



Taxation Laws Amendment (Tax File Numbers) Act 1988

No. 97 of 1988

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AMENDMENTS OF TAXATION SECRECY PROVISIONS

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AMENDMENTS OF THE INCOME TAX REGULATIONS



Taxation Laws Amendment (Tax File Numbers) Act 1988

No. 97 of 1988

An Act to amend the law relating to taxation

[Assented to 25 November 1988]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Taxation Laws Amendment (Tax File Numbers) Act 1988*.

Commencement

2. (1) Subject to subsection (2), this Act commences on the day on which the *Privacy Act 1988* commences.

(2) Clause 12 and the amendments in Schedule 2 to regulation 54ZED of the Income Tax Regulations commence on a day to be fixed by Proclamation, being a day not earlier than the day on which the *Privacy Act 1988* commences.

PART II—AMENDMENT OF THE CRIMES (TAXATION OFFENCES) ACT 1980

Principal Act

3. In this Part, “Principal Act” means the *Crimes (Taxation Offences) Act 1980*¹.

Interpretation

4. Section 3 of the Principal Act is amended by omitting “221YHZD (1)” from paragraph (g) of the definition of “income tax” in subsection (1) and substituting “221YHZD (1), (1A) or (1B)”.

PART III—AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936

Principal Act

5. In this Part, “Principal Act” means the *Income Tax Assessment Act 1936*².

6. After Part V of the Principal Act the following Part is inserted:

“PART VA—TAX FILE NUMBERS

“Division 1—Preliminary

Objects of this Part

“202. The objects of this Part are, by means of the establishment of a system of tax file numbers:

- (a) to increase the effectiveness and efficiency of the matching of information contained in reports given to the Commissioner under this Act or the regulations with information disclosed in income tax returns by taxpayers;
- (b) to prevent evasion of liability to taxation under the laws of the Commonwealth relating to income tax; and
- (c) to facilitate the administration of any legislation enacted by the Parliament under which benefits are provided by the Commonwealth to students in relation to contributions payable by students to institutions of higher education towards the cost of providing courses of study at those institutions.

Interpretation

“202A. In this Part, unless the contrary intention appears:

‘applicant’, in relation to an application for the issue of a tax file number, means the person specified in the application as the person by whom or on whose behalf the issue of a tax file number is sought;

‘bank’ means:

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- (a) the Reserve Bank of Australia;
- (b) a bank within the meaning of the *Banking Act 1959*; or
- (c) a person who carries on State banking within the meaning of paragraph 51 (xiii) of the Constitution;

'building society' means a society registered or incorporated as a building society, co-operative housing society or similar society under a law relating to such societies that is in force in a State or Territory;

'child' means a person who is less than 16 years of age;

'credit union' means a society or other body of persons that is registered or incorporated as a credit union or credit society under a law relating to credit unions or credit societies that is in force in a State or Territory;

'data processing device' means any article or material from which information is capable of being reproduced with or without the aid of any other article or device;

'employee' means an employee as defined in section 221A;

'employer' means an employer as defined in section 221A;

'employment declaration' means a declaration made for the purpose of section 202C;

'entity' means a body corporate or unincorporated association, but does not include a natural person or a partnership;

'financial institution' means:

- (a) a bank;
- (b) a building society; or
- (c) a credit union;

'government body' means the Commonwealth, a State, a Territory or an authority of the Commonwealth or of a State or Territory;

'interest-bearing account' means any facility by which a financial institution:

- (a) does any one or more of the following:
 - (i) accepts deposits of money to the credit of a person;
 - (ii) allows withdrawals from the money deposited;
 - (iii) pays cheques or payment orders drawn on the institution by, or collects cheques or payment orders on behalf of, the person; and
- (b) pays or credits interest, or amounts in the nature of interest, on the balance standing to the credit of the person from time to time;

'interest-bearing deposit' means a deposit of money with a financial institution, in consideration of which the financial institution pays or credits interest, or amounts in the nature of interest, to a person;

'investment body' means a person who is an investment body within the meaning of section 202D;

- 'investment to which this Part applies'** means an investment of a kind mentioned in section 202D;
- 'investor'** means a person who is an investor within the meaning of section 202D;
- 'passport'**, in relation to a person who does not hold a passport, means another official travel document held by the person;
- 'person'** includes a partnership, a company and a person in the capacity of trustee of a trust estate;
- 'public company'** means a public company within the meaning of the *Companies Act 1981* or a law in force in a State or Territory that corresponds to that Act;
- 'recently-arrived visitor to Australia'** means a natural person who:
- (a) is not a resident of Australia;
 - (b) is in Australia; and
 - (c) has been in Australia for a total of less than 6 weeks during the immediately preceding 12 months;
- 'salary or wages'** means salary or wages as defined in section 221A;
- 'securities dealer'** means a person who is a dealer for the purposes of the *Securities Industry Act 1980* or for the purposes of a law of a State or Territory that corresponds to that Act;
- 'solicitor'** means a solicitor, barrister and solicitor or legal practitioner of the High Court or of the Supreme Court of a State or Territory;
- 'tax file number'**, in relation to a person, means a number issued to the person by the Commissioner, being a number that is either:
- (a) a number issued to the person under Division 2; or
 - (b) a number notified, before the commencement of this section, to the person as the person's income tax file number;
- 'unit trust'** means a trust to which a unit trust scheme relates, and includes:
- (a) a cash management trust;
 - (b) a property trust;
 - (c) an arrangement declared by the Minister, by notice published in the *Gazette*, to be a unit trust for the purposes of this definition;
- but does not include any arrangement declared by the Minister, by notice published in the *Gazette*, not to be a unit trust for the purposes of this definition;
- 'unit trust scheme'** means an arrangement made for the purpose, or having the effect, of providing, for a person who has funds available for investment, facilities for participation by the person, as a beneficiary under a trust, in any profit or income arising from the acquisition, holding, management or disposal of property under the trust.

“Division 2—Issuing of tax file numbers

Application for tax file number

“202B. (1) A person may apply to the Commissioner for the issue of a tax file number.

“(2) An application shall be in a form approved by the Commissioner and shall be accompanied by documentary evidence of the applicant’s identity.

“(3) An application may be handed in at, or posted to, the office of a Deputy Commissioner.

“(4) An application may be handed in at an office or facility designated by the Commissioner as a receiving centre for applications of that kind.

Issuing of tax file numbers

“202BA. (1) Subject to subsection (3), if, on an application for a tax file number, the Commissioner is satisfied that the applicant’s identity has been established, the Commissioner shall issue a tax file number to the applicant.

“(2) If, on such an application, the Commissioner is not satisfied as to the applicant’s true identity, the Commissioner may refuse the application.

“(3) If, on such an application, the Commissioner is satisfied that:

(a) the applicant already has a tax file number; or

(b) a notice under section 202BD in relation to the applicant is in force; the Commissioner shall refuse the application.

“(4) The Commissioner may, without an application being made, issue a tax file number to a person whenever it is necessary to do so in connection with the performance of a function of the Commissioner under a law of the Commonwealth relating to taxation.

“(5) The Commissioner shall issue a tax file number to a person by giving the person a written notice of the number.

“(6) The Commissioner shall refuse an application for a tax file number by giving the applicant a written notice of the refusal and of the reasons for the refusal.

Current tax file number

“202BB. On the issue of a tax file number to a person, any tax file number previously issued to the person and not already cancelled or withdrawn ceases to have effect.

Deemed refusal by Commissioner

“202BC. (1) If the Commissioner has not decided an application for a tax file number within 28 days after the application is made, the applicant may, at any time, give to the Commissioner written notice that the applicant wishes to treat the application as having been refused.

“(2) If in the application the applicant has stated the name and address of one or more employers of the applicant, subsection (1) does not apply at a particular time if at that time a notice has been issued to each such employer under section 202BD in relation to the applicant and each such notice is in force.

“(3) For the purposes of Division 6, where an applicant gives notice under subsection (1), the Commissioner shall be taken to have refused the application for a tax file number on the day on which the notice was given.

Interim notices

“202BD. (1) Where an application for a tax file number states the name and address of an employer of the applicant, the Commissioner may give to the employer a notice under this section in relation to the applicant.

“(2) The notice remains in force for the period of 28 days commencing on the day specified in the notice.

“(3) The notice shall specify:

- (a) the applicant’s name as shown in the application; and
- (b) the last day of the period for which the notice remains in force.

“(4) On giving the notice, the Commissioner shall inform the applicant that the notice has been given.

“(5) The notice may be given to take effect on the expiration of a notice previously given to the employer under this section in relation to the applicant.

“(6) Where, while an application for a tax file number is pending, the applicant notifies the Commissioner, in writing, of the name and address of an employer of the employee (being an employer whose name and address is not stated on the application), the employer’s name and address shall, at the end of the period of 7 days after the notification, be taken to have been stated on the application.

Cancellation of tax file numbers

“202BE. (1) Where the Commissioner concludes that a tax file number was issued to a person under an identity that is not the person’s true identity, the Commissioner may, by written notice given to the person, cancel the tax file number.

“(2) The Commissioner shall set out in the notice the reasons for the Commissioner’s conclusion.

Alteration of tax file numbers

“202BF. The Commissioner may, at any time, by written notice given to a person who has a tax file number:

- (a) withdraw that number; and
- (b) issue to the person a new tax file number in place of the withdrawn number.

“Division 3—Quotation of tax file numbers by employees

Employment declarations by employees

“202C. (1) A person who, on or after the first day of the phasing-in period for this Division, becomes an employee of another person may make an employment declaration in relation to the other person.

“(2) A person who is an employee at the end of the phasing-in period for this Division may make an employment declaration in relation to a person who is then an employer of the person, regardless of whether the person has already made a declaration under subsection (1) in relation to the same employer.

“(3) Where an employment declaration ceases to have effect because of subsection 202CA (2), the person who made the declaration may make a new employment declaration in place of the first-mentioned declaration.

“(4) The phasing-in period for this Division is the period that commences on the day fixed by Proclamation as the first day of the phasing-in period for this Division and ends at the end of:

- (a) 31 March 1989; or
- (b) a later day fixed by Proclamation as the last day of the phasing-in period for this Division.

“(5) An employment declaration shall be in a form approved by the Commissioner.

