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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Tax Laws Amendment (2010 Measures
No. 2) Bill 2010**

No. , 2010

(Treasury)

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

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

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Tax Laws Amendment (2010*
6 *Measures No. 2) Act 2010*.

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 this Act receives the Royal Assent.	
2. Schedule 1	The day after this Act receives the Royal Assent.	
3. Schedule 2, Part 1	The later of: (a) the day this Act receives the Royal Assent; and (b) 1 July 2010.	
4. Schedule 2, item 26	The latest of: (a) the start of the day this Act receives the Royal Assent; and (b) the start of 1 July 2010; and (c) immediately after the time item 152 of Schedule 6 to the <i>Tax Laws Amendment (2010 Measures No. 1) Act 2010</i> commences. However, the provision(s) do not commence at all if the event mentioned in paragraph (c) does not occur.	
5. Schedule 2, item 27	The later of: (a) the day this Act receives the Royal Assent; and (b) 1 July 2010. However, if item 153 of Schedule 6 to the <i>Tax Laws Amendment (2010 Measures No. 1) Act 2010</i> commences at or before that time, the provision(s) do not commence at all.	
6. Schedules 3 and 4	The day this Act receives the Royal Assent.	
7. Schedule 5, Part 1	The day this Act receives the Royal Assent.	
8. Schedule 5,	1 January 2018.	1 January 2018

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
Part 2		
9. Schedule 6	The day after 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 **Schedule 1—Distributions to entities**
3 **connected with a private company**
4

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

6 **1 Subsection 6(1)**

7 Insert:

8 *corporate limited partnership* has the meaning given by
9 section 94D.

10 **2 Subsection 6(1)**

11 Insert:

12 *dwelling* has the meaning given by the *Income Tax Assessment Act*
13 *1997*.

14 **3 Subsection 6(1)**

15 Insert:

16 *foreign tax* has the meaning given by section 6AB.

17 **4 Subsection 6(1)**

18 Insert:

19 *once-only deduction*: a deduction in a year of income in respect of
20 a percentage of expenditure is a *once-only deduction*, in relation to
21 the expenditure, if no deduction is allowable in respect of a
22 percentage of the expenditure in any other year of income.

23 **5 Subsection 21A(5) (definition of *once-only deduction*)**

24 Repeal the definition.

25 **6 Subsection 26AJ(11) (definition of *once-only deduction*)**

26 Repeal the definition.

27 **7 Section 94B (definition of *corporate limited partnership*)**

28 Repeal the definition.

1 **8 At the end of section 94N**

2 Add:

3 Note: Division 7A (Distributions to entities connected with a private
4 company) applies to certain corporate limited partnerships in the same
5 way as it applies to private companies: see section 109BB.

6 **9 Section 109B**

7 After:

8 An amount may be treated as a dividend even if it is paid or lent by
9 the company to the shareholder or associate through one or more
10 interposed entities. (See Subdivision E.)

11 Insert:

12 An amount may also be included in the assessable income of a
13 shareholder or shareholder's associate if:

- 14 (a) a company has an unpaid present entitlement to
15 income of a trust; and
- 16 (b) the trustee makes a payment or loan to, or forgives
17 a debt of, the shareholder or associate.

18 (See Subdivisions EA and EB.)

19 **10 Subdivision AA of Division 7A of Part III (heading)**

20 Repeal the heading, substitute:

21 **Subdivision AA—Application of Division**

22 **11 At the end of Subdivision AA of Division 7A of Part III**

23 Add:

24 **109BB Application of Division to closely-held corporate limited**
25 **partnerships**

26 This Division applies to a corporate limited partnership in relation
27 to a year of income in the same way as it applies to a private

1 company in relation to a year of income, if, any time during the
2 year of income:

- 3 (a) the partnership has fewer than 50 members; or
4 (b) any entity has, directly or indirectly, and for the entity's own
5 benefit, an entitlement to a 75% or greater share of the
6 income or capital of the partnership.

7 Example: Michael has an entitlement to an 80% share of the income of 2 fixed
8 trusts. The 2 fixed trusts have, between them, an entitlement to 100%
9 of the income of a corporate limited partnership. For the purposes of
10 paragraph (b), Michael has, indirectly, and for his own benefit, an
11 entitlement to a 75% or greater share of the income of the partnership.

12 **109BC Application of Division to non-resident companies**

13 (1) This Division applies, in relation to a payment, loan or debt
14 forgiveness, in relation to a private company that is a non-resident
15 as if:

- 16 (a) references in this Division to a year of income of the
17 company were references to a tax accounting period in
18 relation to the company in relation to a foreign tax imposed
19 by a tax law of:
20 (i) if the company is a resident of only one foreign
21 country—that foreign country; or
22 (ii) otherwise—the foreign country to which subsection (2)
23 applies; and
24 (b) references in this Division to the lodgment day for the year of
25 income were references to the due date for lodgment of the
26 company's return of income for the tax accounting period
27 under that tax law.

28 (2) For the purposes of subparagraph (1)(a)(ii), this subsection applies
29 to a foreign country (the *relevant country*) if:

- 30 (a) the company is a resident of the relevant country; and
31 (b) of all the tax accounting periods:
32 (i) in relation to the company in relation to the foreign
33 taxes imposed by the tax laws of the foreign countries of
34 which the company is resident; and
35 (ii) during which the payment, loan or debt forgiveness is
36 made;
37 the tax accounting period under the tax law of the relevant
38 country ends first; and

1 (c) if more than one of the tax accounting periods mentioned in
2 paragraph (b) end first—the due date for lodgment of the
3 company’s return of income for the tax accounting period
4 under the tax law of the relevant country is not later than the
5 due date for lodgment for any of the other tax accounting
6 periods that end first.

7 (3) In this section:

8 *tax accounting period* has the meaning given by section 317.

9 *tax law* has the meaning given by section 317.

10 Note: Section 109L prevents amounts from being included in assessable
11 income under this Division if the amounts are included in, or excluded
12 from, assessable income under another provision of this Act, such as
13 the rules relating to CFCs and FIFs.

14 **12 At the end of subsection 109C(3)**

15 Add:

16 Note: See also section 109CA (*Payment* includes provision of asset).

17 **13 After section 109C**

18 Insert:

19 **109CA *Payment* includes provision of asset**

20 (1) In this Division, *payment* to an entity includes the provision of an
21 asset for use by the entity.

22 Note: This includes provision under a lease or licence.

23 Example: Yacht builder Mainbrace Enterprises Pty Ltd owns a yacht for the
24 purpose of sales demonstrations. With the private company’s
25 permission, one of its shareholders uses the yacht on weekends. The
26 company has made a *payment* to the shareholder, unless one of the
27 exceptions to subsection (1) applies.

28 (2) The time the payment is made is the time the entity first:

29 (a) uses the asset with the permission of the provider of the asset;
30 or

31 (b) has a right to use the asset (whether alone or together with
32 other entities), at a time when the provider of the asset does
33 not have a right:

34 (i) to use the asset; or

1 (ii) to provide the asset for use by another entity.

2 Example: Paragraph (a) could apply if a shareholder were driving a company car
3 with the company's permission. Paragraph (b) could apply if the
4 shareholder had the car parked at his or her house or at another place
5 of his or her choosing.

6 (3) However, if the use or right continues into another income year of
7 the entity, treat the provision of the asset for use in the other
8 income year as being a separate payment made at the start of that
9 year.

10 *Exceptions*

11 (4) Subsection (1) does not apply if the provision of the asset would, if
12 done in respect of the employment of an employee, be a minor
13 benefit under section 58P of the *Fringe Benefits Tax Assessment*
14 *Act 1986*.

15 (5) Subsection (1) does not apply to the extent that, if the entity had
16 incurred and paid expenditure in respect of the provision of the
17 asset, a once-only deduction would have been allowable to the
18 entity in respect of the expenditure, ignoring:

- 19 (a) section 82A (Deductions for expenses of self-education); and
20 (b) Divisions 28 (Car expenses) and 900 (Substantiation rules) of
21 the *Income Tax Assessment Act 1997*.

