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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Taxation Laws Amendment Bill (No. 8)
2000**

No. , 2000

(Treasury)

**A Bill for an Act to amend the law relating to
taxation, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **taxation, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

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

7 **2 Commencement**

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

10 (2) Items 41 and 44 to 46 of Schedule 6 are taken to have commenced
11 on 1 July 2000.

-
- 1 (3) Items 1 to 7 of Schedule 7 are taken to have commenced
2 immediately after the commencement of items 1 to 9 of Schedule 1
3 to the *Indirect Tax Legislation Amendment Act 2000*.
- 4 (4) Item 8 of Schedule 7 is taken to have commenced immediately
5 after the *A New Tax System (Indirect Tax and Consequential
6 Amendments) Act 1999* received the Royal Assent.
- 7 (5) Items 9 and 10 of Schedule 7 are taken to have commenced
8 immediately after the *A New Tax System (Indirect Tax and
9 Consequential Amendments) Act (No. 2) 1999* received the Royal
10 Assent.
- 11 (6) Items 11 and 12 of Schedule 7 are taken to have commenced
12 immediately after the commencement of Schedule 4B to the *A New
13 Tax System (Tax Administration) Act (No. 2) 2000*.
- 14 (7) Items 16 to 18 of Schedule 7 are taken to have commenced
15 immediately after the *Indirect Tax Legislation Amendment Act
16 2000* received the Royal Assent.
- 17 (8) Items 19 and 20 of Schedule 7 are taken to have commenced
18 immediately after the commencement of the *A New Tax System
19 (Goods and Services Tax Administration) Act 1999*.

20 **3 Schedule(s)**

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22 Act is amended or repealed as set out in the applicable items in the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

1
2 **Schedule 1—GST-free supplies and input**
3 **taxed supplies**
4

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

6 **1 Subsection 11-15(3)**

7 Repeal the subsection, substitute:

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

12 **2 Subsection 15-10(3)**

13 Repeal the subsection, substitute:

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

18 **3 Sections 38-140 and 38-145**

19 Repeal the sections, substitute:

20 **38-140 Child care—registered carers under the family assistance**
21 **law**

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

25 **38-145 Child care—approved child care services under the family**
26 **assistance law**

27 A supply is *GST-free* if:

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

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

3 **4 At the end of Subdivision 38-K**

4 Add:

5 **38-360 Travel agents arranging overseas supplies**

6 A supply is *GST-free* if:

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

12 **5 Subdivision 38-N (heading)**

13 Repeal the heading, substitute:

14 **Subdivision 38-N—Grants of land by governments**

15 **6 After subsection 38-445(1)**

16 Insert:

17 (1A) A supply by the Commonwealth, a State or a Territory of land is
18 *GST-free* if:

- 19 (a) the supply is of a freehold interest in the land, or is by way of
20 *long-term lease; and
21 (b) the Commonwealth, State or Territory had previously
22 supplied the land, by way of lease, to the *recipient of the
23 supply; and
24 (c) at the time of that previous supply, there were no
25 improvements on the land; and
26 (d) because conditions to which that lease was subject had been
27 satisfied, the recipient was entitled to the supply of the
28 freehold interest or the supply by way of long-term lease.

29 **7 At the end of Subdivision 38-N**

30 Add:

1 **38-450 Leases preceding grants of freehold and similar interests by**
 2 **governments**

3 A supply by the Commonwealth, a State or a Territory of land on
 4 which there are no improvements is ***GST-free*** if:

- 5 (a) the supply is by way of lease (other than *long-term lease);
 6 and
 7 (b) the lease is subject to conditions the satisfaction of which
 8 will entitle the *recipient of the supply to the grant of a
 9 freehold interest in the land or a long-term lease of the land.

10 **8 After subsection 40-35(1)**

11 Insert:

12 (1A) A supply of a berth at a marina that is by way of lease, hire or
 13 licence (including a renewal or extension of a lease, hire or licence)
 14 is ***input taxed*** if:

- 15 (a) the berth is occupied, or is to be occupied, by a *ship used as
 16 a residence; and
 17 (b) the supply is of *commercial accommodation and
 18 Division 87 (which is about long-term accommodation in
 19 commercial premises) would apply to the supply but for a
 20 choice made by the supplier under section 87-25.

21 **9 At the end of Subdivision 40-C**

22 Add:

23 **40-75 Meaning of *new residential premises***

- 24 (1) *Residential premises are ***new residential premises*** if they:
 25 (a) have not previously been sold as residential premises and
 26 have not previously been the subject of a *long-term lease; or
 27 (b) have been created through *substantial renovations of a
 28 building; or
 29 (c) have been built, or contain a building that has been built, to
 30 replace demolished premises on the same land.
 31 (2) However, the premises are not new residential premises if, for the
 32 period of at least 5 years since:

- 1 (a) if paragraph (1)(a) applies (and neither paragraph (1)(b) nor
2 paragraph (1)(c) applies)—the premises first became
3 *residential premises; or
4 (b) if paragraph (1)(b) applies—the premises were last
5 *substantially renovated; or
6 (c) if paragraph (1)(c) applies—the premises were last built;
7 the premises have only been used for making supplies that are
8 *input taxed because of paragraph 40-35(1)(a).
- 9 (3) To avoid doubt, if the *residential premises are new residential
10 premises because of paragraph (1)(b) or (c), the new residential
11 premises include land of which the new residential premises are a
12 part.

