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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

INDIRECT TAX LAWS AMENDMENT (ASSESSMENT) BILL 2012

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
Board's report	Board of Taxation's <i>Review of the Legal Framework for the Administration of the Goods and Services Tax</i>
Commissioner	Commissioner of Taxation
Customs	Australian Customs and Border Protection Service
Fuel Tax Act	<i>Fuel Tax Act 2006</i>
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i>
GST	goods and services tax
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
ITLA Bill	Indirect Tax Laws Amendment (Assessment) Bill 2012
LCT Act	<i>A New Tax System (Luxury Car Tax) Act 1999</i>
LCT	luxury car tax
MRRT	minerals resource rent tax
MRRT (CA&TP) Bill	Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011
TAA 1953	<i>Taxation Administration Act 1953</i>
WET Act	<i>A New Tax System (Wine Equalisation Tax) Act 1999</i>
WET	wine equalisation tax

General outline and financial impact

Assessment of amounts under indirect tax laws

Schedule 1 to this Bill amends the *Taxation Administration Act 1953*, the *A New Tax System (Goods and Services Tax) Act 1999* and other taxation Acts to harmonise the current self actuating system that applies to the goods and services tax, the luxury car tax, the wine equalisation tax and fuel tax credits with the self assessment system for income tax.

Date of effect: These amendments apply to tax periods and fuel tax return periods commencing on or after 1 July 2012.

Proposal announced: This measure was announced in the then Assistant Treasurer and Minister for Competition Policy and Consumer Affairs' Media Release No. 042 of 12 May 2009.

Financial impact: Negligible net cost to the Budget over the forward estimates.

Human rights implications: This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 1, paragraphs 1.165 to 1.168.

Compliance cost impact: Low.

Correcting errors in working out amounts under indirect tax laws

Schedule 2 to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* and the *Fuel Tax Act 2006* to legislate the Commissioner of Taxation's power to make a determination allowing a taxpayer to take into account, on his or her goods and services tax or fuel tax return for the current tax period or fuel tax return period, errors made in working out net amounts and net fuel amounts for preceding tax periods or fuel tax return periods.

Date of effect: These amendments apply to tax periods and fuel tax return periods commencing on or after 1 July 2012.

Proposal announced: These amendments are part of the measure announced in the then Assistant Treasurer and Minister for Competition Policy and Consumer Affairs' Media Release No. 042 of 12 May 2009.

Financial impact: Nil.

Human rights implications: This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 2, paragraphs 2.14 to 2.17

Compliance cost impact: Low.

Net amounts

Schedule 3 to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to confirm that the luxury car tax and the wine equalisation tax are part of the 'net amount' that is calculated under the GST Act. Schedule 3 also makes amendments to create a single 'net amount' definition that applies differently to reflect differing circumstances.

Date of effect: These amendments apply to tax periods commencing on or after 1 July 2012.

Proposal announced: This measure was announced in the then Assistant Treasurer and Minister for Competition Policy and Consumer Affairs' Media Release No. 042 of 12 May 2009.

Financial impact: Nil.

Human rights implications: This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 3, paragraphs 3.19 to 3.22.

Compliance cost impact: Low.

Minor amendments

Schedule 4 to this Bill makes technical corrections and other minor amendments to the taxation laws. These amendments are part of the Government's commitment to the care and maintenance of the tax system.

Date of effect: These amendments commence from Royal Assent unless otherwise stated in this explanatory memorandum.

Proposal announced: These amendments were foreshadowed by release in draft form on the Treasury website on 18 January 2011 and 22 August 2011.

Financial impact: Nil.

Human rights implications: This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 4, paragraphs 4.6. to 4.9

Compliance cost impact: Nil to low.

Chapter 1

Assessment of amounts under indirect tax laws

Outline of chapter

1.1 Schedule 1 to this Bill amends the *Taxation Administration Act 1953* (TAA 1953), the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and other taxation Acts to establish generic assessment provisions to apply to the goods and services tax (GST), the luxury car tax (LCT), the wine equalisation tax (WET) and fuel tax credits.

1.2 The Schedule harmonises the current self actuating system that applies to GST, LCT, WET and fuel tax credits with the self assessment system that applies to companies and certain other entities for income tax purposes. This Schedule also provides for the period of review to be refreshed when an amendment is made to a taxpayer's assessment.

1.3 The main amendments to the TAA 1953 contained in Schedule 1 have been drafted in a way that provide a framework for a future consolidation of other assessment based taxes in the TAA 1953.

Context of amendments

Generic assessment provisions

1.4 In 1998, the (then) Government announced as part of their *A New Tax System* reforms that they would bring the tax laws together into a code that supported a more cohesive approach to compliance and administration. A key feature of the tax code is the integration of tax rules through the use of consistent terminology and definitions. The generic framework for consolidation of the assessment provisions in the TAA 1953 is part of this project.

Indirect taxes and fuel tax credits

1.5 This measure implements Recommendations 19 and 21 arising from the Board of Taxation's *Review of the Legal Framework for the Administration of the Goods and Services Tax* (Board's report).

1.6 Recommendation 19 of the Board's report provides that the four-year period of review for GST, LCT, WET and fuel tax credits should be refreshed in cases where the Commissioner of Taxation (Commissioner) amends the amount of tax or refund payable based on the information provided by the taxpayer, but only in respect of the particular that was amended.

1.7 Recommendation 21 provides that greater harmonisation should be introduced between the current self actuating system for GST, WET, LCT and fuel tax credits and the income tax system of self assessment. These amendments, which involve establishing a set of generic assessment provisions that apply to indirect taxes, comprise most of this Schedule.

1.8 In introducing an assessment system for indirect taxes, it is not intended that the provisions affect the underlying imposition of each individual indirect tax. The assessment provisions provide a mechanism for calculating the amount the taxpayer is required to pay to the Commissioner or that the Commissioner must pay to the taxpayer (see *Whitney v Commissioners of Inland Revenue* (1926) AC 37 and *Layala Enterprises Pty Ltd (in Liq) v FCT* (1998) 86 FCR 348).

Administrative framework for indirect taxes and fuel tax credits

1.9 The system currently operating for GST, LCT, WET and fuel tax credits is a self actuating system. Under this system, a taxpayer is automatically liable to pay an amount of tax or entitled to be paid a refund based on the liabilities and entitlements attributable to a tax period (see for example, Divisions 33 and 35 of the GST Act). Liabilities and entitlements can exist independent of an assessment (section 105-15 in Schedule 1 to the TAA 1953). Even if the taxpayer incorrectly states their net amount or net fuel amount in their return, they remain liable to pay the correct amount (or entitled to the correct amount of a refund if the amount is less than zero). Under a self actuating system, this is always the case even if this error is not detected.

1.10 Even though amounts under indirect tax laws are currently administered on a self actuating basis, there are circumstances where an assessment is made to either correct an amount on the return lodged by the taxpayer, or to formalise the liability or entitlement in order to enliven a taxpayer's objection rights.

1.11 GST, WET and LCT liabilities that arise upon importation of goods and in certain other circumstances are not part of the net amount under section 17-5 of the GST Act. These liabilities are not attributable to tax periods, although certain registered taxpayers may choose to defer their GST liabilities on importations until the end of the relevant tax

period. Even though these deferred liabilities are reported on the taxpayer's GST return, they are not part of the net amount. Input tax credits arising from creditable importations are included in the net amount (section 17-5 of the GST Act).

1.12 A limitation period of four years applies, after which the Commissioner may no longer recover any unpaid liabilities and the taxpayer may no longer be entitled to any unpaid entitlements (subject to exceptions, such as fraud or evasion). These time limits can be unilaterally extended by the Commissioner or the taxpayer issuing a 'stop the clock' notice under sections 105-50 and 105-55 in Schedule 1 to the TAA 1953. An amount also may not be payable to the taxpayer under section 105-65 in Schedule 1 to the TAA 1953.

1.13 Section 105-5 of Schedule 1 to the TAA 1953 currently allows the Commissioner to make an assessment of a taxpayer's net amount, net fuel amount or amount of indirect tax payable. A taxpayer may also request the Commissioner to make an assessment (section 105-10 in Schedule 1 to the TAA 1953). If the Commissioner makes an assessment, he or she is required to issue a notice of assessment (section 105-20 in Schedule 1 to the TAA 1953).

1.14 Where an assessment is made, the net amount, net fuel amount or amount of indirect tax the taxpayer must pay, or is entitled to be paid, is crystallised, and the amount contained in the return is no longer applicable. The assessment may be amended (section 105-25 in Schedule 1 to the TAA 1953). Assessments made under Division 105 are reviewable indirect tax decisions under Part IVC of the TAA 1953.

Income tax self assessment

1.15 The full self assessment system, which applies to companies and superannuation funds for income tax purposes, differs from the self actuating system. At the end of an income tax period, taxpayers are required to lodge a return with the Commissioner specifying their taxable income and the tax payable which the Commissioner is treated as having assessed upon lodgment.

1.16 The assessment provisions for income tax are contained in Part IV of the *Income Tax Assessment Act 1936* (ITAA 1936). Section 166A of the ITAA 1936 provides that the Commissioner is taken to have made an assessment of these amounts on the date of lodgment of the return. The return lodged by the taxpayer is treated as the notice of assessment and is taken to be served on the taxpayer on the day the assessment is made, or taken to have been made.

1.17 Returns are generally accepted at face value; however, they may be subject to post-assessment audits or other verification activities by the Commissioner.

1.18 Taxpayers are required to pay the assessed amount by a specified date, even if the assessment was based on an error of law or fact. Once a liability has been established in an assessment under the self assessment system, there is no limit on the period in which the Commissioner may seek to recover that liability.

1.19 An assessment may be amended during a limited amendment period. The limited amendment period commences on the day after the notice of assessment is issued, and generally ends four years after that date (subsection 170(1) of the ITAA 1936). Where an amendment is made during the limited amendment period, the Commissioner is required to issue a notice of amended assessment to the taxpayer. Once the limited amendment period has expired, the assessment cannot be amended except in specified circumstances (subsection 170(2) of the ITAA 1936).

1.20 When an assessment is amended, the limited amendment period is refreshed in relation to the particular that was amended (subsection 170(3) of the ITAA 1936).

1.21 The limited amendment period may be extended by a taxpayer's application for an amendment (subsection 170(5) of the ITAA 1936), to give effect to a private ruling (subsection 170(6) of the ITAA 1936), or by Federal Court order or taxpayer consent (subsection 170(7) of the ITAA 1936).

1.22 An unlimited amendment period exists for cases of fraud or evasion, or to give effect to decisions on objections, reviews or appeals (items 5 and 6 in the table in subsection 170(1) of the ITAA 1936).

1.23 The income tax self assessment system is supported by the rulings regime which permits the Commissioner to issue binding public and private rulings, a regime of penalties for understatements of income tax liability, provisions for the extension of the period within which a taxpayer may object against an assessment, and a system of interest for underpayments and late payments of income tax.

Summary of new law

1.24 Schedule 1 amends the TAA 1953, the GST Act, the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act), the *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act), the *Fuel Tax Act 2006*

(Fuel Tax Act) and the *Customs Act 1901* to establish an assessment based system for amounts under indirect tax laws.

1.25 These amendments replace the current self actuating system for GST, WET, LCT and fuel tax credits with a system where liabilities and entitlements are dependent on an assessment. Where applicable, elements of the income tax self assessment regime have been adopted, however, some elements of the current administration systems for indirect taxes have been retained to reflect the unique nature of the indirect tax laws. It is not expected that these changes will have any practical impact on the way in which taxpayers lodge their returns.

1.26 It is intended that the application of the new assessment provisions will eventually be expanded to apply to income tax and other taxes and tax-related liabilities and entitlements that are the subject of self assessment or assessment by the Commissioner. For this reason, the new assessment provisions are structured and use terminology that is generic and capable of applying to any tax-related liability or entitlement.

1.27 As with the assessment provisions contained in Part IV of the ITAA 1936, the new assessment provisions are intended to be substantive provisions that affect a taxpayer's liabilities and entitlements which form part of the assessment-making process (*McAndrew v FCT* (1956) 98 CLR 263).

Assessments and time limits on recovery of liabilities and entitlements

1.28 Under an assessment system, taxpayers are only liable to pay, or entitled to be paid, liabilities and entitlements that have been established by an assessment.

1.29 Once the liability or entitlement has been assessed, there is no time limit imposed on the Commissioner to recover unpaid amounts or the taxpayer to be paid an amount.

Self assessment

1.30 The assessment system allows a majority of taxpayers to self assess their tax-related liabilities and tax-related entitlements through the lodgment of the relevant return for a tax period. On lodgment, the Commissioner is treated as having made an assessment for the reported tax period and the return is deemed to be the notice of assessment for that tax period. The assessed amount is worked out in accordance with the information set out in the return.

