



# **Taxation Laws (Technical Amendments) Act 1998**

**No. 41, 1998**





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



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

[Assented to 4 June 1998]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Taxation Laws (Technical Amendments) Act 1998*.

### 2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) If Schedule 1 to the *Taxation Laws Amendment Act (No. 2) 1998* has not commenced when this Act receives the Royal Assent, item

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17 of Schedule 1 to this Act commences immediately after Schedule 1 to that Act commences.

- (3) If, when this section commences, Schedule 1 to the *Taxation Laws Amendment Act (No. 2) 1998* has already commenced, item 18 of Schedule 1 to this Act does not commence.
- (4) If the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* has not commenced when this section commences, items 2, 3 and 4 of Schedule 4 to this Act commence immediately after that Act commences. In any other case, item 2 of that Schedule commences immediately after item 1 of that Schedule.
- (5) Items 17 and 19 of Schedule 5 are taken to have commenced immediately after the commencement of the *Taxation Laws Amendment (FBT Cost of Compliance) Act 1995*.
- (6) Item 3 of Schedule 6 is taken to have commenced immediately after the commencement of section 16 of the *Taxation Laws Amendment Act (No. 4) 1985*.
- (7) Item 6 of Schedule 6 is taken to have commenced immediately after the commencement of the *Income Tax Assessment Amendment (Foreign Investment) Act 1992*.
- (8) If Schedule 1 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997* has not commenced when this section commences, item 13 of Schedule 6 to this Act commences immediately after Schedule 1 to that Act commences.
- (9) If, when this section commences, Schedule 1 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997* has already commenced, item 14 of Schedule 6 to this Act does not commence.
- (10) Item 16 of Schedule 6 commences on 1 July 1998.
- (11) Item 20 of Schedule 6 is taken to have commenced immediately after the commencement of item 12 of Schedule 2 to the *Taxation Laws Amendment Act (No. 4) 1995*.



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- (12) Item 21 of Schedule 6 is taken to have commenced immediately after the commencement of item 134 of Schedule 2 to the *Taxation Laws Amendment Act (No. 4) 1995*.
  - (13) Item 22 of Schedule 6 is taken to have commenced immediately after the commencement of items 9 and 10 of Schedule 3 to the *Taxation Laws Amendment Act (No. 2) 1997*.
  - (14) The items of Part 4 of Schedule 6, other than item 22, are taken to have commenced immediately after the *Taxation Laws Amendment Act (No. 2) 1997* received the Royal Assent.
  - (15) Part 5 of Schedule 6 is taken to have commenced immediately after the *Statute Law Revision Act 1996* received the Royal Assent.
  - (16) Part 6 of Schedule 6 is taken to have commenced immediately after the commencement of section 110 of the *Taxation Laws Amendment Act (No. 5) 1992*.

### **3 Schedule(s)**

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

### **4 Amendment of income tax assessments**

Section 170 of the *Income Tax Assessment Act 1936* does not prevent the amendment of an assessment made before the commencement of this section for the purposes of giving effect to this Act.

## Schedule 1—Self-assessment system

### Part 1—Taxation Administration Act 1953

#### 1 Section 14ZAAA (definition of *year of income*)

Repeal the definition.

#### 2 Subsection 14ZAA(1) (after the definition of *tax audit*)

Insert:

*year of income* means:

- (a) in relation to an income tax law about franking deficit tax, a franking year within the meaning of Part IIIAA of the *Income Tax Assessment Act 1936*; or
- (b) in relation to an income tax law not about franking deficit tax, an income year within the meaning of the *Income Tax Assessment Act 1997*; or
- (c) in relation to a fringe benefits tax law, a year of tax within the meaning of the *Fringe Benefits Tax Assessment Act 1986*.

#### 3 Subsection 14ZYA(1)

Omit “within the 60 days”, substitute “within the 4 years or the 60 days”.

## **Part 2—Income Tax Assessment Act 1936**

### **4 Subsection 24P(6)**

Repeal the subsection.

