

2002-2003

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As read a third time

**Taxation Laws Amendment Bill (No. 3)
2003**

No. , 2003

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

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1 THIS Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 10 September 2003
9

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

12 The Parliament of Australia enacts:

13 **1 Short title**

14 This Act may be cited as the *Taxation Laws Amendment Act*
15 *(No. 3) 2003*.

16 **2 Commencement**

17 (1) Each provision of this Act specified in column 1 of the table
18 commences, or is taken to have commenced, on the day or at the
19 time specified in column 2 of the table.
20

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Section 5	11 October 2002	
3. Schedule 1	29 June 2003	
4. Schedule 2	The day on which this Act receives the Royal Assent	
5. Schedule 3	The day on which this Act receives the Royal Assent	
6. Schedule 4	The day on which this Act receives the Royal Assent	
7. Schedule 5	The day on which this Act receives the Royal Assent	
8. Schedule 6, item 1	Immediately after the time specified in the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> for the commencement of item 30 of Schedule 4 to that Act	
9. Schedule 6, item 2	Immediately after the commencement of section 195-1 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i>	
10. Schedule 6, item 3	Immediately after the time specified in the <i>A New Tax System (Pay As You Go) Act 1999</i> for the commencement of items 44 and 45 of Schedule 2 to that Act	
11. Schedule 6, item 4	Immediately after the time specified in the <i>A New Tax System (Tax Administration) Act (No. 2) 2000</i> for the commencement of item 8A of Schedule 2 to that Act	
12. Schedule 6, item 5	Immediately after the commencement of item 3 of Schedule 8 to the <i>Taxation Laws Amendment Act (No. 2) 2000</i>	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
13. Schedule 6, item 6	Immediately after the commencement of Schedule 1 to the <i>Taxation Laws Amendment (Self Assessment) Act 1992</i>	
14. Schedule 6, items 7, 8, 9, 10, 11, 12 and 13	The day on which this Act receives the Royal Assent	
15. Schedule 6, item 14	Immediately after the commencement of items 12 and 13 of Schedule 6 to this Act	
16. Schedule 6, items 15 and 16	The day on which this Act receives the Royal Assent	
17. Schedule 6, item 17	Immediately after the commencement of section 43-240 of the <i>Income Tax Assessment Act 1997</i>	
18. Schedule 6, items 18 and 19	Immediately after the commencement of item 11 of Schedule 1 to the <i>Tax Law Improvement Act 1997</i>	
19. Schedule 6, item 20	Immediately after the commencement of item 22 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 7) 2000</i>	
20. Schedule 6, item 21	Immediately after the commencement of item 23 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 7) 2000</i>	
21. Schedule 6, items 22, 23, 24 and 25	The day on which this Act receives the Royal Assent	
22. Schedule 6, item 26	Immediately after the commencement of item 1 of Schedule 1 to the <i>New Business Tax System (Capital Gains Tax) Act 1999</i>	
23. Schedule 6, item 27	The day on which this Act receives the Royal Assent	
24. Schedule 6, item 28	Immediately after the commencement of item 27 of Schedule 6 to this Act	
25. Schedule 6, item 29	Immediately after the commencement of item 15 of Schedule 1 to the <i>New Business Tax System (Miscellaneous) Act (No. 2) 2000</i>	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
26. Schedule 6, item 30	The day on which this Act receives the Royal Assent	
27. Schedule 6, item 31	Immediately after the time specified in the <i>Superannuation Legislation Amendment Act (No. 3) 1999</i> for the commencement of item 34 of Schedule 2 to that Act	
28. Schedule 6, item 32	Immediately after the commencement of item 10 of Schedule 6 to the <i>Australian Security Intelligence Organisation Legislation Amendment Act 1999</i>	
29. Schedule 6, item 33	Immediately after the commencement of item 93 of Schedule 2 to the <i>A New Tax System (Tax Administration) Act (No. 2) 2000</i>	
30. Schedule 6, item 34	The day on which this Act receives the Royal Assent	
31. Schedule 6, item 35	Immediately after the commencement of item 34 of Schedule 6 to this Act	
32. Schedule 6, items 36 and 37	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 3) 1999</i> for the commencement of items 84 and 85 of Schedule 1 to that Act	
33. Schedule 6, item 38	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 3) 1999</i> for the commencement of item 342 of Schedule 1 to that Act	
34. Schedule 6, item 39	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 1997</i> for the commencement of item 9 of Schedule 5 to that Act	
35. Schedule 6, item 40	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 2000</i> for the commencement of item 2 of Schedule 4 to that Act	

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
36. Schedule 6, item 41	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 4) 2000</i> for the commencement of item 63 of Schedule 4 to that Act	
37. Schedule 6, item 42	Immediately after the commencement of item 71 of Schedule 4 to the <i>Taxation Laws Amendment Act (No. 4) 2000</i>	
38. Schedule 6, item 43	Immediately after the time specified in the <i>Taxation Laws Amendment Act (No. 7) 2000</i> for the commencement of item 30 of Schedule 4 to that Act	
39. Schedule 6, item 44	Immediately after the time specified in the <i>Tax Law Improvement Act (No. 1) 1998</i> for the commencement of item 94 of Schedule 2 to that Act	
40. Schedule 6, item 45	Immediately after the time specified in the <i>Tax Law Improvement Act (No. 1) 1998</i> for the commencement of item 11 of Schedule 6 to that Act	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table is for additional information that is not part
5 of this Act. This information may be included in any published
6 version of this Act.

