

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Tax Laws Amendment (2008 Measures
No. 4) Bill 2008**

No. , 2008

(Treasury)

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

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
Schedule 1—Demutualisation of private health insurers		3
	<i>Income Tax Assessment Act 1936</i>	3
	<i>Income Tax Assessment Act 1997</i>	3
Schedule 2—Family trusts		19
Part 1—Variations		19
	<i>Income Tax Assessment Act 1936</i>	19
Part 2—Definition of family		20
	<i>Income Tax Assessment Act 1936</i>	20
Schedule 3—Minor amendments		21
Part 1—General amendments		21
	<i>A New Tax System (Goods and Services Tax) Act 1999</i>	21
	<i>Fringe Benefits Tax Assessment Act 1986</i>	21
	<i>Income Tax Assessment Act 1936</i>	21
	<i>Income Tax Assessment Act 1997</i>	25
	<i>Income Tax (Deferred Interest Securities) (Tax File Number Withholding Tax) Act 1991</i>	43
	<i>Income Tax (Transitional Provisions) Act 1997</i>	44
	<i>Superannuation Guarantee (Administration) Act 1992</i>	44
	<i>Taxation Administration Act 1953</i>	44
	<i>Taxation (Interest on Overpayments and Early Payments) Act 1983</i>	45
	<i>Tax Laws Amendment (2007 Measures No. 5) Act 2007</i>	45
Part 2—Asterisking amendments		46
	<i>Income Tax Assessment Act 1997</i>	46

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 *Tax Laws Amendment (2008*
6 *Measures No. 4) Act 2008.*

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day on which this Act receives the Royal Assent.	
3. Schedule 3, items 1 to 86	The day on which this Act receives the Royal Assent.	
4. Schedule 3, item 87	The later of: (a) immediately after the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of the <i>First Home Saver Accounts (Consequential Amendments) Act 2008</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3, items 88 to 189	The day on which this Act receives the Royal Assent.	

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

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published 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.

1
2
3
4

Schedule 1—Demutualisation of private health insurers

Income Tax Assessment Act 1936

1 At the end of section 326-1 in Schedule 2H

7 Add “and health insurers”.

8 Note: The heading to Schedule 2H is replaced by the heading “**Demutualisation of mutual**
9 **entities other than insurance companies and health insurers**”.

2 After paragraph 326-10(1)(b) in Schedule 2H

11 Insert:

12 (ba) is not an entity to which item 6.3 of the table in section 50-30
13 of the *Income Tax Assessment Act 1997* (about private health
14 insurers) applies; and

Income Tax Assessment Act 1997

3 Section 11-55 (after table item headed “bonds”)

17 Insert:

demutualisation of private health insurers

market value of shares and rights at time of issue	315-310
payments received in exchange for cancellation or variation of interests under the demutualisation	315-310

4 Section 109-60 (cell at table item 4A, column headed “In these circumstances”)

20 Repeal the cell, substitute:

CGT event happens to CGT
asset in connection with the
demutualisation of a mutual
entity other than an insurance
company or health insurer

5 Section 109-60 (at the end of the table)

22 Add:

13 You are issued with a share or the time the share or sections 315-80,

Schedule 1 Demutualisation of private health insurers

	right under a demutualisation of a health insurer	right is issued	315-210 and 315-260
14	You are transferred a share or right by a lost policy holders trust under a demutualisation of a health insurer	the time the share or right is issued	sections 315-145 , 315-210 and 315-260

1 **6 Section 112-97 (cell at table item 5A, column headed “In**
2 **this situation”)**

3 Repeal the cell, substitute:

CGT event happens to CGT asset in connection with the demutualisation of a mutual entity other than an insurance company or health insurer

4 **7 Section 112-97 (at the end of the table)**

5 Add:

29	You are issued with an asset under a demutualisation of a health insurer	First element of cost base and reduced cost base	sections 315-80, 315-210 and 315-260
30	You are transferred an asset by a lost policy holders trust under a demutualisation of a health insurer	First element of cost base and reduced cost base	sections 315-145 , 315-210 and 315-260

6 **8 At the end of section 118-1**

7 Add:

8 Note 3: There are also exemptions in Division 315 (about demutualisation of
9 private health insurers).

10 **9 At the end of subsection 126-190**

11 Add:

12 Note: This Subdivision does not apply to the demutualisation of a private
13 health insurer: see section 315-160.

14 **10 After section 197-35**

15 Insert:

1 **197-37 Exclusion for transfers made in connection with**
2 **demutualisations of private health insurers**

- 3 (1) Subject to subsection (2), this Division does not apply to the
4 transferred amount if:
- 5 (a) the amount is transferred in connection with a
6 demutualisation of a company; and
 - 7 (b) Division 315 (about demutualisations of private health
8 insurers) applies to the demutualisation; and
 - 9 (c) the company (the *issuing company*) to whose *share capital
10 account the amount is transferred is either:
 - 11 (i) the demutualising health insurer; or
 - 12 (ii) the company mentioned in subparagraph
13 315-85(1)(a)(iii) issuing shares that are assets covered
14 by section 315-85 (*demutualisation assets*).
- 15 (2) Subsection (1) does not stop this Division from applying to so
16 much, if any, of the transferred amount as exceeds the sum of the
17 amounts worked out under subsection (3) for each demutualisation
18 asset that is a share issued:
- 19 (a) by the issuing company under the demutualisation; and
 - 20 (b) to an entity that is either:
 - 21 (i) covered by section 315-90 (about participating policy
22 holders); or
 - 23 (ii) the trustee of a trust covered by Subdivision 315-C
24 (about the lost policy holders trust).
- 25 (3) The amount worked out under this subsection for a share is:
- 26 (a) the *market value of the share on the day it is issued; or
 - 27 (b) if the share is in a company covered by subparagraph
28 315-85(1)(a)(iii) that owns other assets in addition to the
29 shares in the demutualising health insurer—worked out using
30 the method statement in subsection 315-210(2).

31 **11 After Part 3-30**

32 Insert:

1 **Part 3-32—Co-operatives and mutual entities**

2 **Division 315—Demutualisation of private health insurers**

3 **Table of Subdivisions**

4		Guide to Division 315
5	315-A	Capital gains and losses connected with a demutualisation of
6		a private health insurer to be disregarded
7	315-B	Cost base of certain shares and rights in private health
8		insurers
9	315-C	Lost policy holders trust
10	315-D	Special cost base rules for certain shares and rights in holding
11		companies
12	315-E	Special CGT rule for legal personal representatives and
13		beneficiaries
14	315-F	Non-CGT consequences of demutualisation

15 **Guide to Division 315**

16 **315-1 What this Division is about**

17 This Division sets out the taxation consequences of the
18 demutualisation of private health insurers.

19 Policy holders, demutualising health insurers and certain other
20 entities can disregard capital gains and losses arising under a
21 demutualisation (see Subdivision 315-A).

22 Shares and rights issued under the demutualisation are given a cost
23 base based on the market value of the demutualising health insurer
24 at the time of issue (see Subdivisions 315-B and 315-D).

25 Assets held by a lost policy holders trust are given roll-over relief
26 if transferred to the lost policy holder, or if the lost policy holder
27 becomes absolutely entitled to them. Otherwise the trustee of the
28 lost policy holders trust is taxed on any capital gains (see
29 Subdivision 315-C).

A legal personal representative can disregard capital gains and losses made when passing an asset to a beneficiary of a policy holder's estate (see Subdivision 315-E).

Shares, rights or cash received under a demutualisation are not assessable income and not exempt income (see Subdivision 315-F).

Subdivision 315-A—Capital gains and losses connected with a demutualisation of a private health insurer to be disregarded

Table of sections

Rules for policy holders

- 315-5 Policy holders to disregard capital gains and losses related to demutualisation of private health insurer
- 315-10 Effect on the legal personal representative or beneficiary
- 315-15 Demutualisations to which this Division applies
- 315-20 What assets are covered

Rules for demutualising health insurer

- 315-25 Demutualising health insurers to disregard capital gains and losses related to demutualisation

Rules for other entities

- 315-30 Other entities to disregard capital gains and losses related to demutualisation

Rules for policy holders

315-5 Policy holders to disregard capital gains and losses related to demutualisation of private health insurer

Disregard a *capital gain or *capital loss of an individual from a *CGT event that happens in relation to a *CGT asset if:

- (a) the CGT event happens under a demutualisation to which this Division applies; and
- (b) the individual is, or has been, a policy holder (within the meaning of the *Private Health Insurance Act 2007*) of, or

- 1 another person insured through, the demutualising entity (the
2 *demutualising health insurer*); and
3 (c) the CGT asset is covered by section 315-20.