### **5 Subparagraph 54A(1)(a)(ii)**

Omit “makes a written election”, substitute “elects”.

### **6 Subsection 73B(19)**

Repeal the subsection.

### **7 Subsection 82Z(2)**

Repeal the subsection.

### **8 Subsection 102AAM(12)**

Omit “The Commissioner”, substitute “For a taxpayer who is not an instalment taxpayer (as defined in subsection 221AZK(1)) for the assessment year of income, the Commissioner”.

### **9 Subsection 102AAM(12)**

Omit “by a taxpayer”, substitute “by the taxpayer”.

### **10 After subsection 102AAM(13)**

Insert:

(13A) If:

- (a) a taxpayer is an instalment taxpayer (as defined in subsection 221AZK(1)) for the assessment year of income; and
- (b) the taxpayer lodges a return for that year;

then:

- (c) the Commissioner is taken to have made an assessment of the interest payable by the taxpayer under this section for the year, equal to the amount specified in the return as the interest so payable; and

Note: If any interest is so payable, the return must specify the amount: see paragraph 221AZS(c).

- (d) the assessment is taken to have been made on the day on which the return is lodged; and
- (e) the return is taken to be a notice of that assessment given to the taxpayer by the Commissioner on that day.

**11 Subsection 102AAM(14)**

After “sections 170,” insert “170AA,”.

**12 Subsection 102AAM(14)**

After “and 265,” insert “and Division 1C of Part VI,”.

**13 Section 160ARXB**

Omit “taxpayer who”, substitute “company that”.

**14 Section 160ARXC**

Omit “tax shortfalls of a taxpayer”, substitute “franking tax shortfalls of a company”.

**15 After subsection 170(6)**

Insert:

(6A) If:

- (a) a taxpayer applies for a private ruling under Part IVAA of the *Taxation Administration Act 1953*; and
- (b) the application is made within 4 years after the last day allowed to the taxpayer for lodging a return in relation to the taxpayer’s income for the year of income to which the application relates; and
- (c) the Commissioner makes a private ruling under that Part as a result of the application;

the Commissioner may amend the assessment to give effect to the ruling, even though any time limit for amending the assessment under this section has expired.

**16 Subparagraphs 177C(2)(a)(i), (a)(ii), (b)(i) and (b)(ii)**

After “declaration,” (wherever occurring), insert “agreement,”.

**17 Subparagraphs 177C(2)(c)(i) and (ii)**

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After “declaration,” (wherever occurring), insert “agreement,”.

**18 Subsection 177C(3)**

After “declaration,” (wherever occurring), insert “agreement,”.

**19 Paragraph 221AZK(3)(c) (definition of *assessed tax*)**

After “payable for the current year,”, insert “and the amount of interest (if any) payable under section 102AAM for the current year,”.

**20 Subsection 221AZN(2) (definitions of *previous year’s tax amount* and *earlier year’s tax amount*)**

After “tax payable”, insert “, and the amount of interest (if any) payable under section 102AAM,”.

**21 At the end of section 221AZS**

Add:

; and (c) the amount of interest (if any) payable by the taxpayer under section 102AAM for the current year.

**22 Subsection 371(8)**

Omit “, by notice in writing,”.

**23 Paragraph 371(9)(a)**

Repeal the paragraph.

**24 Subsection 421(1)**

Omit “given”, substitute “made”.

**25 Subsection 438(3A)**

Omit “given”, substitute “made”.

## **Part 3—Application**

### **26 Application**

- (1) The amendments made by items 4, 5, 6, 7, 22, 23, 24 and 25 apply to elections made after the commencement of this item.
- (2) The amendments made by items 8, 9, 10, 11, 12, 19, 20 and 21 apply to assessments for the 1997-98 year of income and later years of income.
- (3) The amendment made by item 15 applies to applications made on or after 1 July 1992.

## **Schedule 2—Collection of tax**

### **Part 1—Income Tax Assessment Act 1936**

#### **1 Subsection 159ZR(1) (definition of *rebated tax*)**

Omit “or 160AA”, substitute “or 159SA”.