13 **10 Subsection 60-20(3)**

14 Repeal the subsection, substitute:

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

20 **11 Subsection 70-5(1A)**

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

22 **12 Subsection 75-10(3) (after table item 2)**

23 Insert:

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

24 **13 Section 165-1**

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

4 **14 Section 195-1 (definition of *Child Care Minister*)**

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

8 **15 Section 195-1 (definition of *family*)**

9 Repeal the definition.

10 **16 Section 195-1 (definition of *new residential premises*)**

11 Repeal the definition, substitute:

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

13 ***A New Tax System (Goods and Services Tax Transition) Act***
14 ***1999***

15 **17 At the end of Part 5**

16 Add:

17 **24C Supplies from certain coin-operated devices may be input taxed**

- 18 (1) A supply of tangible personal property or a service from a
19 mechanical coin-operated device is input taxed if:
20 (a) the maximum consideration for the supply is \$1 and is paid
21 by depositing up to 2 coins in the device; and
22 (b) the device accepts only one denomination of coin and does
23 not give change; and
24 (c) the device was operating on 1 July 2000; and
25 (d) the supply is made before 1 July 2005; and
26 (e) the supply is not a gambling supply; and
27 (f) you choose to have all of your supplies made from the device
28 on or after 1 July 2000 treated as input taxed.

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

Schedule 1 GST-free supplies and input taxed supplies

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

3 **18 Application**

4 The amendments made by this Schedule apply, and are taken to have
5 applied, in relation to net amounts for tax periods starting on or after
6 1 July 2000.

1
2
3

Schedule 2—Imports

4

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

5

1 After subsection 13-20(2)

6 Insert:

7 (2A) If an amount to be taken into account under paragraph (2)(b) is not
8 an amount in Australian currency, the amount so taken into
9 account is the equivalent in Australian currency of that amount,
10 ascertained in the way provided in section 161J of the *Customs Act*
11 *1901*.

12

2 Section 13-99 (table item 6)

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

15

3 Section 37-1 (table item 16)

16 Repeal the item.

17

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

18 Insert:

19 36B Valuation of re-imported goods Division 117

20

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

21 Add:

- 22 (2) An importation of goods is a *non-taxable importation* if:
- 23 (a) the importer had manufactured, acquired or imported the
24 goods before 1 July 2000; and
- 25 (b) the goods were exported from Australia before, on or after
26 1 July 2000; and
- 27 (c) the goods are returned to Australia on or after 1 July 2000,
28 without having been subject to any treatment, industrial
29 processing, repair, renovation, alteration or any other process
since their export; and

1 (d) the importer was not entitled to, and did not claim, a payment
2 under Division 168 (about the tourist refund scheme) related
3 to the export of the goods; and

4 (e) the ownership of the goods when they are returned to
5 Australia is the same as their ownership on 1 July 2000.

6 **6 Division 117 (heading)**

7 Repeal the heading, substitute:

8 **Division 117—Valuation of re-imported goods**

9 **7 Section 117-1**

10 Repeal the section, substitute:

11 **117-1 What this Division is about**

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

16 **8 After subsection 117-5(1)**

17 Insert:

18 (1A) If an amount to be taken into account under paragraph (1)(b) is not
19 an amount in Australian currency, the amount so taken into
20 account is the equivalent in Australian currency of that amount,
21 ascertained in the way provided in section 161J of the *Customs Act*
22 *1901*.

23 **9 At the end of Division 117**

24 Add:

25 **117-10 Valuation of taxable importations of live animals that were**
26 **exported**

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

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

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

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

26 **10 Paragraph 171-5(1)(c)**

27 Repeal the paragraph, substitute:

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

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

2 Repeal the paragraph, substitute:

3 (c) one or more of the following applies:

4 (i) the goods are exported within the relevant period
5 mentioned in paragraph 162A(5)(b) of that Act;

6 (ii) if the goods are described in subsection 162A(5A) of
7 that Act—the goods are exported before the end of the
8 relevant day mentioned in paragraph 162A(5A)(b) of
9 that Act;

10 (iii) one or more of the circumstances or conditions specified
11 in the regulations mentioned in paragraph 162A(5)(b) of
12 that Act apply in relation to the goods.

13 **12 Section 195-1 (paragraph (a) of the definition of *value*)**

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

15 ***A New Tax System (Luxury Car Tax) Act 1999***

16 **13 Paragraph 7-10(3)(c)**

17 Omit “17,”.

18 **14 At the end of subsection 7-10(3)**

19 Add:

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

21 **15 At the end of Division 7**

22 Add:

23 **7-20 Meaning of *non-taxable re-importation***

24 (1) An *importation of a *car is a *non-taxable re-importation* if:

25 (a) the car was exported from Australia and is returned to
26 Australia, without having been subject to any treatment,
27 industrial processing, repair, renovation, alteration or any
28 other process since its export; and

29 (b) the importer:

30 (i) is the manufacturer of the car; or

- 1 (ii) has previously acquired the car, and the supply by
 2 means of which the importer acquired the goods was a
 3 *taxable supply of a luxury car; or
 4 (iii) has previously imported the car, and the previous
 5 importation was a *taxable importation of a luxury car.
- 6 (2) An importation of a *car is a *non-taxable re-importation* if:
 7 (a) the importer had manufactured, acquired or imported the car
 8 before 1 July 2000; and
 9 (b) the car was exported from Australia before, on or after 1 July
 10 2000; and
 11 (c) the car is returned to Australia on or after 1 July 2000,
 12 without having been subject to any treatment, industrial
 13 processing, repair, renovation, alteration or any other process
 14 since its export; and
 15 (d) the ownership of the car when it is returned to Australia is the
 16 same as its ownership on 1 July 2000.