4 **315-10 Effect on the legal personal representative or beneficiary**

- 5 Disregard a *capital gain or *capital loss of an entity from a *CGT
6 event that happens in relation to a *CGT asset if:
7 (a) the CGT asset forms part of the estate of a deceased
8 individual who is mentioned in paragraph 315-5(b); and
9 (b) the entity is the deceased individual's *legal personal
10 representative or a beneficiary in the deceased individual's
11 estate; and
12 (c) the CGT asset devolves to the entity or *passes to the entity;
13 and
14 (d) the CGT event happens under a demutualisation to which this
15 Division applies; and
16 (e) the CGT asset is covered by section 315-20.

17 **315-15 Demutualisations to which this Division applies**

18 This Division applies to a demutualisation of an entity if:

- 19 (a) the entity:
20 (i) is an entity to which item 6.3 of the table in
21 section 50-30 applies; and
22 (ii) is not registered under Part 3 of the *Life Insurance Act*
23 *1995*; and
24 (iii) does not have capital divided into shares; and
25 Note: Item 6.3 of the table in section 50-30 applies to a private health
26 insurer within the meaning of the *Private Health Insurance Act*
27 *2007* that is not carried on for the profit or gain of its individual
28 members.
29 (b) an application by the entity to convert to being registered as a
30 for profit insurer (within the meaning of the *Private Health*
31 *Insurance Act 2007*) is approved under subsection 126-42(5)
32 of that Act; and
33 (c) consistently with the conversion scheme mentioned in
34 paragraph 126-42(2)(b) of that Act, the entity becomes
35 registered as a for profit insurer (within the meaning of that
36 Act).

1 **315-20 What assets are covered**

2 These *CGT assets are covered:

- 3 (a) an interest in the demutualising health insurer as a policy
4 holder;
- 5 (b) a membership interest in the demutualising health insurer;
- 6 (c) a right or interest of another kind in the demutualising health
7 insurer;
- 8 (d) a right or interest of another kind that arises under the
9 demutualisation.

10 **Rules for demutualising health insurer**

11 **315-25 Demutualising health insurers to disregard capital gains and**
12 **losses related to demutualisation**

13 Disregard a *capital gain or *capital loss of an entity from a *CGT
14 event if:

- 15 (a) the CGT event happened under a demutualisation to which
16 this Division applies; and
- 17 (b) the entity is the demutualising health insurer.

18 **Rules for other entities**

19 **315-30 Other entities to disregard capital gains and losses related to**
20 **demutualisation**

21 Disregard a *capital gain or *capital loss of an entity from a *CGT
22 event if:

- 23 (a) the entity is established solely for the purpose of participating
24 in a demutualisation to which this Division applies; and
- 25 (b) the entity is not a trust covered by Subdivision 315-C (about
26 lost policy holders); and
- 27 (c) the CGT event:
 - 28 (i) happened under a demutualisation to which this
29 Division applies; and
 - 30 (ii) happened before or at the same time as the allocation or
31 distribution (in the form of shares or cash) of the
32 accumulated surplus of the demutualising health insurer;
33 and

1 (iii) was connected to that allocation or distribution.

2 Note: The allocation or distribution of the accumulated surplus could happen
3 through an arrangement involving more than one transaction.

4 **Subdivision 315-B—Cost base of certain shares and rights in**
5 **private health insurers**

6 **Table of sections**

7	315-80	Cost base and acquisition time of demutualisation assets
8	315-85	Demutualisation asset
9	315-90	Participating policy holders

10 **315-80 Cost base and acquisition time of demutualisation assets**

11 *Cost base adjustment*

12 (1) The first element of the *cost base and *reduced cost base of a
13 *CGT asset is its *market value on the day it is issued if:

14 (a) the asset is covered by section 315-85 (a *demutualisation*
15 *asset*); and

16 (b) the asset is issued to an entity (a *participating policy holder*)
17 covered by section 315-90.

18 Note: There is an exception to this rule in Subdivision 315-D where the asset
19 is a share or right in a holding company with other assets.

20 *Acquisition rule*

21 (2) The participating policy holder is taken to have *acquired the
22 demutualisation asset at the time it is issued.

23 **315-85 Demutualisation asset**

24 (1) This section covers an asset if:

25 (a) the asset is:

26 (i) a share in the demutualising health insurer; or

27 (ii) a right to *acquire a share in the demutualising health
28 insurer; or

29 (iii) a share in an entity that owns all of the shares in the
30 demutualising health insurer; or

- 1 (iv) a right to acquire a share in an entity mentioned in
2 subparagraph (iii); and
3 (b) the share or right is issued under a demutualisation to which
4 this Division applies; and
5 (c) the share or right is issued in connection with:
6 (i) the variation or abrogation of rights attaching to or
7 consisting of a *CGT asset covered by section 315-20;
8 or
9 (ii) the conversion, cancellation, extinguishment or
10 redemption of such a CGT asset.

11 *Exclusion for rights with an exercise price*

- 12 (2) Despite subsection (1), this section does not cover a right to
13 *acquire a share in an entity if the holder of the right must pay an
14 amount to exercise the right.

15 *Exclusion where assets not issued simultaneously*

- 16 (3) Despite subsection (1), an asset is not covered by this section
17 unless all of the assets covered by subsection (1) for the
18 demutualisation in question are issued:
19 (a) at the same time; and
20 (b) to an entity that is either:
21 (i) a participating policy holder (see section 315-90); or
22 (ii) the trustee of a trust covered by Subdivision 315-C
23 (about the lost policy holders trust).

24 **315-90 Participating policy holders**

- 25 (1) This section covers an individual who:
26 (a) is, or has been, a policy holder (within the meaning of the
27 *Private Health Insurance Act 2007*) of, or another person
28 insured through, the demutualising health insurer; and
29 (b) is entitled, under the demutualisation, to an allocation of
30 demutualisation assets.
31 (2) This section also covers an entity who became entitled to an
32 allocation of demutualisation assets because of the death of an
33 individual mentioned in subsection (1).

1 **Subdivision 315-C—Lost policy holders trust**

2 **Table of sections**

3	315-140	Lost policy holders trust
4	315-145	CGT treatment of demutualisation assets in lost policy holders trust
5	315-150	Roll-over where assets transferred to lost policy holder
6	315-155	Trustee assessed if assets dealt with not for benefit of lost policy holder
7	315-160	Subdivision 126-E does not apply to lost policy holders trust

8 **315-140 Lost policy holders trust**

9 This Subdivision covers a trust (a *lost policy holders trust*) in
10 relation to a demutualisation to which this Division applies if:

- 11 (a) the conversion scheme mentioned in paragraph 126-42(2)(b)
12 of the *Private Health Insurance Act 2007* for the
13 demutualisation provides for the trust; and
14 (b) under the demutualisation, demutualisation assets (see
15 section 315-85) are issued to the trustee of the trust; and
16 (c) the trust exists solely for the purpose of holding shares or
17 rights to *acquire shares on behalf of:
18 (i) individuals (*lost policy holders*) who are, or have been,
19 policy holders (within the meaning of the *Private*
20 *Health Insurance Act 2007*) of, or other persons insured
21 through, the demutualising health insurer; or
22 (ii) if the lost policy holder has died—the *legal personal
23 representative of the lost policy holder or a beneficiary
24 in the estate of the lost policy holder.

25 Example: An example of an individual on whose behalf the trust might hold
26 assets would be an individual who has not completed a formal step
27 required for them to be issued with demutualisation assets directly.
28 Another example might be an individual living overseas.

29 **315-145 CGT treatment of demutualisation assets in lost policy**
30 **holders trust**

31 *Cost base adjustment*

- 32 (1) The first element of the *cost base and *reduced cost base of a
33 demutualisation asset issued to the trustee of a lost policy holders
34 trust is its *market value on the day it is issued.

1 Note: There is an exception to this rule in Subdivision 315-D where the asset
2 is a share or right in a holding company with other assets.

3 *Acquisition rule*

4 (2) The trustee is taken to have *acquired the demutualisation asset at
5 the time it is issued.