22 (6) Subsection (1) does not apply to the provision of a dwelling, if:

- 23 (a) the entity, or associate of the entity, carries on a business; and
24 (b) the entity or associate:

- 25 (i) uses; or
26 (ii) is granted or has a lease, licence or other right to use;
27 land, water or a building for the purpose of carrying on the
28 business; and

29 (c) the provision of the dwelling to the entity is connected with
30 that use or with that lease, licence or other right.

31 Note: For the meaning of *land*, see paragraph 22(1)(c) of the *Acts*
32 *Interpretation Act 1901*.

33 (7) Subsection (1) does not apply to the provision of a dwelling, if:

- 34 (a) the dwelling is the main residence of the entity; and
35 (b) the provider of the dwelling is a private company; and

- 1 (c) the private company acquired the dwelling before 1 July
2 2009; and
3 (d) the private company would meet the conditions in
4 section 165-12 of the *Income Tax Assessment Act 1997*
5 (which is about the company maintaining the same owners)
6 if, despite subsection 165-12(1), the *ownership test period*
7 were the period:
8 (i) starting when the company acquired the dwelling; and
9 (ii) ending at the time of payment, worked out under
10 subsection (2) of this section.

11 (8) Section 118-120 of the *Income Tax Assessment Act 1997*
12 (Extension to adjacent land) applies in relation to subsections (6)
13 and (7) of this section in the same way as it applies in relation to
14 Subdivision 118-B of that Act.

15 (9) Subsection (1) does not apply if the provision of the asset to the
16 entity is a transfer of property to the entity.

17 Note: For transfers of property, see paragraph 109C(3)(c).

18 *Value of payment*

- 19 (10) Subject to subsection (11), the amount of the payment is:
20 (a) the amount that would have been paid for the provision of the
21 asset by the parties dealing at arm's length; less
22 (b) any consideration given for the provision of the asset by the
23 entity.
24 (11) The amount of the payment is nil if the consideration given by the
25 entity equals or exceeds the amount that would have been paid at
26 arm's length for the provision of the asset.

27 **14 At the end of subsection 109D(6)**

28 Add:

29 Note: For the lodgment day for a private company that is a non-resident, see
30 section 109BC.

31 **15 Subsection 109R(2)**

32 Repeal the subsection, substitute:

- 33 (2) A payment must not be taken into account if:
-

- 1 (a) a reasonable person would conclude (having regard to all the
2 circumstances) that, when the payment was made, the entity
3 intended to obtain a loan or loans from the private company
4 of a total amount similar to, or larger than, the payment; or
5 (b) both of the following subparagraphs apply:
6 (i) the entity obtained, before the payment was made, a
7 loan or loans from the private company of a total
8 amount similar to, or larger than, the amount of the
9 payment;
10 (ii) a reasonable person would conclude (having regard to
11 all the circumstances) that the entity obtained the loan
12 or loans in order to make the payment.

13 **16 Paragraph 109XA(1)(a)**

14 After “a payment”, insert “(including a payment through an interposed
15 entity as described in section 109XF)”.

16 **17 At the end of paragraph 109XA(1)(c)**

17 Add:

18 Note: For entitlements through interposed trusts, see section 109XI.

19 **18 After subsection 109XA(1)**

20 Insert:

21 *Loan repayments*

22 (1A) Disregard paragraph (1)(b) if:

- 23 (a) subsection (1) has previously applied because the trustee
24 made a payment (the *original transaction*) to the
25 shareholder, or to an associate of the shareholder, during a
26 previous year of income; and
27 (b) the shareholder, or an associate of the shareholder, makes a
28 loan or loans to the trustee on or after 1 July 2009; and
29 (c) either:
30 (i) a reasonable person would conclude (having regard to
31 all the circumstances) that at the time the original
32 transaction took place the shareholder, or an associate of
33 the shareholder, intended to make the loan or loans to
34 the trustee; or

- 1 (ii) the shareholder, or an associate of the shareholder, made
2 the loan or loans to the trustee before the time the
3 original transaction took place and a reasonable person
4 would conclude (having regard to all the circumstances)
5 that the trustee obtained the loan or loans in order to
6 make the payment; and
7 (d) the actual transaction is applied to repay all or a part of the
8 loan or loans.

9 (1B) For the purposes of applying section 109XB in a case covered by
10 subsections (1) and (1A) of this section, disregard section 109J
11 (Payments discharging pecuniary obligations not treated as
12 dividends).

13 **19 Paragraph 109XA(2)(a)**

14 After “a loan”, insert “(including a loan through an interposed entity as
15 described in section 109XG)”.

16 **20 At the end of paragraph 109XA(2)(b)**

17 Add:

18 Note: For entitlements through interposed trusts, see section 109XI.

19 **21 At the end of paragraph 109XA(3)(b)**

20 Add:

21 Note: For entitlements through interposed trusts, see section 109XI.

22 **22 Subsection 109XB(1)**

23 After “dividend”, insert “paid by the company at the end of the year of
24 income of the company in which the actual transaction took place”.

25 **23 Subsection 109XC(8)**

26 Omit “paragraphs 109R(3)(a), (b) and (ba)”, substitute “paragraph
27 109R(3)(a)”.

28 **24 At the end of Subdivision EA of Division 7A of Part III**

29 Add:

1 **109XD Forgiveness of loan debt does not give rise to assessable**
2 **income if loan gives rise to assessable income**

3 An amount is not included in the assessable income for a year of
4 income of the shareholder or associate referred to in subsection
5 109XA(3) because of the forgiveness of an amount of a debt
6 resulting from a loan if, because of the loan, an amount was
7 included in the assessable income of the shareholder or associate
8 under section 109XB (or former section 109UB) in that or an
9 earlier year of income.

10 **25 After Subdivision EA of Division 7A of Part III**

11 Insert:

12 **Subdivision EB—Unpaid present entitlements—interposed**
13 **entities**

14 **109XE Simplified outline of this Subdivision**

15 The following is a simplified outline of this Subdivision:

16 *Payments and loans*

17 This Subdivision allows an amount to be included in an entity's
18 (the *target entity's*) assessable income under Subdivision EA if an
19 entity interposed between a trustee and the target entity makes a
20 payment or loan to the target entity under an arrangement
21 involving the trustee.

22 This result is achieved by treating the trustee as making a payment
23 or loan of an amount determined by the Commissioner to the target
24 entity.

25 The arrangement must involve the trustee and one or more
26 interposed entities in making payments or loans for the purpose of
27 the target entity receiving a payment or loan from an interposed
28 entity.

29 If the target entity repays a fraction of the loan made by the
30 interposed entity, the target entity is treated as repaying the same
31 fraction of the loan taken to have been made by the trustee.

1 Some provisions that prevent payments or loans from giving rise to
2 assessable income do not apply to payments or loans this
3 Subdivision treats a trustee as making.

4 *Present entitlements*

5 This Subdivision similarly allows an amount to be included in an
6 entity's assessable income under Subdivision EA if a private
7 company is or becomes presently entitled to an amount from the
8 net income of a trust estate interposed between the private
9 company and another trust estate (the *target trust*) under an
10 arrangement involving the target trust.

11 **109XF Payments through interposed entities**

12 (1) For the purposes of paragraphs 109XA(1)(a) and (1A)(a), a trustee
13 is taken to have made a payment to a shareholder, or to an
14 associate of a shareholder, (the *target entity*) of a private company
15 if:

16 (a) the trustee makes a payment or loan to another entity (the
17 *first interposed entity*) that is interposed between:

18 (i) the trustee; and

19 (ii) the target entity; and

20 (b) a reasonable person would conclude (having regard to all the
21 circumstances) that the trustee made the payment or loan
22 solely or mainly as part of an arrangement involving a
23 payment to the target entity; and

24 (c) either:

25 (i) the first interposed entity makes a payment to the target
26 entity; or

27 (ii) another entity interposed between the trustee and the
28 target entity makes a payment to the target entity.