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

12 **4 Amendment of assessments**

13 Section 170 of the *Income Tax Assessment Act 1936* does not
14 prevent the amendment of an assessment made before the

1 commencement of this section for the purposes of giving effect to
2 this Act.

3 **5 No tax consequences result from AGL's corporate conversion etc.**

- 4 (1) The object of this section is to ensure that no taxation
5 consequences (other than those arising under subsections (9) and
6 (10)) arise in relation to any person as a result of:
- 7 (a) AGL's corporate conversion; or
 - 8 (b) AGL's registration; or
 - 9 (c) the operation of any provision of the Conversion Act; or
 - 10 (d) any action taken under any provision of the Conversion Act.
- 11 (2) In resolving any ambiguity as to the meaning of this section, an
12 interpretation that is consistent with the object of this section is to
13 be preferred to an interpretation that is not consistent with that
14 object.
- 15 (3) This section only has effect for the purposes of any
16 Commonwealth laws relating to taxation, including, but not limited
17 to:
- 18 (a) the income tax law; and
 - 19 (b) the GST law; and
 - 20 (c) the fringe benefits tax law; and
 - 21 (d) the *A New Tax System (Australian Business Number) Act*
22 *1999*; and
 - 23 (e) the *Taxation Administration Act 1953*; and
 - 24 (f) the *International Tax Agreements Act 1953*; and
 - 25 (g) the *Taxation (Interest on Overpayments and Early Payments)*
26 *Act 1983*; and
 - 27 (h) the *Superannuation Guarantee (Administration) Act 1992*;
28 and
 - 29 (i) the *Superannuation Guarantee Charge Act 1992*.
- 30 (4) AGL, corporatised AGL and registered AGL are taken to be, and
31 to have always been, the same company and the same entity.
- 32 (5) Subsections (6) to (8) do not limit, by implication, any other effects
33 of this section.

-
- 1 (6) No taxation consequences (other than those arising under
2 subsections (9) and (10)) are taken to have arisen in relation to any
3 person as a result of:
4 (a) AGL's corporate conversion; or
5 (b) AGL's registration; or
6 (c) the operation of any provision of the Conversion Act; or
7 (d) any action taken under any provision of the Conversion Act.
- 8 (7) The legal and beneficial ownership of:
9 (a) shares in AGL; and
10 (b) interests in shares in AGL;
11 are taken not to have altered as a result of AGL's corporate
12 conversion or AGL's registration. However, this subsection does
13 not imply that those shares are not shares in corporatised AGL or
14 registered AGL.
- 15 (8) Anything done by or to:
16 (a) AGL's Secretary; or
17 (b) the estate of AGL's Secretary; or
18 (c) a replacement trustee in respect of the trust created by
19 subclause 4(1)(c) of Schedule 3 to the Conversion Act;
20 as a result of the operation of clause 4 of Schedule 3 to the
21 Conversion Act is taken to have been done by or to corporatised
22 AGL or registered AGL, as the case may be.
- 23 (9) Despite any other provision of this section:
24 (a) the item 9 of Schedule 2 to the *Taxation Laws Amendment*
25 *(Company Law Review) Act 1998* that was included in that
26 Act as originally enacted; and
27 (b) the item of Schedule 2 to the *Taxation Laws Amendment*
28 *(Company Law Review) Act 1998* that was inserted in that
29 Act by item 7 of Schedule 1 to the *Taxation Laws*
30 *Amendment Act (No. 7) 1999*;
31 apply to AGL as if the reference in each of those items of
32 Schedule 2 to the *Taxation Laws Amendment (Company Law*
33 *Review) Act 1998* to "Schedule 5 to the *Company Law Review Act*
34 *1998*" were a reference to "Schedule 4 to the Conversion Act".
- 35 Note: Item 7 of Schedule 1 to the *Taxation Laws Amendment Act (No. 7)*
36 *1999* inserted a second item 9 of Schedule 2 to the *Taxation Laws*
37 *Amendment (Company Law Review) Act 1998* into that Act.
-

-
- 1 (10) Despite any other provision of this section, any Commonwealth
2 law that:
- 3 (a) relates to taxation; and
4 (b) has a substantially similar effect to an item of Schedule 2 to
5 the *Taxation Laws Amendment (Company Law Review) Act*
6 *1998* mentioned in paragraph (9)(a) or (9)(b); and
7 (c) commences after the commencement of this section;
8 is taken to be modified in such a way as to enable it to apply to
9 AGL and to apply to AGL in that modified form.
- 10 (11) In this section:
- 11 **AGL** has the same meaning as in the Conversion Act.
- 12 **AGL's corporate conversion** means AGL being constituted as a
13 body corporate under the Conversion Act.
- 14 **AGL's registration** means corporatised AGL's registration as a
15 public company limited by shares under Part 5B.1 of the
16 *Corporations Act 2001* in accordance with the Conversion Act.
- 17 **AGL's Secretary** means a person who was the Secretary of AGL
18 under AGL's constitution immediately before AGL's corporate
19 conversion.
- 20 **Conversion Act** means the *AGL Corporate Conversion Act 2002* of
21 New South Wales.
- 22 **corporatised AGL** has the same meaning as in the Conversion Act.
- 23 **registered AGL** has the same meaning as in the Conversion Act.
- 24 **taxation** means any taxation imposed under a Commonwealth law.
- 25 (12) Other expressions mean the same in this section as in the *Income*
26 *Tax Assessment Act 1997*.