6 **315-150 Roll-over where assets transferred to lost policy holder**

- 7 (1) This section applies in relation to a *CGT event if:
- 8 (a) the CGT event happens in relation to an asset held by the
 - 9 trustee of a lost policy holders trust on behalf of a lost policy
 - 10 holder; and
 - 11 (b) the CGT event happens because the lost policy holder (or, if
 - 12 the lost policy holder has died, the *legal personal
 - 13 representative of the lost policy holder or a beneficiary in the
 - 14 estate of the lost policy holder) either:
 - 15 (i) is transferred the asset by the trustee; or
 - 16 (ii) becomes absolutely entitled to the asset.

17 Note: The asset may be a demutualisation asset, or some other asset.

18 *Consequence for trustee*

19 (2) Disregard a *capital gain or *capital loss the trustee makes from the
20 *CGT event.

21 *Consequence for lost policy holder*

- 22 (3) The *cost base of the asset in the hands of the trustee of the lost
23 policy holders trust just before the *CGT event becomes the first
24 element of the cost base and *reduced cost base of the asset in the
25 hands of the lost policy holder, *legal personal representative or
26 beneficiary.
- 27 (4) The lost policy holder, *legal personal representative or beneficiary
28 is taken to have *acquired the asset when the trustee of the lost
29 policy holders trust acquired it.

1 **315-155 Trustee assessed if assets dealt with not for benefit of lost**
2 **policy holder**

3 (1) This section applies in relation to a *capital gain from a *CGT
4 event if:

- 5 (a) the CGT event happens in relation to an asset held by the
6 trustee of a lost policy holders trust; and
7 (b) section 315-150 does not apply to the CGT event.

8 (2) If this section applies:

- 9 (a) for the purposes of sections 97, 98A and 100 of the *Income*
10 *Tax Assessment Act 1936*, the share of the net income of the
11 trust that is attributable to the *capital gain is taken not to be
12 included in the assessable income of a beneficiary of the
13 trust; and
14 (b) the trustee is not assessed, and is not liable to pay tax, in
15 respect of the share under section 98 of the *Income Tax*
16 *Assessment Act 1936*.

17 Note: Because of these consequences in relation to sections 97 and 98 of the
18 *Income Tax Assessment Act 1936*, the trustee will be assessed on the
19 beneficiary's share under section 99A of that Act.

20 **315-160 Subdivision 126-E does not apply to lost policy holders trust**

21 Subdivision 126-E does not apply in relation to a demutualisation
22 to which this Division applies.

23 **Subdivision 315-D—Special cost base rules for certain shares**
24 **and rights in holding companies**

25 **Table of sections**

26 315-210 Cost base for shares and rights in certain holding companies

27 **315-210 Cost base for shares and rights in certain holding**
28 **companies**

29 (1) This section applies in relation to a *CGT asset that is a
30 demutualisation asset if:

- 31 (a) the demutualisation asset is:
32 (i) a share in an entity mentioned in subparagraph
33 315-85(1)(a)(iii); or
-

- 1 (ii) a right to *acquire a share in an entity mentioned in that
2 subparagraph; and
3 (b) the entity owns other assets in addition to the shares in the
4 demutualising health insurer; and
5 (c) the share or right is issued to a participating policy holder or
6 the trustee of a lost policy holders trust.

7 This section applies despite sections 315-80 and 315-145.

8 *Cost base adjustment*

- 9 (2) The first element of the *cost base and *reduced cost base of the
10 *CGT asset is worked out under the method statement.

11 *Method statement*

12 Step 1. Start with the *market value of the demutualising health
13 insurer on the day the asset is issued.

14 Step 2. Divide the result of step 1 by the sum of:

15 (a) the number of shares in the entity that are issued
16 under the demutualisation; and

17 (b) the number of shares in the entity that can be
18 *acquired under rights that are demutualisation
19 assets issued under the demutualisation.

20 Step 3. The result of step 2 is the first element of the *cost base
21 and *reduced cost base of the asset, unless the asset is a
22 right.

23 Step 4. If the asset is a right, multiply the result of step 2 by the
24 number of shares that can be *acquired under the right.
25 The result is the first element of the *cost base and
26 *reduced cost base of the asset.

27 Example: Wellbeing Health demutualises on 1 April 2008 and has a market
28 value of \$400 million on that day. It distributes its accumulated
29 mutual surplus in the form of rights to acquire shares in its holding
30 company Healthiness Insurance Ltd (Healthiness). The rights do not
31 have an exercise price.

1 A total of 800 million shares can be acquired in Healthiness under
2 rights issued under the demutualisation. Each right allows the holder
3 to acquire 50 shares. No shares in Healthiness are issued.

4 Under the method statement, the first element of the cost base and
5 reduced cost base of each right is worked out by dividing the market
6 value of Wellbeing Health (step 1) by the number of shares in
7 Healthiness that can be acquired under the demutualisation (step 2)
8 and multiplying the result by the number of shares that can be
9 acquired under the right (step 4):

10
$$\frac{\$400 \text{ million}}{800 \text{ million}} \times 50 = \$25$$

11 *Acquisition rule*

12 (3) The participating policy holder or trustee is taken to have *acquired
13 the *CGT asset at the time it is issued.

14 **Subdivision 315-E—Special CGT rule for legal personal**
15 **representatives and beneficiaries**

16 **Table of sections**

17 315-260 Special CGT rule for legal personal representatives and beneficiaries

18 **315-260 Special CGT rule for legal personal representatives and**
19 **beneficiaries**

- 20 (1) This section sets out what happens if a *CGT asset:
21 (a) is a demutualisation asset; and
22 (b) forms part of the estate of a participating policy holder
23 mentioned in subsection 315-90(1) who has died, but was not
24 owned by the policy holder just before dying; and
25 (c) *passes to a beneficiary in the policy holder's estate because
26 the asset is transferred to the beneficiary by the policy
27 holder's *legal personal representative.

28 Note: Division 128 deals with the effect of death in relation to CGT assets a
29 person owns just before dying.

- 30 (2) Disregard a *capital gain or *capital loss the *legal personal
31 representative makes if the asset *passes to a beneficiary in the
32 policy holder's estate.

1 *Consequence for beneficiary*

- 2 (3) The *cost base and *reduced cost base of the asset in the hands of
3 the *legal personal representative just before the asset *passes to
4 the beneficiary becomes the first element of the cost base and
5 reduced cost base of the asset in the hands of the beneficiary.
- 6 (4) The beneficiary is taken to have *acquired the asset when the *legal
7 personal representative acquired it.

8 **Subdivision 315-F—Non-CGT consequences of demutualisation**

9 **Table of sections**

10 315-310 General taxation consequences of issue of demutualisation assets etc.

11 **315-310 General taxation consequences of issue of demutualisation**
12 **assets etc.**

- 13 (1) An amount of *ordinary income or *statutory income of an entity to
14 which subsection (2) applies is not assessable and not *exempt
15 income if:
- 16 (a) the amount would otherwise be included in the ordinary
17 income or statutory income of the entity only because a
18 demutualisation asset was issued to the entity; or
 - 19 (b) the amount is a payment made to the entity, under a
20 demutualisation to which this Division applies, in connection
21 with:
 - 22 (i) the variation or abrogation of rights attaching to or
23 consisting of a *CGT asset covered by section 315-20;
24 or
 - 25 (ii) the conversion, cancellation, extinguishment or
26 redemption of such a CGT asset.
- 27 (2) This subsection applies to an entity that:
- 28 (a) is, or has been, a policy holder (within the meaning of the
29 *Private Health Insurance Act 2007*) of, or another person
30 insured through, the demutualising health insurer; or
 - 31 (b) is issued with the demutualisation asset, or receives the
32 payment, because of the death of a policy holder mentioned
33 in paragraph (a).

1 **12 Application**

2 The amendments made by this Schedule apply in relation to
3 demutualisations occurring on and after 1 July 2007.

1
2 **Schedule 2—Family trusts**

3 **Part 1—Variations**

4 *Income Tax Assessment Act 1936*

5 **1 Subsection 272-80(5A) in Schedule 2F**

6 Omit “an income year during the period specified in subsection (6B)”,
7 substitute “the 2007-08 income year”.

8 **2 Subsection 272-80(5B) in Schedule 2F**

9 Repeal the subsection, substitute:

10 (5B) A variation of an election under subsection (5A) in relation to a
11 trust can only be made once, and has no effect in respect of the
12 2008-09 income year or later income years. In respect of the
13 2008-09 income year and later income years, the individual whose
14 family group is to be taken into account in relation to the election
15 is the individual originally specified in the election.