Operation of employment declaration

“202CA. (1) An employment declaration ceases to have effect if the person who made the declaration ceases to be an employee of the person to whom the declaration relates.

“(2) An employment declaration to which a determination under subsection (3) applies ceases to have effect at the end of the day fixed by the determination.

“(3) The Commissioner may determine that:

- (a) all employment declarations; or
- (b) a specified class of employment declarations;

shall cease to have effect at the end of the day specified in the determination.

“(4) A determination shall be made by notice published in the *Gazette*.

Quotation of tax file number in employment declaration

“202CB. (1) Subject to subsections (2) and (4) and subsection 202CE (2), an employment declaration is not effective for the purposes of this Part unless the tax file number of the employee is stated in the declaration.

“(2) For the purposes of this Part, an employee shall be taken to have stated his or her tax file number in an employment declaration if the declaration includes a statement:

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- (a) that an application by the employee for a tax file number is pending; or
- (b) that the employee has a tax file number but does not know what it is and has asked the Commissioner to inform him or her of the number.

“(3) Where:

- (a) an employment declaration includes such a statement; and
- (b) the employee who made the declaration fails to inform the employer of the employee’s tax file number within 28 days after making the declaration;

subsection (2) does not apply to the declaration in respect of any time after the end of the period of 28 days.

“(4) For the purposes of this Part, an employee shall be taken to have stated his or her tax file number in an employment declaration in relation to an employer while a notice under section 202BD given to the employer in relation to the employee is in force.

“(5) If:

- (a) the tax file number of an employee is withdrawn under section 202BF; and
- (b) at the time of the withdrawal, the number is stated in an employment declaration;

the declaration shall be regarded as stating the tax file number of the employee in spite of the withdrawal of the number.

Making of new employment declaration in place of ineffective declaration

“202CC. Nothing in this Division prevents an employee making a new employment declaration stating the employee’s tax file number in place of an employment declaration that is ineffective under subsection 202CB (1).

Sending of employment declaration to Commissioner

“202CD. (1) Where an employee gives an employer an employment declaration, the employer shall:

- (a) countersign the original of the declaration;
- (b) within the forwarding period for the declaration, send the original to the office of a Deputy Commissioner; and
- (c) retain the copy of the declaration in accordance with subsection (6).

Penalty: \$1,000.

“(2) The forwarding period commences as follows:

- (a) if the declaration quotes the employee’s tax file number, the period commences on the day on which the declaration is given to the employer;
- (b) if, when the declaration is given, subsection 202CB (2) or (4) applies, the period commences on:

- (i) the day on which the employee informs the employer of the employee's tax file number; or
- (ii) the first day on which the declaration is to be regarded as not quoting that number;

whichever occurs first.

“(3) The forwarding period is a period of 28 days or such longer period as the Commissioner, by notice in writing given to an employer, allows in a particular case.

“(4) If:

- (a) an employment declaration, when given to an employer, does not quote the employee's tax file number; and
- (b) before the employer sends the declaration to the Deputy Commissioner, the employee informs the employer of his or her tax file number;

the employer shall write the number on the declaration and on the copy.

Penalty: \$1,000.

“(5) Where a tax file number has been written on a declaration under subsection (4), the declaration shall be regarded as stating that number as the tax file number of the employee who made the declaration.

“(6) The employer shall retain the copy of an employment declaration until:

- (a) the employee next gives an employment declaration to the employer; or
- (b) the 1 July next following the day on which the declaration ceases to have effect.

Effect of incorrect quotation of tax file number

“202CE. (1) If the Commissioner is satisfied:

- (a) that the tax file number stated in an employment declaration:
 - (i) has been cancelled or withdrawn since the declaration was given; or
 - (ii) is otherwise wrong; and
- (b) that the employee has a tax file number;

the Commissioner may give to the employer concerned written notice of the incorrect statement and the employee's tax file number.

“(2) If a notice is given under subsection (1), the employment declaration shall be regarded, for the purposes of this Part, as having always stated the employee's tax file number.

“(3) If:

- (a) the Commissioner is satisfied that the tax file number stated in an employment declaration:
 - (i) has been cancelled since the declaration was given; or

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(ii) is for any other reason not the employee's tax file number;
and

(b) the Commissioner is not satisfied that the employee has a tax file number;

the Commissioner may, by written notice given to the employer, inform the employer accordingly.

“(4) A notice under subsection (3) takes effect on the day specified in the notice, being a day not earlier than the day on which a copy of the notice is given to the employee under subsection (5).

“(5) The Commissioner shall give a copy of any notice under subsection (3) to the employee concerned, together with a written statement of the reasons for the decision to give the notice.

“(6) On and from the day on which a notice under subsection (3) takes effect, the employment declaration concerned shall be taken not to state the tax file number of the employee concerned.

“Division 4—Quotation of tax file numbers in connection with certain investments

Explanation of terms: investment, investor, investment body

“202D. (1) Investments of the kinds mentioned in column 1 of the following table are investments to which this Part applies, whether or not the investments come into existence before the commencement of this section.

Table

| Item No. | Column 1 Investment | Column 2 Investor | Column 3 Investment body |
|----------|--|--|---------------------------------------|
| 1 | Interest-bearing account with a financial institution | The person in whose name the account is held | The financial institution |
| 2 | Interest-bearing deposit (other than a deposit to the credit of an account) with a financial institution | The person in whose name the deposit is made | The financial institution |
| 3 | Loan of money to a government body or to a body corporate (other than a deposit to the credit of an account referred to in item 1, a deposit to which item 2 applies or a loan by a financial institution) | The person in whose name the money is lent | The government body or body corporate |

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| Item No. | Column 1 Investment | Column 2 Investor | Column 3 Investment body |
|----------|---|--|-------------------------------|
| 4 | Deposit of money with a solicitor for the purpose of: (a) being invested by the solicitor; or (b) being lent under an agreement to be arranged by or on behalf of the solicitor | The person for whose benefit the money is to be invested or lent | The solicitor |
| 5 | Units in a unit trust | The person in whose name the units are held | The manager of the unit trust |
| 6 | Shares in a public company | The shareholder | The company |

“(2) In relation to an investment of a kind mentioned in column 1 of an item in the table in subsection (1):

- (a) the investor is the person specified in column 2 of the item; and
- (b) the investment body is the person specified in column 3 of the item.

“(3) Where:

- (a) by virtue of subsection (2), a body corporate is the investor in relation to an investment; and
- (b) another person is entitled to receive from the body corporate all or part of the income from the investment;

the person’s right to receive the income or part of the income is an investment to which this Part applies.

“(4) In relation to an investment referred to in subsection (3):

- (a) the person entitled to receive income is the investor; and
- (b) the body corporate is the investment body.

“(5) Subsection (4) does not affect a person’s status or obligations as an investor by virtue of subsection (2).

Phasing-in period for Division

“202DA. The phasing-in period for this Division is the period of 12 months commencing on 1 July 1990.

Quotation of tax file numbers in connection with investments

“202DB. A person who, at any time after the beginning of the phasing-in period for this Division, is an investor in relation to an investment to which this Part applies may quote the person’s tax file number to the investment body in connection with the investment.

Method of quoting tax file number

“202DC. (1) A person quotes a tax file number to an investment body by informing the body of the number in a manner approved by the Commissioner.

“(2) The investment body may be so informed by the person or by another person acting for that person.

“(3) If, after the beginning of the phasing-in period for this Division, a person becomes an investor as a result of a transaction carried out through a securities dealer, the person shall be taken to have quoted the person’s tax file number to the investment body concerned if the dealer is informed of the number.

Investor excused from quoting tax file number in certain circumstances

“202DD. (1) A person who becomes an investor in the circumstances mentioned in subsection (2) is to be regarded as having quoted a tax file number in connection with the investment.

“(2) The circumstances to which subsection (1) refers are:

- (a) the investment is of a kind mentioned in item 3, 4, 5 or 6 in the table in subsection 202D (1);
- (b) the transaction giving rise to the investment is carried out:
 - (i) in the case of an item 4 investment—by means of an account maintained by the person with a solicitor; or
 - (ii) in any other case—by means of an account maintained by the person with a securities dealer;
- (c) the person has previously informed the solicitor or dealer, as the case may be, of the person’s tax file number in connection with a transaction carried out by means of the same account; and
- (d) the solicitor or dealer has not, since so being informed in connection with the last-mentioned transaction, informed the person that the solicitor or dealer has lost the person’s tax file number.

“(3) Where:

- (a) at a particular time a person becomes an investor in relation to an investment to which this Part applies by virtue of acquiring shares in a public company;
- (b) at that time, the person has quoted, or is taken to have quoted, a tax file number in connection with an existing investment consisting of a shareholding in that company; and
- (c) the company has not, since the quotation of the number in connection with the existing investment, informed the person that the company has lost the person’s tax file number;

the person shall be taken to have quoted a tax file number in connection with the first-mentioned investment.

Securities dealer to inform the investment body of tax file number

“202DE. Where:

- (a) after the beginning of the phasing-in period for this Division, a person becomes an investor as a result of a transaction carried out through a securities dealer; and

(b) the person has informed the dealer of the person's tax file number; the dealer shall inform the investment body concerned of the person's tax file number.

Effect of incorrect quotation of tax file number

“202DF. (1) If the Commissioner is satisfied:

(a) that the tax file number quoted to an investment body in relation to an investment:

- (i) has been cancelled or withdrawn since it was quoted; or
- (ii) is otherwise wrong; and

(b) that the investor has a tax file number;

the Commissioner may give to the investment body concerned notice of the incorrect statement and the investor's tax file number.

“(2) If a notice is given under subsection (1), the investor shall be regarded, for the purposes of this Part, as having always stated the investor's tax file number in connection with the investment.

“(3) If:

(a) the Commissioner is satisfied that the tax file number quoted to an investment body in relation to an investment:

- (i) has been cancelled since it was quoted; or
- (ii) is for any other reason not the investor's tax file number; and

(b) the Commissioner is not satisfied that the investor has a tax file number;

the Commissioner may, by written notice given to the investment body concerned, inform the investment body accordingly.

“(4) A notice under subsection (3) takes effect on the day specified in the notice, being a day not earlier than the day on which a copy of the notice is given to the investor under subsection (5).