1

Schedule 1—Income tax deductions for gifts

2

Part 1—Amendments

3

Income Tax Assessment Act 1936

4

1 Subsection 78(4) (item 4.2.7 of table 4)

5

6 After “the Royal Society for the Prevention of Cruelty to Animals
7 (Victoria)”, insert “Inc.”.

7

Income Tax Assessment Act 1997

8

2 Subsection 30-25(2) (at the end of the table)

9

10 Add:

2.2.26	Aboriginal Education Council (N.S.W.) Incorporated	the gift must be made after 6 May 2002
2.2.27	General Sir John Monash Foundation	the gift must be made after 16 June 2002

3 Subsection 30-45(2) (table item 4.2.7)

11

12 After “(Victoria)”, insert “Inc.”.

12

4 Subsection 30-50(2) (at the end of the table)

13

14 Add:

5.2.19	Mount Macedon Memorial Cross Trust	the gift must be made after 14 August 2002 and before 15 August 2004
5.2.20	The Manly Warringah War Memorial Regional Park Remembrance Trust	the gift must be made after 7 April 2002 and before 8 April 2004
5.2.21	Shrine of Remembrance Foundation	the gift must be made after 2 July 2002 and before 3 July 2004

1 **5 Subsection 30-70(2) (table item 8.2.1)**

2 Omit “none”, substitute “the gift must be made before 1 August 2001”.

3 **6 Subsection 30-70(2) (at the end of the table)**

4 Add:

8.2.3	Australian Breastfeeding Association	the gift must be made after 31 July 2001
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5 **7 Subsection 30-80(2) (table item 9.2.10)**

6 Omit “2002”, substitute “2007”.

7 **8 Section 30-105 (table item 13.2.1)**

8 Omit “2002”, substitute “2004”.

9 **9 Section 30-105 (at the end of the table)**

10 Add:

13.2.4	Australian Council for Children and Youth Organisations Inc.	the gift must be made after 23 July 2002
13.2.5	St Paul’s Cathedral Restoration Fund	the gift must be made after 22 April 2002 and before 23 April 2004

11 **10 Subsection 30-315(2) (after table item 1A)**

12 Insert:

1AA	Aboriginal Education Council (N.S.W.) Incorporated	item 2.2.26
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13 **11 Subsection 30-315(2) (after table item 17)**

14 Insert:

17AAA	Australian Breastfeeding Association	item 8.2.3
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15 **12 Subsection 30-315(2) (after table item 20)**

16 Insert:

20AA Australian Council for Children and Youth Organisations Inc. item 13.2.4

1 **13 Subsection 30-315(2) (table items 28AA and 28AB)**

2 Repeal the items, substitute:

28AA Bradman Memorial Fund item 10.2.7

28A Breast Cancer Network Australia item 1.2.15

3 **14 Subsection 30-315(2) (table items 45, 45A, 45A)**

4 Repeal the items, substitute:

44A Diseases—charitable institutions whose principal activity is to promote the prevention or the control of diseases in human beings item 1.1.6

45 Diseases—institutions researching causes, prevention or cure items 1.1.4 and 1.1.5

45A Dymocks Literacy Foundation Limited item 2.2.21

5 **15 Subsection 30-315(2) (after table item 51)**

6 Insert:

51A General Sir John Monash Foundation item 2.2.27

7 **16 Subsection 30-315(2) (after table item 68)**

8 Insert:

68A Manly Warringah War Memorial Regional Park Remembrance Trust item 5.2.20

9 **17 Subsection 30-315(2) (after table item 72B)**

10 Insert:

72BB Mount Macedon Memorial Cross Trust item 5.2.19

11 **18 Subsection 30-315(2) (after table item 110)**

12 Insert:

110AA Shrine of Remembrance Foundation item 5.2.21

Schedule 1 Income tax deductions for gifts
Part 1 Amendments

1 **19 Subsection 30-315(2) (after table item 112B)**

2 Insert:

112BA	St Paul's Cathedral Restoration Fund	item 13.2.5
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3 **20 Subsection 30-315(2) (table items 117 and 118)**

4 Repeal the items, substitute:

117	Trusts—ancillary	item 2 of the table in section 30-15
118	Trusts—philanthropic	section 30-95

1

2 **Part 2—Application of amendments**

3 **21 Application**

4 The amendment made by item 1 applies to gifts made after 8 January
5 1992 and before 1 July 1997.

6 **22 Application**

7 The amendment made by item 2 applies to gifts made after 30 June
8 1997.

1

Schedule 2—Employee share schemes

2

3

Part 1—Income Tax Assessment Act 1997

4

1 At the end of subsection 104-75(6)

5

Add:

6

Note: There is also an exception for employee share trusts: see section 130-90.

7

8

2 Section 109-55 (table item 12)

9

Repeal the table item.

10

3 Section 109-55 (before table item 13)

11

Insert:

12	You acquire a share or right under an employee share scheme from an employee share trust	at the time you first acquired a beneficial interest in the share or right	section 115-30
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12

4 Section 112-75

13

After “130-80”, insert “130-83”.