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

19 **16 Paragraph 13-25(1)(c)**

20 Repeal the paragraph, substitute:

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

27 **17 Paragraph 13-25(1A)(c)**

28 Repeal the paragraph, substitute:

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

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

8 **18 Section 27-1**

9 Insert:

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

12 ***A New Tax System (Wine Equalisation Tax) Act 1999***

13 **19 Section 7-15**

14 Omit “17,”.

15 **20 At the end of Division 7**

16 Add:

17 **7-25 Goods returned to Australia in an unaltered condition**

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

- 1 (2) A *local entry of wine is not taxable if:
- 2 (a) the importer had manufactured, acquired or imported the
- 3 wine before 1 July 2000; and
- 4 (b) the wine was exported from Australia before, on or after
- 5 1 July 2000; and
- 6 (c) the wine is returned to Australia on or after 1 July 2000,
- 7 without having been subject to any treatment, industrial
- 8 processing, alteration or any other process since its export;
- 9 and
- 10 (d) the importer was not entitled to, and did not claim, a payment
- 11 under Division 25 (about the tourist refund scheme) related
- 12 to the export of the wine; and
- 13 (e) the ownership of the wine when it is returned to Australia is
- 14 the same as its ownership on 1 July 2000.

15 Note: An importation covered by this section may also be duty-free under

16 item 17 of Schedule 4 to the *Customs Tariff Act 1995*.

17 *Customs Act 1901*

18 **21 Paragraph 162(3)(b)**

19 Repeal the paragraph, substitute:

20 (b) either:

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

28 **22 Subsection 162(4)**

29 Repeal the subsection, substitute:

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

1 competent jurisdiction by proceedings in the name of the
2 Collector.

3 **23 Paragraph 162A(5)(b) (but not the note)**

4 Repeal the paragraph, substitute:

5 (b) the goods are not exported:

6 (i) within such period, not exceeding 12 months, after the
7 date on which the goods were imported as is notified to
8 the person who imported the goods by the Collector
9 when he or she grants permission to take delivery of the
10 goods; or

11 (ii) within such further period as the CEO, on the
12 application of the person who imported the goods and of
13 the person who gave the security or undertaking with
14 respect to the goods, allows;

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

17 **24 Paragraph 162A(5A)(b)**

18 Repeal the paragraph, substitute:

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

20 (i) 31 December 2000; or

21 (ii) if the CEO specifies a later day on the application of the
22 person who imported the goods and the person who
23 gave the security or undertaking with respect to the
24 goods—that later day;

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

28 **25 Application**

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

33 (2) The rest of the amendments made by this Schedule apply, and are taken
34 to have applied, to importations into Australia on or after 1 July 2000.

1 **Schedule 3—Fringe benefits**
2
3

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

5 **1 Section 11-99 (table item 3A)**

6 Repeal the item, substitute:

3A Fringe benefits provided by input taxed suppliers Division 71

7 **2 Section 15-99 (table item 1A)**

8 Repeal the item, substitute:

1A Fringe benefits provided by input taxed suppliers Division 71

9 **3 Section 17-99 (after table item 9)**

10 Insert:

9AA Non-deductible expenses Division 69

11 **4 Section 19-99 (after table item 1)**

12 Insert:

2 Non-deductible expenses Division 69

13 **5 Section 29-39 (after table item 8A)**

14 Insert:

8B Non-deductible expenses Division 69

15 **6 Section 37-1 (table item 10B)**

16 Repeal the item.

17 **7 Section 37-1 (after table item 11)**

18 Insert:

11A Fringe benefits provided by input taxed suppliers Division 71

19 **8 After section 69-1**

20 Insert:

21 **Subdivision 69-A—Non-deductible expenses generally**

22 **9 After subsection 69-5(3)**

1 Insert:

2 (3A) An acquisition or importation is also a *non-deductible expense* to
3 the extent that it is not deductible under Division 8 of the *ITAA
4 1997 because of one of the following:

- 5 (a) section 51AEA of the *ITAA 1936 (Meal entertainment—
6 election to use the 50/50 split method);
7 (b) section 51AEB of the ITAA 1936 (Meal entertainment—
8 election to use the 12 week register method);
9 (c) section 51AEC of the ITAA 1936 (Entertainment facility—
10 election to use the 50/50 split method).

11 **10 At the end of Division 69**

12 Add:

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

15 **69-15 What this Subdivision is about**

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

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

24 **69-20 Effect of elections on net amounts**

- 25 (1) If you make an election under this Subdivision that has effect
26 during a particular tax period, your *net amount for the tax period
27 must be worked out on the basis of that election.
- 28 (2) This section has effect despite section 17-5 (which is about
29 working out your net amount).

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

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

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

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

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

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

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

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

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

- (a) an election were in force under section 152B of the *Fringe Benefits Tax Assessment Act 1986*; and

1 (b) section 51AEC of the *ITAA 1936 were to apply, because of
 2 that election, to expenses relating to the acquisitions or
 3 importations.

4 **69-40 When elections take effect**

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

10 **69-45 When elections cease to have effect**

11 If a circumstance specified in the second column of the following
 12 table occurs, the election ceases to have effect from the start of the
 13 tax period specified in the third column:
 14

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

When elections cease to have effect

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

1 **69-50 Adjustment events relating to elections**

- 2 (1) The following are *adjustment events* if they have the effect of
3 changing the extent to which an acquisition you made is a
4 *creditable acquisition:
- 5 (a) an election you make under this Subdivision ceases to have
6 effect at a time other than the start of an *FBT year;
- 7 (b) an election is made under section 37AA, 37CA or 152B of
8 the *Fringe Benefits Tax Assessment Act 1986* for an FBT
9 year, without one or more corresponding elections under this
10 Subdivision having been made covering all the tax periods in
11 that year;
- 12 (c) an election is not made under section 37AA, 37CA or 152B
13 of that Act for an FBT year, but one or more corresponding
14 elections have been made under this Subdivision covering
15 one or more of the tax periods in that year.
- 16 (2) However, an *adjustment event under this section arises only in
17 respect of a tax period in which:
- 18 (a) the day occurs by which you are required, under section 68 of
19 the *Fringe Benefits Tax Assessment Act 1986*, to furnish a
20 return to the Commissioner relating to an *FBT year; or
- 21 (b) if you are not required under that section to lodge a return
22 relating to that FBT year—the day occurs by which you
23 would have been required under that section to lodge a return
24 relating to that FBT year, if you were required to lodge the
25 return.
- 26 (3) Subdivision 19-C applies to the acquisition in question as if every
27 *adjustment event under this section that occurred during the *FBT
28 year, and that relates to the acquisition, occurred during the tax
29 period referred to in paragraph 19-70(a).