“(5) The Commissioner shall give a copy of any notice under subsection (3) to the investor concerned, together with a written statement of the reasons for the decision to give the notice.

“(6) On and from the day on which a notice under subsection (3) takes effect, the investor concerned shall be taken not to have quoted the investor's tax file number in connection with the investment.

“(7) This section applies, in relation to a tax file number quoted by a parent or guardian under section 202E in connection with an investment as if the parent or guardian were the investor in relation to the investment.

Investments held jointly

“202DG. (1) Where 2 persons are jointly entitled to the property or rights that constitute an investment to which this Part applies, neither person shall be taken to have quoted the person's tax file number in connection

with the investment unless both persons have quoted their tax file numbers under this Division in connection with the investment.

“(2) Where more than 2 persons are jointly entitled to the property or rights that constitute an investment to which this Part applies, all of the persons shall be taken to have quoted their tax file numbers in connection with the investment if and only if at least 2 of those persons have quoted their tax file numbers under this Division in connection with the investment.

“(3) This section does not apply in relation to persons who are jointly entitled to property or rights merely because they are partners in a partnership.

“Division 5—Exemptions

Children

“202E. (1) For the purposes of this Part, where:

- (a) a child is an investor in relation to an investment to which this Part applies;
- (b) the investment is not an investment of a kind mentioned in item 6 in the table in subsection 202D (1); and
- (c) the child does not have a tax file number;

the child shall be taken to have quoted his or her tax file number under Division 4 in connection with the investment if:

- (d) the investment body concerned is given a written declaration, made by a parent or guardian of the child, under subsection (2); or
- (e) a parent or guardian of the child holds the investment on behalf of the child and the tax file number of the parent or guardian is quoted to the investment body in connection with the investment.

“(2) A parent or guardian of a child may make a written declaration, in a form approved by the Commissioner, that:

- (a) states the child’s full name and date of birth; and
- (b) is signed by the parent or guardian.

“(3) Subject to subsection (4), a person who, as a child, is to be taken, because of this section, to have quoted his or her tax file number in connection with an investment shall continue to be taken, because of this section, to have quoted the number in connection with the investment until the end of the calendar year during which the person attained the age of 16 years.

“(4) Where:

- (a) a person is, as a child, to be taken, because of paragraph (1) (e), to have quoted his or her tax file number in connection with an investment; and
- (b) the tax file number of the parent or guardian referred to in subsection (1) is to be taken, because of section 202DF, not to have been quoted in connection with the investment;

the first-mentioned person shall be taken not to have quoted his or her tax file number in connection with the investment until the tax file number of a parent or guardian of the first-mentioned person is subsequently quoted in connection with the investment.

Persons receiving certain pensions etc.—employment

“202EA. (1) Nothing in this Part shall be taken to provide for a person who is an employee as a result of being paid a pension or benefit referred to in subsection (5) to make an employment declaration, or to quote his or her tax file number, in connection with the payment of that pension, benefit or allowance.

“(2) For the purposes of this Part, a person who is being paid a pension or benefit referred to in subsection (5) shall be taken to have quoted his or her tax file number in an employment declaration given to an employer of the person if a statement is made in the declaration to the effect that the person is being paid such a pension or benefit.

“(3) A person who, as a person who is being paid a pension or benefit referred to in subsection (5), is taken, because of this section, to have quoted his or her tax file number in an employment declaration shall continue to be taken to have, because of this section, quoted the number in the declaration until the Commissioner gives a written notice to the person to the effect that the person is no longer entitled to exemption under this section.

“(4) The Commissioner may not give a notice under subsection (3) until the person has ceased to be paid any pension or benefit referred to in subsection (5).

“(5) This section applies in relation to:

- (a) an age pension under Division 2 of Part IV of the *Social Security Act 1947*;
- (b) an invalid pension under Division 3 of Part IV of that Act;
- (c) a wife’s pension under Division 5 of Part IV of that Act;
- (d) a carer’s pension under Division 6 of Part IV of that Act;
- (e) a widow’s pension under Part V of that Act;
- (f) a supporting parent’s benefit under Part VI of that Act;
- (g) a special benefit under Division 6 of Part XIII of that Act;
- (h) a pension under Part III of the *Veterans’ Entitlements Act 1986*.

Persons receiving certain pensions etc.—investments

“202EB. (1) For the purposes of this Part, a person to whom this section applies shall be taken to have quoted his or her tax file number under Division 4 in connection with the investment if the investment body concerned is given a written declaration, made by the person, under subsection (2).

“(2) A person to whom this section applies may make a written declaration, in a form approved by the Commissioner, that:

- (a) states the person's full name;
- (b) states the nature of the pension, benefit or allowance by virtue of the payment of which the person is a person to whom this section applies; and
- (c) is signed by the person.

“(3) A person who, as a person to whom this section applies, is taken, because of this section, to have quoted his or her tax file number in connection with an investment shall continue to be taken to have, because of this section, quoted the number in connection with the investment until the Commissioner gives a written notice to the person to the effect that the person is no longer entitled to exemption under this section.

“(4) The Commissioner may not give a notice under subsection (3) until the person has ceased to be a person to whom this section applies.

“(5) A person to whom this section applies is a person who is being paid:

- (a) one of the following pensions or benefits:
 - (i) an age pension under Division 2 of Part IV of the *Social Security Act 1947*;
 - (ii) an invalid pension under Division 3 of Part IV of that Act;
 - (iii) a wife's pension under Division 5 of Part IV of that Act;
 - (iv) a carer's pension under Division 6 of Part IV of that Act;
 - (v) a widow's pension under Part V of that Act;
 - (vi) a supporting parent's benefit under Part VI of that Act;
 - (vii) a special benefit under Division 6 of Part XIII of that Act;
- (b) a rehabilitation allowance under Part XVI of the *Social Security Act 1947* where the person is qualified or eligible to receive a pension or benefit mentioned in paragraph (a); or
- (c) a pension under Part III of the *Veterans' Entitlements Act 1986*.

Entities not required to lodge income tax returns

“202EC. (1) For the purposes of this Part, where:

- (a) an entity that is not required to furnish to the Commissioner a return under section 161 in respect of a year of income is, at any time during that year, an investor in relation to an investment to which this Part applies; and
- (b) the entity does not have a tax file number;

the entity shall be taken to have quoted its tax file number in connection with the investment if the investment body concerned is given a written declaration, made by an eligible representative of the entity, under subsection (2).

“(2) A person who is an eligible representative of an entity may make a written declaration, in a form approved by the Commissioner, that:

- (a) states the name and address of the entity and the reason why the entity is not obliged to furnish to the Commissioner a return under section 161 in respect of the year of income; and
- (b) is signed by the eligible representative.

“(3) An entity that, as an entity that is not required to furnish to the Commissioner a return under section 161 in respect of a year of income, is to be taken, because of this section, to have quoted its tax file number in connection with an investment shall continue to be taken to have, because of this section, quoted the number in connection with the investment until 2 months after the end of the first year of income, following the time at which the entity is to be taken to have quoted the number, in respect of which the entity is required so to furnish a return.

“(4) Where an entity in respect of which a declaration under subsection (2) has been given to an investment body in connection with an investment becomes obliged under section 161 to furnish a return in respect of a year of income, the person who is the public officer of the entity for the purposes of this Act is guilty of an offence if:

- (a) the entity is, at the end of the year of income, still an investor in relation to the investment; and
- (b) the investment body is not, within 2 months after the end of the year of income, informed of the entity’s tax file number or informed that the entity is obliged to furnish the return.

Penalty: \$1,000.

“(5) For the purposes of this section, a person is an eligible representative of an entity if the person is:

- (a) where the entity is a body corporate—a person who is any one or more of the following:
 - (i) the public officer of the body corporate for the purposes of this Act;
 - (ii) an officer of the body corporate within the meaning of section 8Y of the *Taxation Administration Act 1953*;
 - (iii) a receiver of property of the body corporate, whether appointed by a court or otherwise and whether or not also a manager;
 - (iv) a liquidator of the body corporate appointed by a court;
 - (v) in the case of a foreign company within the meaning of the *Companies Act 1981* or of a law of a State or Territory that corresponds to that Act—an agent of the body corporate as defined in section 510 of that Act or in a provision of a law of a State or Territory that corresponds to that section;
 - (vi) an employee of the body corporate in relation to whom there is in force a written authorisation to act as an eligible representative of the body corporate, being an authorisation by a person who, when the authorisation was given, was an

- eligible representative of the body corporate by virtue of one or more of the preceding subparagraphs; or
- (b) where the entity is an unincorporated association—a person who is any one or more of the following:
- (i) the public officer of the unincorporated association for the purposes of this Act;
 - (ii) a director, secretary, office-holder, liquidator, receiver or trustee of the association;
 - (iii) an employee or member of the unincorporated association in relation to whom there is in force a written authorisation to act as an eligible representative of the unincorporated association, being an authorisation by a person who, when the authorisation was given, was an eligible representative of the unincorporated association by virtue of either or both of the preceding subparagraphs.

Recently-arrived visitors to Australia

“202ED. (1) For the purposes of this Part, where a recently-arrived visitor to Australia is an investor in relation to an investment to which this Part applies, the visitor shall be taken to have quoted his or her tax file number under Division 4 in connection with the investment if:

- (a) the visitor becomes liable to pay withholding tax in respect of income derived from the investment; or
- (b) the visitor:
 - (i) gives to the investment body concerned a written declaration, made by the visitor, under subsection (2); and
 - (ii) produces to the investment body, for examination, a passport held by the visitor.

“(2) A recently-arrived visitor to Australia may make a written declaration, in a form approved by the Commissioner, that:

- (a) states:
 - (i) the visitor’s name;
 - (ii) particulars (including the serial number (if any) and the country of issue) of a passport held by the visitor;
 - (iii) the visitor’s usual residential address; and
 - (iv) the visitor’s residential address during his or her stay in Australia; and
- (b) is signed by the visitor.

“(3) A person who, as a recently-arrived visitor to Australia, is to be taken, because of this section, to have quoted his or her tax file number in connection with an investment shall continue to be taken, because of this section, to have quoted the number until the end of one month after the person ceases to be a recently-arrived visitor to Australia for a reason other than that the person has left Australia.