29 (2) For the purposes of this section, it does not matter:

30 (a) whether the interposed entity made the payment to the target
31 entity before, after or at the same time as the first interposed
32 entity received the payment or loan from the trustee; or

33 (b) whether or not the interposed entity paid the target entity the
34 same amount as the trustee paid or lent the first interposed
35 entity.

- 1 (3) Treat the reference in paragraph 109XA(1)(b) to a payment as
2 being a reference to the payment to the target entity mentioned in
3 paragraph (1)(c) of this section.

4 **109XG Loans through interposed entities**

5 *Loans by a trustee through interposed entities*

- 6 (1) For the purposes of paragraph 109XA(2)(a), a trustee is taken to
7 have made a loan (the *notional loan*) to a shareholder, or to an
8 associate of a shareholder, (the *target entity*) of a private company
9 if:
10 (a) the trustee makes a payment or loan to another entity (the
11 *first interposed entity*) that is interposed between:
12 (i) the trustee; and
13 (ii) the target entity; and
14 (b) a reasonable person would conclude (having regard to all the
15 circumstances) that the trustee made the payment or loan
16 solely or mainly as part of an arrangement involving a loan to
17 the target entity; and
18 (c) either:
19 (i) the first interposed entity makes a loan to the target
20 entity; or
21 (ii) another entity interposed between the trustee and the
22 target entity makes a loan to the target entity.
23 (2) For the purposes of this section, it does not matter:
24 (a) whether the interposed entity made the loan to the target
25 entity before, after or at the same time as the first interposed
26 entity received the payment or loan from the trustee; or
27 (b) whether or not the interposed entity lent the target entity the
28 same amount as the trustee paid or lent the first interposed
29 entity.

30 *Notional loans*

- 31 (3) When working out whether an amount is included in the assessable
32 income of the target entity under section 109XB as a result of the
33 notional loan under subsection (1) of this section, and the amount
34 included in assessable income, assume that the target entity repays

1 an amount of the notional loan equal to the amount worked out
2 using the formula:

$$3 \quad \text{Repayment made by target} \times \frac{\text{Amount of notional loan}}{\text{Amount actually lent to target entity}}$$

entity to lender

4 where:

5 ***amount actually lent to target entity*** is the amount the interposed
6 entity lent to the target entity.

7 ***repayment made by target entity to lender*** is the amount of any
8 repayment made by the target entity of the loan the interposed
9 entity made to the target entity.

- 10 (4) For the purposes of section 109E (Amalgamated loan from a
11 previous year treated as dividend if minimum repayment not
12 made):
- 13 (a) treat the notional loan as an amalgamated loan from the
14 private company to the target entity; and
 - 15 (b) treat the amount of the notional loan worked out under
16 section 109XH as the amount of the amalgamated loan; and
 - 17 (c) treat the agreement under which the actual loan was made as
18 the agreement under which the amalgamated loan was made;
19 and
 - 20 (d) treat repayments by the target entity of the amount of the
21 notional loan worked out under subsection (3) of this section
22 as payments by the target entity to the private company in
23 relation to the amalgamated loan.
- 24 (5) For the purposes of section 109N (about certain loans not being
25 treated as dividends), treat the agreement under which the actual
26 loan was made as the agreement under which the notional loan was
27 made.

28 **109XH Amount and timing of payment or loan through interposed**
29 **entities**

30 *Amount of payment or loan*

- 31 (1) The amount the trustee is taken under section 109XF or 109XG to
32 have paid or lent the target entity is the amount (if any) determined
33 by the Commissioner.

- 1 (2) In determining the amount of the payment or loan, the
2 Commissioner must take account of:
3 (a) the amount the interposed entity paid or lent the target entity;
4 and
5 (b) how much (if any) of that amount the Commissioner believes
6 represented consideration payable to the target entity by:
7 (i) the trustee; or
8 (ii) any of the interposed entities;
9 for anything (assuming that the consideration payable equals
10 that for similar transactions at arm's length).

- 11 (3) The total of the amounts determined under subsection (1) for
12 payments and loans in relation to which section 109XB applies
13 because of the same present entitlement mentioned in paragraph
14 109XA(1)(c), (2)(b) or (3)(b) must not exceed the unpaid present
15 entitlement mentioned in subsection 109XA(4).

16 *Timing of payment or loan*

- 17 (4) The trustee is taken under section 109XF or 109XG to have made
18 the payment or loan at the time the interposed entity made the
19 payment or loan mentioned in paragraph 109XF(1)(c) or
20 109XG(1)(c) to the target entity.

21 **109XI Entitlements to trust income through interposed trusts**

22 *Entitlements through interposed trusts*

- 23 (1) For the purposes of paragraphs 109XA(1)(c), (2)(b) and (3)(b), a
24 private company is taken to be or to become entitled to an amount
25 from the net income of a trust estate (the *target trust*) if:
26 (a) the company is or becomes presently entitled to an amount
27 from the net income of another trust estate (the *first*
28 *interposed trust*) that is interposed between the target trust
29 and the company; and
30 (b) a reasonable person would conclude (having regard to all the
31 circumstances) that the company is or becomes so entitled
32 solely or mainly as part of an arrangement involving an
33 entitlement to an amount from the target trust; and
34 (c) either:

- 1 (i) the first interposed trust is or becomes presently entitled
2 to an amount from the net income of the target trust; or
3 (ii) another trust interposed between the target trust and the
4 company is or becomes presently entitled to an amount
5 from the net income of the target trust.

6 *This section operates regardless of certain factors*

- 7 (2) For the purposes of this section, it does not matter:
8 (a) whether the company became or becomes entitled to the
9 amount from the net income of the first interposed trust
10 before, after or at the same time as the interposed trust
11 became or becomes presently entitled to an amount from the
12 net income of the target trust; or
13 (b) whether or not the company became presently entitled to the
14 same amount as the amount to which the interposed trust
15 become entitled.

16 *This section does not operate to the extent Subdivision EA would*
17 *otherwise apply*

- 18 (3) Subsection (1) does not apply to the extent that an amount is
19 included in the assessable income of a shareholder, or an associate
20 of a shareholder, of the company under Subdivision EA (as it
21 applies apart from this section) as a result of the present
22 entitlement of any interposed trust.

23 *Amount of entitlement*

- 24 (4) The amount the private company is taken to be or to become
25 entitled to from the net income of the target trust is the amount (if
26 any) determined by the Commissioner.
27 (5) The total amount determined under subsection (4) for present
28 entitlements to which that subsection applies because of the same
29 present entitlement to an amount from the net income of the target
30 trust mentioned in paragraph (1)(c) must not exceed that amount.
31 (6) In determining the amount of the entitlement, the Commissioner
32 must take account of:
33 (a) the amount the private company is or becomes entitled to
34 from the net income of the first interposed trust; and

- 1 (b) how much (if any) of that amount the Commissioner believes
2 represented consideration payable to the private company by:
3 (i) the target trust; or
4 (ii) any of the interposed trusts;
5 for anything (assuming that the consideration payable equals
6 that for similar transactions at arm's length).

7 *Timing of entitlement*

- 8 (7) The company is taken to be or to become entitled to the amount
9 from the net income of the target trust at the time the company is or
10 becomes entitled to the amount from the net income of the first
11 interposed trust mentioned in paragraph (1)(a).

12 **26 Subsection 109Y(2) (formula)**

13 Repeal the formula, substitute:

14
$$\text{Net assets} + \text{Division 7A amounts} - \text{Non-commercial loans} - \text{Paid-up share value} - \text{Repayments of non-commercial loans}$$

15 **27 Subsection 109Y(2)**

16 Insert:

17 *Division 7A amounts* is the total of any amounts the company is
18 taken under section 109C or 109F to have paid as dividends in the
19 year of income apart from this section.