1 (4) This table sets out when elections that you make or fail to make
2 under section 37AA, 37CA or 152B of the *Fringe Benefits Tax*
3 *Assessment Act 1986* correspond to elections under this
4 Subdivision:
5

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

6 **69-55 Adjustment notes not required**

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

10 **11 Division 71 (heading)**

11 Repeal the heading, substitute:

12 **Division 71—Fringe benefits provided by input taxed**
13 **suppliers**

14 **12 Section 71-1**

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

17 **13 Section 71-5 (heading)**

18 Repeal the heading, substitute:

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

Repeal the subsections, substitute:

(1) An acquisition that solely or partly relates to making supplies that are *input taxed is not a *creditable acquisition if:

(a) the acquisition would (but for this section) be an acquisition of a kind referred to in paragraph 149A(2)(b) of the *Fringe Benefits Tax Assessment Act 1986*; and

(b) the acquisition specifically relates to the provision of a particular benefit (within the meaning of that Act) in respect of which *fringe benefits tax is or will be payable.

(2) However, this section does not apply to an acquisition if:

(a) the only reason it relates to making supplies that are *input taxed is because it relates to making *financial supplies; and

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

15 Section 71-10 (heading)

Repeal the heading, substitute:

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

Repeal the subsections, substitute:

(1) An importation that solely or partly relates to making supplies that are *input taxed is not a *creditable importation if:

(a) the importation would (but for this section) be an importation of a kind referred to in paragraph 149A(2)(b) of the *Fringe Benefits Tax Assessment Act 1986*; and

(b) the importation specifically relates to the provision of a particular benefit (within the meaning of that Act) in respect of which *fringe benefits tax is or will be payable.

(2) However, this section does not apply to an importation if:

(a) the only reason it relates to making supplies that are *input taxed is because it relates to making *financial supplies; and

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

2 **17 Section 111-1**

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

7 **18 Subsection 111-5(1)**

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

9 **19 Paragraph 111-5(1)(a)**

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

11 **20 After paragraph 111-5(1)(a)**

12 Insert:

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

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

21 **21 Paragraph 111-5(1)(b)**

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

23 **22 Subsection 111-5(1)**

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

25 **23 Paragraph 111-5(3)(a)**

26 Repeal the paragraph, substitute:

27 (a) is not a *creditable acquisition to the extent (if any) that:

28 (i) the employee, *associate, agent, *officer or partner is
29 entitled to an input tax credit for acquiring the thing
30 acquired in incurring the expense; or

1 (ii) the acquisition would not, because of Division 69, be a
 2 creditable acquisition if you made it; and

3 **24 Paragraph 111-5(3)(b)**

4 After “employee,” insert “associate,”.

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

6 Add:

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

11 **26 Subsection 111-10(2)**

12 Repeal the subsection, substitute:

13 (2) However, if:

14 (a) the person incurring the expense incurs it in the capacity of
 15 an agent, *officer or partner; and

16 (b) the incurring of the expense is only in part related directly to
 17 his or her activities as your agent or officer, or as a partner,
 18 as the case requires;

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

22 **27 Section 111-25**

23 Repeal the section, substitute:

24 **111-25 Employers paying expenses of employees etc.**

25 If you make, or are liable to make:

26 (a) a payment on behalf of your employee for an expense that he
 27 or she incurs that is related directly to his or her activities as
 28 your employee; or

29 (b) a payment:

30 (i) on behalf of an employee (whether or not you are the
 31 employee’s employer) for an expense that the employee
 32 or the employee’s *associate incurs; or

- 1 (ii) on behalf of an associate of an employee (whether or
2 not you are the employee's employer) for an expense
3 that the associate or employee incurs;
4 that constitutes an *expense payment benefit;
5 this Division applies to you as if you reimbursed your employee, or
6 you reimbursed the employee or associate, for the expense.

7 **111-30 Reimbursements etc. of former or future employees etc.**

8 This Division applies in relation to:

- 9 (a) reimbursements, of a kind referred to in paragraph
10 111-5(1)(ab) or (ac), of former employees and future
11 employees, and of the *associates of former employees and
12 future employees; and
13 (b) payments, of a kind referred to in paragraph 111-25(b), that
14 you make or are liable to make on behalf of former
15 employees and future employees, and of the *associates of
16 former employees and future employees;
17 in the same way that this Division applies to such reimbursements
18 of, and such payments that you make or are liable to make to,
19 employees and their associates.

20 **28 Section 195-1 (definition of *adjustment event*)**

21 Omit "section 19-10", substitute "sections 19-10 and 69-50".

22 **29 Section 195-1**

23 Insert:

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

27 **30 Section 195-1**

28 Insert:

29 *FBT year* means a year beginning on 1 April.