“(4) Where a person in relation to whom a declaration under subsection (2) has been given to an investment body in connection with an investment ceases to be a recently-arrived visitor to Australia for a reason other than that the person has left Australia, the person is guilty of an offence if:

- (a) the person is, upon ceasing to be a recently-arrived visitor to Australia, still an investor in relation to the investment; and
- (b) the investment body is not, within one month of that time, informed of the person’s tax file number or informed that the person has ceased to be a recently-arrived visitor to Australia.

Penalty: \$1,000.

“(5) Nothing in this section affects a person’s liability to pay withholding tax.

Non-residents

“202EE. (1) For the purposes of this Part, where a non-resident is an investor in relation to an investment to which this Part applies, the non-resident shall be taken to have quoted the non-resident’s tax file number in connection with the investment if the non-resident becomes liable to pay withholding tax in respect of income derived from the investment.

“(2) Nothing in this section affects a person’s liability to pay withholding tax.

Territory residents etc.

“202EF. (1) For the purposes of this Part, an employee shall be taken to have quoted the employee’s tax file number in an employment declaration given to the employer concerned under section 202C if income derived from the employment would be exempt from income tax because of Division 1A of Part III.

“(2) For the purposes of this Part, an investor in relation to an investment to which this Part applies shall be taken to have quoted the investor’s tax file number under Division 4 in connection with the investment if income derived from the investment would be exempt from income tax because of Division 1A of Part III.

“(3) A person who is to be taken, because of this section, to have quoted the person’s tax file number in connection with employment, or with an investment, shall continue to be taken, because of this section, to have quoted the number in connection with the employment or investment until the end of one month after income derived from the employment, or from the investment, would no longer be exempt from income tax because of Division 1A of Part III.

“(4) Where:

- (a) a person has been taken, because of this section, to have quoted the person’s tax file number in connection with employment, or with an investment; and

- (b) income derived from the employment, or from the investment, ceases to be exempt from income tax because of Division 1A of Part III;

the person is guilty of an offence if, within one month of the income ceasing to be exempt from income tax, the employer concerned, or the investment body concerned, is not informed of the person's tax file number or informed that the income is no longer exempt from income tax.

Penalty: \$1,000.

Manner of completing declarations

"202EG. Where a person is unable to make a declaration under this Division, the declaration may be made by another person on behalf of the first-mentioned person.

Declarations under this Division to be sent to Commissioner

"202EH. (1) Where an investment body in relation to an investment receives a declaration under this Division from the investor, the investment body shall, within 28 days, send it to the office of a Deputy Commissioner.

"(2) Where the declaration is given to the investment body under subsection 202ED (2) by a recently-arrived visitor to Australia and a passport held by the visitor has been produced to the investment body for examination, the investment body shall, before sending the declaration, endorse on it a statement that the passport has been produced.

"Division 6—Review of decisions

Review of decisions

"202F. (1) Applications may be made to the Tribunal for review of the following decisions of the Commissioner:

- (a) a decision refusing an application for the issue of a tax file number under section 202BA (including a decision that is to be taken to have been made by virtue of section 202BC);
- (b) a decision to cancel a tax file number under section 202BE;
- (c) a decision to give a notice under subsection 202CE (3);
- (d) a decision to give a notice under subsection 202DF (3);
- (e) a decision to give a notice under subsection 202EB (3);
- (f) a decision under subsection 202G (4) not to exempt a person from compliance with section 202G or to vary or revoke a notice given under that subsection;
- (g) a decision stated by the regulations to be a reviewable decision for the purposes of this section.

"(2) Where an application has been made to the Tribunal for review of a decision referred to in paragraph (1) (a), the orders that may be made under subsection 41 (2) of the *Administrative Appeals Tribunal Act 1975*

include an order that the Commissioner issue a tax file number to the applicant pending the determination of the application for review.

“(3) A tax file number issued in accordance with an order referred to in subsection (2) ceases to have effect when the application is finally disposed of.

“(4) When a tax file number ceases to have effect under subsection (3), this Part (other than this section) applies as if the number had been cancelled.

Statements to accompany notification of decisions

“202FA. (1) Where a decision of a kind referred to in section 202F is made and notice in writing of the decision is given to a person whose interests are affected by the decision, that notice shall include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision and, except where subsection 28 (4) of that Act applies, also include a statement to the effect that the person may request a statement under section 28 of that Act.

“(2) A failure to comply with subsection (1) does not affect the validity of the decision.

“Division 7—Manner of providing information

Transmission of information in accordance with specifications

“202G. (1) The Commissioner may, by notice published in the *Gazette*, set out specifications for transmission to the Commissioner of information to which this section applies.

“(2) A notice under subsection (1) has effect on and from the day specified in the notice.

“(3) Where the whole or part of the information to which this section applies that a person is obliged to give to the Commissioner is kept by or on behalf of the person by means of a data processing device, the person shall, when giving any of that information to the Commissioner, give it in a manner and form that is in accordance with the specifications set out in the notice under subsection (1), as amended from time to time.

“(4) A person is exempt from compliance with subsection (3) if, on an application by the person, the Commissioner has, by written notice to the person, exempted the person from compliance with this section.

“(5) A notice under subsection (4) has effect for the period specified in the notice.

“(6) Refusal by the Commissioner of an application under subsection (4) shall be by notice in writing to the applicant.

“(7) In deciding whether to exempt a person, the Commissioner shall consider:

- (a) the amount of information concerned;
- (b) any difficulties in giving the information in the manner required by this section;
- (c) the purposes of this Part; and
- (d) any other matters that the Commissioner thinks are relevant.

“(8) A person is exempt from compliance with subsection (3) if the person is included in a class of persons specified by the Commissioner by notice published in the *Gazette*.

“(9) This section applies to information that a person is or will be obliged to give to the Commissioner, whether by means of a report, form, certificate or otherwise:

- (a) under this Part;
- (b) under regulations made for the purposes of this Part; or
- (c) under this Act, being information in respect of which this Act provides for the inclusion of tax file numbers.”.

Interpretation

7. Section 221A of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of “group certificate” and substituting the following definition:

“‘group certificate’ means a certificate, in a form authorised by the Commissioner, issued by a group employer, or by or on behalf of an authority with which an arrangement has been entered into under section 221S, to an employee in accordance with this Division in respect of the salary or wages of the employee;”;

- (b) by inserting in subsection (1) the following definitions:

“‘employment declaration’ means an employment declaration made by an employee under section 202C;

‘prescribed non-resident’, in relation to any period occurring within a year of income, means a person who, at all times during that period, is a non-resident, not being a person to whom, at any time during that year of income, a pension, allowance or benefit in respect of which the person is liable to be assessed and to pay income tax is, or was, payable under:

- (a) the *Veterans’ Entitlements Act 1986*;
- (b) subsection 4 (6) of the *Veterans’ Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*;
- (c) a provision of the *Social Security Act 1947* other than Part XIII of that Act; or
- (d) the *Tuberculosis Act 1948*;

'tax file number', in relation to an employee, means the number that is the employee's tax file number for the purposes of Part VA;".

Group employers

8. Section 221F of the Principal Act is amended:

- (a) by omitting from subsection (1) "from whose salary and wages he has been required to make deductions";
- (b) by omitting from subsection (2) "from whose salary or wages he is required to make deductions";
- (c) by omitting paragraphs (5) (b), (c), (ca) and (d) and substituting the following paragraphs:
 - "(b) subject to subsection (5E), issue to each employee, not later than 14 July in each year, a group certificate in accordance with subsection (5A);
 - (c) subject to subsection (5E), issue to an employee, within 7 days after the employee ceases to be employed by the employer, a group certificate in accordance with subsection (5B);
 - (ca) issue to an employee, within 7 days after making an eligible termination payment to the employee, a group certificate in accordance with subsection (5C);
 - (d) subject to subsection (5E), issue to an employee, upon a certificate issued to the employee under section 221E being produced to the employer by the employee during the period specified in the certificate, a group certificate in accordance with subsection (5D);"
- (d) by omitting subparagraph (5) (f) (i) and substituting the following subparagraph:
 - "(i) a copy of each group certificate issued by the employer to each employee in respect of salary or wages paid by the employer to the employee during the period of 12 months that ended on 30 June in that year; and";
- (e) by omitting from subparagraph (5) (f) (ii) "the deductions" and substituting "any deductions";
- (f) by inserting after subsection (5) the following subsections:
 - "(5A) A group certificate for the purpose of paragraph (5) (b) shall set out:
 - (a) the total of the amounts paid by the employer to the employee as salary or wages during the period of 12 months that ended on 30 June in the same year; and
 - (b) where deductions (including deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*) from the salary or wages of the employee have been made by the employer as a group

employer during the same period—the total of the amounts of the deductions;

other than amounts that have been included in a group certificate previously issued to the employee.

“(5B) A group certificate for the purpose of paragraph (5) (c) shall set out:

- (a) the total of the amounts paid by the employer to the employee as salary or wages; and
- (b) where deductions (including deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*) from the salary or wages of the employee have been made by the employer as a group employer—the total of the amounts of the deductions;

other than amounts that have been included in a group certificate previously issued to the employee and amounts deducted from eligible termination payments.

“(5C) A group certificate for the purpose of paragraph (5) (ca) shall set out:

- (a) the amount of the eligible termination payment paid by the employer to the employee; and
- (b) where a deduction from the eligible termination payment has been made by the employer as a group employer—the amount of the deduction.

“(5D) A group certificate for the purpose of paragraph (5) (d) shall set out:

- (a) the total of the amounts paid by the employer to the employee as salary or wages; and
- (b) where deductions (including deductions under a State income tax law or under section 78 of the *Income Tax (Arrangements with the States) Act 1978*) from the salary or wages of the employee have been made by the employer as a group employer—the total of the amounts of the deductions;

other than amounts that have been included in a group certificate previously issued to the employee.

“(5E) A group employer is not required to issue a group certificate to an employee in respect of a period if:

- (a) the employee is not a prescribed non-resident at any time during the year of income during which the period occurs;
- (b) no part of the salary or wages that the employee received, or is entitled to receive, in respect of the period relates to employment in, or in connection with, a trade, business, profession or undertaking carried on by the employer; and
- (c) the salary or wages that the employee received, or is entitled to receive, in respect of any week or part of a week within that period, do not exceed the minimum amount of salary or

wages, of the kind referred to in paragraph (b), in respect of which the employer is obliged to make deductions.