20 **28 Subsection 109Y(2) (definition of *non-commercial loans*)**

21 Repeal the definition, substitute:

22 *non-commercial loans* means the total of:

- 23 (a) any amounts that:
24 (i) the company is taken under former section 108, or
25 section 109D or 109E, to have paid as dividends in
26 earlier years of income; and
27 (ii) are shown as assets in the company's accounting
28 records at the end of year of income; and
29 (b) any amounts that are included in the assessable income of
30 shareholders, or associates of shareholders, of the company

1 under section 109XB as if the amounts were dividends paid
2 by the company in earlier years of income.

3 Note: The total amount worked out under paragraph (b) might be reduced
4 under subsection (2A).

5 **29 Subsection 109Y(2) (paragraphs (a) and (b) of the**
6 **definition of *repayments of non-commercial loans*)**

7 Omit “109E”, substitute “109E,”.

8 **30 After subsection 109Y(2)**

9 Insert:

10 (2A) Reduce the total of the amounts worked out under paragraph (b) of
11 the definition of *non-commercial loans* in subsection (2) by the
12 total of the unfranked parts of any dividends:

- 13 (a) that are distributed by the company; and
14 (b) to which section 109ZCA applies.

15 **31 At the end of Subdivision F of Division 7A of Part III**

16 Add:

17 **109ZCA Treatment of dividend that is reduced on account of an**
18 **amount included in assessable income under Subdivision**
19 **EA**

20 (1) This section sets out special rules for dealing with a dividend (the
21 *later dividend*) distributed by a private company if:

- 22 (a) an amount is included in the assessable income of a
23 shareholder, or an associate of a shareholder, of the company
24 under section 109XB because of a loan made to the
25 shareholder or associate by a trustee in relation to a present
26 entitlement of the company to an amount from the net
27 income of the trust estate; and
28 (b) subsection 109XA(2) applied to the loan; and
29 (c) some or all of the later dividend is applied to repay all or a
30 part of the loan.

31 (2) The amount of the later dividend applied is taken not to be a
32 dividend for the purposes of this Act, except Part 3-6 of the *Income*
33 *Tax Assessment Act 1997* (which deals with franking of
34 distributions).

- 1 (3) However, if the amount set off or applied exceeds the amount of
2 the later dividend that is neither:
3 (a) the franked part of that dividend; nor
4 (b) the part of that dividend that has been franked with an
5 exempting credit;
6 the excess is still a dividend.

7 Note: This prevents double taxation by ensuring that the entity's assessable
8 income does not include the amount of the later dividend that is not
9 paid to the entity (except to the extent that that amount is franked).

- 10 (4) An amount that is taken not to be a dividend under subsection (2)
11 is not assessable income and is not exempt income.

12 **32 Section 109ZD (at the end of the definition of *payment*)**

13 Add "and section 109CA".

14 **33 Subparagraph 485AA(1)(a)(i)**

15 Omit "for the purposes of Division 5A of Part III".

16 ***Income Tax Assessment Act 1997***

17 **34 Section 11-55 (table item headed "dividends")**

18 Omit:
later dividend set off against amount taken to be dividend. **109ZC(3)**

19 Substitute:
later dividend set off against amount taken to be dividend. **109ZC(3),
109ZCA(4)**

20 **35 Application provision**

21 The amendments made by this Schedule apply in relation to:

- 22 (a) payments made; and
23 (b) loans made; and
24 (c) debts forgiven;

25 on or after 1 July 2009.

1
2 **Schedule 2—Extending the TFN withholding**
3 **arrangements to closely held trusts,**
4 **including family trusts**

5 **Part 1—Main amendments**

6 *Income Tax Assessment Act 1936*

7 **1 After Division 4A of Part VA**

8 Insert:

9 **Division 4B—Quotation of tax file numbers in connection**
10 **with certain closely held trusts**

11 **202DN Application of Division**

12 This Division applies to both the trustee of a trust and to a
13 beneficiary of the trust, if:

14 (a) paragraph 12-175(1)(c) in Schedule 1 to the *Taxation*
15 *Administration Act 1953* applies to the trust; and

16 Note: That paragraph applies to certain closely held trusts.

17 (b) paragraph 12-175(1)(d) in that Schedule applies to the
18 beneficiary.

19 **202DO Quotation of tax file numbers**

20 (1) The beneficiary may quote the beneficiary's tax file number to the
21 trustee.

22 (2) The beneficiary *quotes* the beneficiary's tax file number to the
23 trustee if the beneficiary, or another person acting for the
24 beneficiary, informs the trustee of the number in a manner
25 approved by the Commissioner.

26 **202DP Trustee must report quoted tax file numbers**

27 (1) The trustee must report the beneficiary's tax file number to the
28 Commissioner, in the approved form, if:

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- 1 (a) the beneficiary quotes the beneficiary's tax file number to the
2 trustee during a quarter (within the meaning of the *Income*
3 *Tax Assessment Act 1997*); and
4 (b) the beneficiary has not quoted the beneficiary's tax file
5 number to the trustee in connection with an investment to
6 which this Part applies; and
7 (c) the trustee has not reported, and is not required to report, the
8 beneficiary's tax file number to the Commissioner under
9 Division 6D of Part III of this Act (about trustee beneficiary
10 non-disclosure tax).
- 11 (2) The trustee must give the report to the Commissioner within:
12 (a) one month after the end of the quarter to which it relates; or
13 (b) within such further time as the Commissioner allows.
- 14 (3) The Commissioner may, by notice in writing given to the trustee,
15 inform the trustee that the period specified in the notice (being a
16 period greater than 3 months) is to be the trustee's reporting period
17 for the purposes of this section. If the Commissioner does so, a
18 reference in this section to a quarter is taken to be a reference to the
19 period specified in the notice.
- 20 (4) For the purposes of this section, disregard subsection 202DR(3).
- 21 Note: Refusal or failure to report to the Commissioner as required by this
22 section is an offence under section 8C of the *Taxation Administration*
23 *Act 1953*.

24 **202DR Effect of incorrect quotation of tax file number**

25 *Commissioner may notify trustee of correct tax file number*

- 26 (1) If the Commissioner is satisfied:
27 (a) that the tax file number quoted to the trustee:
28 (i) has been cancelled or withdrawn since it was quoted; or
29 (ii) is otherwise wrong; and
30 (b) that the beneficiary has a tax file number;
31 the Commissioner may give the trustee notice in writing of the
32 beneficiary's correct tax file number.
- 33 (2) The notice give under subsection (1) is taken to have taken effect
34 on the day on which the cancelled or withdrawn tax file number
35 was quoted to the trustee as mentioned in paragraph (1)(a).
-

- 1 (3) On and from the day on which the notice given under
2 subsection (1) took effect, the beneficiary is taken to have quoted
3 the beneficiary's correct tax file number to the trustee.
- 4 *Commissioner may notify trustee if beneficiary does not have a tax*
5 *file number etc.*
- 6 (4) If:
7 (a) the Commissioner is satisfied that the tax file number quoted
8 to the trustee:
9 (i) has been cancelled or withdrawn since it was quoted; or
10 (ii) is for any other reason not the beneficiary's tax file
11 number; and
12 (b) the Commissioner is not satisfied that the beneficiary has a
13 tax file number;
14 the Commissioner must give the trustee written notice accordingly.
- 15 (5) The Commissioner must give the beneficiary a copy of the notice
16 given under subsection (4), together with a written statement of the
17 reasons for the decision to give the notice.
- 18 (6) The notice given under subsection (4) takes effect on the day
19 specified in the notice, being a day not earlier than the day on
20 which the copy of the notice is given to the beneficiary.
- 21 (7) On and from the day on which the notice given under
22 subsection (4) takes effect, the beneficiary is taken not to have
23 quoted the beneficiary's tax file number to the trustee.
- 24 Note: The trustee may be required to withhold an amount from a payment to
25 the beneficiary if the beneficiary has not quoted the beneficiary's tax
26 file number to the trustee at the time the payment is made: see
27 sections 12-175 and 12-180 in Schedule 1 to the *Taxation*
28 *Administration Act 1953*.
- 29 As such, the trustee may be required to withhold if a notice under
30 subsection (4) of this section is in effect on the day on which the
31 payment is made.