30 **31 Section 195-1 (definition of *GST-creditable benefit*)**

31 Repeal the definition.

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

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

3 **33 Section 195-1**

4 Insert:

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

8 **34 Application**

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

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Schedule 4—Adjustments

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

1 Section 17-99 (table item 15)

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

2 Section 21-99 (table item 1A)

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

3 Section 29-39 (table item 13)

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

4 Section 37-1 (table item 3A)

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

5 Section 37-1 (table item 33)

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

6 Division 132 (heading)

21 Repeal the heading, substitute:

Division 132—Supplies of things acquired etc. without full 23 input tax credits

7 At the end of section 132-1

25 Add “or for a private or domestic purpose”.

8 Section 132-5 (heading)

27 Repeal the heading, substitute:

1 **132-5 Decreasing adjustments for supplies of things acquired,**
2 **imported or applied for a purpose that is not fully**
3 **creditable**

4 **9 Paragraph 132-5(1)(c)**

5 Repeal the paragraph, substitute:

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

10 **10 Subsection 132-5(4)**

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

13 that the acquisition, importation or application:

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

16 **11 Paragraph 135-5(1)(b)**

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

18 **12 Division 136 (heading)**

19 Repeal the heading, substitute:

20 **Division 136—Bad debts relating to transactions that are**
21 **not taxable or creditable to the fullest extent**

22 **Table of Subdivisions**

23 136-A Bad debts relating to partly taxable or creditable transactions

24 136-B Bad debts relating to transactions that are taxable or creditable
25 at less than $\frac{1}{11}$ of the price

26 **13 Section 136-1**

27 Repeal the section, substitute:

1 **136-1 What this Division is about**

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

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

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

11 **14 Section 136-5**

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

14 **15 Subsections 136-10(1) and (2)**

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

17 **16 At the end of Division 136**

18 Add:

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

21 **136-30 Writing off bad debts (taxable supplies)**

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

26 (2) This is how to work out the amount:

27 *Method statement*

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

Step 2. Add together:

(a) the amount or amounts written off as bad from the debt to which the decreasing adjustment relates; and

(b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).

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

Step 4. Work out the amount of GST (if any), taking into account any previous *adjustments for the supply (but not adjustments relating to bad debts or debts overdue), that would be payable on the supply if the *price of the supply were the step 3 amount. This amount of GST is the ***adjusted GST amount***.

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

20 **136-35 Recovering amounts previously written off (taxable supplies)**

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

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Method statement

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

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Step 2. Add together:

(a) the amount or amounts previously written off as bad from the debt to which the increasing adjustment relates; and

(b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).

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

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

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

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

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136-40 Bad debts written off (creditable acquisitions)

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

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Method statement

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

- 1 account any previous *adjustments for the acquisition.
2 This amount is the *previous credit amount*.
- 3 *Step 2.* Add together:
- 4 (a) the amount or amounts previously written off as
5 bad from the debt to which the increasing
6 adjustment relates; and
- 7 (b) the amount of the debt that has been *overdue for
8 12 months or more (other than amounts already
9 written off).
- 10 *Step 3.* Subtract the step 2 amount from the total amount of the
11 *consideration that you have either provided, or are liable
12 to provide, for the acquisition.
- 13 *Step 4.* Work out the amount of the input tax credit (if any),
14 taking into account any previous *adjustments for the
15 acquisition (but not adjustments relating to bad debts or
16 debts overdue), to which you would be entitled for the
17 acquisition if the *consideration for the acquisition were
18 the step 3 amount. This amount of GST is the *adjusted*
19 *credit amount*.
- 20 *Step 5.* Subtract the adjusted credit amount from the previous
21 credit amount.

22 **136-45 Recovering amounts previously written off (creditable**
23 **acquisitions)**

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

29 *Method statement*

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- Step 1.* Work out the amount of the input tax credit (if any) to which you were entitled for the acquisition, taking into account any previous *adjustments for the acquisition. This amount is the ***previous credit amount***.
- Step 2.* Add together:
- (a) the amount or amounts previously written off as bad from the debt to which the decreasing adjustment relates; and
 - (b) the amount of the debt that has been *overdue for 12 months or more (other than amounts already written off).
- Step 3.* Subtract the step 2 amount from the total amount of the *consideration that you have either provided, or are liable to provide, for the acquisition.
- Step 4.* Add to the step 3 amount an amount equal to the amount or amounts, written off or overdue for 12 months or more, that you have paid.
- Step 5.* Work out the amount of the input tax credit (if any), taking into account any previous *adjustments for the acquisition (but not adjustments relating to bad debts or debts overdue), to which you would be entitled for the acquisition if the *consideration for the acquisition were the step 4 amount. This amount of GST is the ***adjusted credit amount***.
- Step 6.* Subtract the previous credit amount from the adjusted credit amount.

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

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

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

4 **17 Subsection 147-20(1)**

5 Repeal the subsection, substitute:

6 (1) If:

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

19 **18 Section 195-1**

20 Insert:

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

23 **19 Section 195-1**

24 Insert:

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

27 **20 Application**

28 The amendments made by this Schedule apply, and are taken to have
29 applied, in relation to net amounts for tax periods starting on or after
30 1 July 2000.

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Schedule 5—Administration

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

1 After section 25-55

6 Insert:

25-57 When the Commissioner may cancel your registration

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

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

- 16 (2) In considering your application, the Commissioner may have
17 regard to:

- 18 (a) how long you have been *registered; and
19 (b) whether you have previously been registered; and
20 (c) any other relevant matters.

- 21 (3) The Commissioner must notify you of any decision he or she
22 makes in relation to you under this section. If the Commissioner
23 decides to cancel your registration, the notice must specify the date
24 of effect of the cancellation.

2 Subsection 25-60(1)

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

3 After section 27-20

28 Insert:

27-22 Revoking elections of one month tax periods

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

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

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

7 (2) In considering your request, the Commissioner may have regard to:

- 8 (a) for how long the tax periods applying to you have been each
 9 individual month; and
 10 (b) whether you have previously been *registered, and whether
 11 such tax periods had applied to you; and
 12 (c) any other relevant matters.

13 (3) The revocation:

- 14 (a) takes effect on the day specified in the instrument of
 15 revocation; or
 16 (b) is taken to have had effect from a past day specified in the
 17 instrument of revocation.