“(5F) If an employer issues a group certificate to an employee at a time when the employee has, for the purposes of Part VA, quoted his or her tax file number in an employment declaration given to the employer, the employer shall include the number in the group certificate.

“(5G) Where:

- (a) an employer is required to include an employee’s tax file number in a group certificate under subsection (5F);
- (b) the employee has not quoted his or her tax file number in an employment declaration given to the employer; and
- (c) the employee is, because of the application of subsection 202CB (2) or (4), to be taken, for the purposes of Part VA, to have so quoted his or her tax file number;

the employer shall be taken to have included the number in the group certificate if, in the space provided on the form for the inclusion of the number, the employer includes:

- (d) the notation approved by the Commissioner as being appropriate in cases to which subsection 202CB (2) applies; or
- (e) the notation approved by the Commissioner as being appropriate in cases to which subsection 202CB (4) applies;

as the case requires.”;

- (g) by adding at the end of subsection (7) “or any of the requirements of subsection (5A), (5B), (5C) or (5D)”;
- (h) by omitting from paragraph (15) (a) “or” (last occurring);
- (j) by inserting after paragraph (15) (a) the following paragraph:
“(aa) subsection (5F); or”.

Employers other than group employers

9. Section 221G of the Principal Act is amended:

- (a) by omitting from subsection (1) “from which he is required to make a deduction”;
- (b) by inserting in paragraph (1) (b) “where any deductions are made from the salary or wages of that employee —” before “purchase”;
- (c) by omitting from subparagraph (2) (b) (i) “and”;
- (d) by inserting after subparagraph (2) (b) (i) the following subparagraph:

“(ia) include, on each tax check sheet in respect of an employee who has, for the purposes of Part VA, quoted his or her tax file number in an employment declaration given to the employer, the employee’s tax file number; and”;

- (e) by omitting subsection (2A) and substituting the following subsection:

“(2A) Subsections (1) and (2) do not apply in relation to:

- (a) eligible termination payments; or
- (b) salary or wages, paid to an employee by an employer, to which all of the following circumstances apply:
 - (i) the salary or wages are not paid in respect of a period during a year of income during which the employee is, or has been, at any time a prescribed non-resident;
 - (ii) no part of the salary or wages relates to employment in, or in connection with, a trade, business, profession or undertaking carried on by the employer;
 - (iii) the salary or wages do not, in respect of any week or part of a week, exceed the minimum amount of salary or wages, of the kind referred to in subparagraph (ii) in respect of which the employer is obliged to make deductions.”;
- (f) by omitting from subsection (2B) “from which he is required to make a deduction”;
- (g) by omitting from paragraph (2B) (a) “the deduction and” and substituting “any deduction and, if a deduction is required to be made from the payment,”;
- (h) by inserting in paragraph (2B) (b) “where any deduction is required to be made from the eligible termination payment—” before “purchase”;
- (j) by omitting from subparagraph (2B) (e) (i) “and”;
- (k) by inserting after subparagraph (2B) (e) (i) the following subparagraph:
 - “(ia) include, on each such tax check sheet in respect of an employee who has, for the purposes of Part VA, quoted his or her tax file number in an employment declaration given to the employer, the employee’s tax file number; and”;
- (m) by inserting after subsection (2B) the following subsection:
 - “(2C) Where:
 - (a) an employer is required to include an employee’s tax file number on a tax check sheet under subparagraph (2) (b) (ia) or (2B) (e) (ia);
 - (b) the employee has not quoted his or her tax file number in an employment declaration given to the employer; and
 - (c) the employee is, because of the application of subsection 202CB (2) or (4), to be taken, for the purposes of Part VA, to have so quoted his or her tax file number;the employer shall be taken to have included the number on the tax check sheet if, in the space provided on the sheet for the inclusion of the number, the employer includes:

- (d) the notation approved by the Commissioner as being appropriate in cases to which subsection 202CB (2) applies; or
- (e) the notation approved by the Commissioner as being appropriate in cases to which subsection 202CB (4) applies; as the case requires.”.

Application of deductions in payment of tax

10. Section 221H of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) An employee shall forward any tax stamps sheet and any group certificate issued to the employee in respect of salary or wages received by the employee in any year of income to the Commissioner with the return which the employee is required under section 161 to furnish in respect of that year of income.”;
- (b) by omitting from subsection (2) “deductions made in any year of income from his salary or wages” and substituting “salary or wages of the employee from which deductions have been made in any year of income”;
- (c) by omitting paragraph (5A) (a) and substituting the following paragraph:

“(a) the Commissioner receives from a person a tax stamps sheet, or a group certificate, in respect of an eligible termination payment that the person has received or was entitled to receive, being an eligible termination payment from which a deduction was made;”.

Employer failing to issue group certificate or deliver tax stamps sheet

11. Section 221Q of the Principal Act is amended:

- (a) by omitting from subsection (1) “those deductions” and substituting “the salary or wages”;
- (b) by omitting from subsection (2) “on production of a group certificate or tax stamps sheet in respect of those deductions” and substituting “in relation to the deductions on production of a group certificate or tax stamps sheet in respect of salary or wages from which the deductions were made”.

Duties of eligible paying authorities

12. Section 221YHD of the Principal Act is amended by omitting paragraph (5) (b) and substituting the following paragraph:

- “(b) in any other case—the amount determined in accordance with regulations for the purposes of this paragraph.”.

Division heading

13. The heading to Division 3B of Part VI of the Principal Act is omitted and the following heading is substituted:

“Division 3B—Collection of tax in respect of certain payments”.

Interpretation

14. Section 221YHZA of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions:

“‘investment body’ means an investment body as defined in section 202D;

‘investor’ means an investor as defined in section 202D;

‘Part VA investment’ means an investment of a kind mentioned in section 202D;

‘share investment’ means a Part VA investment of a kind mentioned in item 6 in the table in subsection 202D (1);

‘unattributed income’, in relation to a Part VA investment, means income in respect of the investment that becomes payable to the investor at a time when the investor’s tax file number is not taken, for the purposes of Part VA, to have been quoted in connection with the investment, other than such income that becomes payable at a time when:

(a) a provision of Division 5 of Part VA that previously applied to the investor has ceased to apply; and

(b) the investment body concerned has not been informed of anything that would result in the provision ceasing to apply.”;

(b) by omitting subsection (2) and substituting the following subsections:

“(2) For the purposes of this Division, where money, or income in a form other than money, is not actually paid to a person but is reinvested, accumulated, capitalised or otherwise dealt with on behalf of the person, or as the person directs, the money or income shall be taken to be paid to the person when it is so reinvested, accumulated, capitalised or otherwise dealt with.

“(2A) For the purposes of this Division, where a person becomes presently entitled, as an investor in relation to an investment of the kind mentioned in item 5 in the table in subsection 202D (1), to a share of income in respect of the investment, that share of the income shall be taken to be paid to the person as income in respect of the investment when the person becomes so entitled.

“(2B) For the purposes of this Division, where a person becomes obliged under section 159GQ to include in the person’s assessable income an amount in respect of a Part VA investment, that amount shall be taken to be paid to the person as income in respect of the investment when the person becomes so obliged.”.

Duties of payers

15. Section 221YHZC of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsections:

“(1A) Subject to subsections (1B) and (1E), where after the end of the phasing-in period mentioned in section 202DA:

- (a) the investment body in relation to a Part VA investment is liable to pay income, in respect of the investment;
- (b) the income is unattributed income in respect of the investment; and
- (c) the amount of the income is not less than:
 - (i) if each investor in relation to the investment (not being an investment of a kind mentioned in item 6 in the table in subsection 202D (1) was, on the 1 January preceding the payment, less than 16 years of age—the amount ascertained in accordance with regulations made for the purposes of this subparagraph;
 - (ii) if:
 - (A) if subparagraph (i) does not apply;
 - (B) the investment has been in existence at all times since the end of the phasing-in period mentioned in section 202DA; and
 - (C) the investment is an investment of the kind mentioned in item 1 or 2 in the table in subsection 202D (1);the amount ascertained in accordance with the regulations for the purposes of this subparagraph; or
 - (iii) in any other case—the amount ascertained in accordance with regulations made for the purposes of this subparagraph;

the investment body shall:

- (d) when paying the income, deduct an amount ascertained in accordance with subsection (1C) or (1D);
- (e) at the time of notifying the investor of the payment of the income, and in any event within 21 days after the investor requests notice of any amount deducted from income so paid, give to the investor written notice of the amount deducted from the income so paid; and
- (f) not later than 31 August (or such later day as the Commissioner allows) in each year, give to the Commissioner a statement in a form approved by the Commissioner, signed by the investment body, reconciling the total of the amounts of all deductions made by the investment body during the financial year that ended on 30 June in that year from unattributed income in respect of Part VA investments with

the total of the amounts paid to the Commissioner under subsection 221YHZD (1A) in respect of those deductions.

Penalty: \$1,000.

“(1B) Subsection (1A) does not apply in relation to income paid in respect of a share investment if:

- (a) the income is paid as a dividend that has been franked in accordance with section 160AQF; and
- (b) the percentage specified in the declaration, referred to in that section, in relation to the dividend is 100%.

“(1C) Subject to subsection (1D), the amount to be deducted, in accordance with paragraph (1A) (d), from unattributed income in respect of a Part VA investment is the amount (being a multiple of 5 cents) that is, or is nearest to, the amount ascertained by multiplying the number of whole dollars in the amount of unattributed income by the factor prescribed for the purposes of this subsection.

“(1D) Where:

- (a) unattributed income is to be paid, in respect of a share investment, as a dividend that has been franked in accordance with section 160AQF; and
- (b) the percentage specified in the declaration, referred to in that section, in relation to the dividend is less than 100%;

the amount to be deducted, in accordance with paragraph (1A) (d) of this section, from the unattributed income is the amount (being a multiple of 5 cents) that is, or is nearest to, the amount ascertained in accordance with the formula:

$$(I - FA) \times PF$$

where:

I is the amount of unattributed income;

FA is the franked amount (within the meaning of section 160APA) in relation to the dividend;

PF is the factor prescribed for the purposes of subsection (1C).