#### **2 Paragraph 221YHZDAC(1)(a)**

Omit “subsection 221HYZC(1A)”, substitute “subsection 221YHZC(1A)”.

#### **3 Subsection 222AHD(3) (note)**

Omit “subsection (2)”, substitute “subsection (3)”.

## **Part 2—Application**

### **4 Application**

The amendment made by item 1 applies to payments made after the commencement of this item.



## **Schedule 3—Deductions for gifts**

### **Part 1—Income Tax Assessment Act 1936**

#### **1 Subsection 78(3) (index entry relating to Girl Guides)**

Repeal the entry.

#### **2 Subsection 78(3) (after the index entry relating to Greening Australia Limited)**

Insert:

Guides Australia Incorporated (4)-Table 10, items 10.2.2 and 10.2.3

#### **3 Subsection 78(4) (table 10, items 10.2.2 and 10.2.3)**

Omit “the Girl Guides Association of Australia”, substitute “Guides Australia Incorporated”.

## **Part 2—Income Tax Assessment Act 1997**

### **4 Section 30-90 (table items 10.2.2 and 10.2.3)**

Omit “the Girl Guides Association of Australia”, substitute “Guides Australia Incorporated”.

### **5 Subsection 30-315(2) (table topic 52)**

Repeal the topic.

### **6 Subsection 30-315(2) (after table topic 53)**

Insert:

53A      Guides Australia Incorporated      items 10.2.2 and 10.2.3

## **Part 3—Application**

### **7 Application**

- (1) The amendments made by Part 1 apply to gifts made on or after 2 July 1996.
- (2) The amendments made by Part 2 apply to assessments for the 1997-98 income year and later income years.

## Schedule 4—Film component of tax loss of a company or trust

### Part 1—Income Tax Assessment Act 1997

#### 1 After subsection 375-805(1)

Insert:

- (1A) If an entity's \*tax loss is worked out under a provision listed in the table, the *film component* is what that tax loss would have been if:
- (a) the entity's \*film deductions for the \*loss year had been its only deductions; and
  - (b) the entity's \*assessable film income for the \*loss year had been its only assessable income; and
  - (c) the entity's \*net exempt film income for the \*loss year had been its only \*net exempt income.

However, the film component cannot exceed the actual tax loss.

Working out film component of tax loss		
Item	Provision	Type of entity
1	165-70	Company—income year when ownership or control changed
2	175-35	Company—deductions that have been used to obtain a tax benefit disallowed

#### 2 Subsection 375-805(1A) (at the end of the table)

Add:

3	268-60 in Schedule 2F to the <i>Income Tax Assessment Act 1936</i>	Trust—income year when ownership or control changed
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#### 3 Subsection 995-1(1) (note to paragraph (a) of the definition of *film component*)

Repeal the note.

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## **Part 2—Income Tax Assessment Act 1936**

### **4 Section 268-65 in Schedule 2F**

Repeal the section.

## **Part 3—Application**

### **5 Application**

The amendments made by this Schedule apply to assessments for the 1997-98 income year and later income years.

## **Schedule 5—Fringe benefits tax**

### **Part 1—Fringe Benefits Tax Assessment Act 1986**

#### **1 Subsection 10(3D)**

Omit “or 162M(2)”.

#### **2 Paragraph 10A(a)**

Omit “log books”, substitute “log book records”.

#### **3 Paragraph 10A(a)**

Omit “applicable log period”, substitute “applicable log book period”.

#### **4 Paragraph 10A(c)**

Omit “log books”, substitute “log book records”.

#### **5 Subparagraph 24(1)(ea)(iv)**

Omit “log books”, substitute “log book records”.

#### **6 Section 37BA**

After “FBT” (second occurring), insert “year”.

#### **7 Paragraph 37CE(1)(b)**

After “an associate of”, insert “an employee of”.

Note: The heading to section 37CF is altered by omitting “**Fraudulent**” and substituting “**False or misleading**”.

#### **8 Subparagraph 44(1)(da)(iv)**

Omit “log books”, substitute “log book records”.

