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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Tax and Superannuation Laws
Amendment (2014 Measures No. 4) Bill
2014**

No. , 2014

(Treasury)

**A Bill for an Act to amend the law relating to
taxation, superannuation and excise, and for other
purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **taxation, superannuation and excise, and for other**
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Tax and Superannuation Laws*
7 *Amendment (2014 Measures No. 4) Act 2014*.

8 **2 Commencement**

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	
3. Schedules 3 and 4	The day this Act receives the Royal Assent.	
4. Schedule 5, Part 1, Division 1	The day this Act receives the Royal Assent.	
5. Schedule 5, Part 1, Division 2	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the start of the day Part 2 of Schedule 2 to the <i>Land Transport Infrastructure Amendment Act 2014</i> commences. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
6. Schedule 5, Part 2	At the same time as Part 2 of Schedule 1 to the <i>Excise Tariff Amendment (Tobacco) Act 2014</i> commences.	1 December 2013
7. Schedule 5, Parts 3 and 4	The day this Act receives the Royal Assent.	
8. Schedule 5, items 141 and 142	Immediately after the commencement of item 34 of Schedule 13 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i> .	29 June 2002
9. Schedule 5, item 143	Immediately after the commencement of item 19 of Schedule 15 to the <i>New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002</i> .	24 October 2002

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
10. Schedule 5, items 144 and 145	1 July 2014.	1 July 2014
11. Schedule 5, item 146	Immediately after the commencement of item 55 of Schedule 1 to the <i>Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009</i> .	14 December 2009
12. Schedule 5, item 147	Immediately after the commencement of item 29 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i> .	22 December 1999
13. Schedule 5, item 148	Immediately after the commencement of item 83 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i> .	21 March 2012
14. Schedule 5, item 149	Immediately after the commencement of item 140 of Schedule 6 to the <i>Tax Laws Amendment (2011 Measures No. 9) Act 2012</i> .	21 March 2012
15. Schedule 5, item 150	Immediately after the commencement of item 12 of Schedule 1 to the <i>Tax Laws Amendment (2012 Measures No. 3) Act 2012</i> .	21 June 2012
16. Schedule 5, items 151 and 152	Immediately after the commencement of section 4 of the <i>Tax Laws Amendment (2012 Measures No. 6) Act 2013</i> .	28 June 2013
17. Schedule 5, items 153 and 154	Immediately after the commencement of Part 6 of Schedule 3 to the <i>Tax Laws Amendment (Research and Development) Act 2011</i> .	8 September 2011
18. Schedule 5, items 155 and 156	Immediately after the commencement of section 3 of the <i>Tax Laws Amendment (Temporary Budget Repair Levy) Act 2014</i> .	25 June 2014

1
2
3

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

1 (2) Any information in column 3 of the table is not part of this Act.
2 Information may be inserted in this column, or information in it
3 may be edited, in any published version of this Act.

4 **3 Schedule(s)**

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

1 **Schedule 1—Thin capitalisation**

2 **Part 1—Safe harbour debt amount**

3 *Income Tax Assessment Act 1997*

4 **1 Section 820-95 (method statement, step 7)**

5 Omit “3/4”, substitute “3/5”.

6 **2 Subsection 820-100(2) (method statement, step 8)**

7 Omit “20/21”, substitute “15/16”.

8 **3 Section 820-195 (method statement, step 5)**

9 Omit “3/4”, substitute “3/5”.

10 **4 Subsection 820-200(2) (method statement, step 6)**

11 Omit “20/21”, substitute “15/16”.

12 **5 Section 820-205 (method statement, step 5)**

13 Omit “3/4”, substitute “3/5”.

14 **6 Subsection 820-210(2) (method statement, step 6)**

15 Omit “20/21”, substitute “15/16”.

1 **Part 2—Worldwide gearing debt amount for outward**
2 **investing entities (non-ADI)**

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

4 **7 Paragraph 820-90(1)(c)**

5 Before “a negative amount”, insert “nil or”.

6 **8 Subsection 820-90(1) (note)**

7 Repeal the note, substitute:

8 Note 1: The safe harbour debt amount differs depending on whether the entity
9 is an outward investor (general) or an outward investor (financial), see
10 sections 820-95 and 820-100.

11 Note 2: The worldwide gearing debt amount for an entity that is not also an
12 inward investment vehicle (general) or an inward investment vehicle
13 (financial) differs depending on whether the entity is an outward
14 investor (general) or an outward investor (financial), see
15 section 820-110.

16 **9 Subsection 820-90(2)**

17 Repeal the subsection, substitute:

18 *Entity is also an inward investment vehicle (general) or inward*
19 *investment vehicle (financial)*

20 (2) The entity’s **maximum allowable debt** for an income year is the
21 greatest of the following amounts if the entity is also an *inward
22 investment vehicle (general) or an *inward investment vehicle
23 (financial) for all or any part of that year:

24 (a) the *safe harbour debt amount;

25 (b) the *arm’s length debt amount;

26 (c) unless subsection (3) applies to the entity—the *worldwide
27 gearing debt amount.

28 Note 1: The safe harbour debt amount differs depending on whether the entity
29 is an outward investor (general) or an outward investor (financial), see
30 sections 820-95 and 820-100.

31 Note 2: The worldwide gearing debt amount for an entity that is also an
32 inward investment vehicle (general) or an inward investment vehicle

1 (financial) differs depending on whether the entity is an outward
2 investor (general) or an outward investor (financial), see
3 section 820-111.

4 *Inward investment vehicles that are not eligible for the worldwide*
5 *gearing debt amount*

- 6 (3) This subsection applies to an entity, if:
7 (a) the entity has *statement worldwide equity, or *statement
8 worldwide assets, of nil or a negative amount; or
9 (b) *audited consolidated financial statements for the entity for
10 the income year do not exist; or
11 (c) the result of applying the following formula is greater than
12 0.5:

13
$$\frac{\text{Average Australian assets of the entity}}{\text{*Statement worldwide assets of the entity for the income year}}$$

14 where:

15 *average Australian assets* of an entity is the average value, for the
16 statement period mentioned in subsection (4), of all the assets of
17 the entity, other than:

- 18 (a) any assets attributable to the entity's *overseas permanent
19 establishments; or
20 (b) any *debt interests held by the entity, to the extent to which
21 any value of the interests is all or a part of the *controlled
22 foreign entity debt of the entity; or
23 (c) any *equity interests or debt interests held by the entity, to the
24 extent to which any value of the interests is all or a part of the
25 *controlled foreign entity equity of the entity.

26 (4) For the purposes of the definition of *average Australian assets* in
27 subsection (3) the statement period is the period for which the
28 *audited consolidated financial statements for the entity for the
29 income year have been prepared.

- 30 (5) For the purposes of the formula in paragraph (3)(c), if:
31 (a) an amount is included in *statement worldwide assets in
32 respect of an asset; and

Schedule 1 Thin capitalisation

Part 2 Worldwide gearing debt amount for outward investing entities (non-ADI)

- 1 (b) the asset was acquired, held or otherwise dealt with by an
2 entity for a purpose (other than an incidental purpose) that
3 included ensuring that subsection (3) does not apply to an
4 entity; and
5 (c) as a result of the acquisition, holding or dealing with of the
6 asset, the amount included in statement worldwide assets
7 exceeds the amount (including nil) that would otherwise be
8 so included;
9 apply the amount of the excess to reduce statement worldwide
10 assets (or statement worldwide assets as reduced by a previous
11 application of this subsection).

12 **10 Section 820-110 (heading)**

13 Repeal the heading, substitute:

14 **820-110 Worldwide gearing debt amount—outward investor that is**
15 **not also an inward investment vehicle**

16 **11 Subsection 820-110(1) (method statement, steps 2, 3 and**
17 **4)**

18 Repeal the steps, substitute:

19 Step 3. Add 1 to the result of step 1.

20 Step 4. Divide the result of step 1 by the result of step 3.

21 **12 Subsection 820-110(2) (method statement, steps 2, 3 and**
22 **4)**

23 Repeal the steps, substitute:

24 Step 3. Add 1 to the result of step 1.

25 Step 4. Divide the result of step 1 by the result of step 3.

26 **13 After section 820-110**

27 Insert:

1 **820-111 Worldwide gearing debt amount—outward investor that is**
2 **also an inward investment vehicle**

3 *Outward investor (general)*

- 4 (1) If the entity is an *outward investor (general) for the income year,
5 and is also an *inward investment vehicle (general) for all or any
6 part of that year, the **worldwide gearing debt amount** is the result
7 of applying the method statement in this subsection.