1.31 The Commissioner is also deemed to have made an assessment of the amount of GST, LCT or WET payable on an importation when a taxpayer lodges an import declaration or a self assessed clearance declaration with the Australian Customs and Border Protection Service (Customs) and Customs issues an import declaration advice or a self assessed clearance declaration advice respectively. The two documents are together deemed to be a notice of assessment.

Assessment by the Commissioner

1.32 A limited number of taxpayers, such as non-business taxpayers claiming fuel tax credits, are not able to self assess. Instead, the Commissioner is required to make an assessment from the information given to him or her by the taxpayer, and is required to issue the taxpayer with a notice of assessment before the taxpayer is required to pay an amount of tax, or is entitled to be refunded an amount.

Period of review

1.33 As part of establishing an assessment system, Schedule 1 introduces a four-year period of review during which the assessment may be amended. The period of review commences on the day the taxpayer is issued with a notice of the assessment (in most cases, this will be the same day the taxpayer lodges his or her return) and ends four years after the day after lodgment. The period of review may be extended in certain circumstances.

Refreshed period of review

1.34 An amended assessment gives rise to a refreshed period of review of four years commencing on the day after notice of the amended assessment is provided or is taken to have been provided. The refreshed period of review only applies in relation to the amended particular and is subject to restrictions.

Time limits on credit entitlements

1.35 As a consequence of the removal of time limits on the recovery of liabilities and entitlements, taxpayers will cease to be entitled to credits if they have not been taken into account in an assessment of the net amount or net fuel amount during the period of four years after the date the return was required to be lodged for the tax period to which the credit would be attributable under subsections 29-10(1) and (2) of the GST Act, and subsections 65-5(1) and (2) of the Fuel Tax Act, subject to the

exceptions provided for in Division 93 of the GST Act and Division 47 of the Fuel Tax Act.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
<p>Assessment-based system</p> <p>A taxpayer is only liable to pay or entitled to receive liabilities and entitlements under an indirect tax law that are stated in their assessment.</p> <p>The Commissioner may also make an assessment where the taxpayer has failed to lodge a return.</p>	<p>Self actuating system</p> <p>A taxpayer is automatically liable to pay an amount under an indirect tax law based on the liabilities and entitlements attributable to a tax period or fuel tax return period.</p> <p>Entitlement to a refund is generally dependent upon lodgment of a return.</p> <p>Liabilities and entitlements do not depend on an assessment, however, the Commissioner is entitled to make an assessment at any time.</p>
<p>Self assessment</p> <p>The Commissioner is taken to have made an assessment of an amount determined in a GST return, fuel tax return or return given to Customs under section 69 or 70 of the <i>Customs Act 1901</i> on lodgment by a taxpayer. The return is treated as the notice of assessment and is conclusive evidence that the assessment is correct.</p>	<p>No self assessment</p> <p>There are no deemed assessments.</p> <p>The Commissioner may make an assessment of the taxpayer's liabilities and entitlements which is conclusive evidence of the assessed debt.</p> <p>A taxpayer may require the Commissioner to make an assessment to enliven the taxpayer's objection rights.</p>

<i>New law</i>	<i>Current law</i>
<p>Importations</p> <p>For GST, WET and LCT payable on importations, the Commissioner is deemed to have made an assessment and to have served a notice of assessment where an import declaration or self-assessed clearance declaration has been given to Customs and Customs has issued an import declaration advice or self-assessed clearance declaration advice.</p> <p>Certain taxpayers registered for GST may continue to defer their importation liabilities to be included in the GST return for the tax period in which the importation is made.</p>	<p>Importations</p> <p>Amounts of GST, WET and LCT payable on importations are not included in a GST registered taxpayer's net amount, but are collected by Customs on arrival.</p> <p>Certain taxpayers registered for GST can defer their importation liabilities to be included in a later GST return. These amounts are not assessed.</p>
<p>Deemed notices of assessments</p> <p>In cases where the Commissioner is deemed to have made an assessment, the return (for self assessments) or the declaration and declaration advice (for liabilities on importations) are taken to be the notice of assessment.</p> <p>Where a deemed assessment does not apply, the Commissioner must issue a notice of assessment.</p>	<p>Notice of assessments</p> <p>If the Commissioner makes an assessment, he or she must give the taxpayer a notice of assessment as soon as practicable after he or she makes an assessment.</p>
<p>Period of review</p> <p>Once an assessment has been made, a four-year period of review applies during which time the Commissioner may amend a taxpayer's assessment, either at the request of a taxpayer or at the Commissioner's discretion.</p> <p>Established liabilities and entitlements remain payable or refundable after the period of review ends.</p> <p>The period of review may only be extended by Federal Court order or taxpayer consent, however, both the Commissioner and the taxpayer benefit from the extension.</p>	<p>Time limits</p> <p>In general, liabilities and entitlements cease to be payable after four years.</p> <p>The Commissioner may preserve his or her right to recover a liability if he or she notifies the taxpayer of the liability within the four-year time limit.</p> <p>Similarly, a taxpayer may notify the Commissioner of an unpaid refund during the four-year time limit to preserve their entitlement to the amount.</p> <p>A notification by one party does not preserve the other party's right to recover a liability or entitlement. That other party must also issue a notification.</p>

<i>New law</i>	<i>Current law</i>
<p>Refreshed period of review Where an assessment is amended, it is subject to a refreshed four-year period of review in relation to the amended particular.</p>	<p>No refreshed period of review An amendment does not give rise to a refreshed period of review.</p>
<p>Time limit on entitlement to credits A taxpayer's entitlement to a credit ceases if it is not taken into account in the taxpayer's assessment during the period of four years from the date the taxpayer was required to lodge the return for the tax period or fuel tax return period to which it would be attributable under subsections 29-10(1) and (2) of the GST Act and subsections 65-5(1) and (2) of the Fuel Tax Act. Division 93 of the GST Act and Division 47 of the Fuel Tax Act provide exceptions to this rule in certain circumstances.</p>	<p>Time limit on entitlement to credits A taxpayer's entitlement to a credit ceases if it is not taken into account in working out the taxpayer's net amount for the tax period or net fuel amount for the tax period or fuel tax return period to which it would be attributable during the period of four years after the end of the tax period or fuel tax return period. (See Division 93 of the GST Act and Division 47 of the Fuel Tax Act.) For importations, a taxpayer's entitlement to a credit ceases if it is not taken into account within four years after the importation.</p>

Detailed explanation of new law

Generic assessment provisions

1.36 Part 1 of this Schedule inserts Part 4-1 (Returns and assessments) into Schedule 1 to the TAA 1953 to establish generic assessment provisions that can be applied broadly across the tax system. As inserted, it contains Division 155, dealing with assessments, which applies only to the assessment of assessable amounts arising under indirect tax laws. *[Schedule 1, item 1, section 155-1 in Schedule 1 to the TAA 1953]*

1.37 These provisions are designed to have the same substantive effect as the assessment provisions contained in Part IV of the ITAA 1936.

1.38 This Schedule also inserts Part 4-90 (Evidence) into Schedule 1 to the TAA 1953. Part 4-90 contains Division 350, which deals with the evidentiary effect of official tax documents. *[Schedule 1, item 2, Division 350 in Schedule 1 to the TAA 1953]*

Assessments

1.39 Division 155 contains generic assessment provisions for GST, WET, LCT and fuel tax credit liabilities and entitlements. The general principles of self assessment are largely adopted from Part IV of the ITAA 1936. In some cases, specific provisions have been inserted where they have been necessary to accommodate the unique nature of indirect taxes.

1.40 A taxpayer's indirect tax law liabilities and entitlements are determined by an assessment.

Assessment by the Commissioner

1.41 Subsection 155-5(1) confers on the Commissioner a general power to make an assessment of an assessable amount at any time. The Commissioner's power to make assessments is restricted by the operation of other sections within the Division, including the rules for amending assessments beyond the period of review. *[Schedule 1, item 1, subsection 155-5(1) in Schedule 1 to the TAA 1953]*

1.42 As part of creating a generic framework for the assessment of other taxes, the amendments introduce a new term 'assessable amount' in subsection 155-5(2), which restricts the scope of the Division currently to apply only to amounts under indirect tax laws. *[Schedule 1, item 1, subsection 155-5(2) in Schedule 1 to the TAA 1953]*

1.43 An assessable amount includes a net amount, a net fuel amount, an amount of indirect tax and a credit under an indirect tax law. Input tax credit entitlements are taken into account in working out the net amount (section 17-5 of the GST Act) and are therefore not separately assessed. *[Schedule 1, item 1, subsection 155-5(2) in Schedule 1 to the TAA 1953]*

1.44 In making an assessment, the Commissioner may treat part of a tax period as the whole tax period. This is equivalent to the Commissioner's power to make special assessments under section 168 of the ITAA 1936. *[Schedule 1, item 1, section 155-25 in Schedule 1 to the TAA 1953]*

1.45 The existing definition of 'assessment' in subsection 995-1(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) is extended to also mean an ascertainment of the assessable amount, to ensure that assessments under Division 155 are covered. The existing meaning of 'assessment', as it applies to other taxes, is not affected. *[Schedule 1, item 22, definition of 'assessment' in subsection 995-1(1) of the ITAA 1997]*

1.46 An assessment does not affect the underlying imposition of tax that a taxpayer is liable to pay. Instead, an assessment crystallises the amount that the taxpayer is required to pay, and the amount the

Commissioner is required to refund. Amounts that are not included in an assessment (including an amended assessment) are not required to be paid but remain payable and may be included in an amended assessment during the period of review for the assessment for the tax period.

1.47 The Commissioner is required to issue a notice of assessment of the assessable amount to the taxpayer as soon as practicable after an assessment is made. This includes issuing a notice of amended assessment when the Commissioner makes an amended assessment. *[Schedule 1, item 1, subsection 155-10(1) in Schedule 1 to the TAA 1953]*

1.48 In some cases, certain documents will be treated as a notice of assessment or notice of amended assessment (see paragraphs 1.51, 1.54 and 1.73).

1.49 A majority of taxpayers will be able to self assess their assessable amount when they lodge a return listed in subsection 155-15(1) for a tax period or a taxable importation, much like the full self assessment system currently applying to companies in income tax. Currently the list only includes a GST return, a fuel tax return and returns given under sections 69 and 70 of the *Customs Act 1901*. *[Schedule 1, item 1, subsections 155-15(1) and (2) in Schedule 1 to the TAA 1953]*

1.50 The Commissioner may issue the notice electronically if the taxpayer is required to lodge, or has lodged, their return electronically. *[Schedule 1, item 1, subsection 155-10(2) in Schedule 1 to the TAA 1953]*

Self assessment

1.51 On lodgment of the return, the Commissioner will be taken to have made an assessment of the taxpayer's assessable amount and the return is treated as being a notice of assessment signed by the Commissioner and issued on the day the return is lodged. The amount assessed is either stated on the return, or worked out in accordance with the information stated in the document (as is the case for GST returns). The deemed notice satisfies the notice of assessment requirement under section 155-10. In practical terms, there is no change to what taxpayers are currently required to do under the existing self actuating system. *[Schedule 1, item 1, subsections 155-15(3) and (4) in Schedule 1 to the TAA 1953]*

Example 1.1

Patrick runs a furniture shop and is registered for GST. On 28 October 2013, Patrick lodges his GST return for the tax period ending 30 September 2013 with the Commissioner. Patrick's net amount for that tax period is treated as assessed on 28 October 2013, and the GST return constitutes a notice of assessment issued by the Commissioner on that date.

Taxable importations

1.52 Similarly, the Commissioner will be taken to have made an assessment of a taxpayer's GST, LCT or WET liability (including a nil amount) on a taxable importation, taxable importation of a luxury car or customs dealing when an import declaration or a self-assessed clearance declaration (the declaration) has been communicated to Customs, and Customs issues an import declaration advice or a self-assessed clearance declaration advice (the advice) (as defined in the *Customs Act 1901*) as applicable, in respect of the importation or dealing. [*Schedule 1, item 1, subsections 155-20(1) and (2) in Schedule 1 to the TAA 1953*]

1.53 The amount assessed is worked out in accordance with the information stated in the declaration and the advice. [*Schedule 1, item 1, subsection 155-20(3) in Schedule 1 to the TAA 1953*]

1.54 The declaration given to Customs and the advice issued by Customs are together treated as being a notice of assessment signed by the Commissioner and issued on the date Customs issues the advice. [*Schedule 1, item 1, subsection 155-20(4) in Schedule 1 to the TAA 1953*]

Example 1.2

Peter makes an importation of a bicycle and lodges an import declaration with Customs on 1 September 2012. On 2 September 2012, Customs issues Peter with an import declaration advice in respect of his importation. The amount of GST that Peter is liable to pay is deemed to be assessed on 2 September 2012 (the day Customs issued the advice), and the import declaration and the import declaration advice are collectively taken to be a notice of assessment issued by the Commissioner on 2 September 2012.