#### **9 Subparagraph 52(1)(da)(iv)**

Omit “log books”, substitute “log book records”.

#### **10 Paragraph 65E(a)**

Omit “log books”, substitute “log book records”.

**11 Paragraph 65E(a)**

Omit “applicable log period”, substitute “applicable log book period”.

**12 Subsection 123(1)**

After “given to” (wherever occurring), insert “or made by”.

**13 Subsection 136(1) (definition of *entertainment facility leasing expenses*)**

Omit “is attributable to” (first occurring).

**14 Subsection 136(1) (paragraph (d) of the definition of *entertainment facility leasing expenses*)**

Repeal the paragraph, substitute:

(d) is attributable to the provision of food or drink; or

**15 Subsection 136(1) (subparagraph (b)(i) of the definition of *retention period*)**

Omit “6”, substitute “5”.



## **Part 2—Income Tax Assessment Act 1936**

### **16 Subsection 51AEB(2) (definition of *Total deductions for register meal entertainment*)**

Omit “Subdivision B”, substitute “Subdivision C”.

### **17 Subsection 89FA(5) (formula in step 1)**

Omit “240”, substitute “228”.

Note: The heading to subsection 89FB(2) is altered by omitting “*benefits*” and substituting “*deductions*”.

### **18 Subsection 89FB(7)**

Omit “employer”, substitute “taxpayer”.

### **19 Section 89FC**

Omit “gross deduction amount”, substitute “average cost amount”.

## **Part 3—Application**

### **20 Application**

- (1) The amendments made by items 1 to 14 apply to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1998 and later FBT years.
- (2) The amendment made by item 15 applies to assessments of the fringe benefits taxable amount of an employer of the FBT year beginning on 1 April 1995 and later FBT years.

## **Schedule 6—Other amendments**

### **Part 1—Income Tax Assessment Act 1936**

**1 Subsection 27A(1) (paragraph (b) of the definition of *undeducted purchase price*)**

Omit “sub-subparagraph 27D(1)(b)(iii)(A), (B), (BA), (D) or (E)”, substitute “sub-subparagraph 27D(1)(b)(iii)(A), (B), (BA) or (D)”.

**2 Paragraph 99A(2)(b)**

After “The Official Receiver in Bankruptcy”, insert “, or in a registered trustee,”.

**3 Section 102M (subparagraph (b)(i) of the definition of *eligible investment business*)**

Before “unsecured loans”, insert “secured or”.

**4 Section 121AT (table 2, item 12, column headed “Modification”)**

Omit “franking account balance” (wherever occurring), substitute “franking surplus”.

**5 Paragraph 159J(5E)(b)**

After “were paid to”, insert “the taxpayer or”.

**6 Paragraphs 160AFCE(1)(d), 160AFCF(2)(e), 160AFCG(1)(c) and 160AFCH(2)(d)**

After “in respect of”, insert “Australian tax or”.

**7 Before section 160AQX**

Insert:

**160AQWA Assumptions when working out rebate**

In determining a taxpayer’s entitlement to a rebate under section 160AQX, 160AQYA, 160AQZ or 160AQZA, assume:

- (a) that sections 110C, 112A, 116FB, 282B, 283 and 297B had not been enacted; and
- (b) that the definition of *eligible insurance policy* in section 116E were amended by omitting “an RA policy, a superannuation policy, a sickness policy, a funeral policy or an eligible policy” and substituting “an RA policy or a superannuation policy”.

**8 After subsection 160ZZPN(5)**

Insert:

- (5A) Subsection (5) does not apply if:
  - (a) the entity is a public entity; and
  - (b) the trustee or trustees have that power only because another beneficiary of the trust has an interest in the entity.

**9 Section 220AB (table entry relating to Reportable payments)**

Omit “section 220AC”, substitute “sections 220AC and 220ADA”.

**10 Section 220AC (note to the definition of *reportable payment*)**

Omit “Note:”, substitute “Note 1:”.

**11 Section 220AC (at the end of the definition of *reportable payment*)**

Add:

Note 2: Section 220ADA clarifies the definition of *reportable payment*.