32 **2 After paragraph 202F(1)(da)**

33 Insert:

- 34 (db) a decision to give a notice under subsection 202DR(4);

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1 ***Taxation Administration Act 1953***

2 **3 Subsection 10-5(1) in Schedule 1 (after table item 14)**

3 Insert:

14A	A trustee of a closely held trust distributing an amount from the trust income to a beneficiary, where the beneficiary does not quote its tax file number	12-175
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14B	A beneficiary of a closely held trust becoming presently entitled to income of the trust, where the beneficiary does not quote its tax file number	12-180
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4 **4 Subsection 12-5(2) in Schedule 1 (table item 5, column**
5 **headed “In priority to:”)**

6 Before “section”, insert “section 12-175 or 12-180 (Payment of income
7 of closely held trust where TFN not quoted) or”.

8 **5 After section 12-170 in Schedule 1**

9 Insert:

10 **Payment of income of closely held trust where TFN not quoted**

11 **12-175 Trustee distributes income of closely held trust**

12 *Scope*

13 (1) This section applies if:

14 (a) the trustee of a trust makes a distribution to a beneficiary of
15 the trust at a time (the *distribution time*) during an income
16 year of the trust; and

17 (b) some or all of the distribution is from the *ordinary income or
18 *statutory income of the trust; and

19 (c) the trust is:

20 (i) a resident trust estate (within the meaning of subsection
21 95(2) of the *Income Tax Assessment Act 1936*) in
22 relation to the income year; and

23 (ii) a closely held trust (within the meaning of
24 section 102UC of that Act, disregarding paragraphs (c),
25 (d) and (e) of the definition of *excluded trust* in
26 subsection (4) of that section); and

- 1 (iii) not prescribed by the regulations for the purposes of this
2 subparagraph; and
3 (d) the beneficiary is:
4 (i) an Australian resident; and
5 (ii) not an *exempt entity; and
6 (iii) not under a legal disability for the purposes of
7 section 98 of that Act.

8 *Trustee must withhold*

- 9 (2) The trustee must withhold an amount from the distribution, if:
10 (a) the beneficiary did not *quote the beneficiary's *tax file
11 number to the trustee before the distribution time; and
12 (b) the trustee is not liable to pay tax under section 98 of the
13 *Income Tax Assessment Act 1936* in connection with the
14 distribution; and
15 (c) the trustee is not required to make a correct TB statement
16 under Division 6D of Part III of that Act (about trustee
17 beneficiary non-disclosure tax) in connection with the
18 distribution; and
19 (d) family trust distribution tax is not payable under Schedule 2F
20 to that Act in connection with the distribution.

21 Note 1: If the trust is a unit trust, the trustee may be required to withhold under
22 section 12-140 in priority to this section: see section 12-5.

23 Note 2: The trustee commits an offence if the trustee fails to withhold an
24 amount as required by this section: see section 16-25.

25 *Application of rest of Part*

- 26 (3) If the distribution is not a payment, this Part applies as if the trustee
27 paid the amount of the distribution to the beneficiary at the
28 distribution time.

29 *Trust income of earlier income years*

- 30 (4) Subsections (2) and (3) do not apply to the distribution, to the
31 extent that:
32 (a) the beneficiary is presently entitled, for the purposes of
33 Division 6 of Part III of the *Income Tax Assessment Act*
34 *1936*, to a share of the income of the trust of an earlier
35 income year; and

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1 (b) the distribution is a distribution of some or all of that share.

2 Note: The trustee may have been required to withhold from that share under
3 section 12-180.

4 **12-180 Beneficiary becomes presently entitled to income of closely**
5 **held trust**

6 *Scope*

7 (1) This section applies if:

- 8 (a) at the end of an income year of a trust, a beneficiary of the
9 trust is presently entitled, for the purposes of Division 6 of
10 Part III of the *Income Tax Assessment Act 1936*, to a share of
11 the income of the trust of that year; and
12 (b) paragraph 12-175(1)(c) in this Schedule applies to the trustee
13 of the trust; and
14 (c) paragraph 12-175(1)(d) applies to the beneficiary.

15 *Trustee must withhold*

16 (2) The trustee must withhold an amount from that share of the *net
17 income of the trust, if:

- 18 (a) the beneficiary did not *quote the beneficiary's *tax file
19 number to the trustee before the end of the year; and
20 (b) the trustee is not liable to pay tax in respect of that share
21 under section 98 of the *Income Tax Assessment Act 1936*; and
22 (c) the trustee is not required to make a correct TB statement
23 about that share under Division 6D of Part III of that Act
24 (about trustee beneficiary non-disclosure tax); and
25 (d) family trust distribution tax is not payable on that share of the
26 income of the trust under Schedule 2F to that Act.

27 Note 1: If the trust is a unit trust, the trustee may be required to withhold under
28 section 12-145 in priority to this section: see section 12-5.

29 Note 2: The trustee commits an offence if the trustee fails to withhold an
30 amount as required by this section: see section 16-25.

31 *Application of rest of Part*

32 (3) This Part (other than section 12-175) applies as if the trustee had
33 paid that share of the *net income of the trust to the beneficiary at
34 the end of the income year.

1 *Entitlements already paid*

- 2 (4) Subsections (2) and (3) do not apply to that share of the *net
3 income of the trust to the extent that the trustee distributed any of
4 that share to the beneficiary during the income year.

5 Note: The trustee may have been required to withhold from that distribution
6 under section 12-175.

7 *Trusts that end during the year*

- 8 (5) This section applies as if each reference to the end of an income
9 year were a reference to the time occurring just before the trust
10 ends, if the trust ends during the income year.

11 **12-185 Exception for payments below thresholds set by regulations**

- 12 (1) Section 12-175 or 12-180 does not require an amount to be
13 withheld if the payment (including the payment mentioned in
14 subsection 12-180(3)) is less than the amount worked out under the
15 regulations.
16 (2) Regulations made for the purposes of this section may deal
17 differently with different payments.

18 **6 At the end of subsection 12-190(5) in Schedule 1**

19 Add:

- 20 ; or (d) is covered by section 12-175 or 12-180 (Payment of income
21 of closely held trust where TFN not quoted); or
22 (e) would be covered by section 12-175 or 12-180 if the other
23 entity had not quoted as mentioned in paragraph 12-175(2)(a)
24 or 12-180(2)(a); or
25 (f) would be covered by section 12-175 or 12-180 apart from
26 section 12-185 (which is an exception to sections 12-175 and
27 12-180).

28 **7 Subsection 15-15(1) in Schedule 1**

29 Omit “or 12-145”, substitute “, 12-145, 12-175 or 12-180”.

30 **8 Subsection 15-15(1) in Schedule 1 (note)**

31 Repeal the note, substitute:

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-
- 1 Note 1: Section 12-140 is about a payment arising from an investment where
2 the recipient does not quote its tax file number (or, in some cases, its
3 ABN).
- 4 Note 2: Sections 12-175 and 12-180 are about a payment of the income of a
5 closely held trust to a beneficiary, where the beneficiary does not
6 quote the beneficiary's tax file number.
- 7 Note 3: Section 12-145 is about an investor becoming presently entitled to
8 income of a unit trust.
- 9 Note 4: Subdivision 12-H is about distributions of managed investment trust
10 income.

11 **9 Section 16-5 in Schedule 1 (after note 1)**

12 Insert:

- 13 Note 1A: A trustee of a closely held trust is required to withhold an amount
14 under section 12-180 when a beneficiary is presently entitled to
15 unpaid income of the trust.