“(1E) Subsection (1A) does not apply in relation to income that is not paid in money.”;

- (b) by omitting from subsections (2), (3) and (4) “sub-section (1)” (wherever occurring) and substituting “subsection (1) or (1A)”

Duty of payer to pay deducted amount to Commissioner

16. Section 221YHZD of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsections:

“(1A) An investment body in relation to a Part VA investment who deducts, or purports to deduct, under subsection 221YHZC (1A), an amount from a payment to a person of income in respect of the

investment shall pay the amount to the Commissioner within 21 days after the end of the month during which the income is so paid.

Penalty: \$5,000 or imprisonment for 12 months, or both.

“(1B) An investment body in relation to a Part VA investment shall not, after the end of the phasing-in period mentioned in section 202DA, pay to a person unattributed income in respect of the investment that is not paid in money until an amount equal to the amount that would, if the income had been paid in the form of an amount of money equal to the value of the income, have been required to be deducted under subsection 221YHZA (1A) has been paid to the Commissioner in respect of the income.

Penalty: \$1,000.

“(1C) An amount paid by an investment body under subsection (1B) is recoverable by the investment body as a debt payable by the investor in relation to the investment concerned.”;

- (b) by omitting from subsection (2) “sub-section (1)” and substituting “subsection (1), (1A) or (1B)”;
- (c) by omitting paragraph (3) (a) and substituting the following paragraph:

“(a) an amount is payable to the Commissioner under subsection (1), (1A) or (1B) by a person; and”.

17. After section 221YHZD of the Principal Act the following sections are inserted:

Refund of deductions in certain cases

“221YHZDA. (1) Where:

- (a) an investment body in relation to a Part VA investment has made a deduction, purportedly under this Division, from income paid, in respect of a particular financial year, to a person in connection with the investment;
- (b) the amount deducted has been paid to the Commissioner; and
- (c) the whole or a part of the amount of the deduction (in this section called the ‘excess amount’) was made in error;

the investment body is liable to pay the excess amount to the person and may recover the excess amount from the Commissioner as a debt due to the investment body.

“(2) A person is not entitled to a credit under section 221YHZK in respect of the excess amount.

“(3) An amount payable under subsection (1) to a person by an investment body is recoverable by the person as a debt.

Commissioner may refund amounts in certain cases

“221YHZDB. (1) Where, on an application in writing by a person, the Commissioner is satisfied that:

- (a) an investment body made a deduction under subsection 221YHZA (1A) from a payment of income to the applicant in respect of a Part VA investment;
- (b) though the applicant would have been entitled to give the investment body a declaration under Division 5 of Part VA in relation to the investment, no such declaration was given; and
- (c) having regard to:
 - (i) the purposes of this Division; and
 - (ii) such other matters (if any) as the Commissioner thinks appropriate;it would be fair and reasonable to refund the whole or a part of the amount deducted;

the Commissioner shall refund the whole or a part of that amount to the applicant.

“(2) A person is not entitled to a credit under section 221YHZK in respect of an amount refunded under subsection (1) of this section.”.

Persons discharged from liability in respect of deducted amounts

18. Section 221YHZH of the Principal Act is amended by omitting “sub-section 221YHZA (1)” and substituting “subsection 221YHZA (1) or (1A)”.

Credits in respect of deducted amounts

19. Section 221YHZK of the Principal Act is amended:

- (a) by omitting from subsections (1), (2) and (3) “sub-section 221YHZA (1)” and substituting “subsection 221YHZA (1) or (1A)”;
- (b) by adding at the end the following subsection:

“(4) This section applies in relation to a payment or payments to the Commissioner under subsection 221YHZD (1B) in respect of a payment or payments to a person as if the payment or payments under that subsection were an amount or amounts deducted under subsection 221YHZA (1A).”.

20. After section 221YHZN of the Principal Act the following section is inserted in Division 3B:

Power of Commissioner to obtain information

“221YHZO. Section 264 applies, for the purposes of this Division, as if the reference in paragraph (1) (b) of that section to a person’s income or assessment were a reference to a matter relevant to the administration or operation of this Division.”.

**PART IV—AMENDMENTS OF THE TAXATION
ADMINISTRATION ACT 1953**

Principal Act

21. In this Part, “Principal Act” means the *Taxation Administration Act 1953*³.

Provision of taxation information to National Crime Authority

22. Section 3D of the Principal Act is amended by omitting from subsection (21) “\$5,000 or imprisonment for a period not exceeding 12 months” and substituting “\$10,000 or imprisonment for a period not exceeding 2 years”.

Interpretation

23. Section 8A of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘tax file number’ means a tax file number as defined in section 202A of the *Income Tax Assessment Act 1936*.”.

Failure to comply with requirements under taxation law

24. Section 8C of the Principal Act is amended:

(a) by inserting after paragraph (a) the following paragraph:

“(aa) to give information to the Commissioner in the manner in which it is required under a taxation law to be given;”;

(b) by adding at the end the following subsection:

“(2) For the purposes of paragraphs (1)(a) and (d), a person shall not be taken to have refused or failed to furnish information to the Commissioner or another person, or to notify the Commissioner or another person of a matter or thing, merely because the person has refused or failed to quote the person’s tax file number to the Commissioner or other person.”.

False or misleading statements

25. Section 8K of the Principal Act is amended by adding at the end the following subsection:

“(3) For the purposes of paragraph (1) (b), a person shall not be taken to have omitted a matter or thing from a statement made to a taxation officer merely because the person has, in making the statement, failed to quote the person’s tax file number.”.

26. After section 8W of the Principal Act the following Subdivision is inserted:

“Subdivision BA—Offences relating to tax file numbers

Unauthorised requirement etc. that tax file number be quoted

“8WA. (1) A person shall not require or request another person to quote the other person’s tax file number, for the purpose of establishing the other person’s identity or for any other purpose, unless:

- (a) provision is made by or under a taxation law for the person to quote the number to the first-mentioned person;
- (b) the first-mentioned person requires or requests the number to be quoted in connection with the first-mentioned person exercising powers or performing functions under or in relation to a taxation law or a law of the Commonwealth of a kind referred to in paragraph 202 (c) of the *Income Tax Assessment Act 1936*; or
- (c) the first-mentioned person requires or requests the number to be quoted in connection with the first-mentioned person acting on the other person’s behalf in the conduct of the other person’s affairs.

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) Nothing in subsection (1) shall be read as prohibiting a person from requesting the production of a document, or a copy of a document, on which another person’s tax file number is recorded if the other person is not prevented from removing the tax file number from the document.

“(3) For the purposes of this section, a person who makes to another person a statement that the other person could reasonably understand to mean that the other person is required or requested to quote the other person’s tax file number shall be taken to require or request the other person to quote the number.

“(4) Nothing in this section shall be read as imposing on a person an obligation to require another person to quote a tax file number.

Unauthorised recording etc. of tax file number

“8WB. (1) A person shall not:

- (a) record another person’s tax file number or maintain such a record;
- (b) use another person’s tax file number in a manner connecting it with the other person’s identity; or
- (c) divulge or communicate another person’s tax file number to a third person;

other than:

- (d) to the extent required or permitted by, or reasonably necessary in order to comply with an obligation imposed by, a taxation law or a law of the Commonwealth of a kind referred to in paragraph 202 (c) of the *Income Tax Assessment Act 1936*;
- (e) in connection with the first-mentioned person exercising powers or performing functions under or in relation to a taxation law or a law of the Commonwealth of a kind referred to in paragraph 202 (c) of the *Income Tax Assessment Act 1936*; or

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- (f) in connection with the first-mentioned person acting on the other person's behalf in the conduct of the other person's affairs.

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) Without affecting any obligation imposed by or under a law of the Commonwealth other than this section, nothing in subsection (1) shall be read as imposing on a person an obligation to do an act referred to in paragraph (1) (a), (b) or (c).

Conducting affairs so as to avoid tax file number requirements

“8WC. (1) Where:

- (a) a person is an investor in relation to 2 or more investments of a similar kind; and
- (b) having regard to:
- (i) the manner in which the person became an investor in relation to the investments; and
 - (ii) any explanation made by the person as to becoming such an investor in that manner;

it would be reasonable to conclude that the person became such an investor in that manner for the sole or dominant purpose of ensuring, or attempting to ensure that:

- (iii) amounts would not be deducted under Division 3B of Part VI of the *Income Tax Assessment Act 1936* from income in respect of the investment although the person has not, under Part VA of that Act, quoted the person's tax file number in connection with the investment; or
- (iv) the investment is not referred to in a report under the regulations made under that Act;

the person is guilty of an offence.

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) In this section:

‘investment’ means an investment of a kind mentioned in section 202D of the *Income Tax Assessment Act 1936*;

‘investor’ means an investor within the meaning of that section.

Application of Subdivision in relation to *Child Support Act 1988*

“8WD. For the purposes of this Subdivision only, a reference to a taxation law shall be taken to include a reference to the *Child Support Act 1988*.”.

27. The Principal Act is amended by inserting after section 8X the following sections:

Unauthorised access to taxation records

“8XA. A person shall not knowingly take action for the purpose of obtaining information held under or for the purposes of a taxation law unless the person takes the action in the course of exercising powers or performing functions under or in relation to a taxation law.

Penalty: \$10,000 or imprisonment for 2 years, or both.

Secrecy

“8XB. (1) Subject to subsection (3), a person shall not, except to the extent required or permitted by a taxation law or reasonably necessary in order to comply with an obligation imposed by a taxation law, directly or indirectly:

- (a) make a record of any taxation information relating to another person; or
- (b) divulge or communicate to another person any taxation information relating to a third person;

being information disclosed to or obtained by the person in breach of a provision of a taxation law (including this provision).

Penalty: \$10,000 or imprisonment for 2 years, or both.

“(2) Without limiting subsection (1), a person shall be taken to have obtained taxation information in breach of a provision of a taxation law if:

- (a) the information relates to the affairs of another person;
- (b) the form or circumstances in which the information was obtained would have led a reasonable person to believe that:
 - (i) in the case of information contained in a document—the document had come from an office of the Commissioner or a Deputy Commissioner; or
 - (ii) in any other case—the information had come from the records of the Commissioner or from an officer; and
- (c) the information was obtained by the person in circumstances that gave the person no reasonable cause to believe that the communication of the information to the person was authorised by a taxation law or by a person acting in accordance with such a law.