Assessments that must be made by the Commissioner

1.55 Some returns lodged by taxpayers do not contain sufficient information to allow a deemed assessment to occur (for example, returns lodged by non-business taxpayers claiming fuel credits and taxpayers with liabilities under Divisions 78 and 105 of the GST Act, as well as some documents given by taxpayers to Customs for liabilities arising on taxable importations). For these taxpayers, the Commissioner must actually make an assessment under the general power in section 155-5 before the taxpayer's liabilities or entitlements are crystallised.

1.56 In these cases, if a taxpayer has lodged a return and has not received a notice of assessment in relation to the assessable amount within six months of lodging the return, the taxpayer may request the Commissioner to issue a notice of assessment. [*Schedule 1, item 1, subsection 155-30(1) in Schedule 1 to the TAA 1953*]

1.57 If no notice of assessment has been served within a further 30 days of the request, the taxpayer may object under Part IVC against the Commissioner's failure to make an assessment. [*Schedule 1, item 1, subsection 155-30(2) in Schedule 1 to the TAA 1953; items 193, 195 to 199, paragraphs 14ZW(1)(bf) and 14ZW(1B)(b), subsections 14ZY(2) and 14ZYA(1) and note 1 in subsection 14ZYB(1) of the TAA 1953*]

1.58 The provision only applies where a notice of assessment has never been issued in respect of the assessable amount, and does not apply to applications for an amendment made using a revised activity statement. If an assessment has been made, taxpayers may object to the assessment. [*Schedule 1, item 193, paragraph 14ZW(1)(bg) of the TAA 1953*]

Example 1.3

Melina is not registered for GST but is eligible to claim fuel tax credits. On 14 October 2014, Melina lodges a return claiming her fuel tax credits for the fuel tax return period ending 14 October 2014.

If Melina has not received a notice of assessment by 14 April 2015, Melina may request the Commissioner to make the assessment. On 15 April 2015, Melina writes to the Commissioner requesting the Commissioner make an assessment of her net fuel amount. If by 15 May 2015 the Commissioner still has not issued Melina with a notice of assessment, then Melina may object under Part IVC to the Commissioner's failure to make the assessment.

Default assessments

1.59 Where a taxpayer has failed to lodge a return, the Commissioner may rely on section 155-5 to make an assessment of an assessable amount based on the information available to him or her. This is similar to the Commissioner's power to make default assessments under section 167 of the ITAA 1936, and the Commissioner must have reasonable grounds for making the assessment. [*Schedule 1, item 1, section 155-5 in Schedule 1 to the TAA 1953*]

An assessment and amended assessments

1.60 There is only one assessment for a particular tax period — the assessment as it was first made for a tax period (whether made under section 155-15 or 155-20, or made by the Commissioner under section 155-5).

1.61 A taxpayer may not self assess their assessable amount for a tax period or importation if an assessment has already been made (either deemed or initiated by the Commissioner) for the assessable amount for that tax period or importation. Any subsequent amendments made by the Commissioner (including those at the instigation of the taxpayer) are

amendments of the assessment and the rules for amending assessments apply (see paragraphs 1.62 to 1.89). [*Schedule 1, item 1, subsections 155-15(5) and 155-20(5) in Schedule 1 to the TAA 1953*]

Example 1.4

Sue operates a bookstore and is registered for GST. On 28 October 2013, Sue lodges her GST return for the tax period ending 30 September 2013.

On 23 March 2014, Sue lodges an amended GST return for the tax period ending 30 September 2013. The amended return lodged by Sue will be treated as an application for an amendment by the Commissioner.

Sue fails to lodge her GST return for the tax period ending 31 March 2014 and the Commissioner makes an assessment for that tax period on 23 June 2014. On 25 June 2014, Sue lodges her GST return for the same tax period. The GST return will be treated by the Commissioner as an application by Sue for an amendment of the assessment made on 23 June 2014.

Amending assessments

1.62 The time in which an assessment may be amended is restricted by the period of review and the refreshed period of review. Once the period of review and the refreshed period of review are over, the Commissioner may no longer amend the assessment (except in specific circumstances, such as to give effect to a decision on review or appeal or in cases of fraud or evasion). However, multiple amendments may be made in the period of review. An amount that has not been assessed within the period of review or refreshed period of review ceases to be recoverable. A taxpayer's entitlement to any credits or refunds ceases if they are not taken into account within the period of review or the refreshed period of review. [*Schedule 1, item 1, subsection 155-35(1) and sections 155-65 and 155-70 in Schedule 1 to the TAA 1953*]

Period of review

1.63 Subdivision 155-B introduces a period of review in which an assessment of an assessable amount may be amended. [*Schedule 1, item 1, Subdivision 155-B in Schedule 1 to the TAA 1953*]

1.64 The period of review commences on the day the Commissioner first gives notice of the assessment to the taxpayer and expires four years after the day after the notice of assessment is issued (unless the period is extended). In cases where the assessment is deemed under section 155-15 or 155-20, the period of review will commence on the day the return is

lodged, regardless of whether the return is lodged early or late. [*Schedule 1, item 1, subsection 155-35(2) in Schedule 1 to the TAA 1953*]

1.65 The period of review may be extended by Federal Court order or by taxpayer consent. [*Schedule 1, item 1, subsections 155-35(3) and (4) in Schedule 1 to the TAA 1953*]

Extending the period of review — Federal Court order

1.66 Prior to the conclusion of the period of review, the Commissioner may apply to the Federal Court of Australia for an order to extend the period of review for a specified period of time. The Court may grant this order for a specified period if it is satisfied that it is either not reasonably practical or not appropriate for the Commissioner to complete the examination of a taxpayer's assessable amount in the remainder of the period of review due to actions or a failure to take reasonable actions on the part of the taxpayer. [*Schedule 1, item 1, subsection 155-35(3) in Schedule 1 to the TAA 1953*]

1.67 The term 'examination' is a very broad concept and takes its ordinary meaning. The term covers not only audits, but also includes any examinations of an entity's affairs including reviews, investigations or enquiries.

Extending the period of review — request by Commissioner

1.68 The period of review may also be extended if the Commissioner requests an extension before the end of the period of review and the taxpayer consents in writing to the extension for a specified period. A precondition to this is that the Commissioner must have started examining the taxpayer's affairs (as is required for an extension by Federal Court order). [*Schedule 1, item 1, subsection 155-35(4) in Schedule 1 to the TAA 1953*]

1.69 If the taxpayer does not consent to the Commissioner's request, then the Commissioner may only issue an amended assessment if the Commissioner has reasonable grounds for making an amended assessment, as is the case for default assessments under section 167 of the ITAA 1936.

1.70 The period of review may be extended more than once. [*Schedule 1, item 1, subsection 155-35(5) in Schedule 1 to the TAA 1953*]

Example 1.5

Huey and Joanne are partners in a GST registered partnership which has complex tax affairs. The Commissioner is still investigating an activity statement of the partnership that was lodged almost four years ago. The Commissioner has been reviewing a number of different entries in the partnership's activity statement, making a number of

enquiries about the partnership's affairs, and has made several requests for information which is taking the partnership some time to complete.

The Commissioner becomes aware that it is unlikely the examination of the partnership's affairs will be completed before the end of the period of review for the assessment associated with the particular activity statement. The Commissioner contacts Huey and Joanne and requests a three-month extension to the period of review. After consulting with their tax advisers, Huey and Joanne agree to the extension. This consent will extend the four-year period of review by three months.

If the Commissioner has not completed the examination of the partnership's affairs within this extra period of time, he or she may request a further extension of time from Huey and Joanne or the Commissioner could apply to the Federal Court for an order for an extension of time to the period of review.

Amending assessments during the period of review

1.71 Subsection 155-35(1) empowers the Commissioner to amend an assessment within the period of review. An assessment may be amended by the Commissioner if the taxpayer applies for an amendment, or of the Commissioner's own accord. Once the period of review has expired, the Commissioner may only amend an assessment in limited circumstances. *[Schedule 1, item 1, subsection 155-35(1) in Schedule 1 to the TAA 1953]*

Deemed notices of amendment

1.72 Taxpayers may apply to the Commissioner in the approved form for an amendment to an assessment.

1.73 In cases where the taxpayer has requested an amendment using a revised activity statement (in the approved form) and the Commissioner makes the amendment to give full effect to the application during the period of review and makes no other adjustment, the revised activity statement will be taken to be a notice of the amended assessment. This replicates the existing self-actuating system where amendments are requested using a revised activity statement and the Commissioner does not need to issue a notice of amended assessment. Deeming such a document to be a notice of amended assessment reduces compliance costs and the volume of paperwork taxpayers receive. *[Schedule 1, item 1, subsection 155-40(1) in Schedule 1 to the TAA 1953]*

1.74 The notice will be taken to have been served on the day the Commissioner adjusts the taxpayer's running balance account, or the day Customs issues an import declaration advice or self-assessed clearance declaration advice to the taxpayer in respect of the relevant taxable importation, taxable importation of a luxury car or customs dealing as a

result of the amendment. Deeming the notice of amended assessment to be made from the day the running balance account is adjusted has the effect of allowing the Commissioner to make a different amendment if he or she disagrees with the amendment applied for. [*Schedule 1, item 1, subsection 155-40(2) in Schedule 1 to the TAA 1953*]

1.75 If the Commissioner only amends the assessment to partly give effect to the application for amendment, or if the taxpayer applies using an approved form other than a revised activity statement, the Commissioner will be required to issue the taxpayer with a notice of amended assessment as required by section 155-10. [*Schedule 1, item 1, note in section 155-45 in Schedule 1 to the TAA 1953*]

Example 1.6

Terry runs a noodle shop and is registered for GST. On 28 October 2012, Terry lodges a GST return for the tax period ending 30 September 2012. On 14 May 2013, Terry lodges a revised GST return which increases his entitlement to input tax credits by \$100. The Commissioner makes the amendment and on 22 May 2013, a credit of \$100 appears on Terry's running balance account. Because the amendment made was the exact amendment applied for, the revised GST return lodged by Terry is deemed to be his notice of amended assessment dated 22 May 2013.

On the other hand, if Terry had written to the Commissioner (and not used a revised activity statement) seeking the same amendment, or if the Commissioner had only credited Terry's running balance account with \$50, the Commissioner would be required to issue a notice of amended assessment when the amendment is made.

Amending assessments — application by taxpayer

1.76 The Commissioner may make an amendment after the period of review has expired if a taxpayer applies for an amendment in the approved form within the period of review. [*Schedule 1, item 1, section 155-45 in Schedule 1 to the TAA 1953*]

Example 1.7

John runs a costume shop which is registered for GST. On 21 August 2016, John lodges his GST return for the monthly tax period ending 31 July 2016.

On 20 August 2020, John writes to the Commissioner on the approved form seeking an amendment to the assessment for the tax period ending 31 July 2016. On 30 August 2020, the Commissioner amends John's assessment to give effect to his or her decision on the application. The Commissioner may make this amendment as John applied for the amendment within the period of review.

1.77 The way in which a taxpayer requests an amendment and the decision the Commissioner makes on that request will determine the section that applies to that request. Section 155-45 will apply where the taxpayer has requested an amendment in the approved form and the Commissioner has not amended the assessment in the period of review to give effect to the application.

Amending assessments — private rulings

1.78 The Commissioner may amend an assessment at any time to give effect to a private ruling issued to a taxpayer if:

- the taxpayer applies for the private ruling before the end of the period of review; and
- the Commissioner makes the private ruling because of the taxpayer's application.

[Schedule 1, item 1, section 155-50 in Schedule 1 to the TAA 1953]

1.79 The provision is intended to allow the Commissioner to make an amendment to give effect to a ruling if the ruling is not issued within the period of review. This is likely to be in circumstances where the taxpayer has applied for the private ruling towards the end of the period of review.

Example 1.8

Janine runs a clothing store that is registered for GST. On 28 April 2014, Janine lodges her GST return for the tax period ending 31 March 2014. On 15 February 2018, Janine applies for a private ruling in relation to her assessment for that tax period and the Commissioner issues the ruling to her on 1 May 2018.

The Commissioner may amend Janine's assessment for the tax period ending 31 March 2014 to give effect to the ruling, even though the period of review for the relevant tax period ceased on 29 April 2018.