16 **10 Subsections 16-75(1) to (4) in Schedule 1**

17 After "Division 12", insert "(other than section 12-175 or 12-180)".

18 **11 At the end of section 16-75 in Schedule 1**

19 Add:

20 *Payment of income of closely held trust*

- 21 (5) A trustee must pay to the Commissioner an amount the trustee
22 withholds under section 12-175 or 12-180 from a payment made
23 during an income year. The trustee must do so:
- 24 (a) by the end of the 28th day of the next month following the
25 day by which the trustee was required to give to the
26 Commissioner a report under subsection 16-152(1) for the
27 income year; or
28 (b) within a longer period allowed by the Commissioner.

29 **12 After section 16-150 in Schedule 1**

30 Insert:

1 **16-152 Annual reports—Withholding payments covered by**
2 **section 12-175**

3 *Reports about withholding payments*

- 4 (1) A trustee must give a report to the Commissioner in the *approved
5 form if the trustee made any *withholding payments covered by
6 section 12-175 or 12-180 (about payments from the income of
7 certain closely held trusts) during an income year.
- 8 (2) The trustee must give the report under subsection (1) to the
9 Commissioner:
- 10 (a) not later than 3 months after the end of the income year; or
11 (b) within such further period (if any) as the Commissioner
12 allows.

13 *Reports about trust distributions*

- 14 (3) A trustee must give a report to the Commissioner in the *approved
15 form if the trustee would be taken to have made any *withholding
16 payments covered by section 12-175 or 12-180 during an income
17 year if the relevant beneficiary had not *quoted the beneficiary's
18 *tax file number as mentioned in paragraph 12-175(2)(a) or
19 12-180(2)(a).

20 Note: The effect of subsection (3) is that the trustee must report amounts
21 distributed to beneficiaries even if the trustee was not required to
22 withhold from those distributions.

- 23 (4) The trustee must give the report under subsection (3) to the
24 Commissioner:
- 25 (a) by the end of the day on which the trustee lodges the trust's
26 *income tax return for the income year; or
27 (b) within such further period (if any) as the Commissioner
28 allows.

29 *Miscellaneous*

- 30 (5) Subsections 16-153(5), (6) and (7) apply to this section in the same
31 way as they apply to section 16-153.

32 **13 Section 16-153 in Schedule 1 (heading)**

33 Repeal the heading, substitute:

1 **16-153 Annual reports—other payments**

2 **14 Paragraph 16-155(1)(a) in Schedule 1**

3 After “12-85,” insert “12-175, 12-180,”.

4 **15 After section 16-155 in Schedule 1**

5 Insert:

6 **16-156 Annual payment summary for sections 12-175 and 12-180**

7 (1) A trustee must give a *payment summary to a beneficiary of the
8 trust, if the trustee made any *withholding payments covered by
9 section 12-175 or 12-180 to the beneficiary during the income
10 year.

11 (2) The *payment summary:

12 (a) must cover each of the *withholding payments mentioned in
13 subsection (1); and

14 (b) may be in electronic form; and

15 (c) must be given:

16 (i) not later than 14 days after the day by which the trustee
17 was required to give the Commissioner a report under
18 subsection 16-152(1) for the income year; or

19 (ii) within a longer period allowed by the Commissioner.

20 **16 Subsection 16-170(1) in Schedule 1**

21 Before “Subdivision 12-H”, insert “section 12-175 or 12-180 or”.

22 **17 After subsection 16-170(1) in Schedule 1**

23 Insert:

24 (1AAA) A *payment summary* relating to section 12-175 or 12-180 is a
25 statement that:

26 (a) names the trustee and the beneficiary; and

27 (b) states the total of the *withholding payments (if any) that it
28 covers, and the total of the *amounts withheld by the trustee
29 from those withholding payments; and

30 (c) specifies the income year of the trust to which it relates; and

31 (d) is in the *approved form.

1 **18 Subsection 16-170(3) in Schedule 1**

2 After “section 16-155,” insert “16-156,”.

3 **19 Subsection 16-170(4) in Schedule 1**

4 After “subsection (1),” insert “(1AAA),”.

5 **20 Subsection 16-175(1) in Schedule 1**

6 After “section 16-155,” insert “16-156,”.

7 **21 Subsection 16-175(1) in Schedule 1**

8 After “subsection 16-170(1),” insert “(1AAA),”.

9 **22 Subparagraph 18-65(3)(d)(iv) in Schedule 1**

10 Omit “and”.

11 **23 At the end of paragraph 18-65(3)(d) in Schedule 1**

12 Add:

13 (v) section 12-175 or 12-180 (Payment of income of closely
14 held trust where TFN not quoted); and

15 **24 Application provision**

16 (1) Subject to subitem (2), the amendments made by this Schedule apply to
17 income of a trust of an income year starting on or after 1 July 2010.

18 (2) Subsection 12-175(4) in Schedule 1 to the *Taxation Administration Act*
19 *1953*, inserted by this Schedule, applies to income of a trust of any
20 income year.

21 **25 Application provision—tax file number reporting**

22 Section 202DP of the *Income Tax Assessment Act 1936*, inserted by this
23 Act, applies to a quarter in relation to a trust if the quarter commences
24 during an income year of the trust starting on or after 1 July 2010.

Schedule 2 Extending the TFN withholding arrangements to closely held trusts, including family trusts

Part 2 Amendments contingent on the Tax Laws Amendment (2010 Measures No. 1) Act 2010

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**Part 2—Amendments contingent on the Tax Laws
Amendment (2010 Measures No. 1) Act 2010**

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Income Tax Assessment Act 1997

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26 Subsection 995-1(1) (at the end of the definition of *quote*)

6

Add:

7

; (c) ***quote*** a tax file number to a trustee: the beneficiary of a trust ***quotes*** the beneficiary's tax file number to the trustee of the trust if:

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10

(i) Division 4B of Part VA of the *Income Tax Assessment Act 1936* applies to the trustee and to the beneficiary;

11

12

and

13

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(ii) the beneficiary is taken, for the purposes of that Part, to have quoted the beneficiary's tax file number to the trustee.

16

27 Subsection 995-1(1) (definition of *quoted*)

17

Repeal the definition, substitute:

18

quoted:

19

(a) an entity has ***quoted*** its *tax file number in connection with a *Part VA investment if the entity is taken, for the purposes of Part VA of the *Income Tax Assessment Act 1936*, to have quoted its tax file number in connection with the investment; and

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(b) the beneficiary of a trust has ***quoted*** the beneficiary's tax file number to the trustee of the trust if:

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(i) Division 4B of Part VA of the *Income Tax Assessment Act 1936* applies to the trustee and to the beneficiary;

and

(ii) the beneficiary is taken, for the purposes of that Part, to have quoted the beneficiary's tax file number to the trustee.

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Schedule 3—Exemption of HECS-HELP benefit

Income Tax Assessment Act 1997

1 Section 11-15 (table item headed “education and training”)

After:
full-time student, income from a scholarship, bursary,
other educational allowance or educational
assistance 51-10 and 51-35

Insert:
HECS-HELP benefit, recipient of 51-10

2 Section 51-10 (at the end of the table)

Add:
2.9 a recipient of a the benefit none
*HECS-HELP benefit

3 Subsection 995-1(1)

Insert:
HECS-HELP benefit has the same meaning as in the *Higher Education Support Act 2003*.

4 Application provision

The amendments made by this Schedule apply to assessments for:
(a) the 2008-09 income year; and
(b) later income years.