“(3) Subsection (1) does not apply to the divulging or communicating of information to an officer (within the meaning of a taxation secrecy provision) for a purpose connected with the administration of a taxation law.

“(4) Except where it is necessary to do so for the purpose of carrying into effect the provisions of a taxation law, a person shall not be required:

- (a) to produce in court any document containing information in relation to which subsection (1) applies; or
- (b) to divulge or communicate to a court a matter or thing with respect to information in relation to which subsection (1) applies.

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“(5) This section does not apply to a person in respect of information or a document if the person is an officer within the meaning of a taxation secrecy provision and that provision refers to the information or document.

“(6) In this section:

‘taxation information’ means information with respect to a person’s affairs, being information that is, or at any time has been, in the possession of the Commissioner;

‘taxation secrecy provision’ means a provision of a taxation law that purports to prohibit the communication, divulging or publication of information or the production of, or the publication of the contents of, a document.”.

28. After section 17A of the Principal Act the following section is inserted:

Injunctions to prevent contravention of secrecy provisions

“17B. (1) Where a person has engaged, is engaging or is proposing to engage in any conduct that constituted or would constitute a contravention of a taxation law that prohibits the communication, divulging or publication of information or the production of, or the publication of the contents of, a document, the Federal Court of Australia may, on the application of the Commissioner, grant an injunction restraining the person from engaging in the conduct and, if in the court’s opinion it is desirable to do so, requiring the person to do any act or thing.

“(2) Where an application is made to the court for an injunction under subsection (1), the court may, if in the court’s opinion it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in that subsection pending the determination of the application.

“(3) The court may discharge or vary an injunction granted under this section.

“(4) Where an application is made to the court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the power of the court to grant the injunction may be exercised:

- (a) if the court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
- (b) if it appears to the court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

“(5) The power of the court to grant an injunction requiring a person to do a particular act or thing may be exercised:

- (a) if the court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or
- (b) if it appears to the court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

“(6) Where the Commissioner makes an application to the court for the grant of an injunction under this section, the court shall not require the Commissioner or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.

“(7) The powers conferred on the court under this section are in addition to, and not in derogation of, any other powers of the court, whether conferred by this Act or otherwise.”

PART V—AMENDMENTS OF TAXATION SECRECY PROVISIONS

Amendments of taxation secrecy provisions

29. (1) The Acts referred to in column 1 of Part I of Schedule 1 are amended by omitting from each of the provisions of those Acts referred to in column 2 of Part I of that Schedule “\$5,000 or imprisonment for 12 months” and substituting “\$10,000 or imprisonment for 2 years”.

(2) The Acts referred to in column 1 of Part II of Schedule 1 are amended by omitting from each of the provisions of those Acts referred to in column 2 of Part II of that Schedule “\$5,000 or imprisonment for a period not exceeding one year” and substituting “\$10,000 or imprisonment for a period not exceeding 2 years”.

PART VI—AMENDMENTS OF THE INCOME TAX REGULATIONS

Amendments of the Income Tax Regulations

30. (1) In this section, “Income Tax Regulations” means Statutory Rules No. 94 of 1936 as amended.

(2) The Income Tax Regulations are amended as set out in Schedule 2.

(3) The Income Tax Regulations, as amended by this Act, may be amended or repealed by regulations as if the amendments made by this Act had been made by regulations.

SCHEDULE 1

Section 29

AMENDMENTS OF TAXATION SECRECY PROVISIONS

PART I

| Column 1 | Column 2 |
|--|---|
| <i>Fringe Benefits Tax Assessment Act 1986</i> | Subsection 5 (3) |
| <i>Gift Duty Assessment Act 1941</i> | Section 10 |
| <i>Income Tax Assessment Act 1936</i> | Sections 16 and 16A |
| <i>Petroleum Resource Rent Tax Assessment Act 1987</i> | Subsection 17 (3) |
| <i>Sales Tax Assessment Act (No. 1) 1930</i> | Subsections 10 (2) and (3) |
| <i>Sales Tax Procedure Act 1934</i> | Subsection 4A (3) |
| <i>Taxation Administration Act 1953</i> | Subsections 3C (2), 13H (1) and 13J (2) |
| <i>Tobacco Charges Assessment Act 1955</i> | Section 10 |
| <i>Wool Tax (Administration) Act 1964</i> | Section 8 |

PART II

| Column 1 | Column 2 |
|---|------------------|
| <i>Debts Tax Administration Act 1982</i> | Subsection 7 (2) |
| <i>Taxation (Interest on Overpayments) Act 1983</i> | Subsection 8 (2) |

SCHEDULE 2

Section 30

AMENDMENTS OF THE INCOME TAX REGULATIONS

Subregulation 3 (1):

Insert the following definitions:

“‘employment declaration’ means an employment declaration made by an employee under section 202C of the Act;

‘tax file number’, in relation to an employee, means the number that is the employee’s tax file number for the purposes of Part VA of the Act;”.

Regulation 11:

Add at the end the following subregulation:

“(3) Subregulation (2) does not apply in relation to a period in respect of which a company is obliged to prepare and give to the Commissioner a report under regulation 43C.”.

After subregulation 12 (1):

Insert the following subregulation:

“(1A) The employer shall include in the statement, in relation to each employee who has, for the purposes of Part VA of the Act, quoted his or her tax file number in an employment declaration given to the employer:

SCHEDULE 2—continued

- (a) the employee's tax file number; or
- (b) where the employee is, because of the application of subsection 202CB (2) or (4) of the Act, to be taken to have so quoted the number—a notice to that effect.”.

After regulation 43:

Insert the following Part:

“PART VA—TAX FILE NUMBERS

Interpretation

“43A. In this Part:

‘investment body’ means an investment body as defined in section 202D of the Act;

‘investment reference number’, in relation to an investment of a kind mentioned in section 202D of the Act, means the number used by the investment body in its records for the purpose of identifying the investments of investors;

‘investor’ means an investor as defined in section 202D of the Act;

‘phasing-in period’ means the phasing-in period mentioned in section 202DA of the Act;

‘quarter’ means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October.

File number reports

“43B. (1) Each person who is an investment body in relation to any investments mentioned in section 202D of the Act in connection with which an investor's tax file number is quoted under Part VA of the Act during a particular reporting period shall give to the Commissioner a written report of all such investments.

“(2) Subregulation (1) does not apply to a reporting period that ended before the beginning of the phasing-in period.

“(3) The report shall be given to the Commissioner within one month after the end of the reporting period to which it relates, or within such further time as the Commissioner, by written notice given to the investment body, allows.

“(4) The report shall state, in relation to each investment referred to in subregulation (1):

- (a) the investor's full name and address;
- (b) the investor's tax file number; and
- (c) the investment reference number (if any) in relation to the investment.

SCHEDULE 2—continued

“(5) In this regulation, ‘reporting period’ means:

- (a) a quarter; or
- (b) in respect of an investment body to which a notice has been given under subregulation (6), the period specified in the notice.

“(6) The Commissioner may, by notice in writing given to an investment body, inform the body that, for the purposes of this regulation, the period specified in the notice (being a period greater than 3 months) is to be the reporting period in respect of the body.

Annual investment income reports

“43C. (1) Subject to subregulation (7), each person who is, at any time during a financial year, an investment body in relation to any investments mentioned in section 202D of the Act shall prepare and give to the Commissioner a written report in relation to all those investments.

“(2) Subregulation (1) does not apply to a financial year that ended at or before the end of the phasing-in period.

“(3) The report shall be given to the Commissioner within 4 months after the end of the financial year to which it relates, or within such further time as the Commissioner, by written notice given to the investment body, allows.

“(4) The report shall state, in relation to each investment to which this subregulation applies in respect of the financial year:

- (a) the full name of each person who was, at any time during the financial year, an investor in relation to the investment, or, where at any such time more than 2 persons were investors in relation to the investment, the full names of at least 2 such investors and a notation to the effect that there were at that time more than 2 such investors;
- (b) where a person named for the purpose of paragraph (a) has, for the purposes of Part VA of the Act, quoted the person’s tax file number in connection with the investment—that number;
- (c) where such a person has not so quoted the number:
 - (i) the person’s address; and
 - (ii) if the person is to be taken to have quoted the number because of the application of any of the provisions of Division 5 of Part VA of the Act—a notation, in the manner approved by the Commissioner, to that effect;
- (d) the total amount of income paid to any such person in respect of the investment by the investment body during the financial year;
- (e) the total amount of any deductions made under Division 3B of Part VI of the Act in respect of the income; and
- (f) the investment reference number (if any) in relation to the investment.

SCHEDULE 2—continued

“(5) Subregulation (4) applies to an investment in respect of a financial year if:

- (a) the investment is an investment referred to in subregulation (1); and**
- (b) the total amount of income, in respect of the investment, paid to one or more persons by the investment body during the financial year exceeds:**
 - (i) if the investment (being an investment of the kind mentioned in item 1 or 2 in the table in subsection 202D (1) of the Act) has been in existence at all times since the end of the phasing-in period—\$120; or**
 - (ii) in any other case—\$1.**

“(6) For the purposes of paragraphs (4) (d) and (5) (b):

- (a) where income is not actually paid to a person but is reinvested, accumulated, capitalised or otherwise dealt with on behalf of the person, or as the person directs, the income shall be taken to be paid to the person when it is so reinvested, accumulated, capitalised or otherwise dealt with;**
- (b) where a person becomes presently entitled, as an investor in relation to an investment of the kind mentioned in item 5 in the table in subsection 202D (1) of the Act, to a share of income in respect of the investment, that share of the income shall be taken to be paid to the person as income in respect of the investment when the person becomes so entitled; and**
- (c) where a person becomes obliged under section 159GQ of the Act to include in the person’s assessable income an amount in respect of an investment of a kind mentioned in section 202D of the Act, that amount shall be taken to be paid to the person as income in respect of the investment when the person becomes so obliged.**

“(7) This regulation does not apply, in respect of a particular financial year, to a person who has, during that year, been an investment body in relation to investments mentioned in section 202D of the Act if the total number of those investments that are investments to which subregulation (4) applies in respect of that year is less than 10.