Amending assessments — declarations, objections, review, fraud, evasion

1.80 As with the unlimited amendment periods in subsection 170(1) of the ITAA 1936, there are no time restrictions on when the Commissioner may amend an assessment made under Division 155:

- to give effect to a declaration made by the Commissioner under subsection 165-45(3) of the GST Act or subsection 75-45(3) of the Fuel Tax Act *[Schedule 1, item 1, section 155-55 in Schedule 1 to the TAA 1953]*;

- to give effect to a decision on review or appeal (this is equivalent to paragraph (a) in item 6 in the table in subsection 170(1) of the ITAA 1936) [*Schedule 1, item 1, paragraph 155-60(a) in Schedule 1 to the TAA 1953*];
- as a result of an objection made by a taxpayer, or pending a review or appeal (this is equivalent to paragraph (b) in item 6 in the table in subsection 170(1) of the ITAA 1936) [*Schedule 1, item 1, paragraph 155-60(b) in Schedule 1 to the TAA 1953*]; or
- if the Commissioner is of the opinion that there has been fraud or evasion (this is equivalent to item 5 in the table in subsection 170(1) of the ITAA 1936) [*Schedule 1, item 1, paragraph 155-60(c) in Schedule 1 to the TAA 1953*].

1.81 Where the Commissioner makes an amendment under sections 155-50, 155-55 and 155-60, he or she must issue a notice of amended assessment as required by section 155-10.

Example 1.9

Maxwell runs a toy store and is registered for GST. On 28 October 2015, Maxwell lodges a GST return for the tax period ending 30 September 2015. On 17 September 2019, the Commissioner amends Maxwell's assessment for that tax period and increases his net amount by \$1,000.

On 18 October 2019, Maxwell objects to the amended assessment under Part IVC of the TAA 1953. The Commissioner reviews his decision and decides to allow the objection on 30 October 2019. The Commissioner may amend Maxwell's assessment to give effect to his decision on the objection, even though the period of review for the assessment ceased on 29 October 2019.

If the Commissioner disallows the objection and Maxwell appeals the decision on objection to the Administrative Appeals Tribunal or the Federal Court, the Commissioner would also be able to amend the assessment to give effect to the decision of the Tribunal or Court. The power to amend extends to giving effect to the results of any appeals to a higher judicial body.

Amending amended assessments and the refreshed period of review

1.82 An amended assessment may not be amended outside the period of review. [*Schedule 1, item 1, section 155-65 in Schedule 1 to the TAA 1953*]

1.83 However, an amendment to an assessment under section 155-35 gives rise to a refreshed period of review for the particular that is amended. *[Schedule 1, item 1, subsection 155-70(1) in Schedule 1 to the TAA 1953]*

1.84 Amendments under sections 155-45, 155-50, 155-55 and 155-60 do not give rise to a refreshed period of review. However, a taxpayer retains his or her right to object to an amended assessment under Part IVC of the TAA 1953.

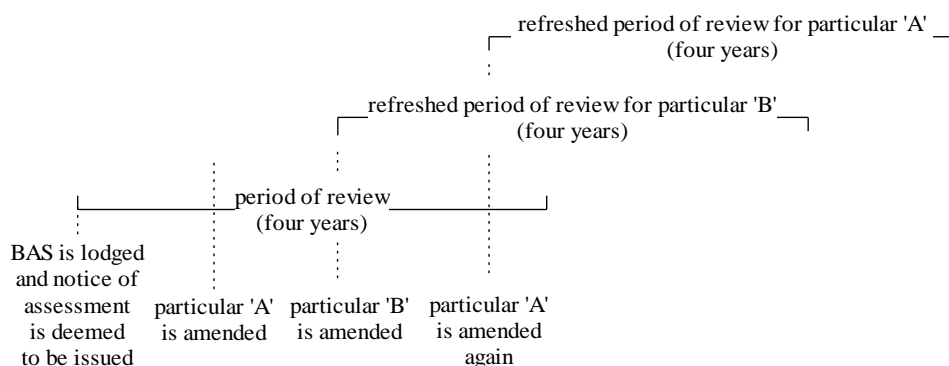
1.85 The refreshed period of review starts on the day after the day the Commissioner gives the taxpayer a notice of amended assessment for the last amendment made to the ‘particular’ during the period of review, and ends four years after that day. The refreshed period of review cannot be extended. *[Schedule 1, item 1, paragraph 155-70(2)(a) in Schedule 1 to the TAA 1953]*

1.86 If a day falls within both the period of review and the refreshed period of review, the rules for the period of review prevail and the amendments are not restricted by the rules in section 155-70.

1.87 The amendment in the refreshed period of review must be about a particular that was previously amended in the period of review. A particular is a constituent element that affects an increase or decrease in the assessable amount and in the context of GST, could be a single supply or a single acquisition provided it individually results in a change to the assessable amount. *[Schedule 1, item 1, paragraph 155-70(2)(b) in Schedule 1 to the TAA 1953]*

1.88 An assessment may only be amended under section 155-70 once in relation to a particular. However, there may be more than one refreshed period of review if different particulars are amended in the period of review (see Diagram 1.1). The amendments giving rise to a refreshed period of review can be initiated either by the Commissioner or on application by the taxpayer. *[Schedule 1, item 1, paragraph 155-70(2)(c) in Schedule 1 to the TAA 1953]*

Diagram 1.1: Operation of section 155-70



1.89 Once an amendment has been made to a particular under section 155-70, the only rights available to the taxpayer are objection rights under Part IVC of the TAA 1953. [*Schedule 1, item 1, section 155-90 in Schedule 1 to the TAA 1953*]

Example 1.10

Jenny operates a cafe and is registered for GST. On 28 October 2012, she lodges a GST return for the tax period ending 30 September 2012.

On 14 October 2016, Jenny applies to the Commissioner for an amendment to claim input tax credits on two tax invoices (A and B) of \$100 each. On 25 October 2016, the Commissioner allows the credits on both invoices.

On 30 October 2016 (during the refreshed period of review), the Commissioner reviews Jenny’s assessment and disallows the credits in relation to invoice B. The Commissioner may no longer make any more amendments to the credits in relation to invoice B during the refreshed period of review. However, the credits in relation to invoice A may still be amended once before 26 October 2020.

General rules

Refunds of overpaid amounts

1.90 If an amendment of an assessment results in a taxpayer’s tax-related liability being reduced, the amount by which the liability is reduced is treated as though it was never payable and the Commissioner must apply that amount in accordance with the rules for running balance accounts under Divisions 3 and 3A of Part IIB of the TAA 1953. [*Schedule 1, item 1, section 155-75 in Schedule 1 to the TAA 1953*]

Amended assessments

1.91 An amended assessment is an assessment and the requirements applying to assessments, such as the requirement that the Commissioner issue a notice of assessment when he or she makes an assessment, also apply to amended assessments. *[Schedule 1, item 1, section 155-80 in Schedule 1 to the TAA 1953]*

Validity

1.92 The validity of an assessment is not affected by any non-compliance with the provisions of the TAA 1953 or any other taxation law. *[Schedule 1, item 1, section 155-85 in Schedule 1 to the TAA 1953]*

Objections and judicial review

1.93 Consistent with income tax law, decisions under Part 4-1 are not reviewable decisions under the Administrative Decisions (Judicial Review) Act 1977. *[Schedule 1, item 30, paragraph (e) of Schedule 1 to the Administrative Decisions (Judicial Review) Act 1977]*

1.94 Instead, assessments are reviewable taxation decisions under Part IVC of the TAA 1953. *[Schedule 1, item 1, section 155-90 in Schedule 1 to the TAA 1953]*

1.95 A taxpayer who is dissatisfied with an assessment has four years after notice of the assessment is first issued in which to object against the assessment. *[Schedule 1, item 193, paragraph 14ZW(1)(bg) of the TAA 1953]*

1.96 A taxpayer may lodge an objection against an amended assessment, either within four years of when the notice of the assessment is first issued, or 60 days after the relevant notice of amended assessment was given, whichever is later. It should be noted that section 14ZV of the TAA 1953 limits any objections to the particular or particulars that have been amended. *[Schedule 1, item 195, paragraph 14ZW(1B)(b) of the TAA 1953]*

1.97 A taxpayer may not object to a private indirect tax ruling after 60 days from when the ruling is issued, or if any assessment has been made. Where an assessment has been made, a taxpayer who is dissatisfied with a private indirect tax ruling relating to an amount in the assessment may only object to the assessment. *[Schedule 1, item 194, subsection 14ZW(1AAC) of the TAA 1953]*

Entities

1.98 As the definition of ‘entity’ under the GST law differs from the definition of ‘entity’ in other taxation laws, section 155-95 is inserted to ensure that the assessment provisions apply to entities under the GST law, as well as entities under other taxation laws. *[Schedule 1, item 1, section 155-95 in Schedule 1 to the TAA 1953]*

Evidence

1.99 Division 350 in Part 4-90 in Schedule 1 to the TAA 1953 contains the rules about the evidentiary effect of official tax documents. The provisions replace Subdivision 105-E in Schedule 1 to the TAA 1953, which currently apply to indirect taxes. *[Schedule 1, items 2 and 207, sections 350-1 and 350-5, repeal of Subdivision 105-E in Schedule 1 to the TAA 1953]*

1.100 The table in subsection 350-10(1) and subsection 350-10(2) provide that the production of a notice of assessment is conclusive evidence that the assessment was properly made, subject only to proceedings commenced under Part IVC of the TAA 1953 (such as an objection against the assessment). Only declarations in relation to net amounts for tax periods starting before 1 July 2012 and declarations in relation to amounts of GST payable on importations before 1 July 2012 are conclusive evidence that the declaration was properly made, as declarations in relation to tax periods commencing and importations made after 1 July 2012 are embodied within an assessment. Similarly, the production of a Gazette or document under the hand of the Commissioner, Second Commissioner, Deputy Commissioner or delegate of the Commissioner, is conclusive evidence that the notice or document was issued. *[Schedule 1, item 2, subsections 350-10(1) and (2) in Schedule 1 to the TAA 1953]*

1.101 Subsection 350-10(3) further provides that the production of a certificate that states an amount payable under a taxation law and signed by the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner is prima facie evidence that the amount is payable and the particulars stated in the certificate are correct. *[Schedule 1, item 2, subsection 350-10(3) in Schedule 1 to the TAA 1953]*

1.102 Subsection 350-10(4) ensures that signed copies of documents have the same evidentiary effect as the original document. *[Schedule 1, item 2, subsection 350-10(4) in Schedule 1 to the TAA 1953]*

1.103 Judicial notice must be taken of the signature of the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner if the signature is attached to an official document. *[Schedule 1, item 2, section 350-15 in Schedule 1 to the TAA 1953]*

Record keeping

1.104 If the period of review for an assessment is extended beyond the period for which records must be retained in relation to the assessment of an assessable amount (typically five years), the period for which records must be retained will be extended to the end of the period of review as extended (or the end of the refreshed period of review if applicable).
[Schedule 1, item 223, paragraph 382-5(1)(b) in Schedule 1 to the TAA 1953]

Amendments relating only to indirect taxes

New terminology

1.105 In an assessment-based system, the amount crystallised by an assessment is the amount which a taxpayer must pay to the Commissioner or the Commissioner must refund to the taxpayer. As a result, the amendments introduce the terms:

- ***assessed net amount*** to mean the net amount which has been assessed by the Commissioner [Schedule 1, item 4, section 195-1 of the GST Act];
- ***assessed GST*** on a taxable importation or a taxable supply under section 78-50 or 105-5, to mean the GST assessed on the taxable importation or taxable supply [Schedule 1, item 3, section 195-1 of the GST Act];
- ***assessed luxury car tax*** on a taxable importation of a luxury car, to mean the LCT assessed on the taxable importation [Schedule 1, item 6, section 27-1 of the LCT Act];
- ***assessed wine tax*** on a customs dealing to mean the wine tax assessed on the customs dealing [Schedule 1, item 8, section 33-1 of the WET Act]; and
- ***assessed net fuel amount*** to mean the net fuel amount assessed for the tax period or fuel tax return period [Schedule 1, item 16, section 110-5 of the Fuel Tax Act].

Registration

1.106 To ensure that taxpayers who genuinely believe they are not required to register for GST are not indefinitely exposed to the possibility of an assessment (as the period of review only commences on lodgment of a return), the Commissioner's ability to backdate a taxpayer's registration is limited to four years.

1.107 This means that, absent fraud or evasion, the Commissioner may no longer backdate a taxpayer's registration beyond four years. In cases of fraud and evasion, the Commissioner may backdate a taxpayer's registration indefinitely. *[Schedule 1, item 37, subsection 25-10(1A) of the GST Act]*

1.108 Consistent with this, once the Commissioner can no longer backdate a taxpayer's GST registration because of subsection 25-10(1A), the taxpayer is also treated as no longer being required to be registered for the purposes of complying with obligations that apply to taxpayers who are required to be registered. *[Schedule 1, item 36, section 23-20 of the GST Act]*

Example 1.11

Sally genuinely believes that the supplies she has made are not taxable supplies. She decides not to register and therefore does not lodge any returns. On 15 June 2019, the Commissioner determines that there is no fraud or evasion and that Sally should have been registered from 1 July 2013. However, as four years have passed, the Commissioner may not backdate Sally's registration to that day. The earliest the Commissioner could backdate Sally's registration is to 16 June 2015.