14

5 Subsection 115-30(1) (at the end of the table)

15

Add:

8	A *CGT asset that is a *share or right where:	When the acquirer first acquired a beneficial interest in the share or right
	(a) the share or right was *acquired under an *employee share scheme; and	
	(b) the share or right was acquired from an *employee share trust; and	
	(c) if the share is a *qualifying share or the right is a *qualifying right—the acquirer made an election under section 139E of the <i>Income Tax Assessment Act 1936</i>	

16

6 At the end of section 130-80

17

Add:

1 (3) However, if:

2 (a) the *share or right was *acquired from an *employee share
3 trust; and

4 (b) if the share is a *qualifying share or the right is a *qualifying
5 right—the acquirer made an election under section 139E of
6 the *Income Tax Assessment Act 1936*;

7 the first element of the *cost base and *reduced cost base of the
8 share or right is its market value (worked out under sections 139FA
9 to 139FF of the *Income Tax Assessment Act 1936*) when you first
10 acquired a beneficial interest in the share or right.

11 Note: Section 130-80 of the *Income Tax (Transitional Provisions) Act 1997*
12 may affect the cost base or reduced cost base for shares or rights held
13 by a trust at 5 pm (by legal time in the Australian Capital Territory) on
14 27 February 2001.

15 **7 Subsection 130-83(2)**

16 After “A1,” insert “C2,”

17 **8 Subsection 130-83(2)**

18 Omit “disposal”, substitute “event”.

19 **9 At the end of section 130-85**

20 Add:

21 (3) However, if:

22 (a) the *share or right was *acquired from an employee share
23 trust; and

24 (b) if the share is a *qualifying share or the right is a *qualifying
25 right—the acquirer made an election under section 139E of
26 the *Income Tax Assessment Act 1936*;

27 the first element of the *cost base and *reduced cost base of the
28 share or right is its market value (worked out under sections 139FA
29 to 139FF of the *Income Tax Assessment Act 1936*) when you first
30 acquired a beneficial interest in the share or right.

31 Note: Section 130-80 of the *Income Tax (Transitional Provisions) Act 1997*
32 may affect the cost base or reduced cost base for shares or rights held
33 by a trust at 5 pm (by legal time in the Australian Capital Territory) on
34 27 February 2001.

35 **10 Subsection 130-90(1)**

1 Omit “a trustee makes when a beneficiary”, substitute “a trustee or a
2 beneficiary makes when the beneficiary”.

3 **11 Subsection 995-1(1)**

4 Insert:

5 *employee share trust* means a trust of the kind mentioned in
6 subsection 139C(5) of the *Income Tax Assessment Act 1936*.

7 **12 Application**

- 8 (1) The amendments made by items 1, 2, 4, 7, 8, 10 and 11 apply to
9 assessments for the 1998-99 income year and later income years.
- 10 (2) The amendments made by items 3 and 5 apply to shares or rights where
11 the beneficial interest in the share or right was acquired after 5 pm (by
12 legal time in the Australian Capital Territory) on 27 February 2001.
- 13 (3) The amendments made by items 6 and 9 apply to shares or rights
14 acquired (within the meaning of Division 13A of Part III of the *Income*
15 *Tax Assessment Act 1936*) by you after 5 pm (by legal time in the
16 Australian Capital Territory) on 27 February 2001. Those amendments
17 also apply to shares or rights acquired by you at or before that time if
18 you choose that the amendments apply.

1
2 **Part 2—Income Tax (Transitional Provisions) Act**
3 **1997**

4 **13 After Subdivision 130-C**

5 Insert:

6 **Subdivision 130-DA—Employee share schemes**

7 **130-80 Extension of trust holding period**

8 (1) This section applies if:

- 9 (a) a share or right is held by an employee share trust at 5 pm (by
10 legal time in the Australian Capital Territory) on 27 February
11 2001; and
12 (b) at the time that the share or right was acquired by the
13 employee share trust it was possible to determine that the
14 share or right would be acquired from the trust by another
15 entity at a particular time or on the occurrence of a particular
16 event; and
17 (c) the share or right is acquired by that other entity after that
18 time or the occurrence of that event.

19 (2) If this section applies, the first element of the cost base and
20 reduced cost base of the share or right is its market value (worked
21 out under sections 139FA to 139FF of the *Income Tax Assessment*
22 *Act 1936*) at the particular time, or on the occurrence of the
23 particular event, referred to in paragraph (1)(b).

24 **14 Subsection 130-95(1)**

25 Omit “Subdivision 130-D of the *Income Tax Assessment Act 1997*”,
26 substitute “This Subdivision”.

27 Note: The heading to section 130-95 is altered by omitting “**Division**” and substituting
28 “**Subdivision**”.

29 **15 Subsection 130-95(2)**

30 Omit “Subdivision 130-D of the *Income Tax Assessment Act 1997*”,
31 substitute “this Subdivision”.

32 **16 Application**

Schedule 2 Employee share schemes
Part 2 Income Tax (Transitional Provisions) Act 1997

1 The amendments made by items 14 and 15 apply to assessments for the
2 1998-99 income year and later income years.

1

2 **Part 3—Fringe Benefits Tax Assessment Act 1986**

3 **17 Subsection 136(1) (paragraph (hb) of the definition of**
4 ***fringe benefit*)**

5 After “employees”, insert “, or associates of employees,”.

6 **18 Application**

7 The amendment made by this Part applies in respect of the FBT year
8 beginning on 1 April 1995 and in respect of all later FBT years.