8 *Method statement*

- 9 Step 1. Divide the entity's *statement worldwide debt for the
10 income year by the entity's *statement worldwide equity
11 for that year.
- 12 Step 2. Add 1 to the result of step 1.
- 13 Step 3. Divide the result of step 1 by the result of step 2.
- 14 Step 4. Multiply the result of step 3 in this method statement by
15 the result of step 6 in the method statement in
16 section 820-95.
- 17 Step 5. Add to the result of step 4 the average value, for that
18 year, of the entity's *associate entity excess amount. The
19 result of this step is the **worldwide gearing debt amount**.

20 Example: RKR Limited, a company that is an Australian entity, has a worldwide
21 parent entity in Canada. RKR Limited also has permanent
22 establishments in Singapore. RKR Limited has statement worldwide
23 debt of \$120 million and statement worldwide equity of \$40 million.
24 The result of applying step 1 is therefore 3. Dividing 3 by 4 (through
25 applying steps 2 and 3) and multiplying the result by \$75 million
26 (which is the result of step 6 of the method statement in
27 section 820-95) equals \$56.25 million. As the average value of the
28 company's associate entity excess amount is \$4 million, the
29 worldwide gearing debt amount is therefore \$60.25 million.

30 *Outward investor (financial)*

- 31 (2) If the entity is an *outward investor (financial) for the income year,
32 and is also an *inward investment vehicle (financial) for all or any

Schedule 1 Thin capitalisation

Part 2 Worldwide gearing debt amount for outward investing entities (non-ADI)

1 part of that year, the **worldwide gearing debt amount** is the result
2 of applying the method statement in this subsection.

3 *Method statement*

4 Step 1. Divide the entity's *statement worldwide debt for the
5 income year by the entity's *statement worldwide equity
6 for that year.

7 Step 2. Add 1 to the result of step 1.

8 Step 3. Divide the result of step 1 by the result of step 2.

9 Step 4. Multiply the result of step 3 in this method statement by
10 the result of step 7 in the method statement in
11 subsection 820-100(2).

12 Step 5. Add to the result of step 4 the average value, for that
13 year, of the entity's *zero-capital amount (other than any
14 zero-capital amount that is attributable to the entity's
15 *overseas permanent establishments).

16 Step 6. Add to the result of step 5 the average value, for that
17 year, of the entity's *associate entity excess amount. The
18 result of this step is the **worldwide gearing debt amount**.

19 Example: TRR Limited, a company that is an Australian entity, has a worldwide
20 parent entity in the United States of America. TRR Limited also has
21 permanent establishments in Malaysia. TRR Limited has statement
22 worldwide debt of \$90 million and statement worldwide equity of \$30
23 million. The result of applying step 1 is therefore 3. Dividing 3 by 4
24 (through applying steps 2 and 3) and multiplying the result by \$100
25 million (which is the result of step 7 of the method statement in
26 subsection 820-100(2)) equals \$75 million. The zero capital amount is
27 \$5 million. Adding that amount to \$75 million results in \$80 million.
28 As the company does not have any associate entity excess amount, the
29 worldwide gearing debt amount is therefore \$80 million.

1 **Part 3—Worldwide capital amount**

2 *Income Tax Assessment Act 1997*

3 **14 Subsection 820-320(2) (method statement, steps 2 and 3)**

4 Repeal the steps, substitute:

5

Step 3. Multiply the result of step 1 by the entity's worldwide 6 group capital ratio for that year (see subsection (3)).

1 **Part 4—Safe harbour capital amount**

2 *Income Tax Assessment Act 1997*

3 **15 Subsection 820-310(1) (method statement, step 2)**

4 Omit “4%”, substitute “6%”.

5 **16 Section 820-405 (method statement, step 2)**

6 Omit “4%”, substitute “6%”.

7 **17 Subsection 820-615(3) (method statement, step 2)**

8 Omit “4%”, substitute “6%”.

1 **Part 5—De minimis threshold**

2 *Income Tax Assessment Act 1997*

3 **18 Section 820-35**

4 Repeal the section, substitute:

5 **820-35 Application—\$2 million threshold**

6 Subdivision 820-B, 820-C, 820-D or 820-E does not apply to
7 disallow any *debt deduction of an entity for an income year if the
8 total debt deductions of that entity and all its *associate entities for
9 that year are \$2 million or less.

1 **Part 6—Worldwide gearing debt amount for inward**
2 **investing entities (non-ADI)**

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

4 **19 Section 820-190**

5 Repeal the section, substitute:

6 **820-190 Maximum allowable debt**

- 7 (1) The entity's *maximum allowable debt* for an income year is the
8 greatest of the following amounts:
9 (a) the *safe harbour debt amount;
10 (b) the *arm's length debt amount;
11 (c) unless subsection (2) applies to the entity—the *worldwide
12 gearing debt amount.

13 Note 1: The safe harbour debt amount differs depending on whether the entity
14 is an inward investment vehicle (general), inward investment vehicle
15 (financial), inward investor (general) or inward investor (financial),
16 see sections 820-195 to 820-215.

17 Note 2: The worldwide gearing debt amount differs depending on whether the
18 entity is an inward investment vehicle (general), inward investment
19 vehicle (financial), inward investor (general) or an inward investor
20 (financial), see sections 820-216 to 820-219.

21 *Entities that are not eligible for the worldwide gearing debt*
22 *amount*

- 23 (2) This subsection applies to an entity, if:
24 (a) the entity has *statement worldwide equity, or *statement
25 worldwide assets, of nil or a negative amount; or
26 (b) *audited consolidated financial statements for the entity for
27 the income year do not exist; or
28 (c) the result of applying the following formula is greater than
29 0.5:

$$\frac{\text{Average Australian assets of the entity}}{\text{*Statement worldwide assets of the entity for the income year}}$$

30

1 where:

2 ***average Australian assets:***

- 3 (a) of an *Australian entity—is the average value, for the
4 statement period mentioned in subsection (3), of all the assets
5 of the entity, other than:
6 (i) any *debt interests held by the entity, to the extent to
7 which any value of the interests is all or a part of the
8 *controlled foreign entity debt of the entity; or
9 (ii) any *equity interests or debt interests held by the entity,
10 to the extent to which any value of the interests is all or
11 a part of the *controlled foreign entity equity of the
12 entity; and
13 (b) of a *foreign entity—is the average value, for the statement
14 period mentioned in subsection (3), of all the assets of the
15 entity that are:
16 (i) located in Australia; or
17 (ii) attributable to the entity's *Australian permanent
18 establishments; or
19 (iii) debt interests held by the entity, that were *issued by an
20 *Australian entity and are *on issue;
21 (iv) equity interests held by the entity in an *Australian
22 entity.
- 23 (3) For the purposes of the definition of ***average Australian assets*** in
24 subsection (2) the statement period is the period for which the
25 *audited consolidated financial statements for the entity for the
26 income year have been prepared.
- 27 (4) For the purposes of the formula in paragraph (2)(c), if:
28 (a) an amount is included in *statement worldwide assets in
29 respect of an asset; and
30 (b) the asset was acquired, held or otherwise dealt with by an
31 entity for a purpose (other than an incidental purpose) that
32 included ensuring that subsection (2) does not apply to an
33 entity; and
34 (c) as a result of the acquisition, holding or dealing with of the
35 asset, the amount included in statement worldwide assets

Schedule 1 Thin capitalisation

Part 6 Worldwide gearing debt amount for inward investing entities (non-ADI)

1 exceeds the amount (including nil) that would otherwise be
2 so included;
3 apply the amount of the excess to reduce statement worldwide
4 assets (or statement worldwide assets as reduced by a previous
5 application of this subsection).

6 **20 After section 820-215**

7 Insert:

8 **820-216 Worldwide gearing debt amount—inward investment**
9 **vehicle (general)**

10 If the entity is an *inward investment vehicle (general) for the
11 income year, and is not also an *outward investor (general) for all
12 or any part of that year, the **worldwide gearing debt amount** is the
13 result of applying the method statement in this section.

14 *Method statement*

15 Step 1. Divide the entity's *statement worldwide debt for the
16 income year by the entity's *statement worldwide equity
17 for that year.

18 Step 2. Add 1 to the result of step 1.

19 Step 3. Divide the result of step 1 by the result of step 2.

20 Step 4. Multiply the result of step 3 in this method statement by
21 the result of step 4 in the method statement in
22 section 820-195.

23 Step 5. Add to the result of step 4 the average value, for that
24 year, of the entity's *associate entity excess amount. The
25 result of this step is the **worldwide gearing debt amount**.

26 Example: SJP Limited, a company that is an Australian entity, has a worldwide
27 parent entity in Japan. SJP Limited has statement worldwide debt of
28 \$120 million and statement worldwide equity of \$40 million. The
29 result of applying step 1 is therefore 3. Dividing 3 by 4 (through
30 applying steps 2 and 3) and multiplying the result by \$75 million
31 (which is the result of step 4 of the method statement in

1 section 820-195) equals \$56.25 million. As the average value of the
2 company's associate entity excess amount is \$4 million, the
3 worldwide gearing debt amount is therefore \$60.25 million.