16 **3 Paragraph 272-140(2)(b) in Schedule 2F**

17 Repeal the paragraph, substitute:

- 18 (b) if the family trust election has been varied under subsection
19 272-80(5A):
20 (i) in respect of the 2007-08 income year—the new
21 individual specified in the variation; or
22 (ii) in respect of later income years—the individual
23 originally specified in the election; or
24 (c) if the family trust election has been varied under subsection
25 272-80(5C)—the person most recently specified under that
26 subsection.

27 **4 Application**

28 The amendments made by this Part apply to assessments for the
29 2007-08 year of income and later years.

1

2 **Part 2—Definition of family**

3 ***Income Tax Assessment Act 1936***

4 **5 Subsection 272-95(1) in Schedule 2F**

5 Repeal the subsection, substitute:

6 (1) The *family* of an individual (the *test individual*) consists of the test
7 individual and all of the following (if applicable):

8 (a) any parent, grandparent, brother, sister, nephew, niece, child,
9 or child of a child, of:

10 (i) the test individual; or

11 (ii) the test individual's spouse;

12 (b) the spouse of the test individual or of anyone who is a
13 member of the test individual's family because of
14 paragraph (a).

15 Note: *Child* and *spouse* are defined in subsection 6(1).

16 **6 At the end of subsection 272-95(2) in Schedule 2F**

17 Add:

18 Note: A person who is no longer a member of an individual's family under
19 this section may still be a member of the individual's family group
20 under subsection 272-90(2A).

21 **7 Subsection 272-95(3) in Schedule 2F**

22 Repeal the subsection (including the note).

23 **8 Application**

24 The amendments made by this Part apply to assessments for the
25 2008-09 year of income and later years.

1
2 **Schedule 3—Minor amendments**

3 **Part 1—General amendments**

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

5 **1 At the end of section 87-25**

6 Add:

7 Note: If you choose not to apply this Division, your supplies (other than
8 GST-free supplies) of long-term accommodation in commercial
9 residential premises are input taxed under section 40-35.

10 *Fringe Benefits Tax Assessment Act 1986*

11 **2 Paragraph 135T(1)(a)**

12 Repeal the paragraph, substitute:

13 (a) a *department* within the meaning of section 6 of the *Public*
14 *Sector Employment and Management Act 2002* of New South
15 Wales;

16 **3 Paragraph 135T(1)(h)**

17 Repeal the paragraph, substitute:

18 (h) a *government department* within the meaning of subsection
19 3(1) of the *State Service Act 2000* of Tasmania;

20 **4 Application**

21 The amendments made by items 2 and 3 of this Schedule apply to the
22 first year of tax starting after the day on which this Act receives the
23 Royal Assent and later years.

24 *Income Tax Assessment Act 1936*

25 **5 Subsection 6(2)**

26 Repeal the subsection.

27 **6 Subsection 6(2AA)**

28 Omit “(other than subsection (2) of this section)”.

1 **7 Subsection 6(2A)**

2 Repeal the subsection.

3 **8 Subsection 16(4AA) (definition of *research and***
4 ***development activities*)**

5 Repeal the definition.

6 **9 Subsection 23E(3)**

7 Omit “*Commonwealth Inscribed Stock Act 1911-1946*”, substitute
8 “*Commonwealth Inscribed Stock Act 1911*”.

9 **10 Subsection 23L(1A)**

10 Omit “section 15-75”, substitute “section 15-70”.

11 **11 Application**

12 The amendment made by item 10 of this Schedule applies to
13 assessments for the 2006-07 year of income and later income years.

14 **12 Sub-subparagraph 47A(18)(d)(ii)(G)**

15 Omit “ultimate beneficiary non-disclosure tax”, substitute “trustee
16 beneficiary non-disclosure tax”.

17 **13 Paragraph 51AH(1)(c)**

18 Omit “section 15-75”, substitute “section 15-70”.

19 **14 Application**

20 The amendment made by item 13 of this Schedule applies to
21 assessments for the 2006-07 year of income and later income years.

22 **15 Subsection 73A(6) (definition of *an approved research***
23 ***institute*)**

24 Omit “the Secretary to the Department of Community Services and
25 Health or by the Secretary to the Department of Employment,
26 Education and Training”, substitute “the Chief Executive Officer of the
27 NHMRC or by the Research Secretary”.

28 **16 Subsection 73A(6)**

29 Insert:

1 *NHMRC* means the National Health and Medical Research
2 Council established by section 5B of the *National Health and*
3 *Medical Research Council Act 1992*.

4 **17 Subsection 73A(6)**

5 Insert:

6 *Research Secretary* means the Secretary of the Department that
7 administers the *Education Research Act 1970*.

8 **18 Transitional**

9 The amendment made by item 15 of this Schedule does not affect the
10 continuity of an approval given for the purposes of the definition of *an*
11 *approved research institute* in subsection 73A(6) of the *Income Tax*
12 *Assessment Act 1936* before the commencement of this Schedule.

13 **19 Subsection 102UC(4) (paragraph (b) of the definition of**
14 ***excluded trust*)**

15 Omit “the Australian Stock Exchange Limited”, substitute “the stock
16 market operated by ASX Limited”.

17 **20 Subsection 109Y(2) (paragraphs (a) and (b) of the**
18 **definition of *repayments of non-commercial loans*)**

19 Omit “section, 109D”, substitute “section 109D”.

20 **21 Section 121AQ (definition of *first trading day price*)**

21 Omit “the price on the Australian stock exchange, as published by that
22 exchange”, substitute “the price on the stock market operated by ASX
23 Limited, as published by that company”.

24 **22 Section 121AQ (definition of *listed*)**

25 Omit “the Australian stock exchange”, substitute “ASX Limited”.

26 **23 Paragraph 128B(3)(b)**

27 Repeal the paragraph.

28 **24 Section 139DSA**

29 Omit “the Australian Stock Exchange”, substitute “the stock market
30 operated by ASX Limited”.

1 **25 Paragraph 139DSH(b)**

2 Omit “the ASX Limited”, substitute “ASX Limited”.

3 **26 Paragraph 139GCD(1)(d)**

4 Omit “the ASX Limited”, substitute “ASX Limited”.

5 **27 Subsection 159H(1)**

6 Omit “(1)”.

7 **28 Subsection 159H(2)**

8 Repeal the subsection.

9 **29 Subsection 159J(6) (paragraph (ac) of the definition of**
10 ***separate net income*)**

11 Omit “maternity allowance, maternity payment,”.

12 **30 Subsection 159J(6) (paragraph (adaa) of the definition of**
13 ***separate net income*)**

14 Omit “or the *Veterans’ Entitlements Act 1986*”.

15 **31 Subsection 159J(6) (paragraph (adab) of the definition of**
16 ***separate net income*)**

17 Repeal the paragraph.

18 **32 Subsection 159J(6) (paragraph (adac) of the definition of**
19 ***separate net income*)**

20 Omit “or the *Veterans’ Entitlements Act 1986*”.

21 **33 Subsection 159J(6) (paragraph (adad) of the definition of**
22 ***separate net income*)**

23 Repeal the paragraph.

24 **34 Subsection 159J(6) (paragraph (ae) of the definition of**
25 ***separate net income*)**

26 Omit “maternity allowance,”.

27 **35 Subsection 160AAA(1) (paragraph (db) of the definition of**
28 ***rebtable benefit*)**

1 Repeal the paragraph.

2 **36 Paragraph 202EE(1)(d)**

3 Omit “, (b)”.

4 **37 Paragraph 251U(1)(d)**

5 Repeal the paragraph, substitute:

6 (d) during the whole of that period the person was a
7 non-resident, or was a resident solely because subsection
8 7A(2) treats Norfolk Island as part of Australia;

9 **38 Subsections 251U(1A) and (1B)**

10 Repeal the subsections.

11 **39 Paragraph 57-25(4)(la) in Schedule 2D**

12 Omit “property); and”, substitute “property).”.

13 **40 Subsection 326-15(1) in Schedule 2H**

14 Omit “Australian Stock Exchange Limited”, substitute “ASX Limited”.

15 **41 Subsection 326-130(2) in Schedule 2H (definition of *first***
16 ***day trading price of demutualisation shares*)**

17 Omit “Australian Stock Exchange Limited, at which the
18 demutualisation shares were last traded, on the stock market maintained
19 by Australian Stock Exchange Limited”, substitute “ASX Limited, at
20 which the demutualisation shares were last traded, on the stock market
21 operated by ASX Limited”.