As a result, Sally is no longer required to be registered and is not required to lodge any returns before 16 June 2015. This also means that Sally will not have made any taxable supplies or creditable acquisitions before 16 June 2015. The Commissioner will, however, be able to make an assessment of Sally's net amount for the part of the tax period from 16 June 2015 to 30 June 2015. Sally's net amount will include the GST payable on any taxable supplies, and the input tax credits for any creditable acquisitions she made from 16 June 2015 to 30 June 2015.

Returns

1.109 Division 31 of the GST Act and Division 61 of the Fuel Tax Act set out the obligations of taxpayers to lodge a GST return or fuel tax return for a tax period or fuel tax return period.

1.110 Given the importance of returns in an assessment system, subsection 31-20(1) is amended to allow the Commissioner to demand a GST return in addition to a further or fuller GST return (which can already be demanded under the existing law). Similarly, subsection 61-15(2A) is inserted into the Fuel Tax Act in respect of a return or further and fuller return for a tax period or fuel tax return period. These are equivalent provisions to subsection 162(1)(a) of the ITAA 1936. *[Schedule 1, item 45, subsection 31-20(1) of the GST Act; item 174, subsection 61-15(2A) of the Fuel Tax Act]*

1.111 Section 31-30 is inserted to allow the Commissioner to treat a GST return as being duly made by the taxpayer, or with the taxpayer's authority, unless the taxpayer is able to prove otherwise. Similarly, section 61-17 is inserted into the Fuel Tax Act in respect of fuel tax returns. These are equivalent provisions to section 169A of the ITAA 1936 and are intended to allow the Commissioner to be able to process assessments without needing to be involved in disputes between taxpayers and other parties about who is authorised to lodge a return for the taxpaying entity. *[Schedule 1, item 46, section 31-30 of the GST Act; item 175, section 61-17 of the Fuel Tax Act]*

Payments and refunds

1.112 Divisions 33 and 35 of the GST Act set out obligations of the taxpayer to pay a positive net amount or amounts of GST on an importation, and the Commissioner's obligation to refund a negative net amount. Division 61 of the Fuel Tax Act similarly provides for the payment and refund of net fuel amounts.

1.113 A main feature of an assessment regime is that upon assessment, there is no time limit for the Commissioner to recover unpaid amounts, or for taxpayers to be paid unpaid refunds. For tax periods and fuel tax periods commencing on or after 1 July 2012, the amount that can be recovered must be crystallised by an assessment, or an amended assessment within the period of review (including any extensions), or the refreshed period of review if applicable.

1.114 The relevant provisions in the GST Act, the Fuel Tax Act and in Schedule 1 to the TAA 1953 are amended to reflect that a taxpayer is only obliged to pay, and the Commissioner is only obliged to refund, amounts which have been crystallised in an assessment — assessed net amounts, assessed net fuel amounts and assessed GST on importations. *[Schedule 1, items 32 and 47, sections 7-15 and 33-1 of the GST Act; items 171 and 173, sections 61-1 and 61-10 of the Fuel Tax Act; item 259, repeal of sections 105-50 and 105-55 in Schedule 1 to the TAA 1953]*

1.115 Sections 33-3 and 33-5 of the GST Act and section 61-10 of the Fuel Tax Act are amended to provide that a taxpayer is only required to pay to the Commissioner amounts that have been assessed. *[Schedule 1, items 49 to 64, sections 33-3, 33-5, 33-10 and 33-15 of the GST Act; item 173, section 61-10 of the Fuel Tax Act]*

1.116 Sections 35-5 and 35-10 of the GST Act and section 61-7 of the Fuel Tax Act are amended to provide that a taxpayer is only entitled to a refund which has been assessed, and the entitlement arises when a notice of assessment or notice of amended assessment is issued. *[Schedule 1, items 65, 66, 68 and 69, subsection 35-5(1) and sections 35-10 and 35-99 of the GST Act; item 173, subsection 61-5(1) and section 61-7 of the Fuel Tax Act]*

1.117 Subsection 35-5(2) of the GST Act and subsection 61-5(2) of the Fuel Tax Act are amended to provide that any amounts which become overpaid to a taxpayer, as a result of an amendment to his or her assessment, are treated as assessed net amounts or assessed net fuel amounts that become payable at the time the amounts are paid to the taxpayer. This is similar to the existing provisions which treat any overpayments of the net amount or net fuel amount as an amount that is payable to the Commissioner. *[Schedule 1, item 67, subsection 35-5(2) of the GST Act; item 173, subsection 61-5(2) of the Fuel Tax Act]*

Example 1.12

Matthew runs a pet store and is registered for GST. On 21 November 2012, Matthew lodges his GST return for the monthly tax period ending 31 October 2012 and his assessed net amount is a refund of \$3,000. The Commissioner pays this amount to Matthew. The Commissioner refunds the amount of \$3,000 to Matthew on 28 November 2012.

On 1 December 2012, the Commissioner amends Matthew's assessment so that Matthew's assessed net amount is a refund of \$1,000. This means that on 28 November 2012, the Commissioner overpaid Matthew by \$2,000. The \$2,000 is treated as an assessed net amount that was payable by Matthew on 28 November 2012.

1.118 Tax periods and fuel tax periods commencing before 1 July 2012 continue to have a four-year time limit for recovery under existing sections 105-50 and 105-55 in Schedule 1 to the TAA 1953. *[Schedule 1, items 235 and 236, paragraphs 105-50(4)(a) and 105-55(6)(a) in Schedule 1 to the TAA 1953]*

1.119 For payments and refunds that do not relate to tax periods or fuel tax return periods, the four-year time limit for recovery continues to apply to the liabilities and entitlements arising before 1 July 2012. *[Schedule 1, items 235 and 236, paragraphs 105-50(4)(b) and 105-55(6)(b) in Schedule 1 to the TAA 1953]*

Input tax credit and fuel tax credit entitlements

1.120 Division 29 of the GST Act and Division 65 of the Fuel Tax Act set out the rules for attributing credits to tax periods and fuel tax return periods.

1.121 Subsections 29-10(1) and (2) of the GST Act set the period where an input tax credit is first attributable. Subsection 29-10(4) of the GST Act then allows taxpayers to choose to either amend the assessment for the tax period to which the credit would have been attributable under subsection 29-10(1), (2) or (3) of the GST Act, or to attribute it to a later

tax period. However, once an input tax credit has been attributed to a tax period, it can no longer be attributable to any other tax period.

1.122 Subsections 65-5(1) to (3) of the Fuel Tax Act similarly set the tax period or fuel tax return period where a fuel tax credit is attributable and subsection 65-5(4) allows the fuel tax credit to be attributed to a later tax period or fuel tax return period.

1.123 Without a time limit, a credit which has not been attributed could exist indefinitely. To ensure finality, Division 93 of the GST Act and Division 47 of the Fuel Tax Act provide time limits on these credit entitlements. These Divisions are amended to operate in a self assessment environment.

1.124 Section 93-5 of the GST Act is amended to provide that a taxpayer loses his or her entitlement to an input tax credit if it has not been taken into account in an assessment during the period of four years commencing the day after the taxpayer is required to lodge a GST return for the tax period to which the input tax credit would be attributable under subsections 29-10(1) and (2). This assessment does not have to be the assessment for the tax period mentioned in section 93-5, but can be in an assessment (including an amended assessment) for a different tax period, as long as the assessment is made during those four years. *[Schedule 1, item 81, sections 93-1 and 93-5 of the GST Act]*

1.125 Section 47-5 of the Fuel Tax Act is similarly amended in relation to fuel tax credits and net fuel amounts. *[Schedule 1, items 167 and 168, sections 47-1 and 47-5 of the Fuel Tax Act]*

Example 1.13: Forgetting to claim an input tax credit

Emily runs an accounting practice and is registered for GST. On 2 February 2013, Emily makes a creditable acquisition. On her GST return lodged 21 March 2013, Emily forgets to include the input tax credit for the creditable acquisition.

Emily has until 21 March 2017 to claim the input tax credit. If she does not, then Emily's entitlement to that input tax credit is lost.

Example 1.14: Failing to lodge a return

Emily makes a creditable acquisition on 10 June 2013. On 21 July 2013, she fails to lodge a return for the tax period ending 30 June 2013. Emily does not lodge a return for that tax period for the next four years.

On 22 July 2020, Emily lodges a return for the tax period ending 30 June 2013 on which she claims the input tax credit for the creditable acquisition made on 10 June 2013.

Because more than four years has passed since the return was due, the input tax credit entitlement has been lost and may no longer be taken into account in any assessment.

Example 1.15: Creditable acquisition and supply made in different tax periods

On 5 August 2013, Emily makes a number of acquisitions. As Emily believes the supply (to which the acquisitions relate) will be input taxed, she does not claim any input tax credits in the GST return for the tax period ending 31 August 2013, which is lodged on 21 September 2013. The assessment does not take into account the input tax credits.

Emily makes the supply in March 2017 and treats the supply as input taxed in her GST return for the tax period ending 31 March 2017, which is lodged on 21 April 2017. The assessment for that period does not include any GST payable on that supply.

In April 2018, the Commissioner amends Emily's assessment for the tax period ending 31 March 2017 to reflect that the supply is actually taxable. The Commissioner may therefore require payment of GST on the supply. However, because more than four years have passed since the return for the tax period for which the input tax credit would have been attributable was due, Emily will not be entitled to claim the input tax credits that would have been claimable even though the acquisitions should have been treated as creditable acquisitions.

Example 1.16: Interaction with the refreshed period of review — change in the amount of GST payable

On 15 September 2013, Emily makes a number of acquisitions that relate to making a supply that is partly taxable and partly input taxed. Emily chooses an apportionment methodology that treats the supply as 50 per cent taxable and 50 per cent input taxed and claims half the input tax credits for acquisitions related to the supply. Both the supply and the credits are taken into account in Emily's GST return for the tax period ending 30 September 2013. Emily also makes an unrelated creditable acquisition in the same tax period, but forgets to include the input tax credit entitlement on her GST return lodged 21 October 2013.

On 23 March 2015, following an audit of Emily's tax affairs, the Commissioner amends Emily's assessment for the tax period ending 30 September 2013 to reflect that the supply was 60 per cent taxable and 40 per cent input taxed, and increases the amount of GST payable on the supply. As a result of the change in the extent of creditable purpose, Emily's input tax credit entitlements for the related acquisitions are also increased.

This gives rise to two amended particulars, each having their own refreshed periods of review that commence on the day the Commissioner issues Emily with a notice of amended assessment.

On 25 November 2017, Emily provides additional information to the Commissioner which shows that the supply was actually 40 per cent taxable and 60 per cent input taxed. As the refreshed periods of review for both the GST payable and the input tax credits for the related acquisitions are not yet over, the Commissioner may amend Emily's assessment to reduce both the GST payable and the input tax credits claimable. This is because the credits have been taken into account in an assessment for the subsections 29-10(1) and (2) tax period.

However, Emily may no longer claim the input tax credit for the unrelated creditable acquisition because this credit was not taken into account in the assessment for the subsections 29-10(1) and (2) tax period.

Example 1.17: Interaction with the refreshed period of review — change in the GST treatment of a supply

On 2 March 2014, Emily makes a number of acquisitions. As Emily believes the supply (to which the acquisitions relate) will be input taxed, she does not claim any input tax credits for the tax period ending 31 March 2014 and the assessment does not take into account the input tax credits. Emily treats the supply as input taxed on the GST return for the tax period ending 30 September 2014 and the assessment for that period does not include any GST payable on that supply. The GST return is lodged on 21 October 2014.

On 23 March 2015, the Commissioner amends Emily's assessment for the tax period ending 30 September 2014 to treat the supply as taxable. In amending the assessment, the Commissioner also amends Emily's entitlement to input tax credits for acquisitions that are related to the making of the supply as her entitlement to the credits have not ceased under Division 93 of the GST Act.

The amendment to the GST treatment of the supply gives rise to a refreshed period of review for the particular. The amendment to Emily's input tax credit entitlements also gives rise to a refreshed period of review for a separate particular. Both refreshed periods of review commence on the day after the Commissioner issues Emily with a notice of amended assessment for the amendments made.

1.126 The four-year time limits under sections 93-5 of the GST Act and 47-5 of the Fuel Tax Act are imposed to encourage taxpayers to lodge their returns on time, and mirror the four-year limit on the Commissioner's ability to make an assessment of an unregistered taxpayer's assessable amount.

