annual turnover or *projected annual turnover in order to determine whether it meets the *registration turnover threshold, if:
 - (a) the non-resident makes a supply of the services of an employee of the non-resident; and
 - (b) the *recipient of the supply is the non-resident's *100% subsidiary; and
 - (c) the services that the employee performs for the recipient are performed in Australia;disregard the supply to the extent that the payments that the non-resident makes to the employee for performing those services would, if they were made by the recipient, be *withholding payments.
- (2) This section does not affect how to work out any *turnover threshold other than the *registration turnover threshold.

33 Section 195-1

Insert:

100% subsidiary has the meaning given by section 975-505 of the *ITAA 1997.

34 Section 195-1 (after paragraph (d) of the definition of *commercial residential premises*)

Insert:

(da) a marina at which one or more of the berths are occupied, or are to be occupied, by *ships used as residences; or

35 Section 195-1

Insert:

employee share scheme has the meaning given by section 139C of the *ITAA 1936.

36 Section 195-1

Insert:

family member has the meaning given by subsection 48-15(2).

37 Section 195-1 (at the end of the definition of *incapacitated entity*)

Add:

; or (c) an entity that has a *representative.

38 Section 195-1 (after table item 4 of the definition of *increasing adjustment*)

Insert:

4AA	Section 78-18	Payments of excess under insurance policies
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39 Section 195-1 (at the end of the definition of *representative*)

Add:

- ; or (d) an administrator appointed to an entity under Division 2 of Part 5.3A of the Corporations Law; or
- (e) a person appointed, or authorised, under an *Australian law to manage the affairs of an entity because it is unable to pay all its debts as and when they become due and payable; or
- (f) an administrator of a deed of company arrangement executed by the entity.

40 Section 195-1 (definition of *returnable container*)

Repeal the definition.

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

41 Subsection 19(3)

Omit “value of the supply”, substitute “price of the supply (less the amount of any GST payable on the supply)”.

A New Tax System (Luxury Car Tax) Act 1999

42 At the end of section 5-20

Add:

Supply of car by lease or hire

- (6) The *luxury car tax value of a *car that is supplied by way of lease or hire is the *GST inclusive market value of the car excluding:
- (a) any luxury car tax payable on the supply; and
 - (b) any other *Australian tax, fee or charge, other than *GST and *customs duty; and
 - (c) the *price of any modifications referred to in subsection (5).

43 After subsection 13-15(1)

Insert:

- (1A) The luxury car tax payable by you on a *taxable supply of a luxury car that is supplied by way of lease or hire is entirely attributable to the first *tax period to which the supply of the car is attributable. This subsection has effect despite section 156-5 of the *GST Act.

Note: Under that section, the luxury car tax could otherwise be payable on a periodic basis.

A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999

44 After subsection 3(3A)

Insert:

- (3B) However, if the amount of sales tax you have borne in respect of the wine changes after 1 July 2000, the amount of the special credit changes accordingly.

45 Subsection 3(4)

Omit “before 22 January 2001”, substitute “for a tax period that ends before 7 January 2001”.

46 After subsection 3(4)

Insert:

- (4A) If the amount of the special credit changes under subsection (3B) after you lodged that return, you must lodge with the Commissioner an amended GST return for that tax period. You must lodge it on or before the 21st day of the month following the end of the tax period in which the change happens.

Income Tax Assessment Act 1997

47 Section 17-30 (heading)

Repeal the heading, substitute:

17-30 Special credits because of indirect tax transition

48 At the end of section 17-30

Add:

- (2) A special credit under section 3 of the *A New Tax System (Wine Equalisation Tax and Luxury Car Tax Transition) Act 1999* is ***assessable income*** at the time it is attributed to a *tax period.

49 Application

- (1) The amendments made by items 1 to 8, 13 to 19, 22 to 35, 37, 39, 40, 42 and 43 apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 1 July 2000.
- (2) The amendments made by items 20, 21, 25A and 38 apply, and are taken to have applied, in relation to net amounts for tax periods starting on or after 17 August 2000.

- (3) The amendments made by items 47 and 48 apply to assessments for the 2000-2001 income year and later income years.

Schedule 7—Technical corrections

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

1 Section 54-15

Omit “registers”, substitute “*registers”.

2 Section 54-15

Omit “*registered”, substitute “registered”.

3 Subsection 54-75(3)

Omit “registration”, substitute “*registration”.

4 Subsection 72-45(2)

Omit “subsection 11-30(2)”, substitute “subsection 11-30(3)”.

5 Section 195-1 (definition of *operations cease*)

Repeal the definition.

Note: This amendment repeals a definition of an expression that is not used in the *A New Tax System (Goods and Services Tax) Act 1999*.

6 Section 195-1 (paragraph (c) of the definition of *recognised professional*)

Omit “item 2”, substitute “item 3”.

7 Section 195-1 (definition of *registered*)

Repeal the definition, substitute:

registered means:

- (a) in relation to an entity—registered under Part 2-5; or
- (b) in relation to a branch of an entity—registered under Division 54.

A New Tax System (Indirect Tax and Consequential Amendments) Act 1999

8 Item 2 of Schedule 8

Omit “1990”, substitute “1992”.

A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999

9 Item 155 of Schedule 1

Repeal the item, substitute:

155 Section 195-1 (note at the end of the definition of *taxable supply*)

Omit “and 113-1”, substitute “, 100-5 and 113-5”.

Note: This amendment corrects an amendment that was misdescribed and a wrong cross-reference in the *A New Tax System (Goods and Services Tax) Act 1999*.

10 Item 14 of Schedule 7

Omit “**Subsection 3(1)**”, substitute “**Subsection 4(1)**”.

Note: This amendment corrects an amendment that was misdescribed.

A New Tax System (Tax Administration) Act (No. 2) 2000

11 Item 2 of Schedule 4B

Omit “**After subsection 164(5AAB)**”, substitute “**Before subsection 164(5AA)**”.

12 Item 7 of Schedule 4B

Omit “**After subsection 78A(5AAB)**”, substitute “**Before subsection 78A(5AA)**”.

Income Tax Assessment Act 1936

13 Section 160APA (paragraph (ab) of the definition of *applicable general company tax rate*)

Omit “160APVI”, substitute “160APVP”.

Note: This amendment is consequential on a renumbering of the provision concerned (see item 14).

14 Section 160APVI (occurring immediately after section 160APVO)

Renumber as 160APVP.

Income Tax Assessment Act 1997

15 Paragraph 17-30(a)

Omit “tax period”, substitute “*tax period”.

Indirect Tax Legislation Amendment Act 2000

16 Subsection 2(2)

After “other than”, insert “items 1A and 1B of Schedule 10 and”.

17 Subsection 2(4)

Omit “item 1”, substitute “items 1A and 1B”.

18 Subsection 2(7)

Omit “Schedule 11” (second occurring), substitute “Schedule 1”.

Taxation Administration Act 1953

19 Subsection 62(2) (table item 7)

Omit “calendar”.

20 Subsection 62(2) (table item 9)

Omit “27-10”, substitute “27-15”.

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

**21 Subsection 3(1) (paragraph (ca) of the definition of
relevant tax) (first occurring)**

Re-letter as paragraph (caa).

*[Minister's second reading speech made in—
House of Representatives on 12 October 2000
Senate on 9 November 2000]*

(171/00)