18 However, the day specified must be 1 January, 1 April, 1 July or
 19 1 October.

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

22 ***Taxation Administration Act 1953***

23 **4 At the end of section 8AAZL (after the note)**

24 Add:

- 25 (3) However, the Commissioner does not have to treat an amount
 26 using either of those methods if doing so would require the
 27 Commissioner to apply the amount against a tax debt that is:
 28 (a) not a BAS amount (as defined in subsection 995-1(1) of the
 29 *Income Tax Assessment Act 1997*); and
 30 (b) due but not yet payable.

31 **5 Subsection 14ZW(1AA) (first occurring)**

32 Repeal the subsection, substitute:

1 (1AAA) The person must lodge the taxation objection against a decision
2 mentioned in item 1 of the table in subsection 62(3) of this Act
3 before the end of whichever of the following ends last:

4 (a) the 60 days after notice of the decision was served on the
5 person;

6 (b) the 4 years after the end of the tax period, or after the
7 importation of goods, to which the decision relates.

8 **6 After subsection 52A(1)**

9 Insert:

10 (1A) The persons who are so responsible in respect of the sub-entity are
11 jointly and severally liable to pay any amount that is payable under
12 the GST law by the sub-entity.

13 **7 Subsection 62(2) (after table item 5)**

14 Insert:

5A refusing to cancel your registration section 25-57

15 **8 Subsection 62(2) (after table item 8)**

16 Insert:

8A refusing to revoke your election under subsection 27-22(1)
section 27-10

8B deciding the date of effect of a revocation subsection 27-22(3)

17 **9 Subsection 62(2) (after table item 31)**

18 Insert:

31A determining that the tax periods that apply to a subsection 57-35(1)
resident agent are each individual month

31B deciding the date of effect of a determination subsection 57-35(2)

19 **10 Subsection 62(3) (table item 2)**

20 Repeal the item.

21 **11 Subsection 62(3) (note)**

22 Repeal the note.

23 **12 After paragraph 70(1)(c)**

1 Insert:

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

6 **13 Paragraph 70(1)(d)**

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

8 **14 After subsection 70(1)**

9 Insert:

10 (1AAA) If you make any election, choice, estimate, determination or
11 calculation under the GST law, you must:

12 (a) keep records containing particulars of:

13 (i) the election, choice, estimate, determination or
14 calculation; and

15 (ii) in the case of an estimate, determination or
16 calculation—the basis on which, and the method by
17 which, the estimate, determination or calculation was
18 made; and

19 (b) retain those records:

20 (i) if the GST law specifies circumstances in which the
21 election, choice, estimate, determination or calculation
22 ceases to have effect—for at least 5 years after the
23 election, choice, estimate, determination or calculation
24 ceased to have effect; or

25 (ii) in any other case—for at least 5 years after the election,
26 choice, estimate, determination or calculation was
27 made.

28 (1AAB) If you give the Commissioner a GST return that states a net amount
29 that takes into account an input tax credit that is attributable to a
30 tax period under subsection 29-10(4) of the GST Act, you must:

31 (a) keep records that record and explain all transactions and
32 other acts you engage in that are relevant to the acquisition in
33 question; and

34 (b) retain those records for at least 5 years after the GST return
35 was given to the Commissioner.

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

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

3 **16 Subsection 70(1A)**

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

5 **17 Subsection 70(1B)**

6 Repeal the subsection.

7 **18 Application**

8 (1) The amendment made by item 2 of this Schedule does not authorise the
9 Commissioner to decide, as a date on which the cancellation of a
10 registration under section 25-57 takes effect, a day occurring before the
11 day on which this Act receives the Royal Assent.

12 (2) The amendments made by items 12 to 17 of this Schedule apply, and
13 are taken to have applied, in relation to net amounts for tax periods
14 starting on or after 1 July 2000.

1 **Schedule 6—Other amendments**

2

3

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

5 **1 Section 11-99 (table item 12)**

6 Repeal the item.

7 **2 At the end of section 29-10**

8 Add:

9 (4) If the *GST return for the tax period referred to in paragraph (3)(b)
10 states a *net amount that does not take into account an input tax
11 credit attributable to that tax period:

12 (a) the input tax credit is not attributable to that tax period; and

13 (b) the input tax credit is attributable to the first tax period for
14 which you give the Commissioner a GST return that does
15 take it into account.

16 **3 Section 29-39 (table item 11)**

17 Repeal the item.

18 **4 Section 29-99 (after table item 4)**

19 Insert:

20 5 Sale of freehold interests etc.

Division 75

21 **5 Section 37-1 (table item 27)**

22 Repeal the item.

23 **6 Section 48-1**

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

25 **7 Subsection 48-5(2) (but not the note)**

26 Repeal the subsection, substitute:

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

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

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

4 **9 At the end of subsection 48-10(1)**

5 Add:
6 ; and (g) does not have any branch that is registered under
7 Division 54.

8 **10 Subsection 48-10(2)**

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

10 **11 At the end of section 48-10**

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

18 **12 At the end of Subdivision 48-A**

19 Add:

20 **48-15 Relationship of companies and non-companies in a GST group**

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

-
- 1 (i) a partner in the same partnership that is a member of the
2 GST group or proposed GST group; or
3 (ii) a family member of any such partner;
4 and one of the following applies:
5 (iii) at least 2 of the partners are members of the company;
6 (iv) one of the partners is a member of the company, and at
7 least one other member of the company is a family
8 member of a different partner;
9 (v) none of the partners is a member of the company, and
10 the members of the company are not all family members
11 of the same partner and no other partner; or
12 (d) the company has more than one member, each of whom is:
13 (i) an individual who is a member of the GST group or
14 proposed GST group; or
15 (ii) a family member of that individual; or
16 (e) a trust is a member of the GST group or proposed GST
17 group, and distributions of income or capital of the trust are
18 not made except to an entity that is:
19 (i) the company; or
20 (ii) any other company that is a member of the GST group
21 or proposed GST group; or
22 (iii) a charitable institution, a trustee of a charitable fund or a
23 *gift-deductible entity.
- 24 (2) A person is a *family member* of an individual if the individual's
25 family, within the meaning of section 272-95 of Schedule 2F to the
26 *ITAA 1936, includes that person. There are no family members of
27 an entity that is not an individual.