1
2 **Schedule 3—Franking of distributions by**
3 **co-operatives**
4

5 ***Income Tax Assessment Act 1936***

6 **1 At the end of section 120**

7 Add:

8 (4) No deduction is allowable under subsection (1) to the extent that
9 the assessable income of a co-operative company is distributed as
10 the franked part of a franked distribution.

11 (5) For the purposes of this section, in determining whether the
12 assessable income of a co-operative company is distributed as the
13 franked part of a franked distribution, if:

14 (a) an amount is distributed by the co-operative company as a
15 franked distribution; and

16 (b) the franking percentage (within the meaning of the *Income*
17 *Tax Assessment Act 1997*) for the distribution is less than
18 100%; and

19 (c) a part of the distribution is attributable to sources other than
20 the assessable income of the co-operative company;

21 it is to be assumed that the franked part of the distribution is
22 attributable, to the greatest extent possible, to those other sources.

23 (6) If a co-operative company distributes assessable income among its
24 shareholders within the period of 3 months (or such longer period
25 as the Commissioner decides) starting at the end of a year of
26 income, the co-operative company may elect that the distribution is
27 to be taken, for the purposes of this section only, to have been
28 made on the last day of the year of income.

29 (7) In this section:

30 *franked distribution* has the same meaning as in the *Income Tax*
31 *Assessment Act 1997*.

32 ***Income Tax Assessment Act 1997***

1 **2 At the end of section 200-45**

2 Add:
3 ; and (d) franking by co-operative companies.

4 **3 Paragraph 202-45(a)**

5 Repeal the paragraph.

6 **3A Paragraph 202-45(b)**

7 Omit “that Act”, substitute “the *Income Tax Assessment Act 1936*”.

8 **4 At the end of Part 3-6**

9 Add:

10 **Division 218—Application of imputation rules to**
11 **co-operative companies**
12

13 **218-5 Application of imputation rules to co-operative companies**

- 14 (1) The *imputation system applies to a *co-operative company in the
15 same way as it applies to any other company but with the
16 modifications set out in this section.
- 17 (2) Each reference to a *distribution is taken to include a reference to
18 an amount distributed as mentioned in paragraph 120(1)(a) or (b)
19 of the *Income Tax Assessment Act 1936*.
- 20 (3) Despite subsection 202-75(1) (about giving distribution
21 statements), a *co-operative company does not have to give the
22 recipient of a *frankable distribution a *distribution statement
23 unless the *franking percentage for the distribution is greater than
24 zero.

25 **5 Subsection 995-1(1)**

26 Insert:
27 *co-operative company* has the same meaning as in Division 9 of
28 Part III of the *Income Tax Assessment Act 1936*.

29 **6 Application**

Schedule 3 Franking of distributions by co-operatives

1 The amendments made by this Schedule apply to distributions made on
2 or after 1 July 2002.

1
2
3

Schedule 4—Reasonable benefit limits

Income Tax Assessment Act 1936

1 After subsection 140ZQ(1)

6 Insert:

7 *When rebatable proportion is the same as another pension or*
8 *annuity*

9 (1A) Despite paragraph (1)(a), if a rebatable superannuation pension or a
10 rebatable ETP annuity:

11 (a) is payable to a person as the result of the death of another
12 person; and

13 (b) is a reversion of another pension or annuity that was already
14 payable to the other person;

15 the rebatable proportion of the pension or annuity is the same as
16 the rebatable proportion of the other pension or annuity.

2 Application

18 The amendment made by this Schedule applies, and is taken to have
19 applied, in relation to the 1999-2000 income year and later income
20 years.

1
2
3

Schedule 5—Petroleum resource rent tax

4

Petroleum Resource Rent Tax Assessment Act 1987

5

1 Section 2

6

Insert:

7

external petroleum, in relation to a petroleum project, means petroleum, or constituents of petroleum, recovered from an area or areas other than the production licence area or production licence areas in relation to the project.

8

9

10

11

2 Section 2

12

Insert:

13

future closing down expenditure has the meaning given by section 2C.

14

15

3 Section 2

16

Insert:

17

infrastructure licence means an infrastructure licence under Part III of the *Petroleum (Submerged Lands) Act 1967*.

18

19

4 Section 2 (at the end of the definition of *petroleum project* or *project*)

20

21

Add “, and includes the extended meaning given by subsection 19(2B)”.

22

5 Section 2

23

Insert:

24

processing of external petroleum, in relation to a petroleum project, includes the stabilisation, transportation, storage or recovery of external petroleum in relation to the project.

25

26

27

6 After section 2B

28

Insert:

2C Future closing down expenditure

- (1) A person has a *future closing down expenditure* in relation to a petroleum project if:
- (a) the project terminates on the cessation of one or more production licences; and
 - (b) on that termination, an infrastructure licence comes into force in relation to the operation, facilities and other things (the *property*) that comprised the project immediately before the termination; and
 - (c) but for the infrastructure licence coming into force, the person would have incurred closing down expenditure in relation to the project, with respect to that property.
- (2) The amount of the person's present future closing down expenditure is worked out as follows:

$$\frac{\text{Future closing down costs}}{(1.02 + \text{Bond rate})^{\text{Years of operation}}}$$

where:

bond rate is the long-term bond rate in relation to the financial year during which the project terminates.

future closing down costs is the payments (not being excluded expenditure), whether of a capital or revenue nature, that the person would expect:

- (a) the person; or
- (b) another person who becomes responsible for carrying on operations involved in closing down the property; to be liable to make in carrying on operations involved in closing down the property. It includes any environmental restoration as a consequence of closing down the property.

years of operation is the number of years over which the property is expected to be used in connection with the infrastructure licence.