1.127 The provisions ensure that where the Commissioner may not go beyond four years in making an assessment for unregistered taxpayers, taxpayers are similarly not entitled to credits beyond four years. Registered taxpayers have an obligation to lodge their returns by the due date, and therefore should not benefit from the late lodgment of a return.

1.128 After the four years, an input tax credit may only be taken into account in limited circumstances. These exceptions are contained in section 93-10 of the GST Act and section 47-10 of the Fuel Tax Act. *[Schedule 1, item 82, section 93-10 of the GST Act; item 169, section 47-10 of the Fuel Tax Act]*

Exceptions — change in the GST treatment of a supply

1.129 The exception in subsection 93-10(4) preserves a taxpayer's input tax credit entitlement where the input tax credit is for a creditable acquisition that relates to making a supply which is incorrectly treated as input taxed in an assessment, and the assessment is subsequently amended by the Commissioner to be treated as not input taxed (taxable or GST-free). *[Schedule 1, item 82, subsection 93-10(4) of the GST Act]*

1.130 This exception is appropriate in a self assessment system where the period of review for an assessment may not always align with the four-year time limit in section 93-5, for example, when the period of review is extended under subsection 155-35(3) or (4).

1.131 A taxpayer will not lose his or her entitlement to an input tax credit under section 93-5 if the criteria set out in paragraphs (a) to (d) in subsection 93-10(4) are met. *[Schedule 1, item 82, subsection 93-10(4) of the GST Act]*

1.132 First, the input tax credit must be for a creditable acquisition that relates to making a supply and the credit was not taken into account in any assessments during the four years mentioned in subsection 93-5(1) because the supply was treated as input taxed. *[Schedule 1, item 82, paragraphs 93-10(4)(a) and (b) of the GST Act]*

1.133 Secondly, the amendment that gives effect to a change in the GST treatment of the supply from input taxed to not input taxed can only be made under section 155-35 (amendment during the period of review), 155-45 (amendment on application), 155-50 (amendment to give effect to private ruling), or paragraph 155-60(a) or (b) (amendment to give effect to decision on review, appeal or objection) in Schedule 1 to the TAA 1953. This ensures that taxpayers who have treated a supply as input taxed as a result of anti-avoidant, fraudulent or evasive behaviour do not benefit from their wrongdoing. *[Schedule 1, item 82, paragraph 93-10(4)(c) of the GST Act]*

1.134 As the supply and the input tax credit may be attributed to the same tax period or to different tax periods, the input tax credit entitlement is only preserved while the Commissioner is able to amend the taxpayer's assessment (under Subdivision 155-B in Schedule 1 to the TAA 1953) for the tax period to which the input tax credit would have been attributable under subsections 29-10(1) and (2). [*Schedule 1, item 82, paragraph 93-10(4)(d) of the GST Act*]

1.135 If the Commissioner is no longer able to amend the assessment mentioned in paragraph 93-10(4)(d), then the input tax credit entitlement is lost, even if the Commissioner may still amend the assessment for the tax period that the supply is attributed to.

1.136 There is no restriction on which assessment the input tax credit may be taken into account in, as long as at the time the assessment (including an amended assessment) is made, paragraph 93-10(4)(d) is satisfied. Once the input tax credit has been taken into account, the taxpayer remains entitled to it.

1.137 An equivalent exception is not required for fuel tax credits as these entitlements do not relate to making a supply.

Example 1.18: Exception — change in the GST treatment of a supply

On 11 April 2014, Emily makes an acquisition that relates to making a supply which she believes will be input taxed. As a result, she does not claim an input tax credit in her GST return for the tax period ending 30 April 2014, or in any other tax periods in the four years after 21 May 2014. Emily makes the supply on 16 September 2014. On 21 October 2014, Emily lodges her GST return for the tax period ending 30 September 2014, treating the supply as input taxed.

As the Commissioner is currently completing an audit of Emily's assessment for the tax period ending 30 April 2014 (when the acquisition was made), both Emily and the Commissioner agree to an extension of the period of review by three months. The period of review will now end 31 July 2018 (rather than 30 April 2018).

On 15 May 2018, the Commissioner amends Emily's assessment for the tax period ending 30 September 2014 (under section 155-35 in Schedule 1 to the TAA 1953) to treat the supply as taxable. Even though Emily has not claimed the input tax credit in the four years specified in section 93-5, she remains entitled to the input tax credit because the Commissioner may still amend her assessment for the tax period ending 30 April 2014 (the tax period to which the input tax credit would have been attributable under subsections 29-10(1) and (2)). As a result, Emily may take the credit into account, either by seeking an amendment to the assessment for the tax period ending

30 April 2014, or in another assessment, as long as she does so while the Commissioner may amend that first assessment.

Exception — requesting the Commissioner to treat a document as a tax invoice

1.138 Subsections 93-10(5) of the GST Act and 47-10(4) of the Fuel Tax Act provide an exception to the time limits in sections 93-5 and 47-5, respectively, where a taxpayer has requested the Commissioner to treat a document as a tax invoice before the end of the period referred to in section 93-5, and the Commissioner agrees to treat the document as a tax invoice after the four years have passed. [*Schedule 1, item 82, subsection 93-10(5) of the GST Act; item 169, subsection 47-10(4) of the Fuel Tax Act*]

Example 1.19: Exception — requesting the Commissioner to treat a document as a tax invoice

Tina is an optometrist and is registered for GST. On 15 January 2014, Tina makes a creditable acquisition, however the supplier does not provide Tina with a tax invoice.

On 28 April 2014, Tina lodges her GST return for the tax period ending 31 March 2014. As Tina does not hold a valid tax invoice at the time of lodgment, she does not claim the input tax credit on her GST return.

Over the next four years, Tina asks the supplier numerous times for the tax invoice. On 15 March 2018, Tina writes to the Commissioner requesting that the Commissioner treat a number of documents containing proof of her purchase as a tax invoice so that she may claim the input tax credit.

After investigating the documents that Tina provides, the Commissioner agrees to treat the documents as a tax invoice on 30 April 2018. Even though the four years mentioned in section 93-5 have passed, Tina may still take the input tax credit into account in an assessment of her net amount.

Input tax credit entitlements where GST ceases to be payable

1.139 Section 93-15 is consequently amended to reflect the repeal of subsections 93-10(1) to (3). The provision restricts a recipient taxpayer's entitlement to an input tax credit if the GST on the supply has ceased to be payable by the supplier. GST ceases to be payable by the supplier when the period of review ends and the relevant assessment does not include the GST payable on that supply. [*Schedule 1, items 83 and 84, section 93-15 of the GST Act*]

Example 1.20

Jane and Alex are both registered for GST. Jane has monthly tax periods and accounts for the GST on an accruals basis. Alex has quarterly tax periods and accounts on a cash basis.

In July 2013, Jane supplies Alex with real property that they treat as an input taxed supply. On 21 August 2013, Jane lodges her GST return for the monthly tax period ending 31 July 2013 and includes no GST payable on the supply she made to Alex.

On 28 February 2014, Alex lodges his GST return for the quarterly tax period ending 30 September 2013 (the tax period he acquired the property in) and does not claim an input tax credit for the acquisition from Jane because the acquisition is not a creditable acquisition.

On 31 August 2017, the Commissioner commences an audit of Alex's GST return for the tax period ending 30 September 2013. The Commissioner determines that the supply from Jane to Alex is taxable.

Under section 93-15, Alex's entitlement to the input tax credit has ceased because Jane's period of review for the assessment for the tax period ending 31 July 2013 ended on 21 August 2017 and her assessment for that tax period did not include the GST on the supply of the property. This means that the GST on the supply ceased to be payable by Jane on 22 August 2017.

Alex does not hold a tax invoice for the acquisition until 30 August 2017. Although Alex's entitlement to the input tax credit under section 93-5 would not usually cease until 30 September 2017, he can no longer claim the input tax credit after 22 August 2017.

General interest charge

1.140 As with the current GST regime, the general interest charge is payable from the date lodgment was required (under section 105-80 in Schedule 1 to the TAA 1953).

Application and transitional provisions

Application date

1.141 The amendments in Schedule 1 relating to assessments will apply to assessable amounts for tax periods or fuel tax return periods commencing on or after 1 July 2012. The amendments will also apply to payments and refunds that do not relate to tax periods or fuel tax return

periods, where the relevant liability or entitlement arises on or after 1 July 2012. *[Schedule 1, items 239 and 264]*

Transitional rules

1.142 Division 4 of Part 1 to Schedule 1 contains transitional arrangements for moving to an assessment based regime. In general, it preserves the existing rules for all tax periods and fuel tax return periods commencing prior to 1 July 2012. The current rules will also continue to apply to payments and refunds that do not relate to tax periods or fuel tax return periods if the relevant liability or entitlement arises prior to 1 July 2012.

1.143 Sunsetting provisions are inserted for the following provisions that will continue to apply to tax periods and fuel tax return periods that commence prior to 1 July 2012:

- time limits on entitlements for credits under Division 93 of the GST Act and Division 47 of the Fuel Tax Act *[Schedule 1, items 224 to 226, notes in subsections 93-10(1) to (3) of the GST Act; items 227 to 230, notes in subsections 47-10(1) to (3) of the Fuel Tax Act];*
- objections *[Schedule 1, items 231 and 232, section 14ZW of the TAA 1953];* and
- existing assessment provisions for indirect taxes in Schedule 1 to the TAA 1953 *[Schedule 1, items 233 to 238 and 240, sections 105-3, 105-40, 105-50, 105-55, item 61 in the table in subsection 110-50(2), item 1 in the table in subsection 112-50(2) and item 2 in the table in subsection 350-10(1) in Schedule 1 to the TAA 1953].*

1.144 A savings provision is included to ensure that specifications made by the Commissioner for the purposes of subsections 78-90(1) and 105-20(1) of the GST Act continue to have effect for the equivalent provisions (paragraphs 78-90(1A)(b) and 105-20(1A)(b)) following the amendments to sections 78-90 and 105-20. *[Schedule 1, item 241]*

Amendments commencing on 1 January 2017

1.145 Part 2 of Schedule 1 repeals provisions of the following Acts that are no longer in effect on or after 1 July 2016 and makes consequential amendments as part of these repeals:

- the GST Act *[Schedule 1, items 242 to 245, subsection 17-20(2), paragraph 17-20(2A)(b), sections 93-1 and 93-10 of the GST Act];*

- the *A New Tax System (Goods and Services Tax Transition) Act 1999 [Schedule 1, item 246, section 151A of the A New Tax System (Goods and Services Tax Transition) Act 1999]*;
- the *Fuel Tax Act [Schedule 1, items 247 to 253, sections 47-1, 47-10 and 60-10 of the Fuel Tax Act]*;
- the *ITAA 1997 [Schedule 1, item 254, definition of ‘reviewable indirect tax decision’ in subsection 995-1(1) of the ITAA 1997]*;
- the *TAA 1953 [Schedule 1, items 255 and 256, section 14ZW of the TAA 1953; items 257 to 263, section 105-1, Subdivisions 105-A and 105-B, sections 105-50 and 105-55, item 61 in the table in subsection 110-50(2), item 1 in the table in subsection 112-50(2), item 2 in the table in subsection 350-10(1) and subsection 350-10(2) in Schedule 1 to the TAA 1953]*.

1.146 The provisions are repealed on 1 January 2017 even though they no longer have effect on or after 1 July 2016 to align with the annual publication of compilations of tax legislation. The amendments only apply to tax periods and fuel tax return periods that start on or after 1 July 2012, and payments and refunds which do not relate to tax periods or fuel tax return periods arising on or after 1 July 2012. *[Schedule 1, item 264]*

1.147 This means that the Commissioner may still make an assessment under Division 105 in Schedule 1 to the TAA 1953 for tax periods and fuel tax periods commencing before 1 July 2012, and payments and refunds made before 1 July 2012, even after the provisions in Division 105 are repealed on 1 January 2017.

Consequential amendments

1.148 The remaining provisions in Division 3 of this Schedule are consequential amendments that result from the implementation of the measures.