4 **820-217 Worldwide gearing debt amount—inward investment**
5 **vehicle (financial)**

6 If the entity is an *inward investment vehicle (financial) for the
7 income year, and is not also an *outward investor (financial) for all
8 or any part of that year, the **worldwide gearing debt amount** is the
9 result of applying the method statement in this section.

10 *Method statement*

11 Step 1. Divide the entity's *statement worldwide debt for the
12 income year by the entity's *statement worldwide equity
13 for that year.

14 Step 2. Add 1 to the result of step 1.

15 Step 3. Divide the result of step 1 by the result of step 2.

16 Step 4. Multiply the result of step 3 in this method statement by
17 the result of step 5 in the method statement in
18 subsection 820-200(2).

19 Step 5. Add to the result of step 4 the average value, for that
20 year, of the entity's *zero-capital amount.

21 Step 6. Add to the result of step 5 the average value, for that
22 year, of the entity's *associate entity excess amount. The
23 result of this step is the **worldwide gearing debt amount**.

24 Example: RGR Limited, a company that is an Australian entity, has a worldwide
25 parent entity in France. RGR Limited has statement worldwide debt of
26 \$90 million and statement worldwide equity of \$30 million. The result
27 of applying step 1 is therefore 3. Dividing 3 by 4 (through applying
28 steps 2 and 3) and multiplying the result by \$100 million (which is the
29 result of step 5 of the method statement in subsection 820-200(2))
30 equals \$75 million. The zero capital amount is \$5 million. Adding that
31 amount to \$75 million results in \$80 million. As the company does not
32 have any associate entity excess amount, the worldwide gearing debt
33 amount is therefore \$80 million.

1 **820-218 Worldwide gearing debt amount—inward investor**
2 **(general)**

3 If the entity is an *inward investor (general) for the income year,
4 the **worldwide gearing debt amount** is the result of applying the
5 method statement in this section.

6 *Method statement*

- 7 Step 1. Divide the entity's *statement worldwide debt for the
8 income year by the entity's *statement worldwide equity
9 for that year.
- 10 Step 2. Add 1 to the result of step 1.
- 11 Step 3. Divide the result of step 1 by the result of step 2.
- 12 Step 4. Multiply the result of step 3 in this method statement by
13 the result of step 4 in the method statement in
14 section 820-205.
- 15 Step 5. Add to the result of step 4 the average value, for that
16 year, of the entity's *associate entity excess amount. The
17 result of this step is the **worldwide gearing debt amount**.

18 Example: MLO Limited, a company that is not an Australian entity, has
19 investments in Australia. MLO Limited has statement worldwide debt
20 of \$120 million and statement worldwide equity of \$40 million.

21 The result of applying step 1 is therefore 3. Dividing 3 by 4 (through
22 applying steps 2 and 3) and multiplying the result by \$75 million
23 (which is the result of step 4 of the method statement in
24 section 820-205) equals \$56.25 million. As the average value of the
25 company's associate entity excess amount is \$4 million, the
26 worldwide gearing debt amount is therefore \$60.25 million.

27 **820-219 Worldwide gearing debt amount—inward investor**
28 **(financial)**

29 If the entity is an *inward investor (financial) for the income year,
30 the **worldwide gearing debt amount** is the result of applying the
31 method statement in this section.

1 *Method statement*

2 Step 1. Divide the entity's *statement worldwide debt for the
3 income year by the entity's *statement worldwide equity
4 for that year.

5 Step 2. Add 1 to the result of step 1.

6 Step 3. Divide the result of step 1 by the result of step 2.

7 Step 4. Multiply the result of step 3 in this method statement by
8 the result of step 5 in the method statement in
9 subsection 820-210(2).

10 Step 5. Add to the result of step 4 the average value, for that
11 year, of the entity's *zero-capital amount that has arisen
12 because of the Australian investments mentioned in step
13 1 of the method statement in subsection 820-210(2).

14 Step 6. Add to the result of step 5 the average value, for that
15 year, of the entity's *associate entity excess amount. The
16 result of this step is the ***worldwide gearing debt amount***.

17 Example: MSR Limited, a company that is not an Australian entity, has
18 investments in Australia. MSR Limited has statement worldwide debt
19 of \$90 million and statement worldwide equity of \$30 million. The
20 result of applying step 1 is therefore 3. Dividing 3 by 4 (through
21 applying steps 2 and 3) and multiplying the result by \$100 million
22 (which is the result of step 5 of the method statement in
23 subsection 820-210(2)) equals \$75 million. The zero-capital amount is
24 \$5 million. Adding that amount to \$75 million results in \$80 million.
25 As the company does not have any associate entity excess amount, the
26 worldwide gearing debt amount is therefore \$80 million.

27 **21 After Subdivision 820-J**

28 Insert:

1 **Subdivision 820-JA—Worldwide debt and equity concepts**

2 **Guide to Subdivision 820-JA**

3 **820-931 What this Subdivision is about**

4 This Subdivision provides for the meanings of worldwide debt,
5 worldwide equity, statement worldwide debt, statement worldwide
6 equity and statement worldwide assets.

7 **Table of sections**

8	Operative provisions
9	820-932 Worldwide debt and worldwide equity
10	820-933 Statement worldwide debt, statement worldwide equity and statement
11	worldwide assets
12	820-935 Requirements for audited consolidated financial statements

13 **Operative provisions**

14 **820-932 Worldwide debt and worldwide equity**

15 *Worldwide debt*

- 16 (1) An entity's **worldwide debt** at a particular time, means the total of
17 the following amounts:
- 18 (a) all the *debt interests issued by the entity:
 - 19 (i) to entities other than any *Australian controlled foreign
20 entities (the **controlled entities**) of which the entity is an
21 *Australian controller at that time; and
 - 22 (ii) that are still *on issue at that time;
 - 23 (b) all the debt interests issued by the controlled entities:
 - 24 (i) to entities other than the entity or other controlled
25 entities; and
 - 26 (ii) that are still on issue at that time.

1 *Worldwide equity*

- 2 (2) An entity's **worldwide equity** at a particular time, means the total
3 of the following amounts:
- 4 (a) all the *equity capital of the entity as at that time, but worked
5 out disregarding *equity interests in the entity held at that
6 time by *Australian controlled foreign entities (the **controlled**
7 **entities**) of which the entity is an *Australian controller at
8 that time;
- 9 (b) all the equity capital of the controlled entities as at that time,
10 but worked out disregarding equity interests in the controlled
11 entities held at that time by:
- 12 (i) the entity; or
13 (ii) other controlled entities.

14 **820-933 Statement worldwide debt, statement worldwide equity and**
15 **statement worldwide assets**

16 *Statement worldwide debt*

- 17 (1) An entity's **statement worldwide debt** for a period is the amount
18 (see subsection (4)) of liabilities for the entity for the period,
19 reduced (but not below zero) by the sum of the following amounts
20 (see subsection (4)) for the entity for the period:
- 21 (a) provisions;
22 (b) liabilities in relation to distributions to equity participants;
23 (c) trade payables;
24 (d) deferred tax liabilities;
25 (e) liabilities relating to employee benefits;
26 (f) current tax liabilities;
27 (g) deferred revenue;
28 (h) liabilities relating to insurance;
29 (i) any other amount specified in a legislative instrument under
30 subsection (5).

1 *Statement worldwide equity*

2 (2) An entity's **statement worldwide equity** for a period means the
3 amount (see subsection (4)) of net assets for the entity for the
4 period.

5 *Statement worldwide assets*

6 (3) An entity's **statement worldwide assets** for a period means the
7 amount (see subsection (4)) of assets for the entity for the period.

8 *Amounts from audited consolidated financial statements to be used*

9 (4) For the purposes of this section:
10 (a) an amount for an entity for a period is taken to be that
11 amount as shown in the *audited consolidated financial
12 statements for the entity for the period; and
13 (b) sections 820-680, 820-682, 820-683 and 820-684 do not
14 apply.

15 *Other amounts*

16 (5) The Minister may, by legislative instrument, specify one or more
17 amounts for the purposes of paragraph (1)(i).

18 **820-935 Meaning of *audited consolidated financial statements***

19 (1) **Audited consolidated financial statements** for an entity for a
20 period are:
21 (a) the financial statements that meet the requirements in
22 subsection (2) for the entity for the period; or
23 (b) if more than one set of financial statements meet the
24 requirements in subsection (2) for the entity for the period—
25 whichever of those sets of financial statements the entity
26 chooses.
27 (2) Financial statements meet the requirements in this subsection for
28 an entity for a period (the **relevant period**) if:
29 (a) the statements have been prepared on a consolidated basis in
30 relation to the entity and one or more other entities in

- 1 accordance with standards covered by subsection (3) or (4)
2 (the ***recognised overseas accounting standards***); and
3 (b) one of the entities is a worldwide parent entity mentioned in
4 subsection (6); and
5 (c) the statements show the amounts mentioned in
6 subsections 820-933(1), (2) and (3) (however described) on
7 that consolidated basis and in accordance with those
8 standards; and
9 (d) the statements have been audited (and the auditor's report is
10 unqualified) in accordance with a requirement in the law of:
11 (i) a foreign jurisdiction mentioned in subsection (3) of this
12 section; or
13 (ii) another jurisdiction that has adopted the standards
14 mentioned in subsection (4); and
15 (e) the statements are for the most recent period ending:
16 (i) no later than the end of the relevant period; and
17 (ii) no earlier than 12 months before the start of the relevant
18 period.