22 **42 Subsection 326-220(4) in Schedule 2H (paragraph (a) of**
23 **the definition of *roll-over provision*)**

24 Before “section 160X”, insert “former”.

25 **43 Schedule 3**

26 Omit “Australian Stock Exchange Limited”, substitute “The stock
27 market operated by ASX Limited”.

28 ***Income Tax Assessment Act 1997***

29 **44 After section 1-3**

1 Insert:

2 **1-7 Administration of this Act**

3 The Commissioner has the general administration of this Act.

4 **45 Paragraph 3-10(1)(b)**

5 Omit “returns”, substitute “income tax returns”.

6 **46 Subsection 4-10(1)**

7 Repeal the subsection, substitute:

8 (1) You must pay income tax for each *financial year.

9 **47 Section 9-1 (table item 12)**

10 Omit “section 102K”, substitute “**section 102K**”.

11 **48 Section 9-1 (table item 13)**

12 Omit “section 102S”, substitute “**section 102S**”.

13 **49 Section 11-15 (table item headed “family assistance”)**

14 Omit:

 maternity allowance 52-150

15 **50 Section 11-15 (table item headed “family assistance”)**

16 Omit:

 maternity payment 52-150

17 **51 Section 11-15 (table item headed “foreign aspects of**
18 **income taxation”)**

19 Omit:

 educational, scientific, religious or philanthropic
 society, income of a visiting representative of 842-105

20 substitute:

 educational, scientific, religious or philanthropic
 society, income of a visiting representative of 842-105

21 **52 Section 11-15 (table item headed “foreign aspects of**
22 **income taxation”)**

1 Omit:
non-resident, foreign sourced income **23(r)**

2 **53 Section 11-15 (table item headed “social security or like**
3 **payments”)**

4 Omit:
farm household support payment made by way of a
grant of financial assistance 53-10 and 53-15
farm household support converted into a grant..... 53-25

5 **54 Section 11-15 (table item headed “social security or like**
6 **payments”)**

7 Omit:
2006 one-off payment to older Australians under the
Veterans’ Entitlements Act 1986..... 52-65
payments under the scheme determined under item 2 of
Schedule 2 to the *Social Security and Veterans’*
Entitlements Legislation Amendment (One-off
Payments to Increase Assistance for Older
Australians and Carers and Other Measures) Act
2006 52-65

8 **55 Section 11-15 (table item headed “social security or like**
9 **payments”)**

10 Omit:
2007 one-off payment to older Australians under the
Veterans’ Entitlements Act 1986..... 52-65
payments under the scheme determined under item 2 of
Schedule 2 to the *Social Security and Veterans’*
Affairs Legislation Amendment (One-off Payments
and Other 2007 Budget Measures) Act 2007 52-65

11 **56 Section 11-15 (table item headed “social security or like**
12 **payments”)**

13 Omit:
social security, payment to Subdivision 52-A
14 substitute:
social security payments Subdivision 52-A

1 **57 Section 11-15 (at the end of table item headed “social**
2 **security or like payments”)**

3 Add:
see also *welfare*

4 **58 Section 11-15 (table item headed “vice-regal”)**

5 Repeal the item.

6 **59 Section 11-15 (table item headed “welfare”)**

7 Repeal the item, substitute:

welfare

maintenance payment 51-30 and 51-50

see also *social security or like payments*

8 **60 Section 13-1 (table item headed “farm household**
9 **support”)**

10 Repeal the item.

11 **61 Section 13-1 (table item headed “social security and other**
12 **benefit payments”)**

13 Omit:

farm household support under the *Farm Household*

Support Act 1992 **160AAA(3)**

14 **62 Subsection 20-30(1) (table item 1.8)**

15 Before “25-80”, insert “The former”.

16 **63 Paragraph 27-10(3)(a)**

17 Omit “*registration”, substitute “registration under Part 2-5 of the GST
18 Act”.

19 **64 Subsection 30-230(1) (note)**

20 Omit “tax return”, substitute “income tax return”.

21 **65 Subsection 30-230(6)**

22 Repeal the subsection, substitute:

23 (6) If:

24 (a) you die before the last day of an income year; and

1 (b) section 26-55 (which is about a limit on deductions) prevents
2 the whole or a part of the gift from being deductible in the
3 *income tax return lodged for you for that income year;
4 the trustee of your estate can claim the whole or part as a deduction
5 in the trust's income tax return for that income year.

6 Note: The trust's income tax return covers the period from the day you die to
7 the end of the income year.

8 **66 Section 30-255**

9 Omit "Secretary to the Department of Environment, Sport and
10 Territories", substitute "*Environment Secretary".

11 **67 Subsection 30-270(4)**

12 Omit "Secretary to the Department of Environment, Sport and
13 Territories", substitute "*Environment Secretary".

14 **68 Subsection 30-280(1)**

15 Omit "Secretary to the Department of Environment, Sport and
16 Territories", substitute "*Environment Secretary".

17 **69 Subsection 30-285(1)**

18 Omit "Secretary to the Department of Environment, Sport and
19 Territories", substitute "*Environment Secretary".

20 **70 Section 51-30 (table items 5.2 and 5.3)**

21 Repeal the items.

22 **71 Section 52-10 (table items 7.1 and 7.2)**

23 Repeal the items.

24 **72 Section 52-15 (table item 1)**

25 Omit "Disability wage supplement".

26 **73 Subsection 52-25(1) (table item dealing with disability
27 wage supplement)**

28 Repeal the item.

29 **74 Section 52-40 (table item 7)**

30 Repeal the item.

1 **75 Paragraphs 52-65(1)(b) and (ba)**

2 Repeal the paragraphs.

3 **76 Subsection 52-65(1B)**

4 Repeal the subsection, substitute:

5 (1B) Payments of 2008 one-off payment to older Australians under
6 Part VIIF of the *Veterans' Entitlements Act 1986* are exempt from
7 income tax.

8 **77 Subsection 52-65(1C)**

9 Repeal the subsection, substitute:

10 (1C) Payments to older Australians under a scheme determined under
11 item 2 of Schedule 2 to the *Social Security and Veterans'*
12 *Entitlements Legislation Amendment (One-off Payments and Other*
13 *Budget Measures) Act 2008* are exempt from income tax.

14 **78 Section 52-75 (table items 1A and 1B)**

15 Repeal the items.

16 **79 Subsection 52-150(1)**

17 Omit "maternity allowance, maternity payment,".

18 **80 Section 53-10 (table item 4A)**

19 Repeal the item.

20 **81 Subsection 53-15(1)**

21 Omit "(1)".

22 **82 Subsection 53-15(2)**

23 Repeal the subsection.

24 **83 Section 53-25**

25 Repeal the section.

26 **84 Paragraph 61-405(a)**

27 Omit "return", substitute "*income tax return".

28 **85 Section 65-10**

1 Omit “years of income”, substitute “income years”.

2 **86 Section 102-20 (notes 3 and 4)**

3 Repeal the notes, substitute:

4 Note 3: You may make a capital gain or capital loss as a result of a CGT event
5 happening to another entity: see subsections 115-215(3), 170-275(1)
6 and 170-280(3).

7 Note 4: You cannot make a capital loss from a CGT event that happens to
8 your original interests during a trust restructuring period if you choose
9 a roll-over under Subdivision 124-N.

10 Note 5: The capital loss may be affected if the CGT asset was owned by a
11 member of a demerger group just before a demerger: see
12 section 125-170.