28 **13 Subsection 48-45(3)**

29 Repeal the subsection, substitute:

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

35 **14 Paragraph 48-70(1)(a)**

1 Omit “*company”, substitute “entity”.

2 **15 Section 66-20**

3 Repeal the section.

4 **16 Subsection 69-10(1)**

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

8 **17 Subsections 69-10(1A) and (2)**

9 Repeal the subsections, substitute:

10 (2) However, if:

11 (a) the supply of the car is *GST-free to any extent under
12 Subdivision 38-P; or

13 (b) the importation of the car is non-taxable to any extent under
14 paragraph 13-10(b) because it would have been GST-free to
15 any extent under Subdivision 38-P if it had been a supply;

16 you are not entitled to the input tax credit for the acquisition or
17 importation.

18 (3) If your acquisition or importation is *partly creditable, the input tax
19 credit is reduced to the extent (expressed as a percentage) to which
20 the acquisition or importation is made for a *creditable purpose.

21 (4) This section does not apply in relation to:

22 (a) the acquisition or importation of a *car that is not a *luxury
23 car because of subsection 25-1(2) of the *A New Tax System*
24 (*Luxury Car Tax Act 1999*); or

25 Note: Emergency vehicles, cars fitted to transport disabled people,
26 non-passenger commercial vehicles, motor homes and
27 campervans are not luxury cars under that subsection.

28 (b) the acquisition of a car by lease or hire.

29 (5) This section has effect despite sections 11-25 and 15-20 (which are
30 about the amount of input tax credits on creditable acquisitions and
31 creditable importations).

32 **18 After section 72-90**

33 Insert:

72-92 Non-profit sub-entities

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

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

19 At the end of Division 75

Add:

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

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

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

Omit “those payments”, substitute “those payments (except to the extent that they are *consideration for *taxable supplies by the insurer, or what would have been taxable supplies by the insurer but for section 78-25)”.

21 After section 78-15

Insert:

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

- (1) An insurer has an *increasing adjustment* if:
 - (a) there is a payment of an excess to the insurer under an *insurance policy; and
 - (b) the insurer makes, or has made, payments or supplies in settlement of a claim under the policy; and
 - (c) the insurer makes, or has made, acquisitions or importations directly for the purpose of settling the claim.

1 (2) This is how to work out the amount of the increasing adjustment:

2 *Method statement*

3 *Step 1.* Add together, and multiply by $\frac{10}{11}$:

4 (a) the sum of the payments of *money (if any) made
5 in settlement of the claim to which the excess
6 relates; and

7 (b) the *GST inclusive market value of the supplies (if
8 any) made by the insurer in settlement of the claim
9 (other than supplies that would have been *taxable
10 supplies but for section 78-25).

11 *Step 2.* Add together the *GST exclusive values of all the
12 acquisitions and importations made by the insurer
13 directly for the purpose of settling the claim.

14 *Step 3.* Multiply the amount of the payment of excess by the step
15 2 amount, and divide it by the total of the step 1 and step
16 2 amounts.

17 *Step 4.* Multiply the step 3 amount by $\frac{1}{11}$.

18 (3) An insurer has an *increasing adjustment* if:

19 (a) there is a payment of an excess to the insurer under an
20 *insurance policy; and

21 (b) the insurer makes, or has made, acquisitions or importations
22 directly for the purpose of settling the claim; and

23 (c) the insurer has not made any payments or supplies in
24 settlement of the claim.

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

27 **22 Section 78-30 (heading)**

28 Repeal the heading, substitute:

1 **78-30 Acquisitions by insurers in the course of settling claims under**
2 **non-taxable policies**

3 **23 Subsection 78-30(1)**

4 Omit “of *goods”.

5 **24 Paragraph 78-30(1)(a)**

6 Repeal the paragraph, substitute:

7 (a) the insurer makes the acquisition:

- 8 (i) to the extent that the acquisition is an acquisition of
9 goods—solely for the purpose of supplying the goods in
10 the course of settling a claim under an *insurance
11 policy; or
12 (ii) otherwise—solely for a purpose directly related to
13 settling a particular claim under an *insurance policy;
14 and

15 **25 Paragraph 78-30(1)(b)**

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

17 **26 Paragraph 78-50(1)(b)**

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

20 **27 Subparagraph 78-50(1)(c)(i)**

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

22 **28 Subsection 78-65(1)**

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

26 to the extent that:

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

31 **29 Subsection 78-65(2)**

- 1 Omit “to the extent that the supply is made in settlement of a claim
2 under an *insurance policy under which the entity is not insured”,
3 substitute:
4 to the extent that:
5 (c) the supply is made in settlement of a claim under an
6 *insurance policy under which the entity is not insured; and
7 (d) the supply is to discharge a liability owed to that entity by the
8 entity insured.

9 **30 After section 84-13**

10 Insert:

11 **84-14 Supplies relating to employee share ownership schemes**

- 12 This Division does not apply to a supply, to the extent that it is a
13 supply relating to an *employee share scheme, if:
14 (a) the *recipient of the supply is not an entity that has acquired,
15 or may in the future acquire, a share or right under the
16 scheme; and
17 (b) Division 13A of Part III of the *ITAA 1936 applies to
18 discounts (within the meaning of that Division) given in
19 relation to any acquisitions of shares or rights under the
20 scheme; and
21 (c) either:
22 (i) the *recipient of the supply is a *100% subsidiary of the
23 supplier; or
24 (ii) the supply is a transfer that is taken to be a supply
25 because of section 84-15.