Location of new assessment provisions

1.149 Chapter 4 in Schedule 1 to the TAA 1953 is renamed to include assessments as a result of inserting Division 155, which contains the generic assessment provisions. *[Schedule 1, item 213, Chapter 4 in Schedule 1 to the TAA 1953]*

1.150 Consequential amendments are made to provisions and notes in the GST, LCT, WET and Fuel Tax Acts to refer to the location of the new

assessment provisions. *[Schedule 1, items 31, 33 and 48, section 2-30, note 1 in section 7-15 and note 1A in section 33-1 of the GST Act; items 131 and 136, section 2-25 and note 1A in paragraph 13-20(1)(b) of the LCT Act; items 144, 145 and 149, section 2-33, subsection 19-25(5) and note 1A in paragraph 23-5(1)(b) of the WET Act; item 172, note in section 61-1 of the Fuel Tax Act]*

Updating references to assessed amounts

1.151 A number of consequential amendments are made to ensure that the provisions in the indirect tax laws correctly refer to the relevant assessed amounts where appropriate. These consequential amendments relate to:

- attribution rules for GST *[Schedule 1, items 39, 42 and 43, sections 29-1 and 29-15 of the GST Act];*
- GST joint ventures and GST branches *[Schedule 1, items 70 to 73, sections 51-55 and 51-60 of the GST Act];*
- GST branches *[Schedule 1, items 74 to 77, sections 54-60 and 54-65 of the GST Act];*
- pre-establishment costs *[Schedule 1, items 78 and 79, subparagraph 60-15(1)(e)(i) and paragraph 60-30(1)(a) of the GST Act];*
- insured entities that are not registered *[Schedule 1, item 80, subsection 78-90(1) of the GST Act];*
- supplies in satisfaction of debts *[Schedule 1, item 85, subsection 105-20(1) of the GST Act];*
- importations without entry for home consumption *[Schedule 1, items 86 and 87, sections 114-15 and 114-20 of the GST Act];*
- valuation of re-imported goods *[Schedule 1, items 88 to 90, section 117-15 of the GST Act];*
- definition of ‘applicable value’ for cessation of registration and distributions from deceased estates *[Schedule 1, items 92 and 93, paragraph (c) of the definition of ‘applicable value’ in subsections 138-5(2) and 139-5(2) of the GST Act];*
- annual tax periods *[Schedule 1, items 94 to 100, sections 151-50 and 151-60 of the GST Act];*
- instalments *[Schedule 1, items 101 to 114, sections 162-5, 162-90, 162-95, 162-110, 162-145, 162-190 and 162-200 of the GST Act];*

- customs security given on taxable importations [*Schedule 1, items 123 to 128, sections 171-1 and 171-5 of the GST Act*];
- payments of LCT on taxable importations of luxury cars [*Schedule 1, items 130, 132 to 135 and 137 to 142, subsection 2-10(1), heading in Subdivision 13-B and sections 13-20 and 13-25 of the LCT Act*];
- payments of WET on customs dealings [*Schedule 1, items 143, 146 to 148, 150 and 151, sections 2-20, 23-1 and 23-5 of the WET Act*];
- import declarations [*Schedule 1, items 152 to 165, subsections 71AAAL(3) and (7), paragraphs 71C(4)(b) and (7)(a), note in subsection 105D(3), subsections 162(1) and 162A(2) of the Customs Act 1901*];
- fuel tax adjustments [*Schedule 1, item 166, section 44-1 of the Fuel Tax Act*];
- application of fuel tax law to GST branches, resident agents and non-profit sub-entities [*Schedule 1, items 177 and 178, section 70-30 of the Fuel Tax Act*];
- references in the ITAA 1997 [*Schedule 1, items 186 and 187, section 27-15 of the ITAA 1997*];
- references in the *Product Grants and Benefits Administration Act 2000* [*Schedule 1, items 188 and 189, subsection 15(2A) and definition of ‘net fuel amount’ in subsection 15(4) of the Product Grants and Benefits Administration Act 2000*]; and
- references in the TAA 1953 [*Schedule 1, item 191, subsection 8AAZMA(1) of the TAA 1953; items 202 to 206, 214 to 219, 221 and 222, subsections 105-65(2) and 105-80(2), items 5, 10, 12, 12A, 12B, 15, 20 and 36 in the table in subsection 250-10(2) and paragraphs 288-20(a) and 357-55(i) and (j) in Schedule 1 to the TAA 1953*]

Tax periods

1.152 The words ‘(the amounts payable by you or to you)’ are removed as the net amount is no longer the amount payable by a taxpayer or to a taxpayer. [*Schedule 1, item 38, section 27-1 of the GST Act*]

Attribution

1.153 The reference to ‘states a *net amount that’ is removed from subsection 29-10(4) of the GST Act because the return does not actually

state a net amount — the net amount is worked out in accordance with the information contained in the return. A similar amendment is made to subsection 65-5(4) of the Fuel Tax Act in relation to net fuel amounts. *[Schedule 1, item 40, subsection 29-10(4) of the GST Act; item 176, subsection 65-5(4) of the Fuel Tax Act]*

Anti-avoidance

1.154 The anti-avoidance provisions are amended to ensure that declarations under Division 165 of the GST Act and Division 75 of the Fuel Tax Act have the same effect for the purposes of making an assessment. *[Schedule 1, items 115 to 122, sections 165-40, 165-45 and 165-50 of the GST Act; items 179 to 185, sections 75-1, 75-40, 75-45 and 75-50 of the Fuel Tax Act]*

1.155 The making of a declaration under subsection 165-40(1) of the GST Act will only be a reviewable GST decision if the declaration states the net amount for a tax period ending before 1 July 2012, or an amount of GST on a taxable importation which is payable before 1 July 2012. Similarly, the making of a declaration under subsection 75-40(1) of the Fuel Tax Act will only be a reviewable fuel tax decision if the declaration states the net fuel amount for a tax period or fuel tax return period ending before 1 July 2012. *[Schedule 1, items 115 to 122, sections 165-40, 165-45 and 165-50 of the GST Act; items 209 and 212, item 61 in the table in subsection 110-50(2) and item 1 in the table in subsection 112-50(2) in Schedule 1 to the TAA 1953]*

Other consequential and minor amendments

1.156 A number of provisions make reference to terms that are defined in different Acts. Consequential amendments are made to reference the relevant Acts which define the terms. *[Schedule 1, item 5, definition of ‘assessment’ in section 195-1 of the GST Act; item 7, definition of ‘assessment’ in section 27-1 of the LCT Act; item 9, definition of ‘assessment’ in section 33-1 of the WET Act; items 10 to 15, definitions of ‘assessed GST’, ‘assessed luxury car tax’, ‘assessed wine tax’, ‘taxable dealing’, ‘taxable importation’ and ‘taxable importation of a luxury car’ in subsection 4(1) of the Customs Act 1901; item 17, definition of ‘assessment’ in section 110-5 of the Fuel Tax Act; items 18 to 21 and 23 to 28, definitions of ‘assessable amount’, ‘assessed GST’, ‘assessed net amount’, ‘assessed net fuel amount’, ‘customs dealing’, ‘fuel tax return’, ‘import declaration’, ‘import declaration advice’, ‘period of review’ and ‘self-assessed clearance declaration advice’ in subsection 995-1(1) of the ITAA 1997; item 29, definition of ‘objection decision’ in subsection 2(1) of the TAA 1953]*

1.157 The notes at the end of subsections 29-10(4) (attribution) and 133-5(1) (gross up clauses) and section 195-1 (definition of ‘creditable acquisition’) of the GST Act are updated to include a reference to section 93-15. *[Schedule 1, items 41, 91 and 129, notes in subsections 29-10(4) and 133-5(1) and note at the end of the definition of ‘creditable acquisition’ in section 195-1 of the GST Act]*

1.158 Other consequential and minor amendments are made to various provisions to reflect the transition to an assessment-based system. These include the repeal of provisions and notes which are no longer relevant and minor technical and drafting changes. *[Schedule 1, items 34, 35 and 44, section 17-1 and note in subsection 29-70(1B) of the GST Act; item 170, section 60-1 of the Fuel Tax Act; items 190 and 192, subsection 8AAZLG(2) and definition of 'objection decision' in section 14ZQ of the TAA 1953; items 200, 201, 208, 210, 211 and 220, sections 105-1, 110-50, 111-50 and 112-50 and item 36 in the table in subsection 250-10(2) in Schedule 1 to the TAA 1953]*

Contingent amendments

1.159 The Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011 (MRRT (CA&TP) Bill) contains the provisions to extend the generic assessment regime established by Schedule 1 to this Indirect Tax Laws Amendment (Assessment) Bill 2012 (this Bill) to cover assessments of minerals resource rent tax (MRRT). In the event that this Bill does not receive Royal Assent by 1 July 2012 (when the MRRT law begins to apply), the standalone MRRT assessment provisions also contained in the MRRT (CA&TP) Bill would be enacted instead of the amendments to extend this Bill's generic assessment regime, to ensure that the MRRT is not left without assessment provisions.

1.160 Part 3 of Schedule 1 to this Bill contains contingent amendments to ensure that, in the event that the MRRT (CA&TP) Bill has already enacted the standalone MRRT assessment provisions, these provisions are replaced with generic assessment provisions that apply to amounts under both the indirect tax laws and the MRRT law. This is done by repealing Part 2 of Schedule 2 to the MRRT (CA&TP) Bill (if it receives Royal Assent) and amending the generic assessment regime established by Part 1 of Schedule 1 to this Bill to also cover MRRT assessments, even if this Bill receives Royal Assent after 1 July 2012. *[Clause 2, items 4 and 5 in the table, Schedule 1, items 265 to 269, items 3 and 6 in the table in subsection 2(1) of the MRRT (CA&TP) Bill and Part 2 of Schedule 2 to the MRRT (CA&TP) Bill]*

1.161 The provisions in Part 2 of Schedule 2 to the MRRT (CA&TP) Bill are taken to have never commenced, such that any insertions or amendments made by that Part are taken to have never been made. This ensures that Schedule 1 to the TAA 1953 only contains one set of the assessment provisions. The repeal is only triggered if this Bill receives Royal Assent after 1 July 2012. If it receives Royal Assent before that, the standalone assessment provisions would not have been enacted and these amendments are not required. *[Clause 2, item 5 in the table and Schedule 1, subitem 270(1)]*

1.162 A transitional provision is included to ensure that anything that is done under the standalone MRRT assessment provisions is taken to have been done under the substituted provisions instead. That ensures that miners' rights and obligations are not affected by the repeal of the standalone MRRT assessment provisions. Miners are not adversely affected because the two sets of assessment provisions are equivalent (they even have almost identical drafting). *[Clause 2, item 5 in the table and Schedule 1, subitem 270(2)]*

1.163 A consequential amendment removes a note in the MRRT (CA&TP) Bill that would otherwise now be misleading. *[Clause 2, item 6 in the table and Schedule 1, item 271, note to item 90 of Schedule 3 to the MRRT (CA&TP) Bill]*

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Schedule 1 — Assessment of amounts under indirect tax laws

1.164 This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

1.165 This Schedule amends the TAA 1953, the GST Act and other taxation Acts to harmonise the current self actuating system that applies to the GST, the LCT, the WET and fuel tax credits with the self assessment system for income tax.

Human rights implications

1.166 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

1.167 This Schedule is compatible with human rights as it does not raise any human rights issues.

Assistant Treasurer, Senator the Hon Mark Arbib

Correcting errors in working out amounts under indirect tax laws

Outline of chapter

2.1 Schedule 2 to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and the *Fuel Tax Act 2006* (Fuel Tax Act) to allow the Commissioner of Taxation (Commissioner) to make a determination allowing a taxpayer to take into account, on his or her goods and services tax (GST) or fuel tax return for the current tax period or fuel tax return period, minor errors made in working out net amounts and net fuel amounts for preceding tax periods or fuel tax return periods.

Context of amendments

2.2 Under the existing law, special concessions exist to allow for the correction of certain errors in GST returns and fuel tax returns without requiring the amendment of past returns.

2.3 Section 17-20 of the GST Act currently allows the Commissioner to determine specified circumstances in which a taxpayer may correct an error made in working out his or her net amount in the immediately preceding tax period, in working out his or her net amount in the current tax period.

2.4 The Fuel Tax Act does not currently contain an equivalent discretion.

2.5 However, the Commissioner has exercised his power of general administration to permit, in certain specified circumstances, minor errors made in preceding tax periods or fuel tax return periods to be corrected, without penalty, in the GST or fuel tax return for the current tax period and fuel tax return periods.

Summary of new law

2.6 Schedule 2 allows the Commissioner to determine the circumstances in which taxpayers may, in a particular tax period or fuel

tax return period, account for errors arising from mistakes relating to net amounts and net fuel amounts in prior tax periods or fuel tax return periods, provided the period of review relevant to the error has not expired. The amendments do not limit such determinations to relate to immediately preceding tax periods or fuel tax return periods.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Commissioner has the discretion to determine the circumstances in which a taxpayer may account for errors in relation to net amounts or net fuel amounts for prior tax periods and fuel tax return periods, as long as the error is corrected during the relevant period of review.	The Commissioner has the discretion to determine the circumstances in which taxpayers in specified circumstances may account for errors in the immediately preceding tax period in working out the net amount for the current tax period.

Detailed explanation of new law

2.7 Schedule 2 provides the Commissioner with a specific power to allow taxpayers (at his or her discretion), in a particular tax period or fuel tax return period, to account for errors arising from errors relating to net amounts and net fuel amounts in prior tax periods or fuel tax return periods, provided the period of review relevant to the error has not expired.