19 *Recognised overseas accounting standards*

- 20 (3) This subsection covers the standards (however described) that
21 apply to the preparation of financial statements and are made, or
22 adopted, by the responsible body in any of the following (a ***foreign***
23 ***jurisdiction***):
24 (a) the European Union;
25 (b) the United States of America;
26 (c) Canada;
27 (d) Japan;
28 (e) New Zealand;
29 (f) a jurisdiction specified in an instrument under subsection (5).
30 (4) This subsection covers the international financial reporting
31 standards that are made or adopted by the International Accounting
32 Standards Board.
33 (5) The Minister may, by legislative instrument, specify one or more
34 jurisdictions for the purposes of paragraph (3)(f).

Schedule 1 Thin capitalisation

Part 6 Worldwide gearing debt amount for inward investing entities (non-ADI)

1 *Worldwide parent entity*

2 (6) For the purposes of paragraph (2)(b), an entity in relation to which
3 financial statements have been prepared is a worldwide parent
4 entity if, for the purposes of the standards in accordance with
5 which the statements were prepared, the entity is not controlled by
6 another entity.

1 **Part 7—Consequential amendments**

2 *Income Tax Assessment Act 1997*

3 **22 Section 820-10 (after table item 7)**

4 Insert:

7A Subdivision 820-JA worldwide debt and equity concepts.

5 **23 Subsection 820-85 (note 1)**

6 Omit “\$250,000”, substitute “\$2 million”.

7 **24 Section 820-95 (example)**

8 Repeal the example, substitute:

9 Example: AK Pty Ltd, a company that is an Australian entity, has an average
10 value of assets (other than assets attributable to its overseas permanent
11 establishments) of \$100 million.

12 The average values of its excluded equity interests, associate entity
13 debt, associate entity equity, controlled foreign entity debt, controlled
14 foreign entity equity and non-debt liabilities are \$5 million, \$10
15 million, \$8 million, \$5 million, \$2 million and \$5 million respectively.
16 Deducting these amounts from the result of step 1 (through applying
17 steps 1A to 6) leaves \$65 million. Multiplying \$65 million by ³/₅
18 results in \$39 million. As the average value of the company’s
19 associate entity excess amount is \$4.5 million, the safe harbour debt
20 amount is therefore \$43.5 million.

21 **25 Subsection 820-100(2) (example)**

22 Repeal the example, substitute:

23 Example: GLM Limited, a company that is an Australian entity, has an average
24 value of assets (other than assets attributable to its overseas permanent
25 establishments) of \$160 million.

26 The average values of its relevant excluded equity interests, associate
27 entity debt, associate entity equity, controlled foreign entity debt,
28 controlled foreign entity equity, non-debt liabilities and zero-capital
29 amount are \$5 million, \$5 million, \$5 million, \$9 million, \$6 million,
30 \$5 million and \$4 million respectively. Deducting these amounts from
31 the result of step 1 (through applying steps 1A to 7) leaves \$121
32 million. Multiplying \$121 million by ¹⁵/₁₆ results in \$113.4375
33 million. Adding the average zero-capital amount of \$4 million results
34 in \$117.4375 million. As the company does not have any associate

1 entity excess amount, the total debt amount is therefore \$117.4375
2 million.

3 **26 Subsection 820-100(3) (method statement, step 7)**

4 Omit “³/₄”, substitute “³/₅”.

5 **27 Subsection 820-100(3) (example)**

6 Repeal the example, substitute:

7 Example: GLM Limited, a company that is an Australian entity, has an average
8 value of assets (other than assets attributable to its overseas permanent
9 establishments) of \$160 million.

10 The average values of its relevant excluded equity interests, associate
11 entity equity, controlled foreign entity debt, controlled foreign entity
12 equity, non-debt liabilities and on-lent amount are \$5 million, \$5
13 million, \$9 million, \$6 million, \$5 million and \$35 million
14 respectively. Deducting these amounts from the result of step 1
15 (through applying steps 1A to 6) leaves \$95 million. Multiplying \$95
16 million by ³/₅ results in \$57 million. Adding the average on-lent
17 amount of \$35 million results in \$92 million. Reducing the result of
18 step 8 by the associate entity debt amount of \$5 million equals \$87
19 million. As the company does not have any associate entity excess
20 amount, the adjusted on-lent amount is therefore \$87 million.

21 **28 Subsection 820-110(1) (heading)**

22 Repeal the heading, substitute:

23 *Outward investor (general) that is not also an inward investment*
24 *vehicle (general)*

25 **29 Subsection 820-110(1)**

26 After “the income year,”, insert “and not also an *inward investment
27 vehicle (general) for all or any part of that year,”.

28 **30 Subsection 820-110(1) (example)**

29 Repeal the example, substitute:

30 Example: AK Pty Ltd, a company that is an Australian entity, has an average
31 value of worldwide debt of \$90 million and an average value of
32 worldwide equity of \$30 million. The result of applying step 1 is
33 therefore 3. Dividing 3 by 4 (through applying steps 3 and 4) and
34 multiplying the result by \$65 million (which is the result of step 6 in
35 the method statement in section 820-95) equals \$48.75 million. As the
36 average value of the company’s associate entity excess amount is \$4.5

1 million, the worldwide gearing debt amount is therefore \$53.25
2 million.

3 **31 Subsection 820-110(2) (heading)**

4 Repeal the heading, substitute:

5 *Outward investor (financial) that is not also an inward investment*
6 *vehicle (financial)*

7 **32 Subsection 820-110(2)**

8 After “that year,”, insert “and not also an *inward investment vehicle
9 (financial) for all or any part of that year,”.

10 **33 Subsection 820-110(2) (example)**

11 Repeal the example, substitute:

12 Example: GLM Limited, a company that is an Australian entity, has an average
13 value of worldwide debt of \$120 million and an average value of
14 worldwide equity of \$40 million. The result of applying step 1 is
15 therefore 3. Dividing 3 by 4 (through applying steps 3 and 4) and
16 multiplying the result by \$121 million (which is the result of step 7 of
17 the method statement in subsection 820-100(2)) equals \$90.75 million.
18 The average value of zero-capital amount (see step 7 of the method
19 statement in subsection 820-100(2)) is \$4 million. Adding that amount
20 to \$90.75 million results in \$94.75 million. As the company does not
21 have any associate entity excess amount, the worldwide gearing debt
22 amount is therefore \$94.75 million.

23 **34 Subsection 820-185 (note 1)**

24 Omit “\$250,000”, substitute “\$2 million”.

25 **35 Section 820-195 (example)**

26 Repeal the example, substitute:

27 Example: ALWZ Ltd, a company that is an Australian entity, has an average
28 value of assets of \$100 million.
29 The average values of its excluded equity interests, associate entity
30 debt, associate entity equity and non-debt liabilities are \$5 million,
31 \$10 million, \$5 million and \$5 million respectively. Deducting these
32 amounts from the result of step 1 (through applying steps 1A to 4)
33 leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45
34 million. As the average value of the company’s associate entity excess
35 amount is \$2 million, the safe harbour debt amount is therefore \$47
36 million.

1 **36 Subsection 820-200(2) (example)**

2 Repeal the example, substitute:

3 Example: KJW Finance Pty Ltd, a company that is an Australian entity, has an
4 average value of assets of \$120 million.

5 The average values of its excluded equity interests, associate entity
6 debt, associate entity equity, its non-debt liabilities and its zero-capital
7 amount are \$5 million, \$5 million, \$3 million, \$2 million and \$5
8 million respectively. Deducting these amounts from the result of step
9 1 (through applying steps 1A to 5) leaves \$100 million. Multiplying
10 \$100 million by $\frac{15}{16}$ results in \$93.75 million. Adding the
11 zero-capital amount of \$5 million to \$93.75 million results in \$98.75
12 million. As the company does not have any associate entity excess
13 amount, the total debt amount is therefore \$98.75 million.

14 **37 Subsection 820-200(3) (method statement, step 5)**

15 Omit “ $\frac{3}{4}$ ”, substitute “ $\frac{3}{5}$ ”.

16 **38 Subsection 820-200(3) (example)**

17 Repeal the example, substitute:

18 Example: KJW Finance Pty Ltd, a company that is an Australian entity, has an
19 average value of assets of \$120 million.