**12 After section 220AD**

Insert:

**220ADA Transfer of reportable payment debts**

To avoid doubt, if:

- (a) a debt is owed to a person; and
  - (b) a payment in satisfaction of the debt would be a reportable payment (see section 220AC); and
-

(c) the person transfers the whole or part of the debt to another person in return for a payment;  
the last-mentioned payment is a *reportable payment*.

**13 Sub-subparagraph 221YCAA(2)(pa)(iv)(A)**

After “became payable to”, insert “the taxpayer or”.

**14 Sub-subparagraph 221YCAA(2)(pa)(iv)(A)**

After “became payable to”, insert “the taxpayer or”.

Note: This item and item 13 commence at different times: see subsections 2(7) and (8).

**15 Sub-subparagraph 221YCAA(2)(pa)(iv)(B)**

After “became payable to”, insert “the taxpayer or”.

**16 Subparagraph 221YE(1)(b)(i)**

Omit “notified to”, substitute “due and payable by”.

**17 Subsection 264(2)**

After “oath” (wherever occurring), insert “or affirmation”.

**18 Sub-subparagraph 318(2)(e)(i)(B)**

Omit “application of this”.

**Part 2—Taxation Administration Act 1953**

**19 Subsection 14ZL(1)**

After “of an Act”, insert “or of regulations”.

## **Part 3—Taxation Laws Amendment Act (No. 4) 1995**

### **20 Item 12 of Schedule 2**

Omit “, or class B”, substitute “or class B”.

Note: This amendment corrects a misdescribed amendment of the *Income Tax Assessment Act 1936*.

### **21 Items 134 and 136 of Schedule 2**

After “class B potential”, insert “rebate”.

Note: This amendment corrects a misdescribed amendment of the *Income Tax Assessment Act 1936*.

## **Part 4—Taxation Laws Amendment Act (No. 2) 1997**

### **22 Items 9 and 10 of Schedule 3**

Omit “company”.

### **23 Item 16 of Schedule 3 (heading)**

Repeal the heading, substitute:

### **16 Subsection 170-40(1)**

### **24 Item 18 of Schedule 3**

Repeal the item, substitute:

### **18 Application of amendments**

- (1) The amendment made by item 15 of this Schedule applies in relation to the income year for the loss company in which 1 July 1997 occurs and later income years.
- (2) The amendment made by item 16 of this Schedule applies in relation to the income year for the income company in which 1 July 1997 occurs and later income years.
- (3) The amendment made by item 17 of this Schedule applies to assessments for the income year in which 1 July 1997 occurs and later income years.



## **Part 5—Statute Law Revision Act 1996**

### **25 Item 49 of Schedule 2 (note)**

After “commencement”, insert “of section 56”.

Note: This amendment corrects a misdescribed amendment of the *Debits Tax Administration Act 1982*.

**Part 6—Industry Research and Development Act  
1986**

**26 Paragraph 39HD(1)(a) (second occurring)**

Re-letter as paragraph (b).

## **Part 7—Application**

### **27 Application**

- (1) The amendment made by item 1 applies to the calculation of the undeducted purchase price of an annuity or superannuation pension if the first day of the period to which the first payment of the annuity or pension relates is on or after the commencement of this item.
  - (2) The amendment made by item 2 applies to assessments for the 1996-97 year of income and later years of income.
  - (3) The amendment made by item 4 applies to mutual insurance companies and mutual affiliate companies that existed at 7.30 pm, by legal time in the Australian Capital Territory, on 9 May 1995.
  - (4) The amendments made by items 5, 13, 14 and 15 apply to assessments of income for the first year of income that begins after the commencement of this item, and later years of income.
  - (5) The amendment made by item 7 applies in relation to dividends paid on or after 1 July 1988.
  - (6) The amendment made by item 8 applies to disposals of assets on or after 1 July 1997.
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*[Minister's second reading speech made in—  
House of Representatives on 4 December 1997  
Senate on 31 March 1998]*

(232/97)

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