2.8 These amendments allow the Commissioner to determine, in writing, the circumstances in which a taxpayer may calculate his or her net amount for a tax period to take account of errors arising from mistakes relating to net amounts for prior tax periods, provided that the period of review relevant to the assessment containing the error has not expired. *[Schedule 2, item 1, subsection 17-20(2A) of the GST Act]*

2.9 An equivalent provision is inserted into the Fuel Tax Act in respect of errors made in working out net fuel amounts in fuel tax returns for preceding tax periods or fuel tax return periods within time limits for the tax period or fuel tax return period under sections 105-50 and 105-55 or the period of review (whichever is applicable). *[Schedule 2, item 3, section 60-10 of the Fuel Tax Act]*

2.10 For tax periods commencing before 1 July 2012, errors may not be corrected if the time limits under sections 105-50 and 105-55 of the *Taxation Administration Act 1953* (TAA 1953) have ended. [*Schedule 2, item 1, subsection 17-20(2) of the GST Act; item 3, subsections 60-10(2) and (3) of the Fuel Tax Act*]

2.11 The amendment means that, if the Commissioner allows, taxpayers may correct errors arising from a previous GST or fuel tax return on their current return instead of amending the previous assessment. The taxpayer will also not be liable for the general interest charge.

Application and transitional provisions

2.12 These amendments apply to tax periods and fuel tax return periods commencing on or after 1 July 2012.

Consequential amendments

2.13 A reference to the definition of ‘period of review’ in the TAA 1953 is inserted into the GST Act and the Fuel Tax Act. [*Schedule 2, item 2, definition of ‘period of review’ in section 195-1 of the GST Act; item 4, definition of ‘period of review’ in section 110-5 of the Fuel Tax Act*]

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Schedule 2 — Correcting errors in working out amounts under indirect tax laws

2.14 This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

2.15 This Schedule amends the GST Act and the Fuel Tax Act to allow the Commissioner to make a determination allowing a taxpayer to take into account, on his or her GST or fuel tax return for the current tax period or fuel tax return period, minor errors made in working out net

amounts and net fuel amounts for preceding tax periods or fuel tax return periods.

Human rights implications

2.16 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

2.17 This Schedule is compatible with human rights as it does not raise any human rights issues.

Assistant Treasurer, Senator the Hon Mark Arbib

Chapter 3

Net amounts

Outline of chapter

3.1 Schedule 3 to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to clarify the definition of ‘net amount’.

Context of amendments

3.2 Schedule 3 implements Recommendation 42 of the Board of Taxation’s *Review of the Legal Framework for the Administration of the Goods and Services Tax* (Board’s report). This Schedule also creates a single definition of ‘net amount’ to apply differently in differing circumstances.

Amounts of luxury car tax and wine equalisation tax

3.3 Recommendation 42 of the Board’s report provided that the law should be amended to clarify that the luxury car tax (LCT) and the wine equalisation tax (WET) are part of the net amount that is calculated under the GST Act.

3.4 Sections 21-5 and 21-15 of the *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act) provide that amounts of WET payable or refundable are added to or subtracted from the net amount under the GST Act. Sections 13-5 and 13-10 of the *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act) provide that amounts of LCT payable or LCT adjustments are added to or subtracted from the net amount under the GST Act. These are not included in the definition of ‘net amount’ in the GST Act.

3.5 On the other hand, section 17-5 of the GST Act defines the net amount to be the taxpayer’s total GST payable *less* any input tax credit entitlements, subject to any adjustments. Amounts of WET and LCT are not specifically identified in the definition.

3.6 However, taxpayers and the Commissioner of Taxation (Commissioner) have consistently treated these amounts as part of the net amount in accordance with the LCT and the WET Acts.

Definitions of net amount

3.7 Currently, ‘net amount’ is defined in section 195-1 of the GST Act by reference to sections 17-5, 126-5 and 162-105. The definition in section 17-5 applies to most of the Act.

3.8 Divisions 123 (Simplified accounting methods for retailers and small enterprise entities), 126 (Gambling) and 162 (Payment of GST by instalments) create their own definitions of net amount to apply for the purposes of those Divisions.

Summary of new law

3.9 Schedule 3 clarifies that the term ‘net amount’ in the GST Act also accounts for amounts of LCT and WET payable or refundable.

3.10 These amendments also create a single ‘net amount’ definition that applies differently to reflect differing circumstances.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The GST Act explicitly states that the ‘net amount’ is increased or decreased by amounts of WET and LCT payable or refundable.	The WET and LCT Acts provide that amounts of WET and LCT payable or refundable are included in the net amount. These amounts are not specifically identified in the definition of ‘net amount’ in the GST Act.
The term ‘net amount’ has a single definition that applies differently to reflect differing circumstances.	The term ‘net amount’ has multiple definitions applicable to different situations.

Detailed explanation of new law

3.11 This Schedule clarifies the definition of ‘net amount’ in the GST Act to account for amounts of LCT and WET payable or refundable and clarifies that the net amount in the GST Act may be increased or decreased by any amounts of WET or LCT payable and refundable.
[Schedule 3, items 1, 4 and 5, subsections 17-5(2), 123-15(1A) and 126-5(2) of the GST Act]

3.12 The amendments will not have any practical impact on taxpayers, as both taxpayers and the Commissioner have treated these amounts as part of the net amount in accordance with the LCT and the WET Acts.

3.13 This Schedule also amends the definition of ‘net amount’ in section 195-1 to stipulate the application of the definitions in sections 126-5, 123-15 and 162-105. *[Schedule 3, item 7, section 195-1 of the GST Act]*

3.14 Consequential references are inserted into subsection 123-15(1) *[Schedule 3, items 2 and 6, subsection 123-15(1) and paragraph 162-105(a) of the GST Act]*

3.15 These amendments do not have any practical impact on taxpayers, as they merely restructure the definitions to avoid having multiple definitions.

3.16 A further minor amendment is made to replace ‘method’ with ‘simplified accounting method’ in subsection 123-15(1), to clarify that the method referred to is the simplified accounting method. *[Schedule 3, item 3, subsection 123-15(1) of the GST Act]*

Application and transitional provisions

3.17 These amendments apply to tax periods commencing on or after 1 July 2012. No transitional provisions are required as the amendments merely reflect the existing law.

Consequential amendments

3.18 Schedule 3 makes consequential amendments to the LCT Act and the WET Act to clarify that net amounts in the GST Act are:

- increased by amounts of LCT *[Schedule 3, items 8 and 9, section 13-5 of the LCT Act];*
- increased by amounts of wine tax *[Schedule 3, items 10 and 11, section 21-5 of the WET Act];* and
- reduced by amounts of wine tax credits *[Schedule 3, items 12 and 13, section 21-15 of the WET Act].*

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Schedule 3 — Net amounts

3.19 This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

3.20 This Schedule amends the GST Act, the LCT Act and the WET Act to clarify that the LCT and the WET are part of the net amount that is calculated under the GST Act.

Human rights implications

3.21 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

3.22 This Schedule is compatible with human rights as it does not raise any human rights issues.

Assistant Treasurer, Senator the Hon Mark Arbib

Chapter 4

Minor amendments

Outline of chapter

4.1 Schedule 4 to this Bill makes consequential or minor amendments to the taxation laws largely relating to the amendments contained in Schedules 1 to 3 to this Bill.

Context of amendments

4.2 These amendments seek to ensure that the taxation law operates as intended, by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. These amendments are part of the Government's commitment to the care and maintenance of the taxation laws.

Summary of new law

4.3 The issues these amendments deal with include:

- ensuring consistent references to taxation Acts in definitions;
- repealing inoperative material; and
- clarifying ambiguities.

Detailed explanation of new law

4.4 Schedule 4 makes a number of minor amendments to tidy up the *A New Tax System (Goods and Services Tax) Act 1999*, the *Taxation Administration Act 1953* and other taxation Acts.

Table 4.1: Amendments to the A New Tax System (Goods and Services Tax) Act 1999

<i>Provision being amended</i>	<i>What the amendment does</i>
38-185(3)(f)(ii) and (4)(f)(ii) 48-1(note) 51-1(note) 165-1 177-12(4)(c) 195-1 (definition of 'local entry') 195-1 (definition of 'wine tax') 195-1 (definition of 'wine tax law')	These amendments update the references to the <i>A New Tax System (Wine Equalisation Tax) Act 1999</i> (WET Act) to ensure consistency with the definition added in this measure. [Schedule 4, item 1, subparagraphs 38-185(3)(f)(ii) and 38-185(4)(f)(ii); item 2, note in section 48-1; item 3, note in section 51-1; item 7, section 165-1; item 8, paragraph 177-12(4)(c); item 9, definition of 'local entry' in section 195-1; item 11, definition of 'wine tax' in section 195-1; item 13, definition of 'wine tax law' in section 195-1]
149-15 (heading)	This amendment updates the heading to replace 'This Act' with 'GST law' to make the expression uniform with the changes made in this measure. [Schedule 4, item 4, heading in section 149-15]
149-15	Replaces the reference to 'this Act' with 'the *GST law' to ensure that the treatment for government entities that are registered is consistent across all goods and services tax (GST) law. [Schedule 4, item 5, section 149-15]
162-5(4)	Repeals a subsection that refers to section 16 that was repealed by the <i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i> . [Schedule 4, item 6, subsection 162-5(4)]
195-1 (definition of 'tax period')	Replaces the definition of 'tax period', to make the definition more readable and includes a previously missing reference to section 162-55. [Schedule 4, item 10, definition of 'tax period' in section 195-1]
195-1 (definition of 'WET Act')	Inserts a definition for 'WET Act'. [Schedule 4, item 12, section 195-1]

Table 4.2: Amendments to the Fuel Tax Act 2006

<i>Provision being amended</i>	<i>What the amendment does</i>
43-10(7)	Replaces ‘amount’ with ‘*amount’ to ensure that the correct definition is used. [<i>Schedule 4, item 14, subsection 43-10(7)</i>]
47-10(1)(b) and (3)(b)	These amendments replace ‘tax period’ with ‘*tax period, or *fuel tax return period’ to ensure that the correct definition is used. [<i>Schedule 4, item 15, paragraphs 47-10(1)(b) and (3)(b)</i>]
Application provisions	The application provision clarifies that a taxpayer’s entitlements under paragraphs 47-10(1)(b) and (3)(b) applied from 1 July 2010, when section 47-10 commenced. [<i>Schedule 4, item 16</i>]

Table 4.3: Amendments to the Income Tax Assessment Act 1997

<i>Provision being amended</i>	<i>What the amendment does</i>
995-1(1)	Inserts a definition of ‘Deputy Commissioner’ to mean a Deputy Commissioner of Taxation. [<i>Schedule 4, item 17, subsection 995-1(1)</i>]
995-1(1)	Inserts a definition of ‘Second Commissioner’ to mean a Second Commissioner of Taxation. [<i>Schedule 4, item 18, subsection 995-1(1)</i>]

Table 4.4: Amendments to the Taxation Administration Act 1953

<i>Provision being amended</i>	<i>What the amendment does</i>
250-10(2) in Schedule 1 (after item 12 in the table)	Inserts references to the goods and services tax (GST) on supplies made in settlement of claims under insurance policies and GST on supplies made in satisfaction of debts to the index of tax-related liabilities found in other Acts. [<i>Schedule 4, item 19, subsection 250-10(2) in Schedule 1 (after item 12 in the table)</i>]
255-5(2) in Schedule 1 255-45(1)(b) in Schedule 1 355-30(2)(a) in Schedule 1 355-55(1)(c) and 355-70(1)(c) in Schedule 1 357-100(b) in Schedule 1	These amendments update the references to the Second Commissioner and Deputy Commissioner to take into account the definitions added to the <i>Income Tax Assessment Act 1997</i> . [<i>Schedule 4, items 20 to 24, subsection 255-5(2) in Schedule 1 and paragraphs 255-45(1)(b), 355-30(2)(a), 355-55(1)(c), 355-70(1)(c) and 357-100(b) in Schedule 1</i>]

Application and transitional provisions

4.5 Unless otherwise specified, these amendments apply from Royal Assent.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Schedule 4 — Minor amendments

4.6 This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

4.7 This Schedule amends the TAA 1953, the GST Act and other taxation Acts to make technical corrections and other minor amendments

to the taxation laws related to the amendments made in other Schedules to this Bill.

Human rights implications

4.8 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

4.9 This Schedule is compatible with human rights as it does not raise any human rights issues.

**Assistant Treasurer and Minister for Small Business and
Minister for Sport, Senator the Hon Mark Arbib**

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Schedule 1: Assessment of amounts under indirect tax laws

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Schedule 2: Correcting errors in working out amounts under indirect tax laws

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Schedule 3: Net amounts

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Schedule 4: Minor amendments

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