20 The average values of its excluded equity interests, associate entity
21 equity, non-debt liabilities and on-lent amount are \$5 million, \$3
22 million, \$2 million and \$35 million respectively. Deducting these
23 amounts from the result of step 1 (through applying steps 1A to 4)
24 leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45
25 million. Adding the average on-lent amount of \$35 million results in
26 \$80 million. Reducing \$80 million by the associate entity debt amount
27 of \$5 million results in \$75 million. As the company does not have
28 any associate entity excess amount, the adjusted on-lent amount is
29 therefore \$75 million.

30 **39 Section 820-205 (example)**

31 Repeal the example, substitute:

32 Example: RJ Corporation is a company that is not an Australian entity. The
33 average value of its Australian investments is \$100 million.

34 The average value of its relevant excluded equity interests, associate
35 entity debt, associate entity equity and non-debt liabilities is \$5
36 million, \$10 million, \$5 million and \$5 million respectively.
37 Deducting those amounts from the result of step 1 leaves \$75 million.
38 Multiplying \$75 million by $\frac{3}{5}$ results in \$45 million. As the company

1 does not have any associate entity excess amount, the safe harbour
2 debt amount is therefore \$45 million.

3 **40 Subsection 820-210(2) (example)**

4 Repeal the example, substitute:

5 Example: FXS Financial SA is a company that is not an Australian entity. The
6 average value of its Australian investments is \$120 million.

7 The average value of its relevant excluded equity interests, associate
8 entity debt, associate entity equity, non-debt liabilities and zero-capital
9 amount are \$5 million, \$5 million, \$2 million, \$3 million and \$5
10 million respectively. Deducting those amounts from the result of step
11 1 (through applying steps 1A to 5) leaves \$100 million. Multiplying
12 \$100 million by $\frac{15}{16}$ results in \$93.75 million. Adding the average
13 zero-capital amount of \$5 million results in \$98.75 million. As the
14 company does not have any associate entity excess amount, the total
15 debt amount is therefore \$98.75 million.

16 **41 Subsection 820-210(3) (method statement, step 5)**

17 Omit “ $\frac{3}{4}$ ”, substitute “ $\frac{3}{5}$ ”.

18 **42 Subsection 820-210(3) (example)**

19 Repeal the example, substitute:

20 Example: FXS Financial SA is a company that is not an Australian entity. The
21 average value of its Australian investments is \$120 million.

22 The average value of its relevant excluded equity interests, associate
23 entity equity, non-debt liabilities and on-lent amount are \$5 million,
24 \$2 million, \$3 million and \$35 million respectively. Deducting those
25 amounts from the result of step 1 (through applying steps 1A to 4)
26 leaves \$75 million. Multiplying \$75 million by $\frac{3}{5}$ results in \$45
27 million. Adding the average on-lent amount of \$35 million results in
28 \$80 million. Reducing the result of step 6 by the associate entity debt
29 amount of \$5 million results in \$75 million. As the company does not
30 have any associate entity excess amount, the adjusted on-lent amount
31 is therefore \$75 million.

32 **43 Subsection 820-300(1) (note 1)**

33 Omit “\$250,000”, substitute “\$2 million”.

34 **44 Subsection 820-310(1) (example)**

35 Repeal the example, substitute:

1 **50 Subsection 820-920(3) (method statement, step 4,**
2 **paragraphs (b) and (c))**

3 Omit “³/₄”, substitute “³/₅”.

4 **51 Paragraph 820-946(1)(c)**

5 Omit “\$250,000”, substitute “\$2 million”.

6 **52 Subsection 995-1(1)**

7 Insert:

8 *audited consolidated financial statements* for an entity for a
9 period has the meaning given by section 820-935.

10 *statement worldwide assets* of an entity for a period has the
11 meaning given by subsection 820-933(3).

12 *statement worldwide debt* of an entity for a period has the meaning
13 given by subsection 820-933(1).

14 *statement worldwide equity* of an entity for a period has the
15 meaning given by subsection 820-933(2).

16 **53 Subsection 995-1(1) (definition of *worldwide debt*)**

17 Repeal the definition, substitute:

18 *worldwide debt* of an entity and at a particular time has the
19 meaning given by subsection 820-932(1).

20 **54 Subsection 995-1(1) (definition of *worldwide equity*)**

21 Repeal the definition, substitute:

22 *worldwide equity* of an entity and at a particular time has the
23 meaning given by subsection 820-932(2).

24 **55 Subsection 995-1(1) (definition of *worldwide gearing debt*
25 *amount*)**

26 Repeal the definition, substitute:

27 *worldwide gearing debt amount*.

Schedule 1 Thin capitalisation
Part 7 Consequential amendments

- 1 (a) for an *outward investing entity (non-ADI)—has the meaning
2 given by sections 820-110 and 820-111; and
3 (b) for an inward investment vehicle (general)—has the meaning
4 given by section 820-216; and
5 (c) for an inward investment vehicle (financial)—has the
6 meaning given by section 820-217; and
7 (d) for an *inward investor (general)—has the meaning given by
8 section 820-218; and
9 (e) for an *inward investor (financial)—has the meaning given
10 by section 820-219.

1 **Part 8—Application**

2 **56 Application**

3 The amendments made by this Schedule apply to assessments for
4 income years starting on or after 1 July 2014.

1 **Schedule 2—Foreign dividends**

2 **Part 1—Foreign equity distributions on participation**
3 **interests**

4 *Income Tax Assessment Act 1936*

5 **1 Section 23AJ**

6 Repeal the section.

7 *Income Tax Assessment Act 1997*

8 **2 Paragraph 25-90(b)**

9 Repeal the paragraph, substitute:

10 (b) the income is *non-assessable non-exempt income under
11 section 768-5, or section 23AI or 23AK of the *Income Tax*
12 *Assessment Act 1936*; and

13 **3 Division 768 (heading)**

14 Repeal the heading, substitute:

15 **Division 768—Foreign non-assessable income and gains**

16 **4 Before Subdivision 768-B**

17 Insert:

18 **Subdivision 768-A—Returns on foreign investment**

19 **Guide to Subdivision 768-A**

20 **768-1 What this Subdivision is about**

21

If:

22

(a) an Australian corporate tax entity receives a foreign
equity distribution from a foreign company, either

23

1 directly or indirectly through one or more interposed
2 trusts or partnerships; and
3 (b) the Australian corporate tax entity holds a participation
4 interest of at least 10% in the foreign company;
5 the distribution is non-assessable non-exempt income for the
6 Australian corporate tax entity.

7 **Table of sections**

8 **Foreign equity distributions on participation interests**

9 768-5 Foreign equity distributions on participation interests

10 768-10 Meaning of *foreign equity distribution*

11 768-15 Participation test—minimum 10% participation

12 **Foreign equity distributions on participation interests**

13 **768-5 Foreign equity distributions on participation interests**

14 *Foreign equity distributions received directly*

- 15 (1) A *foreign equity distribution is not assessable income, and is not
16 *exempt income, of the entity to which it is made if:
- 17 (a) the entity is an Australian resident and a *corporate tax entity;
18 and
 - 19 (b) at the time the distribution is made, the entity satisfies the
20 participation test in section 768-15 in relation to the company
21 that made the distribution; and
 - 22 (c) the entity:
 - 23 (i) does not receive the distribution in the capacity of a
24 trustee; or
 - 25 (ii) receives the distribution in the capacity of a trustee of a
26 *corporate unit trust or *public trading trust.

27 *Foreign equity distributions received through interposed trusts and* 28 *partnerships*

- 29 (2) An amount is not assessable income, and is not *exempt income, of
30 an entity if:

Schedule 2 Foreign dividends

Part 1 Foreign equity distributions on participation interests

- 1 (a) the entity is a beneficiary of a trust or a partner in a
2 partnership, an Australian resident and a *corporate tax
3 entity; and
4 (b) the amount is all or part of the net income of the trust or
5 partnership that would, apart from this subsection, be
6 included in the entity's assessable income because of
7 Division 5 or 6 of Part III of the *Income Tax Assessment Act*
8 *1936*; and
9 (c) the amount can be attributed (either directly or indirectly
10 through one or more interposed trusts or partnerships that are
11 not *corporate tax entities) to a *foreign equity distribution;
12 and
13 (d) at the time the distribution is made, the entity satisfies the
14 participation test in section 768-15 in relation to the company
15 that made the distribution; and
16 (e) the entity:
17 (i) does not receive the distribution in the capacity of a
18 trustee; or
19 (ii) receives the distribution in the capacity of a trustee of a
20 *corporate unit trust or *public trading trust.
- 21 (3) An amount that is *non-assessable non-exempt income under
22 subsection (2) is taken, for the purpose of section 25-90 (about
23 deductions relating to foreign non-assessable non-exempt income)
24 to be derived from the same source as the *foreign equity
25 distribution.