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Schedule 4—Deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-25(2) (table item 2.2.34, column headed “Special conditions”)

7 Omit “1 July 2009”, substitute “1 July 2012”.

2 Subsection 30-80(2) (at the end of the table)

9 Add:

9.2.22	Sichuan Earthquake Surviving Children’s Education Fund	the gift must be made after 11 May 2008 and before 13 May 2010
9.2.23	Bali Peace Park Association Inc	the gift must be: (a) made after 15 December 2009 and before 17 December 2011; and (b) used for the purpose of establishing the Bali Peace Park

10 3 Subsection 30-315(2) (after table item 27)

11 Insert:

27AAA	Bali Peace Park Association Inc	item 9.2.23
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12 4 Subsection 30-315(2) (after table item 109)

13 Insert:

110	Sichuan Earthquake Surviving Children’s Education Fund	item 9.2.22
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14 5 Application provision

15 The amendments made by this Schedule apply to assessments for:

- 16 (a) the 2007-08 income year; and
17 (b) later income years.

1
2 **Schedule 5—Global Carbon Capture and**
3 **Storage Institute Ltd**

4 **Part 1—Amendments commencing on Royal Assent**

5 **Division 1—Main amendment**

6 *Income Tax Assessment Act 1997*

7 **1 Section 50-5 (at the end of the table)**

8 Add:

- | | | |
|-----|--|--|
| 1.8 | Global Carbon Capture and Storage
Institute Ltd | only amounts included in
assessable income:
(a) on or after 1 July 2009; and
(b) before 1 July 2013 |
|-----|--|--|

9 **Division 2—Consequential amendments**

10 *Income Tax Assessment Act 1936*

11 **2 Section 102M (definition of *eligible policy*)**

12 Repeal the definition.

13 **3 Section 102M (definition of *exempt entity*)**

14 Repeal the definition.

15 **4 Section 102M (definition of *exempt life assurance fund*)**

16 Repeal the definition.

17 **5 Section 102M (definition of *trustee*)**

18 Repeal the definition.

19 **6 After section 102MC**

20 Insert:

1 **102MD Application of Division to trustees etc. of exempt life**
2 **assurance funds and superannuation funds**

3 This Division applies to the person in whom the assets of a fund
4 are vested (whether or not as trustee) in the same way as this
5 Division applies to an exempt entity, if the fund is:

- 6 (a) a fund maintained by a life assurance company solely in
7 respect of a class of life assurance business that consists of
8 business of, or in relation to, the issuing of, or the
9 undertaking of liability under:
10 (i) exempt life insurance policies (within the meaning of
11 the *Income Tax Assessment Act 1997*); or
12 (ii) complying superannuation/FHSA life insurance policies
13 (within the meaning of that Act); or
14 (b) a complying superannuation fund, a complying approved
15 deposit fund or a pooled superannuation trust.

16 ***Income Tax Assessment Act 1997***

17 **7 Section 11-5 (table item headed “charity, education,**
18 **religion or science”)**

19 Omit “religion or science”, substitute “science or religion”.

20 **8 Section 11-5 (table item headed “charity, education,**
21 **religion or science”)**

22 After:

educational institution, public..... 50-5

23 Insert:

Global Carbon Capture and Storage Institute Ltd 50-5

24 **9 Paragraph 295-173(b)**

25 Repeal the paragraph, substitute:

- 26 (b) covered by section 102MD of the *Income Tax Assessment Act*
27 *1936* because of paragraph (a) of that section (trustees etc. of
28 exempt life assurance funds).

1

2 **Part 2—Sunsetting on 1 January 2018**

3 *Income Tax Assessment Act 1997*

4 **10 Section 11-5 (table item headed “charity, education,
5 science or religion”)**

6 Omit:
Global Carbon Capture and Storage Institute Ltd 50-5

7 **11 Section 50-5 (table item 1.8)**

8 Repeal the item.

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Schedule 6—Repeal of certain unlimited periods for amending assessments

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

1 Section 4

Repeal the section.

Income Tax Assessment Act 1936

2 Subsection 23AG(6G)

Repeal the subsection.

3 Subsection 170(10) (table items 12 and 13)

Repeal the items.

4 Subsection 170(10AA) (table items 1, 20 and 180)

Repeal the items.

5 Subsection 454(1)

Omit “(1) Where”, substitute “If”.

6 Subsection 454(2)

Repeal the subsection.

Income Tax Assessment Act 1997

7 Subsection 26-35(5)

Repeal the subsection.

8 Section 214-130

Repeal the section.

9 Subsection 900-240(1)

Omit “(1)”.

1 **10 Subsection 900-240(2)**

2 Repeal the subsection.

3 ***New Business Tax System (Capital Gains Tax) Act 1999***

4 **11 Section 4**

5 Repeal the section.

6 ***New Business Tax System (Consolidation) Act (No. 1) 2002***

7 **12 Section 4**

8 Repeal the section.

9 ***New Business Tax System (Consolidation and Other***
10 ***Measures) Act 2003***

11 **13 Section 4**

12 Repeal the section.

13 ***New Business Tax System (Consolidation and Other***
14 ***Measures) Act (No. 1) 2002***

15 **14 Section 4**

16 Repeal the section.

17 ***New Business Tax System (Consolidation, Value Shifting,***
18 ***Demergers and Other Measures) Act 2002***

19 **15 Section 4**

20 Repeal the section.

21 ***New Business Tax System (Income Tax Rates) Act (No. 2)***
22 ***1999***

23 **16 Section 4**

24 Repeal the section.

1 ***New Business Tax System (Miscellaneous) Act (No. 1) 2000***

2 **17 Section 4**

3 Repeal the section.

4 ***New Business Tax System (Miscellaneous) Act (No. 2) 2000***

5 **18 Section 4**

6 Repeal the section.

7 ***New Business Tax System (Taxation of Financial***
8 ***Arrangements) Act (No. 1) 2003***

9 **19 Section 4**

10 Repeal the section.

11 ***Petroleum (Timor Sea Treaty) (Consequential Amendments)***
12 ***Act 2003***

13 **20 Section 4**

14 Repeal the section.

15 ***Taxation Laws Amendment Act 1985***

16 **21 Section 39**

17 Repeal the section.

18 ***Taxation Laws Amendment Act 1986***

19 **22 Section 26**

20 Repeal the section.

21 ***Taxation Laws Amendment Act 1987***

22 **23 Section 33**

23 Repeal the section.

1 ***Taxation Laws Amendment Act 1988***

2 **24 Section 40**

3 Repeal the section.

4 ***Taxation Laws Amendment Act 1989***

5 **25 Section 53**

6 Repeal the section.

7 ***Taxation Laws Amendment Act 1990***

8 **26 Section 41**

9 Repeal the section.

10 ***Taxation Laws Amendment Act 1991***

11 **27 Sections 90 and 99**

12 Repeal the sections.

13 ***Taxation Laws Amendment Act 1992***

14 **28 Section 75**

15 Repeal the section.

16 ***Taxation Laws Amendment Act 1993***

17 **29 Division 18 of Part 3**

18 Repeal the Division.

19 ***Taxation Laws Amendment Act 1994***

20 **30 Division 11 of Part 3**

21 Repeal the Division.

1 ***Taxation Laws Amendment Act (No. 1) 1995***

2 **31 Part 12 of Schedule 1**

3 Repeal the Part.

4 ***Taxation Laws Amendment Act (No. 1) 1996***

5 **32 Section 4**

6 Repeal the section.

7 ***Taxation Laws Amendment Act (No. 1) 1997***

8 **33 Section 4**

9 Repeal the section.

10 ***Taxation Laws Amendment Act (No. 1) 1998***

11 **34 Section 4**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 1) 1999***

14 **35 Section 4**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 1) 2004***

17 **36 Section 4**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 2) 1985***

20 **37 Section 36**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 2) 1986***

2 **38 Section 28**

3 Repeal the section.

4 ***Taxation Laws Amendment Act (No. 2) 1987***

5 **39 Section 48**

6 Repeal the section.

7 ***Taxation Laws Amendment Act (No. 2) 1988***

8 **40 Section 57**

9 Repeal the section.

10 ***Taxation Laws Amendment Act (No. 2) 1989***

11 **41 Section 15**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 2) 1990***

14 **42 Section 65**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 2) 1991***