“(8) Every return by a company under regulation 11 relating to a financial year in respect of which the company would, but for subregulation (7) of this regulation, have been obliged to give to the Commissioner a report under this regulation shall contain statements setting out all the matters that the company would, but for that subregulation, have had to state in such a report.

SCHEDULE 2—continued

Reviewable decisions

“43D. For the purposes of section 202F of the Act, the following decisions of the Commissioner, being decisions made following an application by the investment body concerned, are reviewable decisions:

- (a) a decision refusing to extend, or extending, the time referred to in subregulation 43B (3);
- (b) a decision refusing to give, or giving, a notice under subregulation 43B (6);
- (c) a decision refusing to extend, or extending, the time referred to in subregulation 43C (3);
- (d) a decision varying or revoking a notice given under subregulation 43B (3), 43B (6) or 43C (3).”.

Subregulation 54AB (3):

Omit “or 54DA”, and substitute “, 54DA or 54DAAB”.

Paragraph 54AB (3) (d):

Omit “or”.

Subregulation 54AB (3):

After paragraph (e) insert the following paragraphs:

- “(ea) in the case of an employee to whom regulation 54DAAB applies, not being a prescribed non-resident—the factor specified in column 3 of the last item in table 4 or, where no such factor is specified, .5025; or
- (eb) in the case of an employee to whom regulation 54DAAB applies, being a prescribed non-resident—the factor specified in column 3 of the last item in table 5 or, where no such factor is specified, .49;”.

Paragraph 54AB (3) (j):

Omit “or”.

Subregulation 54AB (3):

After paragraph (k) insert the following word and paragraph:

- “; or (m) in the case of an employee to whom regulation 54DAAB applies—\$0.00.”.

Subregulation 54B (1):

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

Subregulation 54BA (1):

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

SCHEDULE 2—continued

Regulation 54C:

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

Regulation 54CA:

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

Regulation 54D:

Omit “or 54DAA”, substitute “, 54DAA or 54DAAB”.

Regulation 54DA:

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

Subregulations 54DAA (1), (2), (3) and (4):

After “employee” (first occurring) insert “(other than an employee to whom regulation 54DAAB applies)”.

Regulation 54DAAA:

After “employee” insert “(other than an employee to whom regulation 54DAAB applies)”.

After regulation 54DAAA:

Insert the following regulation:

Rate of deductions—employee who has failed to quote tax file number

“54DAAB. (1) Subject to this Subdivision, where an employee is not an employee in respect of whom an employment declaration, given to his or her employer, is, for the purposes of Part VA of the Act, effective, the prescribed rate of deductions to be made for the purposes of section 221C of the Act by the employer from payments of salary or wages that the employee receives or is entitled to receive in respect of a week or part of a week is the amount that, in accordance with regulation 54AB, is, for the purposes of this regulation, the income tax instalment amount in relation to the employee in respect of that week or part of a week.

“(2) This regulation does not apply in relation to an employee who:

- (a) is not an employee in respect of whom Part VA of the Act provides for the making of an employment declaration to his or her employer; or
- (b) is under 16 years of age and receives or is entitled to receive from his or her employer as salary or wages in respect of a week an amount in respect of which, but for this regulation, the employer would not be obliged to make deductions.”.

SCHEDULE 2—continued

Paragraph 54DAB (b):

Omit “\$40”, substitute “\$60”.

After subregulation 54DAC (2):

Insert the following subregulation:

“(2A) Nothing in subregulation (2) affects the operation of section 202C of the Act in relation to the making by an employee of a separate employment declaration in relation to each of the employee’s employers.”.

Regulation 54DACA:

Add at the end the following subregulation:

“(6) Nothing in this regulation prevents a Medicare levy variation declaration being incorporated in the form for an employment declaration.”.

Regulation 54DAD:

Add at the end the following subregulation:

“(5) Nothing in this regulation prevents a declaration referred to in paragraph 54A (2) (a) being incorporated in the form for an employment declaration.”.

Subregulations 54DAG (5), (6) and (7):

Omit the subregulations, substitute the following subregulations:

“(5) A declaration under this Subdivision ceases to have effect if the person who made the declaration ceases to be an employee of the employer to whom the employee gave the declaration.

“(6) A declaration under this Subdivision to which a determination under subregulation (7) applies ceases to have effect at the end of the day fixed by the determination.

“(7) The Commissioner may determine that:

(a) all declarations under this Subdivision; or

(b) a specified class of declarations under this Subdivision;

shall cease to have effect at the end of the day specified in the determination.

“(7A) A determination shall be made by notice published in the *Gazette*.”.

Subregulation 54DAK (1):

After paragraph (a) insert the following paragraph:

“(ab) the employee is not an employee to whom regulation 54DAAB applies;”.

Regulation 54DAN:

Repeal the regulation, substitute the following regulation:

SCHEDULE 2—continued

Forwarding of declaration to Commissioner

“54DAN. (1) Where an employee gives an employer a declaration under this Subdivision, the employer shall:

- (a) countersign the original of the declaration;
- (b) within the forwarding period, send the original to the office of a Deputy Commissioner; and
- (c) retain the copy of the declaration in accordance with subregulation (3).

Penalty: \$1,000.

“(2) The forwarding period is a period of 28 days or such longer period as the Commissioner, by notice in writing given to an employer, allows in a particular case.

“(3) The employer shall retain the copy of a declaration until:

- (a) the employee next gives a declaration under this Subdivision to the employer; or
- (b) the 1 July next following the day on which the declaration ceases to have effect.

“(4) This regulation does not apply in relation to a declaration under this Subdivision that is given to the employer on the same form as an employment declaration.”.

Subregulation 54DAO (2):

Insert the following definition:

“‘prescribed non-resident’ means a prescribed non-resident as defined in regulation 54A;”.

Subregulation 54DAP (1):

After “employee” insert “(not being an employee to whom subregulation (1A) applies)”.

After subregulation 54DAP (1):

Insert the following subregulations:

“(1A) Where:

- (a) any salary or wages that an employee receives or is entitled to receive in respect of a week consists or consist of an eligible termination payment; and
- (b) the employee is not an employee who has, for the purposes of this subregulation, quoted his or her tax file number in a statement under regulation 54DAQ to his or her employer;

the prescribed rate of deductions to be made for the purposes of section 221C of the Act from that payment is the amount (being a multiple of 5 cents) that is, or is nearest to:

SCHEDULE 2—continued

- (c) if the employee is not a prescribed non-resident—the amount ascertained by multiplying the number of whole dollars in the net relevant amount by the factor specified in column 3 of the last item in table 4 in the Third Schedule, or, where no such factor is specified, .5025; or
- (d) if the employee is a prescribed non-resident—the amount ascertained by multiplying the number of whole dollars in the net relevant amount by the factor specified in column 3 of the last item in table 5 in the Third Schedule, or, where no such factor is specified, .49.

“(1B) For the purposes of subregulation (1A), an employee shall be taken to have quoted his or her tax file number in a statement under regulation 54DAQ if:

- (a) the employee is not an employee in respect of whom Part VA of the Act provides for the making of an employment declaration to his or her employer; or
- (b) had the statement been an employment declaration given to his or her employer under Part VA of the Act, the employee would have been taken, for the purposes of that Part, to have quoted the number in the declaration.”

After subregulation 54DAQ (2):

Insert the following subregulation:

“(2A) The employee shall, on the form referred to in subparagraph (1) (a) (i), quote his or her tax file number.”

After subregulation 54ZED (1):

Insert the following subregulation:

“(1A) Subject to subregulation (2), the amount for the purposes of paragraph 221YHD (5) (b) of the Act is an amount equal to the amount ascertained by multiplying the number equal to the number of whole dollars in the prescribed payment by the factor specified in column 3 of the last item in table 4 in the Third Schedule, or, where no such factor is specified, .5025.”

Subregulation 54ZED (2):

Omit “sub-regulation (1)”, substitute “this regulation”.

After regulation 54ZEJ:

Insert the following Division:

“Division 3B—Collection of tax in respect of certain payments

Minimum amounts of income from which deductions to be made for failure to quote tax file number

“54ZEK. (1) The amount for the purposes of subparagraph 221YHZE (1A) (c) (i) of the Act is:

SCHEDULE 2—continued

- (a) if the income is payable in respect of the whole of a financial year—\$420; or
- (b) in any other case—the amount ascertained in accordance with the formula:

$$\frac{P \times \$420}{365}$$

where **P** is the number of days in the period in respect of which the income is payable.

“(2) The amount for the purposes of subparagraph 221YHZC (1A) (c) (ii) of the Act is:

- (a) if the income is payable in respect of the whole of a financial year—\$120; or
- (b) in any other case—the amount ascertained in accordance with the formula:

$$\frac{P \times \$120}{365}$$

where **P** is the number of days in the period in respect of which the income is payable.

“(3) The amount for the purposes of subparagraph 221YHZC (1A) (c) (iii) of the Act is \$1.

Ascertaining amounts to be deducted for failure to quote tax file number

“54ZEL. For the purposes of subsection 221YHZC (1C) of the Act, the factor is the factor specified in column 3 of the last item in table 4 in the Third Schedule, or, where no such factor is specified, .5025.”.

Regulation 65:

Add at the end the following subregulation:

“(2) This regulation does not apply in relation to regulation 43B or 43C.”.

NOTES

1. No. 156, 1980, as amended. For previous amendments, see No. 123, 1984; No. 47, 1985; Nos. 41, 48, 76 and 154, 1986; and Nos. 58, 61, 140 and 145, 1987.
2. No. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and

NOTES—continued

- 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 000, 1988); and Nos. 8, 11, 59, 78 and 000, 1988.
3. No. 1, 1953, as amended. For previous amendments, see Nos. 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37, 1976; Nos. 19 and 59, 1979; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); Nos. 4, 47, 104, 123 and 168, 1985; Nos. 41, 46, 48, 49, 112, 144 and 154, 1986; and Nos. 58 and 62, 1987.

*[Minister's second reading speech made in—
House of Representatives on 1 September 1988
Senate on 4 November 1988]*