26 **768-10 Meaning of *foreign equity distribution***

27 A ***foreign equity distribution*** is a *distribution or *non-share
28 dividend made by a company that is a foreign resident in respect of
29 an *equity interest in the company.

30 **768-15 Participation test—minimum 10% participation**

31 An entity satisfies the participation test in this section in relation to
32 another entity at a time if, at that time, the sum of the following is
33 at least 10%:

- 34 (a) the *direct participation interest the entity would have in the
35 other entity if rights on winding-up were disregarded;
-

- 1 (b) the *indirect participation interest the entity would have in
2 the other entity if:
3 (i) rights on winding-up were disregarded; and
4 (ii) section 960-185 only applied to intermediate entities
5 that are not *corporate tax entities.

6 **5 Subsection 995-1(1)**

7 Insert:

8 *foreign equity distribution* has the meaning given by
9 section 768-10.

1 **Part 2—Repeal of portfolio dividend exemption for**
2 **CFCs**

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

4 **6 Section 404**

5 Repeal the section, substitute:

6 **404 Application of Subdivision 768-A of the *Income Tax Assessment***
7 ***Act 1997***

8 For the purpose of applying Subdivision 768-A of the *Income Tax*
9 *Assessment Act 1997* (about returns on foreign investment) in
10 calculating the attributable income of the eligible CFC, disregard
11 section 389A of this Act (which is about disregarding Division 974
12 of the *Income Tax Assessment Act 1997* and certain other
13 provisions).

1 **Part 3—Consequential amendments**

2 ***Income Tax Assessment Act 1936***

3 **7 Subsection 44(1) (note 1)**

4 Repeal the note, substitute:

5 Note 1: Some other provisions that expressly deal with dividends are
6 sections 23AI, 23AK and 128D of this Act and section 768-5 of the
7 *Income Tax Assessment Act 1997*.

8 **8 Subparagraph 47A(2)(a)(ii)**

9 Omit “section 23AI or 23AJ”, substitute “section 23AI or section 768-5
10 of the *Income Tax Assessment Act 1997*”.

11 **9 Paragraph 47A(7)(b)**

12 Omit “section 23AJ”, substitute “section 768-5 of the *Income Tax*
13 *Assessment Act 1997*”.

14 **10 Subsection 320(1) (definition of *section 404 country*)**

15 Repeal the definition.

16 **11 Section 332A**

17 Repeal the section.

18 **12 Subsection 399(2) (definition of *excluded modifications*)**

19 Omit “404 and”.

20 ***Income Tax Assessment Act 1997***

21 **13 Section 11-15 (note)**

22 Omit “sections 403 and 404”, substitute “section 403”.

23 **14 Section 11-55 (table item headed “foreign aspects of
24 income taxation”)**

25 Omit:
dividend from a foreign country, non-portfolio **23AJ**

1 **15 Section 11-55 (table item headed “foreign aspects of**
2 **income taxation”)**

3 After:
distributions of conduit foreign income 802-20
4 insert:
foreign equity distributions on participation interests 768-5

5 **16 After subparagraph 118-12(2)(a)(via)**

6 Insert:
7 (vib) section 768-5 (foreign equity distributions on
8 participation interests);

9 **17 Subparagraph 118-12(2)(b)(iii)**

10 Repeal the subparagraph.

11 **18 Subsection 118-20(6)**

12 Omit “section 23AJ (about exempting certain non-portfolio dividends
13 paid by non-resident companies) of the *Income Tax Assessment Act*
14 *1936* because a company pays a *dividend to you”, substitute
15 “section 768-5 (about foreign equity distributions on participation
16 interests) because a company makes a *foreign equity distribution”.

17 **19 Paragraph 220-350(1)(c)**

18 Omit “section 23AI, 23AJ or 23AK of the *Income Tax Assessment Act*
19 *1936*”, substitute “section 768-5, or section 23AI or 23AK of the
20 *Income Tax Assessment Act 1936*”.

21 **20 Paragraph 230-15(3)(c)**

22 Repeal the paragraph, substitute:
23 (c) the income is *non-assessable non-exempt income under
24 section 768-5, or section 23AI or 23AK of the *Income Tax*
25 *Assessment Act 1936*; and

26 **21 Paragraphs 230-335(4)(a) and (b)**

27 Repeal the paragraphs, substitute:

- 1 (a) the *financial arrangement hedges a foreign currency risk in
2 relation to an anticipated *foreign equity distribution from a
3 *connected entity; and
4 (b) the distribution is *non-assessable non-exempt income under
5 section 768-5.

6 **22 Paragraph 802-30(3)(c)**

7 Omit “section 23AJ of the *Income Tax Assessment Act 1936*”, substitute
8 “section 768-5”.

1 **Part 4—Application**

2 **23 Application**

3 The amendments made by this Schedule apply to distributions and
4 non-share dividends made after the day the *Tax and Superannuation*
5 *Laws Amendment (2014 Measures No. 4) Act 2014* receives the Royal
6 Assent.

1 **Schedule 3—Foreign resident CGT integrity**
2 **measures**

3 **Part 1—Duplicated assets of corporate groups**

4 *Income Tax Assessment Act 1997*

5 **1 After subsection 855-30(2)**

6 Insert:

7 Note: The market value of any of the latter kind of assets that are duplicated
8 within the test entity's corporate group could be disregarded (see
9 section 855-32).

10 **2 Subsection 855-30(4) (note)**

11 Omit "Note", substitute "Note 1".

12 **3 At the end of subsection 855-30(4)**

13 Add:

14 Note 2: The market value of an asset of the other entity that is not taxable
15 Australian real property, and is duplicated within the other entity's
16 corporate group, could be disregarded (see section 855-32).

17 **4 After section 855-30**

18 Insert:

19 **855-32 Disregard market value of duplicated non-TARP assets**

- 20 (1) The purpose of this section is to prevent double counting of the
21 *market value of the assets of a corporate group that:
22 (a) are not *taxable Australian real property; and
23 (b) are created under *arrangements under which corresponding
24 liabilities are created in other members of the group.
- 25 (2) For the purposes of subsections 855-30(2) and (4), subsection (4)
26 of this section applies to an asset that is not *taxable Australian real
27 property if:
28 (a) the parties to an *arrangement included the 2 entities referred
29 to in subsection (3); and

Schedule 3 Foreign resident CGT integrity measures

Part 1 Duplicated assets of corporate groups

- 1 (b) an effect of the arrangement was to create, before the *CGT
2 event happened:
3 (i) the asset as an asset of one of those 2 parties; and
4 (ii) a corresponding liability of the other (the *other party*).
- 5 (3) The 2 entities are either:
6 (a) the first entity and the other entity (see
7 subsection 855-30(3)), if table item 2 in subsection 855-30(4)
8 applies to those entities; or
9 (b) both:
10 (i) that first entity or that other entity; and
11 (ii) an entity that is a first entity or other entity for the
12 purposes of a related application of
13 subsection 855-30(3) and table item 2 in
14 subsection 855-30(4).
- 15 (4) Disregard:
16 (a) if the other party is the test entity (see
17 subsection 855-30(2))—the asset's *market value; or
18 (b) otherwise—the percentage of the asset's market value equal
19 to the percentage that is the test entity's *total participation
20 interest in the other party.

21 Example: The test entity loans money to its wholly-owned subsidiary. The
22 market value of the loan asset created as an asset of the test entity is
23 disregarded for the purposes of subsection 855-30(2).

24 **5 Application of amendment**

25 Section 855-32 of the *Income Tax Assessment Act 1997* (as inserted by
26 this Part) applies in relation to a CGT event if:

- 27 (a) in a case where the 2 entities that are parties to the
28 arrangement were members of the same consolidated group
29 or MEC group at the time the asset was created—the CGT
30 event happens after 7.30 pm, by legal time in the Australian
31 Capital Territory, on 14 May 2013; and
32 (b) otherwise—the CGT event happens on or after 13 May 2014.

1 **Part 2—Assets used by permanent establishments**

2 *Income Tax Assessment Act 1997*

3 **6 Section 855-15 (cell at table item 3, column headed**
4 **“Description”)**

5 Repeal the cell, substitute:

A *CGT asset that:

(a) you have used at any time in carrying on a *business through:

- (i) if you are a resident in a country that has entered into an
*international tax agreement with Australia containing
a *permanent establishment article—a permanent
establishment (within the meaning of the relevant
international tax agreement) in Australia; or

(ii) otherwise—a *permanent establishment in Australia;
and

(b) is not covered by item 1, 2 or 5 of this table

6 **7 After section 855-15**

7 Insert:

8 **855-16 Meaning of *permanent establishment article***

9 A *permanent establishment article* is:

- 10 (a) Article 5 of the United Kingdom convention (within the
11 meaning of the *International Tax Agreements Act 1953*); or
12 (b) a corresponding provision of another *international tax
13 agreement.