- (3) For the purposes of the definition of *future closing down costs* in subsection (2), if the person intends to make alterations or additions to the property after the termination of the project, the

1 payments referred to in that definition are to be disregarded to the
2 extent that they relate to the alterations or additions.

3 (4) In subsection (2):

4 *year* means a period of 12 calendar months.

5 Example: On termination of a petroleum project and the coming into force of an
6 infrastructure licence, a person has future closing down costs of \$1
7 million. The property concerned is expected to be used in connection
8 with the infrastructure licence for 10 years, and the bond rate in
9 relation to the financial year in question is 5%.

10 The amount of the person's future closing down expenditure is:

11
$$\frac{\$1,000,000}{(1.02 + 0.05)^{10}} = \$508,349$$

12 **7 After subsection 19(2A)**

13 Insert:

14 (2B) For the purposes of this Act, there shall be taken to be included, as
15 part of any petroleum project within the meaning of subsection (1)
16 or (2), the carrying on of any processing of external petroleum
17 wholly or partly using the operations, facilities and other things
18 comprising the project:

- 19 (a) in the case of an eligible production licence referred to in
20 subsection (1)—while that licence is in force; or
21 (b) in the case of 2 or more eligible production licences referred
22 to in subsection (2)—while any of those licences are in force.

23 Note: Under subsection (4), the operations, facilities and other things
24 comprising the project are limited to those used in relation to
25 petroleum recovered from the one or more production licence areas in
26 relation to the project.

27 **8 After paragraph 23(1)(a)**

28 Insert:

29 (aa) assessable tolling receipts;

30 **9 Paragraph 24(1)(a)**

31 Omit "petroleum, or a constituent of petroleum, recovered from the
32 production licence area or areas in relation to the project", substitute
33 "petroleum from the project".

10 Paragraphs 24(1)(b), (c), (d) and (e)

Omit “recovered from the area or areas to which paragraph (a) applies”,
substitute “from the project”.

11 Subsection 24(2)

Insert:

petroleum from the project means any petroleum or a constituent
of petroleum:

- (a) that is recovered from the production licence area or areas in
relation to the petroleum project in question; or
- (b) that is external petroleum in relation to the project.

12 After section 24

Insert:

24A Assessable tolling receipts

For the purposes of this Act, a reference to assessable tolling
receipts derived by a person in relation to a petroleum project is a
reference to the consideration receivable by the person in relation
to the processing of external petroleum in relation to the project.

13 At the end of section 27

Add:

- (3) The future closing down expenditure in relation to a project must
be taken into account in working out the assessable property
receipts derived by a person in relation to a project if the assessable
property receipts are worked out under paragraph (1)(b) in relation
to the termination of the use of all property in relation to a
petroleum project.
- (4) Those assessable property receipts worked out under
paragraph (1)(b) are taken to be zero if that future closing down
expenditure equals or exceeds what would have been those
assessable property receipts (if that future closing down
expenditure was not taken into account).

Note: In this case, an extra amount may be included in the person’s closing
down expenditure in relation to the project: see subsection 39(3).

1 **14 Subsection 37(1)**

2 Omit “in carrying on or providing”.

3 **15 Paragraph 37(1)(a)**

4 Before “operations and”, insert “in carrying on or providing”.

5 **16 Paragraph 37(1)(b)**

6 Before “such of the following”, insert “in carrying on or providing”.

7 **17 After paragraph 37(1)(b)**

8 Insert:

9 and (c) in procuring another person to stabilise, transport, store,
10 recover or process petroleum recovered from the eligible
11 exploration or recovery area (other than any production
12 licence area) in relation to the project, if that stabilisation,
13 transportation, storage, recovery or processing constitutes the
14 processing of external petroleum in relation to another
15 petroleum project;

16 **18 After paragraph 38(b)**

17 Insert:

18 and (c) in purchasing, as part of the project, external petroleum in
19 relation to the project; and
20 (d) in procuring another person to stabilise, transport, store,
21 recover or process petroleum recovered from the production
22 licence area or areas in relation to the project, if that
23 stabilisation, transportation, storage, recovery or processing
24 constitutes the processing of external petroleum in relation to
25 another petroleum project;

26 **19 At the end of section 38**

27 Add:

28 (2) To avoid doubt, carrying on or providing the operations, facilities
29 and other things comprising the project referred to in
30 paragraph (1)(b) includes carrying on or providing the operations,
31 facilities and other things in relation to the processing of external
32 petroleum in relation to the project.

20 At the end of section 39

Add:

(2) For the purposes of this Act, if:

(a) on the termination of a petroleum project, a person disposes of all of the person's property in respect of which the person incurred capital expenditure that is eligible real expenditure in relation to the project; and

(b) there is no consideration receivable by the person in respect of the disposal;

a reference to the closing down expenditure incurred by the person in relation to the project includes a reference to any consideration given by the person for the disposal, to the extent that the consideration relates to the future closing down expenditure in relation to the project.