26 **31 Division 93**

27 Repeal the Division.

28 **32 At the end of Division 188**

29 Add:

1 **188-40 Supplies of employee services by overseas entities to be**
 2 **disregarded for the registration turnover threshold**

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

18 **33 Section 195-1**

19 Insert:

20 *100% subsidiary* has the meaning given by section 975-505 of the
 21 *ITAA 1997.

22 **34 Section 195-1 (after paragraph (d) of the definition of**
 23 **commercial residential premises)**

24 Insert:

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

27 **35 Section 195-1**

28 Insert:

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

31 **36 Section 195-1**

32 Insert:

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

2 **37 Section 195-1 (at the end of the definition of *incapacitated***
3 ***entity*)**

4 Add:

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

6 **38 Section 195-1 (after table item 4 of the definition of**
7 ***increasing adjustment*)**

8 Insert:

4AA Section 78-18 Payments of excess under insurance
policies

9 **39 Section 195-1 (at the end of the definition of**
10 ***representative*)**

11 Add:

12 ; or (d) an administrator appointed to an entity under Division 2 of
13 Part 5.3A of the Corporations Law; or

14 (e) a person appointed, or authorised, under an *Australian law
15 to manage the affairs of an entity because it is unable to pay
16 all its debts as and when they become due and payable; or

17 (f) an administrator of a deed of company arrangement executed
18 by the entity.

19 **40 Section 195-1 (definition of *returnable container*)**

20 Repeal the definition.

21 ***A New Tax System (Goods and Services Tax Transition) Act***
22 ***1999***

23 **41 Subsection 19(3)**

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

26 ***A New Tax System (Luxury Car Tax) Act 1999***

27 **42 At the end of section 5-20**

28 Add:

Supply of car by lease or hire

- 1
- 2 (6) The *luxury car tax value of a *car that is supplied by way of lease
3 or hire is the *GST inclusive market value of the car excluding:
4 (a) any luxury car tax payable on the supply; and
5 (b) any other *Australian tax, fee or charge, other than *GST and
6 *customs duty; and
7 (c) the *price of any modifications referred to in subsection (5).

8 **43 After subsection 13-15(1)**

9 Insert:

- 10 (1A) The luxury car tax payable by you on a *taxable supply of a luxury
11 car that is supplied by way of lease or hire is entirely attributable to
12 the first *tax period to which the supply of the car is attributable.
13 This subsection has effect despite section 156-5 of the *GST Act.

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

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

18 **44 After subsection 3(3A)**

19 Insert:

- 20 (3B) However, if the amount of sales tax you have borne in respect of
21 the wine changes after 1 July 2000, the amount of the special credit
22 changes accordingly.

23 **45 Subsection 3(4)**

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

26 **46 After subsection 3(4)**

27 Insert:

- 28 (4A) If the amount of the special credit changes under subsection (3B)
29 after you lodged that return, you must lodge with the
30 Commissioner an amended GST return for that tax period. You

1 must lodge it on or before the 21st day of the month following the
2 end of the tax period in which the change happens.

3 ***Income Tax Assessment Act 1997***

4 **47 Section 17-30 (heading)**

5 Repeal the heading, substitute:

6 **17-30 Special credits because of indirect tax transition**

7 **48 At the end of section 17-30**

8 Add:

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

12 **49 Application**

- 13 (1) The amendments made by items 1 to 8, 13 to 19, 22 to 35, 37, 39, 40,
14 42 and 43 apply, and are taken to have applied, in relation to net
15 amounts for tax periods starting on or after 1 July 2000.
- 16 (2) The amendments made by items 20, 21 and 38 apply, and are taken to
17 have applied, in relation to net amounts for tax periods starting on or
18 after 17 August 2000.
- 19 (3) The amendments made by items 47 and 48 apply to assessments for the
20 2000-2001 income year and later income years.

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Schedule 7—Technical corrections

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

1 Section 54-15

Omit “registers”, substitute “*registers”.

2 Section 54-15

Omit “*registered”, substitute “registered”.

3 Subsection 54-75(3)

Omit “registration”, substitute “*registration”.

4 Subsection 72-45(2)

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

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

Repeal the definition.

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

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

Omit “item 2”, substitute “item 3”.

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

Repeal the definition, substitute:

registered means:

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

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

8 Item 2 of Schedule 8

1 Omit “1990”, substitute “1992”.

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

4 **9 Item 155 of Schedule 1**

5 Repeal the item, substitute:

6 **155 Section 195-1 (note at the end of the definition of *taxable***
7 ***supply*)**

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

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

11 **10 Item 14 of Schedule 7**

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

13 Note: This amendment corrects an amendment that was misdescribed.

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

15 **11 Item 2 of Schedule 4B**

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

18 **12 Item 7 of Schedule 4B**

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

21 ***Income Tax Assessment Act 1936***

22 **13 Section 160APA (paragraph (ab) of the definition of**
23 ***applicable general company tax rate*)**

24 Omit “160APVI”, substitute “160APVP”.

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

27 **14 Section 160APVI (occurring immediately after**
28 **section 160APVO)**

1 Renumber as 160APVP.

2 ***Income Tax Assessment Act 1997***

3 **15 Paragraph 17-30(a)**

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

5 ***Indirect Tax Legislation Amendment Act 2000***

6 **16 Subsection 2(2)**

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

8 **17 Subsection 2(4)**

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

10 **18 Subsection 2(7)**

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

12 ***Taxation Administration Act 1953***

13 **19 Subsection 62(2) (table item 7)**

14 Omit “calendar”.

15 **20 Subsection 62(2) (table item 9)**

16 Omit “27-10”, substitute “27-15”.

17 ***Taxation (Interest on Overpayments and Early Payments) Act***
18 ***1983***

19 **21 Subsection 3(1) (paragraph (ca) of the definition of**
20 ***relevant tax) (first occurring)***

21 Re-letter as paragraph (caa).