14 **8 Subsection 855-35(1)**

15 Omit “(within the meaning of section 23AH of the *Income Tax*
16 *Assessment Act 1936*)”, substitute “(as mentioned in that item)”.

17 **9 Subsection 995-1(1)**

18 Insert:

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Schedule 4—Tax receipts

Income Tax Assessment Act 1997

1 Subsection 995-1(1)

Insert:

tax receipt means a receipt given to you under subsection 70-5(1) of Schedule 1 to the *Taxation Administration Act 1953*.

Taxation Administration Act 1953

2 After Part 2-10 in Schedule 1

Insert:

Part 2-15—Returns and assessments

Division 70—Tax receipts

Table of Subdivisions

	Guide to Division 70
70-A	Tax receipts

Guide to Division 70

70-1 What this Division is about

The Commissioner must provide you with a tax receipt for an income year if you are an individual taxpayer and the total tax assessed to you for the income year is \$100 or more (or such other amount as determined by the Commissioner from time to time).

The tax receipt must include information about how the total tax assessed to you for the income year is notionally used to finance different categories of Commonwealth government expenditure.

The tax receipt must also include information about the total amount of Commonwealth government debt, for the current and previous financial years, and the expected total amount of interest to be paid on that debt during the current financial year.

Subdivision 70-A—Tax receipts

Table of sections

70-5 Tax receipt to be provided to certain individual taxpayers

70-5 Tax receipt to be provided to certain individual taxpayers

- (1) The Commissioner must give you a *tax receipt in respect of an income year if:
- (a) the Commissioner is required to give you a notice of assessment in respect of the income year and has not previously given you a notice in respect of the income year; and
 - (b) you are an individual; and
 - (c) the amount of income tax you owe (as worked out under step 4 of subsection 4-10(3) of the *Income Tax Assessment Act 1997*) for the *financial year that corresponds to the income year is equal to or greater than:
 - (i) if subparagraph (ii) does not apply—\$100; or
 - (ii) if the Commissioner has made a determination under subsection (2)—the amount specified in the determination; and
 - (d) the notice is given to you within the period of 18 months after the end of the income year.
- (2) The Commissioner may, by legislative instrument, make a determination that specifies an amount for the purposes of subparagraph (1)(c)(ii).
- (3) The *tax receipt must include the following information:
- (a) your name;
 - (b) the amount mentioned in paragraph (1)(c);

-
- 1 (c) how the amount mentioned in paragraph (1)(c) is notionally
2 used to finance different categories of Commonwealth
3 government expenditure (other than expenditure that relates
4 to amounts collected under the *GST law that are paid to the
5 States and Territories);
- 6 (d) an estimate of the total face value of Commonwealth stock
7 and securities on issue at the end of the previous *financial
8 year;
- 9 (e) an estimate of the expected total face value of
10 Commonwealth stock and securities on issue at the end of the
11 financial year;
- 12 (f) the expected total interest to be paid during the financial year
13 in respect of the Commonwealth stock and securities referred
14 to in paragraph (e).

15 Note: The allocation of how the total tax assessed to you is spent is a
16 notional calculation and may not represent how the tax assessed to you
17 is actually spent.

- 18 (4) For the purposes of determining the amounts in paragraphs (2)(d)
19 to (f), the Commissioner must use the information in the budget
20 economic and fiscal outlook report prepared for the purpose of
21 section 10 of the *Charter of Budget Honesty Act 1998* in respect of
22 the *financial year referred to in paragraph (1)(c).
- 23 (5) For the purposes of determining the form of the information to be
24 included in the *tax receipt, the Commissioner must seek the
25 advice of the Minister and take that advice into account.
- 26 (6) The Commissioner must give you the *tax receipt as soon as
27 practicable.

28 **3 Application**

29 The amendments made by this Schedule apply to assessments for the
30 2014-15 income year and later income years.

1 **Schedule 5—Miscellaneous amendments**

2 **Part 1—References to specific Ministers,**
3 **Departments and Secretaries**

4 **Division 1—Main amendments**

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

6 **1 Paragraphs 79-100(1)(b) and (c)**

7 Omit “Treasurer”, substitute “Minister”.

8 **2 Subsection 79-100(2) (heading)**

9 Repeal the heading, substitute:

10 *Minister to determine business vehicle use fraction for 2003-04 to*
11 *2006-07 financial years using statistical information*

12 **3 Subsection 79-100(2)**

13 Omit “the Treasurer”, substitute “the Minister”.

14 **4 Subsection 79-100(3) (heading)**

15 Repeal the heading, substitute:

16 *Minister to use later statistical information to determine whether*
17 *average input tax credit fraction to be varied for later financial*
18 *years*

19 **5 Subsection 79-100(3)**

20 Omit “the Treasurer” (wherever occurring), substitute “the Minister”.

21 **6 Subsection 79-100(6)**

22 Omit “Treasurer”, substitute “Minister”.

1 ***Income Tax Assessment Act 1936***

2 **7 Subsection 6(1)**

3 Repeal the following definitions:

- 4 (a) definition of *Agriculture Secretary*;
- 5 (b) definition of *Arts Department*;
- 6 (c) definition of *Arts Minister*;
- 7 (d) definition of *Arts Secretary*.

8 **8 Subsection 6(1) (paragraph (a) of the definition of**
9 ***Commonwealth securities*)**

10 Omit “Treasurer”, substitute “Minister”.

11 **9 Subsection 6(1)**

12 Repeal the following definitions:

- 13 (a) definition of *Education Department*;
- 14 (b) definition of *Health Department*;
- 15 (c) definition of *Health Secretary*;
- 16 (d) definition of *Housing Secretary*;
- 17 (e) definition of *Immigration Department*;
- 18 (f) definition of *Immigration Minister*;
- 19 (g) definition of *Immigration Secretary*;
- 20 (h) definition of *Research Department*;
- 21 (i) definition of *Research Minister*;
- 22 (j) definition of *Research Secretary*;
- 23 (k) definition of *Trade Department*;
- 24 (l) definition of *Trade Minister*;
- 25 (m) definition of *Trade Secretary*;
- 26 (n) definition of *Veterans’ Affairs Department*;
- 27 (o) definition of *Veterans’ Affairs Minister*.

28 **10 Subsection 6(1) (definition of *Veterans’ Affairs Secretary*)**

29 Repeal the definition, substitute:

1 **20 Subsection 30-280(2)**

2 Omit “Treasurer and the Minister”, substitute “Minister and the
3 *Environment Minister”.

4 **21 Subsection 30-280(2)**

5 Omit “Minister has notified the Treasurer”, substitute “Environment
6 Minister has notified the Minister”.

7 **22 Subsections 30-280(4), 30-285(1), 30-289(4) and 30-289B(1)**

8 Omit “Treasurer”, substitute “Minister”.

9 **23 Subsection 30-289B(2)**

10 Omit “Treasurer and the Minister”, substitute “Minister and the
11 *Families Minister”.

12 **24 Subsection 30-289B(2)**

13 Omit “Minister has notified the Treasurer”, substitute “Families
14 Minister has notified the Minister”.

15 **25 Subsections 30-289B(4), 30-289C(1), 30-300(6) and
16 30-305(1)**

17 Omit “Treasurer”, substitute “Minister”.

18 **26 Subsection 30-305(2)**

19 Omit “Treasurer and the Minister”, substitute “Minister and the *Arts
20 Minister”.

21 **27 Subsection 30-305(2)**

22 Omit “Minister has notified the Treasurer”, substitute “Arts Minister
23 has notified the Minister”.

24 **28 Subsections 30-305(4), 30-310(1) and 34-55(1) and (2)**

25 Omit “Treasurer”, substitute “Minister”.

26 **29 Subsection 52-131(9) (note)**

27 Omit “Education Department”, substitute “Department administered by
28 the Education Minister”.

1 **30 Paragraph 207-115(5)(a)**

2 Omit “Treasurer”, substitute “Minister”.

3 **31 Section 842-105 (table item 6)**

4 Omit “Treasurer”, substitute “Minister”.

5 **32 Subsection 995-1(1) (definition of *Agriculture Department*)**

6 Repeal the definition, substitute:

7 *Agriculture Department* means the Department administered by
8 the Minister administering the *Farm Household Support Act 2014*.

9 **33 Subsection 995-1(1)**

10 Repeal the following definitions:

- 11 (a) definition of *Agriculture Minister*;
12 (b) definition of *Arts Department*;
13 (c) definition of *Arts Minister*.

14 **34 Subsection 995-1(1) (definition of *Arts Secretary*)**

15 Repeal the definition, substitute:

16 *Arts Secretary* means the Secretary of the Department
17 administered by the *Arts Minister.