(3) For the purposes of this Act, if a person's assessable property receipts under paragraph 27(1)(b) in relation to a petroleum project are zero because of subsection 27(4), a reference to closing down expenditure incurred by a person in relation to the project includes a reference to an amount equal to the difference between:

(a) the future closing down expenditure in relation to the project; and

(b) the amount that would, but for subsections 27(3) and (4), have been the person's assessable property receipts in relation to the project.

Example: A production licence of Petgas Ltd ceases to be in force on 24 October 2003, but the facilities used in the petroleum project in question continue to be used in connection with an infrastructure licence that comes into force on that day. The value of the facilities on that day is \$240,000, but there are future closing down costs that result in Petgas Ltd having a future closing down expenditure of \$360,000.

Under subsection 27(4), Petgas Ltd's assessable property receipts under paragraph 27(1)(b) are zero. In addition, Petgas Ltd's closing down expenditure includes an amount of \$120,000 (the difference between its future closing down expenditure and the actual value of the facilities).

(4) Closing down expenditure in relation to a petroleum project does not include closing down expenditure in relation to operations, facilities or other things comprising the project to the extent that:

- 1 (a) the person has previously had assessable property receipts
2 under paragraph 27(1)(a) in relation to the project and the
3 consideration referred to in that paragraph took into account
4 future closing down expenditure that relates to those
5 operations, facilities or other things; or
6 (b) the person has previously had assessable property receipts
7 under paragraph 27(1)(b) in relation to the project and such
8 future closing down expenditure was taken into account in
9 working out those assessable property receipts; or
10 (c) the person has previously had closing down expenditure in
11 relation to the project that included such future closing down
12 expenditure.

13 However, this subsection does not apply if there has been a change
14 in the ownership of those operations, facilities or other things after
15 the assessable property receipts or closing down expenditure arose.

16 **21 At the end of section 41**

17 Add:

- 18 (2) This section does not apply if the other person carries on or
19 provides the operations, facilities or other things as part of the
20 processing of external petroleum in relation to a petroleum project
21 other than the project to which the operations, facilities or other
22 things referred to in subsection (1) relate.

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Schedule 6—Technical amendments

A New Tax System (Family Assistance and Related Measures) Act 2000

1 Items 30 and 31 of Schedule 4

Repeal the items.

Note: This item repeals items that relate to an amendment of a provision that does not exist.

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

2 Section 195-1 (definition of *in existence*)

Omit “995-100”, substitute “995-1”.

Note: This item fixes an incorrect cross-reference.

A New Tax System (Pay As You Go) Act 1999

3 Items 44 and 45 of Schedule 2

Repeal the items.

Note: This item repeals items that contain amendments that had already been made.

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

4 Item 8A of Schedule 2

Repeal the item.

Note: This item repeals an item that amends a provision that does not exist.

Income Tax Assessment Act 1936

5 Paragraph 6BA(5)(c)

Omit “applies”, substitute “apply”.

6 Subsection 124ZAE(2)

Omit “124AFA”, substitute “124ZAFB”.

Note: This item fixes an incorrect cross-reference.

1 **7 Subsection 159J(6) (paragraph (aac) of the definition of**
2 ***separate net income*) (the paragraph (aac) inserted by**
3 **item 322 of Schedule 1 to the *Social Security***
4 ***Legislation Amendment (Parenting and Other***
5 ***Measures) Act 1997 (as amended by item 8 of***
6 **Schedule 3 to the *Taxation Laws Amendment Act***
7 ***(No. 3) 1999)***

8 Reletter as paragraph (aad).

9 **8 Subdivision CA of Division 2 of Part IIIAA (the Subdivision**
10 **CA inserted by item 75 of Schedule 3 to the *New***
11 ***Business Tax System (Miscellaneous) Act (No. 2) 2000)***

12 Reletter as Subdivision CB.

13 **9 Subdivision CB of Division 2 of Part IIIAA**

14 Reletter as Subdivision CC.

15 **10 Section 160AQCO**

16 Renumber as section 160AQCNCCK.

17 **11 Subsection 160AQZF(6) (the subsection (6) inserted by**
18 **item 7 of Schedule 3 to the *Taxation Laws Amendment***
19 ***Act (No. 2) 2000)***

20 Renumber as subsection (7).

21 **12 Subsection 160ARDM(3) (the subsection (3) inserted by**
22 **item 4 of Schedule 1 to the *Taxation Laws Amendment***
23 ***Act (No. 7) 1999)***

24 Renumber as subsection (5).

25 **13 Subsection 160ARDM(4) (the subsection (4) inserted by**
26 **item 4 of Schedule 1 to the *Taxation Laws Amendment***
27 ***Act (No. 7) 1999)***

28 Renumber as subsection (6).

29 **14 Subsection 160ARDM(5)**

30 Omit “subsection (4)”, substitute “subsection (6)”.

1 **15 Subsection 221YHZD(1AAA) (the subsection (1AAA)**
2 **inserted by item 39 of Schedule 2 to the *A New Tax***
3 ***System (Tax Administration) Act 1999***

4 Renumber as subsection (1ABA).

5 ***Income Tax Assessment Act 1997***

6 **16 Subsection 25-35 (table item 4) (the item 4 inserted by**
7 **item 27 of Schedule 1 to the *Taxation Laws Amendment***
8 ***(Trust Loss and Other Deductions) Act 1998***