13 **87 Section 109-60 (table)**

14 Repeal the table, substitute:

15

Other acquisition rules			
Item	In these circumstances:	The asset is acquired at this time:	See:
1	CGT event happens to Cocos (Keeling) Islands asset	30 June 1991	section 24P
2	Lender acquires a replacement security	before 20 September 1985	subsection 26BC(6A)
3	Trust ceases to be a resident trust for CGT purposes and there is an attributable taxpayer	when it ceases	section 102AAZBA
4	CGT event happens to CGT asset in connection with the demutualisation of an insurance company	on the demutualisation resolution day	section 121AS
5	CGT event happens to assets of NSW State Bank	at the first taxing time	section 121EN
6	You own shares in a company that stops being a PDF	just after it stops	section 124ZR
7	You acquire a number of shares that results in you obtaining a 10% (threshold)	when you obtained the threshold interest	section 128TI

Schedule 3 Minor amendments
Part 1 General amendments

Other acquisition rules

Item	In these circumstances:	The asset is acquired at this time:	See:
	interest in a SME		
8	A CGT asset of a CFC (that it owned on its commencing day)	on the CFC's commencing day	section 411
9	A CGT asset is owned by a tax exempt entity and it becomes taxable	at the transition time	section 57-25 of Schedule 2D
10	CGT event happens to CGT asset in connection with the demutualisation of a mutual entity other than an insurance company or health insurer	on the demutualisation resolution day	Division 326 of Schedule 2H
11	You stop holding an item as trading stock	when you stop	paragraph 70-110(b)
12	CGT event happens to 30 June 1988 asset of complying superannuation fund, complying approved deposit fund or pooled superannuation trust	30 June 1988	section 295-90
13	You are issued with a share or right under a demutualisation of a health insurer	the time the share or right is issued	sections 315-80, 315-210 and 315-260
14	You are transferred a share or right by a lost policy holders trust under a demutualisation of a health insurer	the time the share or right is issued	sections 315-145, 315-210 and 315-260
15	A CGT asset is transferred to or from a life insurance company's complying superannuation/FHSA asset pool	at the time of the transfer	Division 320
16	A CGT asset is transferred to or from the segregated exempt assets of a life insurance company	at the time of the transfer	Division 320
17	Entity becomes a subsidiary	at the time it becomes	701-5

Other acquisition rules

Item	In these circumstances:	The asset is acquired at this time:	See:
	member of a consolidated group	a subsidiary member	
18	Entity ceases to be a subsidiary member of a consolidated group	at the time it ceases	701-40

1 **88 Subsection 110-40(1) (notes)**

2 Repeal the notes, substitute:

3 Note: For the cost base of a partnership interest you acquire at or before that
4 time, see section 110-43.

5 **89 Subsection 110-43(1) (note)**

6 Repeal the note.

7 **90 Section 110-53 (heading)**

8 Repeal the heading, substitute:

9 **110-53 Exceptions to application of sections 110-45 and 110-50**

10 **91 Section 112-87 (table item 1)**

11 Omit “136-40”, substitute “855-45”.

12 **92 Section 112-87 (table item 2)**

13 Omit “136-45”, substitute “855-50”.

14 **93 Section 112-97 (after table item 23)**

15 Insert:

24	An entity becomes a subsidiary member of a consolidated group	The total cost base and reduced cost base for the head company of the subsidiary’s assets	Section 701-10
24A	An entity ceases to be a subsidiary member of a consolidated group	The total cost base and reduced cost base for the head company of membership interests in the subsidiary	Section 701-15

Schedule 3 Minor amendments

Part 1 General amendments

24B	An entity ceases to be a subsidiary member of a consolidated group	The total cost base and reduced cost base for the head company of liabilities owed by the subsidiary	Section 701-20
24C	An entity ceases to be a subsidiary member of a consolidated group and an asset becomes an asset of the entity because the single entity rule ceases to apply	The total cost base and reduced cost base for the entity of a liability owed to the entity	Section 701-45
24D	2 or more entities cease to be subsidiary members of a consolidated group	The total cost base and reduced cost base of the membership interests that one subsidiary member holds in another	Section 701-50
24E	Determining an asset's tax cost setting amount	The total cost base and reduced cost base of the asset	Section 701-55
24F	Eligible tier-1 company ceases to be a subsidiary member of a MEC group or a CGT event happens to a pooled interest in the company	The total cost base and reduced cost base	Section 719-565

1 **94 Section 112-110 (note 3)**

2 Omit "section 125-175", substitute "section 125-170".

3 **95 Section 112-115 (table item 6)**

4 Omit "Subdivision 124-CD", substitute "Subdivision 124-D".

5 **96 Section 112-145 (note 2)**

6 Omit "section 125-175", substitute "section 125-170".

7 **97 Subsection 115-280(3) (formula)**

8 Repeal the formula, substitute:

1

$$\text{After tax gain} + \left[\frac{\text{After tax gain} \times \begin{matrix} \text{*Corporate tax rate} \\ \text{(at the time of the *CGT event)} \end{matrix}}{1 - \text{*Corporate tax rate (at that time)}} \right]$$

2 **98 Paragraph 115-290(1)(b)**

3 Omit “the Australian Stock Exchange Limited”, substitute “ASX
4 Limited”.

5 **99 Subsection 122-70(2) (note 2)**

6 Omit “section 125-175”, substitute “section 125-170”.

7 **100 Subsection 122-200(1) (note 2)**

8 Omit “section 125-175”, substitute “section 125-170”.

9 **101 Subsection 124-10(3) (note 5)**

10 Omit “section 125-175”, substitute “section 125-170”.

11 **102 Subsection 124-780(1) (note 2)**

12 Omit “includes”, substitute “include”.

13 **103 Subsection 124-780(6) (note)**

14 Omit “the Australian Stock Exchange”, substitute “the stock market
15 operated by ASX Limited”.

16 **104 Subsection 124-781(1) (note 2)**

17 Omit “includes”, substitute “include”.

18 **105 Subsection 124-781(5) (note)**

19 Omit “the Australian Stock Exchange”, substitute “the stock market
20 operated by ASX Limited”.

21 **106 Subsection 124-790(1)**

22 Omit “includes”, substitute “include”.

23 **107 Before subsection 125-80(8)**

24 Insert:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Partial roll-over

108 Subsection 126-15(4) (note)

Omit “section 125-175”, substitute “section 125-170”.

109 Subsection 126-60(2) (note 2)

Omit “section 125-175”, substitute “section 125-170”.

110 Subsection 128-15(1) (note)

Repeal the note, substitute:

- Note 1: Section 128-25 has different rules if the asset passes to a beneficiary in your estate who is the trustee of a complying superannuation entity.
- Note 2: If the beneficiary is an exempt entity, Division 57 of Schedule 2D to the *Income Tax Assessment Act 1936* has rules about exempt entities that become taxable. It sets out what the entity is taken to have purchased its assets for when it becomes taxable.
- Note 3: If the beneficiary is a foreign resident, Subdivision 855-B sets out what happens if the beneficiary becomes an Australian resident. The beneficiary is taken to have acquired each asset owned just before becoming an Australian resident for the market value of the asset at that time.

111 Subsection 128-25(2) (notes 1 and 2)

Repeal the notes.

112 Subsection 130-80(4) (note)

Omit “Note:”, substitute “Note 1:”.

113 Subsection 130-83(4) (note)

Omit “Note 1”, substitute “Note”.

114 Paragraph 152-310(2)(a)

Omit “*exempt income of”, substitute “exempt from income tax for”.

115 Section 165-37 (heading)

Repeal the heading, substitute:

1 **165-37 Who has more than a 50% stake in the company during a**
2 **period**

3 **116 Subsection 165-37(1)**

4 Omit “more than a 50% stake”, substitute “*more than a 50% stake*”.

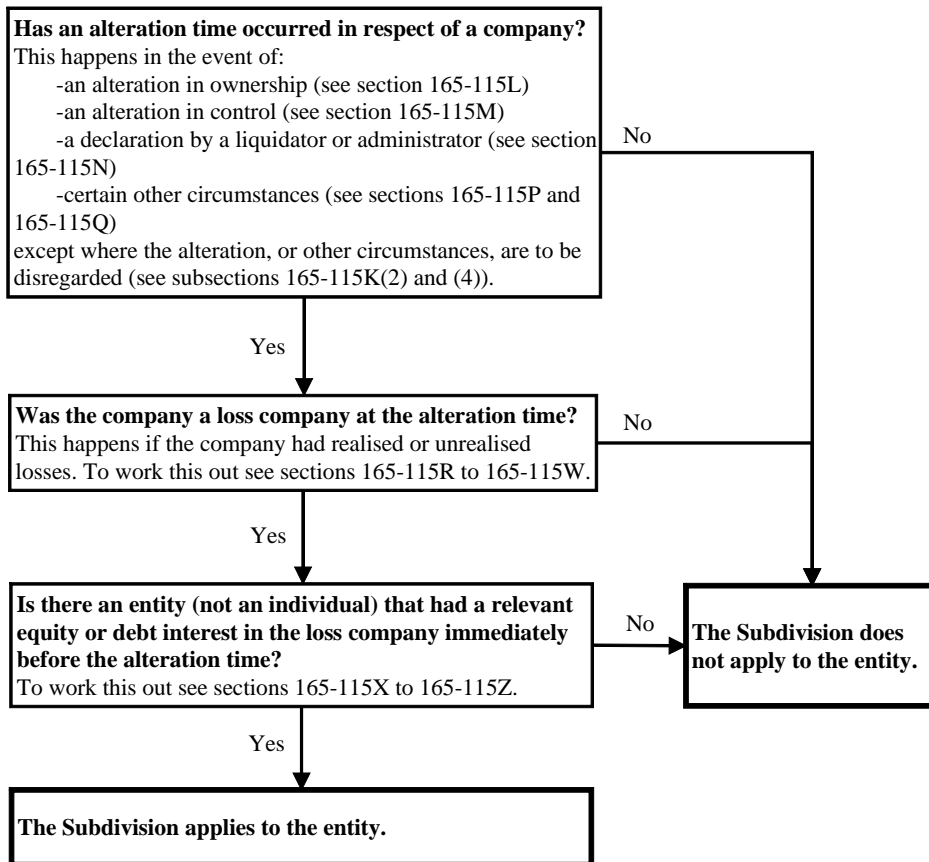
5 **117 Subsection 165-55(6)**

6 Omit “*full year deduction”, substitute “*full year deduction*”.

7 **118 Subsection 165-115H(2) (flowchart)**

8 Repeal the flowchart, substitute:
9

Application of Subdivision



10

11 **119 Subsection 165-235(2)**

1 Omit “return of income”, substitute “*income tax return”.

2 **120 Subsection 180-5(2)**

3 Omit “return of income”, substitute “*income tax return”.

4 **121 Subsection 180-10(7)**

5 Omit “the company’s return”, substitute “the company’s *income tax
6 return”.

7 **122 Subsection 180-20(5)**

8 Omit “the company’s return”, substitute “the company’s *income tax
9 return”.

10 **123 Paragraph 208-45(4)(b)**

11 Omit “year of income”, substitute “income year”.

12 **124 Paragraph 210-115(2)(a)**

13 Omit “return of income”, substitute “*income tax return”.

14 **125 Subsection 214-5(5)**

15 Omit “first return”, substitute “first franking return”.

16 **126 Subsection 214-20(3)**

17 Omit “a return under section 214-15”, substitute “a *franking return”.

18 **127 Section 214-55**

19 Omit “first return”, substitute “first franking return”.

20 **128 Paragraph 214-105(1)(b)**

21 Omit “a further return”, substitute “a further *franking return”.

22 **129 Section 214-185**

23 Omit “return given”, substitute “*franking return given”.

24 **130 Subparagraph 250-15(c)(iii)**

25 Omit “that is not an Australian resident”, substitute “that is a foreign
26 resident”.

27 **131 Paragraph 250-55(b)**

1 Omit “that is not an Australian resident”, substitute “that is a foreign
2 resident”.

3 **132 Subparagraph 250-60(2)(b)(ii)**

4 Omit “(non-resident)”, substitute “(foreign resident)”.

5 **133 Subparagraph 250-60(4)(b)(iii)**

6 Omit “that is not an Australian resident”, substitute “that is a foreign
7 resident”.

8 **134 Paragraph 250-115(3)(b)**

9 Omit “non-residents”, substitute “foreign residents”.

10 **135 Subsection 292-20(2)**

11 Omit “Note:”, substitute “Note 1:”.

12 **136 Subparagraphs 292-100(2)(b)(i) and (7)(b)(i)**

13 Omit “tax return”, substitute “*income tax return”.

14 **137 Paragraph 320-30(2)(a)**

15 Omit “return of income”, substitute “*income tax return”.

16 **138 Subsections 375-805(3) and (5)**

17 Omit “year of income”, substitute “income year”.

18 **139 Subsection 396-15(2) (formula)**

19 Repeal the formula, substitute:

20
$$*Corporate\ tax\ rate \times LTF\ interest\ covered\ by\ agreement$$

21 **140 Subsection 396-25(1) (formula)**

22 Repeal the formula, substitute:

23
$$\frac{1}{*Corporate\ tax\ rate} \times Tax\ offset\ entitlement$$

24 **141 Subsection 703-15(2) (table items 1 and 2)**

25 Omit “*general company tax rate”, substitute “*corporate tax rate”.

1 **142 Paragraph 705-65(5A)(d)**

2 Omit “*general company tax rate”, substitute “*corporate tax rate”.

3 **143 Subsection 705-75(1) (formula)**

4 Repeal the formula, substitute:

5
$$\left[\text{Deduction} \times \begin{matrix} * \text{Corporate} \\ \text{tax rate} \end{matrix} \right] - \begin{matrix} \text{Double-counting} \\ \text{adjustment} \end{matrix}$$

6 **144 Paragraph 705-75(5)(d)**

7 Omit “*general company tax rate”, substitute “*corporate tax rate”.

8 **145 Subsection 705-110(1)**

9 Omit “*general company tax rate”, substitute “*corporate tax rate”.

10 **146 Subsection 707-310(3) (at the end of the table)**

11 Add:

6	Assessable income that is not attributable to *capital gains and is not *assessable film income	The amount (if any) that would have been the transferee’s taxable income (if any) for the income year if the transferee had <i>not</i> had for the income year: (a) any *net capital gain; or (b) any *net assessable film income; reduced by the amount (the <i>transferee’s grossed-up franking offset amount</i>) worked out in accordance with paragraph (3A)(c)
---	---	--

12 **147 Application**

13 The amendment made by item 146 of this Schedule applies in relation
14 to income years, statutory accounting periods and notional accounting
15 periods starting on or after 1 July 2008.

16 **148 Paragraph 707-310(3A)(c) (formula)**

17 Repeal the formula, substitute:

18
$$\frac{1}{\begin{matrix} * \text{Corporate tax rate} \\ \text{for the income year} \end{matrix}} \times \text{Franking offsets}$$

1 **149 Subsection 717-230(3)**

2 Omit “year of income”, substitute “income year”.

3 **150 Subsection 717-265(4)**

4 Omit “year of income”, substitute “income year”.

5 **151 Subsection 719-10(1) (table)**

6 Omit “*general company tax rate”, substitute “*corporate tax rate”.

7 **152 Subsection 719-20(1) (table item 2)**

8 Omit “*general company tax rate”, substitute “*corporate tax rate”.

9 **153 At the end of subsection 770-15(1)**

10 Add:

11 Note: Foreign income tax includes only that which has been correctly
12 imposed in accordance with the relevant foreign law or, where the
13 foreign jurisdiction has a tax treaty with Australia (having the force of
14 law under the *International Tax Agreements Act 1953*), has been
15 correctly imposed in accordance with that tax treaty.

16 **154 Subparagraph 770-75(4)(b)(ii)**

17 Repeal the subparagraph, substitute:

18 (ii) are deductions (other than debt deductions) that are
19 reasonably related to amounts covered by paragraph (a)
20 for that year.

21 **155 Application**

22 The amendment made by item 154 of this Schedule applies in relation
23 to income years, statutory accounting periods and notional accounting
24 periods starting on or after 1 July 2008.