17 **43 Subsection 84(1)**

18 Repeal the subsection.

19 **44 Subsection 84(2)**

20 Omit "(2)".

21 ***Taxation Laws Amendment Act (No. 2) 1992***

22 **45 Section 75**

23 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 2) 1993***

2 **46 Division 9 of Part 3**

3 Repeal the Division.

4 ***Taxation Laws Amendment Act (No. 2) 1994***

5 **47 Division 14 of Part 3**

6 Repeal the Division.

7 ***Taxation Laws Amendment Act (No. 2) 1995***

8 **48 Part 8 of Schedule 3**

9 Repeal the Part.

10 ***Taxation Laws Amendment Act (No. 2) 1996***

11 **49 Section 4**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 2) 1997***

14 **50 Section 4**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 2) 1999***

17 **51 Section 4**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 2) 2000***

20 **52 Section 4**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 2) 2003***

2 **53 Section 4**

3 Repeal the section.

4 ***Taxation Laws Amendment Act (No. 2) 2004***

5 **54 Section 4**

6 Repeal the section.

7 ***Taxation Laws Amendment Act (No. 3) 1985***

8 **55 Section 43**

9 Repeal the section.

10 ***Taxation Laws Amendment Act (No. 3) 1987***

11 **56 Section 40**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 3) 1989***

14 **57 Section 23**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 3) 1990***

17 **58 Section 35**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 3) 1991***

20 **59 Section 103**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 3) 1992***

2 **60 Division 12 of Part 2**

3 Repeal the Division.

4 ***Taxation Laws Amendment Act (No. 3) 1993***

5 **61 Division 11 of Part 4**

6 Repeal the Division.

7 ***Taxation Laws Amendment Act (No. 3) 1994***

8 **62 Division 15 of Part 2**

9 Repeal the Division.

10 ***Taxation Laws Amendment Act (No. 3) 1995***

11 **63 Part 7 of Schedule 1**

12 Repeal the Part.

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

14 **64 Section 4**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 3) 1998***

17 **65 Section 4**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 3) 2002***

20 **66 Section 4**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 3) 2003***

2 **67 Section 4**

3 Repeal the section.

4 ***Taxation Laws Amendment Act (No. 4) 1985***

5 **68 Section 24**

6 Repeal the section.

7 ***Taxation Laws Amendment Act (No. 4) 1986***

8 **69 Section 50**

9 Repeal the section.

10 ***Taxation Laws Amendment Act (No. 4) 1987***

11 **70 Sections 52 and 62**

12 Repeal the sections.

13 ***Taxation Laws Amendment Act (No. 4) 1988***

14 **71 Section 58**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 4) 1989***

17 **72 Section 32**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 4) 1990***

20 **73 Section 37**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 4) 1992***

2 **74 Division 7 of Part 2**

3 Repeal the Division.

4 ***Taxation Laws Amendment Act (No. 4) 1994***

5 **75 Part 6 of Schedule 1**

6 Repeal the Part.

7 ***Taxation Laws Amendment Act (No. 4) 1995***

8 **76 Section 4**

9 Repeal the section.

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

11 **77 Section 4**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 4) 1999***

14 **78 Section 4**

15 Repeal the section.

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

17 **79 Section 4**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 4) 2002***

20 **80 Section 4**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 4) 2003***

2 **81 Section 4**

3 Repeal the section.

4 ***Taxation Laws Amendment Act (No. 5) 1988***

5 **82 Division 7 of Part III**

6 Repeal the Division.

7 ***Taxation Laws Amendment Act (No. 5) 1989***

8 **83 Section 50**

9 Repeal the section.

10 ***Taxation Laws Amendment Act (No. 5) 1990***

11 **84 Section 33**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 5) 1992***

14 **85 Division 19 of Part 2**

15 Repeal the Division.

16 ***Taxation Laws Amendment Act (No. 5) 2000***

17 **86 Section 4**

18 Repeal the section.

19 ***Taxation Laws Amendment Act (No. 5) 2001***

20 **87 Section 4**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 5) 2002***

2 **88 Section 4**

3 Repeal the section.

4 ***Taxation Laws Amendment Act (No. 5) 2003***

5 **89 Section 4**

6 Repeal the section.

7 ***Taxation Laws Amendment Act (No. 6) 1992***

8 **90 Division 8 of Part 2**

9 Repeal the Division.

10 ***Taxation Laws Amendment Act (No. 6) 2000***

11 **91 Section 4**

12 Repeal the section.

13 ***Taxation Laws Amendment Act (No. 6) 2001***

14 **92 Section 4**

15 Repeal the section.

16 ***Taxation Laws Amendment Act (No. 6) 2003***

17 **93 Section 4**

18 Repeal the section.

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

20 **94 Section 4**

21 Repeal the section.

1 ***Taxation Laws Amendment Act (No. 8) 2003***

2 **95 Section 4**

3 Repeal the section.

4 ***Taxation Laws Amendment (Company Distributions) Act***
5 ***1987***

6 **96 Section 19**

7 Repeal the section.

8 ***Taxation Laws Amendment (Earlier Access to Farm***
9 ***Management Deposits) Act 2002***

10 **97 Section 4**

11 Repeal the section.

12 ***Taxation Laws Amendment (Foreign Income) Act 1990***

13 **98 Section 61**

14 Repeal the section.

15 ***Taxation Laws Amendment (Foreign Income Measures) Act***
16 ***1997***

17 **99 Section 4**

18 Repeal the section.

19 **100 Subitems 128(4) and 129(8) of Schedule 1**

20 Repeal the subitems.

21 ***Taxation Laws Amendment (Fringe Benefits and***
22 ***Substantiation) Act 1987***

23 **101 Section 75**

24 Repeal the section.

1 ***Taxation Laws Amendment (Medicare Levy and Medicare***
2 ***Levy Surcharge) Act 2002***

3 **102 Section 4**

4 Repeal the section.

5 ***Taxation Laws Amendment (Software Depreciation) Act 1999***

6 **103 Section 4**

7 Repeal the section.

8 ***Taxation Laws Amendment (Structured Settlements and***
9 ***Structured Orders) Act 2002***

10 **104 Section 4**

11 Repeal the section.

12 ***Taxation Laws Amendment (Superannuation) Act 1989***

13 **105 Section 66**

14 Repeal the section.

15 ***Taxation Laws Amendment (Superannuation) Act 1992***

16 **106 Division 12 of Part 2**

17 Repeal the Division.

18 ***Taxation Laws Amendment (Superannuation) Act 1993***

19 **107 Division 8 of Part 2**

20 Repeal the Division.

21 ***Taxation Laws Amendment (Superannuation) Act (No. 2)***
22 ***2002***

23 **108 Section 4**

1 Omit “and section 170 of the *Income Tax Assessment Act 1936* do”,
2 substitute “does”.

3 ***Taxation Laws Amendment (Trust Loss and Other***
4 ***Deductions) Act 1998***

5 **109 Section 4**

6 Repeal the section.

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

8 **110 Section 4**

9 Repeal the section.

10 ***Tax Laws Amendment (2004 Measures No. 1) Act 2004***

11 **111 Section 4**

12 Repeal the section.

13 ***Tax Laws Amendment (2004 Measures No. 2) Act 2004***

14 **112 Section 4**

15 Repeal the section.

16 ***Tax Laws Amendment (2004 Measures No. 3) Act 2004***

17 **113 Section 4**

18 Repeal the section.

19 ***Tax Laws Amendment (2004 Measures No. 6) Act 2005***

20 **114 Section 4**

21 Repeal the section.

22 ***Tax Laws Amendment (2004 Measures No. 7) Act 2005***

23 **115 Section 4**

1 Repeal the section.

2 ***Tax Laws Amendment (Medicare Levy and Medicare Levy***
3 ***Surcharge) Act 2004***

4 **116 Section 5**

5 Repeal the section.

6 ***Tax Laws Amendment (Medicare Levy and Medicare Levy***
7 ***Surcharge) Act 2005***

8 **117 Section 4**

9 Repeal the section.