9 Renumber as item 5.

10 **17 Section 43-240 (step 2)**

11 Omit “amount”.

12 **18 Section 52-60**

13 After “work”, insert “out”.

14 **19 Section 52-75 (table item 7)**

15 Omit “Division 3”, substitute “Division 4”.

16 Note: This item fixes an incorrect cross-reference.

17 **20 Subsection 104-185(1) (note 2)**

18 Omit “CGT event J1”, substitute “CGT event J2”.

19 Note: This item fixes an incorrect cross-reference.

20 **21 Subsection 104-190(1) (note)**

21 Omit “CGT event J2”, substitute “CGT event J3”.

22 Note: This item fixes an incorrect cross-reference.

23 **22 Subsection 110-25(9) (the subsection (9) inserted by**
24 **item 75 of Schedule 2 to the *New Business Tax System***
25 ***(Miscellaneous) Act (No. 2) 2000***

26 Renumber as subsection (11).

1 **23 Section 112-97 (table item 12A) (the item 12A inserted by**
2 **item 1 of Schedule 1 to the *New Business Tax System***
3 ***(Miscellaneous) Act (No. 2) 2000***

4 Renumber as item 12B.

5 **24 Section 118-65 (the section 118-65 inserted by item 44 of**
6 **Schedule 4 to the *Taxation Laws Amendment Act***
7 ***(No. 7) 2000***

8 Renumber as section 118-70.

9 **25 Subsection 124-783(3) (heading in the form “*Certain***
10 ***companies and trusts not required to trace interests*”)**

11 Repeal the heading.

12 **26 Subsection 152-40(3) (example)**

13 Omit “Example”, substitute “Note”.

14 **27 Paragraph 165-75(2)(b) (the paragraph (2)(b) inserted by**
15 **item 7 of Schedule 11 to the *Taxation Laws Amendment***
16 ***Act (No. 1) 1998***

17 Reletter as paragraph (2)(d).

18 **28 Paragraph 165-75(2)(d)**

19 Omit “period;”, substitute “period.”.

20 **29 Subsection 165-115C(1) (note 4)**

21 Omit “subsection 166-115A(2A)”, substitute “subsection
22 165-115A(2A)”.

23 Note: This item fixes an incorrect cross-reference.

24 **30 Subsection 995-1(1) (definition of *taxable importation*) (the**
25 **definition inserted by item 15 of Schedule 5 to the *A***
26 ***New Tax System (Tax Administration) Act (No. 2) 2000***

27 Repeal the definition.

28 Note: This item repeals one of 2 identical definitions.

29 ***Superannuation Legislation Amendment Act (No. 3) 1999***

1 **31 Item 34 of Schedule 2**

2 Repeal the item.

3 Note: This item repeals an item that amends a provision that does not exist.

4 ***Taxation Administration Act 1953***

5 **32 Paragraph 3EC(2)(a)**

6 Omit “or ASIO”, substitute “of ASIO”.

7 **33 Section 16-195 in Schedule 1 (note)**

8 Omit “a administrative”, substitute “an administrative”.

9 **34 Subsection 250-10(2) in Schedule 1 (table items 22 and 23)**
 10 **(the items 22 and 23 inserted by item 1 of Schedule 2 to**
 11 **the *Diesel and Alternative Fuels Grants Scheme***
 12 ***Amendment Act 2000*)**

13 Repeal the items.

14 **35 Subsection 250-10(2) in Schedule 1 (after table item 22)**

15 Insert:

16

22A	amount of advance to be repaid	14A	<i>Diesel and Alternative Fuels Grants Scheme Act 1999</i>
<hr/>			
22B	amount payable as a result of an amended assessment	15E	<i>Diesel and Alternative Fuels Grants Scheme Act 1999</i>

17 ***Taxation Laws Amendment Act (No. 3) 1999***

18 **36 Item 84 of Schedule 1 (heading)**

19 Omit “214A(e)”, substitute “214A(2)(e)”.

20 **37 Item 85 of Schedule 1 (heading)**

21 After “Paragraphs”, insert “214A(2)”.

22 **38 Item 342 of Schedule 1**

1 Repeal the item.

2 Note: This item repeals an item that amends a provision that does not exist.

3 ***Taxation Laws Amendment Act (No. 4) 1997***

4 **39 Item 9 of Schedule 5**

5 Repeal the item.

6 Note: This item repeals an item that omits words that do not exist in the relevant provision.

7 ***Taxation Laws Amendment Act (No. 4) 2000***

8 **40 Item 2 of Schedule 4**

9 Repeal the item.

10 Note: This item repeals an item that omits words that do not exist in the relevant provision.

11 **41 Item 63 of Schedule 4**

12 Repeal the item.

13 Note: This item repeals an item that omits words that do not exist in the relevant provision.

14 **42 Item 71 of Schedule 4 (table items 10 and 11)**

15 Repeal the items.

16 Note: This item repeals 2 table items that omit words that do not exist in the relevant
17 provision.

18 ***Taxation Laws Amendment Act (No. 7) 2000***

19 **43 Item 30 of Schedule 4**

20 Repeal the item.

21 Note: This item repeals an item that contains an amendment that had already been made.

22 ***Tax Law Improvement Act (No. 1) 1998***

23 **44 Item 94 of Schedule 2**

24 Repeal the item.

25 Note: This item repeals an item that amends a provision that does not exist.

26 **45 Item 11 of Schedule 6**

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Repeal the item.

Note: This item repeals an item that omits words from a provision and inserts the identical words into the provision.

(255/02)