25 **156 Paragraph 802-30(4)(c) (formula)**

26 Repeal the formula, substitute:

27 Available franking credit $\times \frac{(1 - \text{*Corporate tax rate})}{\text{*Corporate tax rate}}$

28 **157 Section 802-40 (formula)**

29 Repeal the formula, substitute:

1 Offset × $\frac{(1 - \text{*Corporate tax rate})}{\text{*Corporate tax rate}}$

2 **158 Paragraph 820-960(2)(a)**

3 Omit “tax return”, substitute “*income tax return”.

4 **159 Subsection 960-120(1) (table item 2)**

5 Omit “a year of income”, substitute “an income year”.

6 **160 Paragraph 974-10(5)(e)**

7 Omit “subsection 974-150(2)”, substitute “subsection 974-150(1)”.

8 **161 Subparagraph 974-110(1A)(d)(i)**

9 Omit “return of income”, substitute “*income tax return”.

10 **162 Subparagraph 974-110(1A)(d)(ii)**

11 Omit “return of income”, substitute “income tax return”.

12 **163 Paragraph 974-112(1)(e)**

13 Omit “subsection 974-150(2)”, substitute “subsection 974-150(1)”.

14 **164 Subsection 974-150(1)**

15 Repeal the subsection.

16 **165 Subsections 974-150(2), (3) and (4)**

17 Renumber as subsections 974-150(1), (2) and (3).

18 **166 Subsection 995-1(1) (subparagraph (b)(i) of the definition
19 of *copyright collecting society*)**

20 Omit “a law in force in a State or Territory”, substitute “an *Australian
21 law”.

22 **167 Subsection 995-1(1) (paragraphs (b), (c) and (d) of the
23 definition of *friendly society*)**

24 Omit “a law of a State or Territory”, substitute “a *State law or a
25 *Territory law”.

1 **168 Subsection 995-1(1) (definition of *full year deductions*)**

2 Omit “subsection 165-55(5)”, substitute “subsections 165-55(5) and
3 (6)”.

4 **169 Subsection 995-1(1) (definition of *general company tax***
5 ***rate*)**

6 Repeal the definition.

7 **170 Subsection 995-1(1) (definition of *registration*)**

8 Repeal the definition.

9 **171 Subsection 995-1(1) (at the end of the definition of**
10 ***scheme*)**

11 Add:

12 Note: The Commissioner may determine that, for the purposes of the debt
13 and equity interest rules in Division 974, what would otherwise be a
14 single scheme is to be treated as 2 or more separate schemes, and that
15 the schemes are not related: see section 974-150.

16 **172 Subsection 995-1(1)**

17 Omit:

18 *short-term hire agreement*: a *short-term hire agreement* is an
19 agreement for the intermittent hire of an asset on an hourly, daily,
20 weekly or monthly basis. However, an agreement for the hire of an
21 asset is not a short-term hire agreement if, having regard to any
22 other agreements for the hire of the same asset to the same
23 taxpayer or an *associate of that taxpayer, there is a substantial
24 continuity of hiring so that the agreements together are for longer
25 than a short-term basis.

26 **173 Subsection 995-1(1) (definition of *supplementary***
27 ***amount, table item 2*)**

28 Omit “or farm household support”.

29 ***Income Tax (Deferred Interest Securities) (Tax File Number***
30 ***Withholding Tax) Act 1991***

31 **174 Section 4**

32 Omit “section section 14-55”, substitute “section 14-55”.

1 ***Income Tax (Transitional Provisions) Act 1997***

2 **175 After section 1-5**

3 Insert:

4 **1-7 Administration of this Act**

5 The Commissioner has the general administration of this Act.

6 ***Superannuation Guarantee (Administration) Act 1992***

7 **176 Subparagraph 35(1)(d)(iv)**

8 Omit “next quarter.”, substitute “next quarter; and”.

9 ***Taxation Administration Act 1953***

10 **177 Subsection 8AAB(5) (table item 2B)**

11 Omit “section”.

12 **178 Subsection 8AAB(5) (table item 17K) (table item dealing**
13 **with section 263-30 in Schedule 1)**

14 Repeal the item.

15 **179 Subsection 8AAB(5) (before table item 18)**

16 Insert:

17L 263-30 in *Taxation Administration Act 1953*
Schedule 1

17 **180 Section 14ZQ (definition of *private ruling*)**

18 Omit “section”.

19 **181 Subsection 110-50(2) in Schedule 1 (table items 3 to 7, 42**
20 **to 47, 50 and 54)**

21 Omit “*registration”, substitute “registration”.

22 **182 Subsection 250-10(2) in Schedule 1 (table items 38A, 38B**
23 **and 67)**

24 Omit “section”.

1 **183 Subsection 284-220(1) in Schedule 1**

2 Omit “The *base penalty amount for your *shortfall amount, or for part
3 of it, for an accounting period is increased by 20% if”, substitute “The
4 *base penalty amount for an accounting period is increased by 20% if”.

5 **184 Paragraph 284-220(1)(a) in Schedule 1**

6 Omit “the shortfall amount”, substitute “a *shortfall amount in relation
7 to which the base penalty amount was calculated”.

8 **185 Paragraph 284-220(1)(b) in Schedule 1**

9 Omit “the shortfall amount or part”, substitute “such a shortfall
10 amount”.

11 ***Taxation (Interest on Overpayments and Early Payments) Act***
12 ***1983***

13 **186 Subsection 3A(2)**

14 Omit “, or the applying of an income tax crediting amount also takes
15 place,”.

16 ***Tax Laws Amendment (2007 Measures No. 5) Act 2007***

17 **187 Item 40 of Schedule 10**

18 Omit “124KA(2)”, substitute “124K(2)”.

19 **188 Item 56 of Schedule 10**

20 Repeal the item, substitute:

21 **56 Subsection 272-140(1) in Schedule 2F (note to the**
22 **definition of *tax loss*)**

23 Repeal the note.

1

2 **Part 2—Asterisking amendments**

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

4 **189 Amendments relating to asterisking**

5 The provisions of the *Income Tax Assessment Act 1997* listed in the
6 table are amended as set out in the table.

Asterisking amendments			
Item	Provision	Omit:	Substitute:
1	Subsection 30-15(2) (table item 1, column headed “Type of gift or contribution”)	*trading stock if	trading stock if
2	Subsection 30-15(2) (table item 1, column headed “How much you can deduct”)	*trading stock (wherever occurring)	trading stock
3	Subsection 30-15(2) (table item 1, column headed “How much you can deduct”)	*business	business
4	Subsection 30-15(2) (table item 2, column headed “Type of gift or contribution”)	*trading stock if	trading stock if
5	Subsection 30-15(2) (table item 2, column headed “How much you can deduct”)	*trading stock (wherever occurring)	trading stock
6	Subsection 30-15(2) (table item 2, column headed “How much you can deduct”)	*business	business
7	Subsection 30-15(2) (table item 2, column headed “Special conditions”)	*prescribed private fund	prescribed private fund
8	Subsection 30-15(2) (table item 8, column headed “How much you can deduct”)	*GST inclusive market value	GST inclusive market value
9	Paragraph 58-65(3)(a)	income tax return	*income tax return
10	Subsection 104-10(4)	those *capital proceeds	those capital proceeds
11	Subsection 104-15(3)	those *capital	those capital

Asterisking amendments			
Item	Provision	Omit:	Substitute:
		proceeds	proceeds
12	Subsection 104-20(3)	those *capital proceeds	those capital proceeds
13	Subsection 104-25(3)	those *capital proceeds	those capital proceeds
14	Subsection 104-30(3)	those *capital proceeds	those capital proceeds
15	Subsection 104-35(3)	those *capital proceeds	those capital proceeds
16	Subsection 104-40(3)	those *capital proceeds	those capital proceeds
17	Subsection 104-45(3)	those *capital proceeds	those capital proceeds
18	Subsection 104-55(3)	those *capital proceeds	those capital proceeds
19	Subsection 104-60(3)	those *capital proceeds	those capital proceeds
20	Subsection 104-110(3)	those *capital proceeds	those capital proceeds
21	Subsection 104-115(3)	those *capital proceeds	those capital proceeds
22	Subsection 104-130(3)	those *capital proceeds	those capital proceeds
23	Subsection 104-155(3)	those *capital proceeds	those capital proceeds
24	Subsection 116-45(1)	The *capital proceeds are	The capital proceeds are
25	Subsection 116-50(1)	*capital proceeds are not	capital proceeds are not
26	Subsection 124-782(4)	arrangement	*arrangement
27	Subsections 149-15(4) and (5)	*ultimate owner)	ultimate owner)
28	Paragraph 165-115A(1C)(a)	income tax return	*income tax return
29	Paragraph 165-115E(4)(a)	income tax return	*income tax return
30	Paragraph 165-115U(1D)(a)	income tax return	*income tax return
31	Subparagraph 166-3(2)(b)(ii)	*voting stakes,	voting stakes,

Schedule 3 Minor amendments
Part 2 Asterisking amendments

Asterisking amendments			
Item	Provision	Omit:	Substitute:
		*dividend stakes and *capital stakes	dividend stakes and capital stakes
32	Section 214-185	income tax return	*income tax return
33	Paragraph 240-20(2)(b)	*arrangement	arrangement

1