18 **35 Subsection 995-1(1) (definition of *Climate Change Department*)**

19 Repeal the definition.
20

21 **36 Subsection 995-1(1) (definition of *Climate Change Minister*)**

22 Omit “section 1 of”.
23

24 **37 Subsection 995-1(1) (definition of *Climate Change Secretary*)**

25 Repeal the definition, substitute:
26

27 *Climate Change Secretary* means the Secretary of the Department
28 administered by the *Climate Change Minister.

1 **38 Subsection 995-1(1) (definition of *Defence Department*)**

2 Repeal the definition.

3 **39 Subsection 995-1(1) (definition of *Defence Secretary*)**

4 Repeal the definition, substitute:

5 *Defence Secretary* means the Secretary of the Department
6 administered by the *Defence Minister.

7 **40 Subsection 995-1(1) (definition of *Education Department*)**

8 Repeal the definition.

9 **41 Subsection 995-1(1) (definition of *Education Minister*)**

10 Omit “section 1 of”.

11 **42 Subsection 995-1(1) (definition of *Education Secretary*)**

12 Repeal the definition, substitute:

13 *Education Secretary* means the Secretary of the Department
14 administered by the *Education Minister.

15 **43 Subsection 995-1(1) (definition of *Employment*
16 *Department*)**

17 Repeal the definition.

18 **44 Subsection 995-1(1) (definition of *Employment Minister*)**

19 Repeal the definition.

20 **45 Subsection 995-1(1) (definition of *Employment Secretary*)**

21 Repeal the definition, substitute:

22 *Employment Secretary* means the Secretary of the Department
23 administered by the Minister administering the *Fair Work (State*
24 *Referral and Consequential and Other Amendments) Act 2009*.

25 **46 Subsection 995-1(1) (definition of *Environment*
26 *Department*)**

27 Repeal the definition.

1 **47 Subsection 995-1(1) (definition of *Environment Minister*)**

2 Omit “section 1 of”.

3 **48 Subsection 995-1(1) (definition of *Environment Secretary*)**

4 Repeal the definition, substitute:

5 *Environment Secretary* means the Secretary of the Department
6 administered by the *Environment Minister.

7 **49 Subsection 995-1(1) (definition of *Families Department*)**

8 Repeal the definition, substitute:

9 *Families Department* means the Department administered by the
10 *Families Minister.

11 **50 Subsection 995-1(1) (definition of *Families Minister*)**

12 Repeal the definition, substitute:

13 *Families Minister* means the Minister administering the
14 *Data-matching Program (Assistance and Tax) Act 1990*.

15 **51 Section 995-1 (definition of *Foreign Affairs Minister*)**

16 Omit “section 1 of”.

17 **52 Subsection 995-1(1) (definition of *Health Department*)**

18 Repeal the definition.

19 **53 Subsection 995-1(1) (definition of *Health Minister*)**

20 Omit “section 1 of”.

21 **54 Subsection 995-1(1) (definition of *Health Secretary*)**

22 Omit “Health Department”, substitute “Department administered by the
23 *Health Minister”.

24 **55 Subsection 995-1(1) (definition of *Heritage Department*)**

25 Repeal the definition.

1 **56 Subsection 995-1(1) (definition of *Heritage Minister*)**

2 Repeal the definition.

3 **57 Subsection 995-1(1) (definition of *Heritage Secretary*)**

4 Repeal the definition, substitute:

5 *Heritage Secretary* means the Secretary of the Department
6 administered by the Minister administering the *Australian Heritage*
7 *Council Act 2003*.

8 **58 Subsection 995-1(1) (definition of *Housing Department*)**

9 Repeal the definition.

10 **59 Subsection 995-1(1) (definition of *Housing Minister*)**

11 Repeal the definition.

12 **60 Subsection 995-1(1) (definition of *Housing Secretary*)**

13 Repeal the definition, substitute:

14 *Housing Secretary* means the Secretary of the Department
15 administered by the Minister administering the *National Rental*
16 *Affordability Scheme Act 2008*.

17 **61 Subsection 995-1(1) (definition of *Immigration***
18 ***Department*)**

19 Repeal the definition, substitute:

20 *Immigration Department* means the Department administered by
21 the Minister administering the *Migration Act 1958*.

22 **62 Subsection 995-1(1) (definition of *Immigration Minister*)**

23 Repeal the definition.

24 **63 Subsection 995-1(1) (definition of *Immigration Secretary*)**

25 Omit “Immigration Department”, substitute “*Immigration
26 Department”.

27 **64 Subsection 995-1(1) (definition of *Industry Department*)**

28 Repeal the definition, substitute:

- 7 the Secretary of the Department is for the purpose of:
- (a) briefing the Minister in relation to a decision that the Minister may make under the *Foreign Acquisitions and Takeovers Act 1975*; or
 - (b) briefing the Minister in relation to a decision that the Minister may make in accordance with the document issued by the Minister known as Australia's Foreign Investment Policy; or
 - (c) briefing an officer of the Department who is authorised by the Minister to make a decision mentioned in paragraph (a) or (b) in relation to the decision.

1 **71 Subsection 355-65(4) in Schedule 1 (table item 8)**

2 Omit "of the Treasury".

3 **72 Subsection 355-65(4) in Schedule 1 (table item 8)**

4 Omit "that Department", substitute "the Department".

5 **73 Paragraph 355-70(8)(a) in Schedule 1**

6 Omit "Attorney-General's Department", substitute "Department
7 administered by the Minister administering the *Crimes Act 1914*".

8 **74 Transitional—amendments do not affect things done**

9 *Things done under amended provisions*

- 10 (1) Subitem (2) applies to a thing done under a provision of an Act if:
- 11 (a) the provision is amended by an item of this Part; and
 - 12 (b) the thing was in force immediately before the
13 commencement of that item.
- 14 (2) The thing has effect, after the commencement of that item, as if it had
15 been done under that provision as amended by that item. However, this
16 is not taken to change the time at which the thing was actually done.

1 *Amendments do not affect requirements for things done*

- 2 (3) Subitem (4) applies to a thing done under an Act if:
3 (a) the thing was in force, and complied with a requirement of
4 that Act, immediately before the commencement of an item
5 of this Part; and
6 (b) immediately after the commencement of that item, the thing
7 fails to comply with that requirement solely because of the
8 amendments of that Act made by that item.

- 9 (4) Disregard those amendments when considering, on and after the
10 commencement of that item, whether the thing complies with that
11 requirement.

12 *Meaning of thing done*

- 13 (5) In this item, doing a thing includes:
14 (a) making an instrument; and
15 (b) making a decision.

16 **75 Rules may deal with transitional etc. matters**

- 17 (1) The Minister may, by legislative instrument, make rules prescribing
18 matters of a transitional nature (including prescribing any saving or
19 application provisions) relating to the amendments or repeals made by
20 this Part.
21 (2) This Part does not limit the rules that may be made for the purposes of
22 subitem (1).

23 **Division 2—Contingent amendments**

24 *Income Tax Assessment Act 1997*

25 **76 Subsection 995-1(1)**

- 26 Repeal the following definitions:
27 (a) definition of *Transport Department*;
28 (b) definition of *Transport Minister*.

29 Note: This item only commences if Part 2 of Schedule 2 to the *Land Transport Infrastructure*
30 *Amendment Act 2014* commences.

1 **Part 2—Amendments relating to excise**

2 *Aviation Fuel Revenues (Special Appropriation) Act 1988*

3 **77 Section 3 (definition of *index number*)**

4 Repeal the definition.

5 **78 Section 3 (definition of *relevant period*)**

6 Repeal the definition.

7 **79 Section 3 (definition of *relevant rate*)**

8 Repeal the definition.

9 **80 Section 3 (paragraph (a) of the definition of *statutory rate*)**

10 Repeal the paragraph, substitute:

11 (a) if a determination under subsection 3A(1) was in force at the
12 time duty was imposed on the eligible aviation fuel—the rate
13 fixed by that determination;

14 **81 Subsection 3A(1)**

15 Omit “subparagraph (a)(ii)”, substitute “paragraph (a)”.

16 **82 Subsection 3A(3)**

17 Omit “which corresponds to the method provided for by this Act for
18 indexing the relevant rate”, substitute “set out in the determination”.

19 **83 Section 5**

20 Repeal the section.

1 **Part 3—Amendments relating to numbering**

2 *Income Tax Assessment Act 1997*

3 **84 Section 12-5 (table item headed “National Disability**
4 **Insurance Scheme”)**

5 Omit “26-100”, substitute “26-97”.

6 **85 Section 26-100 (the section 26-100 added by item 3 of**
7 **Schedule 3 to the *National Disability Insurance Scheme***
8 ***Legislation Amendment Act 2013*)**

9 Renumber as section 26-97.

10 **86 Section 26-100 (the section 26-100 added by item 8 of**
11 **Schedule 3 to the *Tax and Superannuation Laws***
12 ***Amendment (Increased Concessional Contributions***
13 ***Cap and Other Measures) Act 2013*)**

14 Renumber as section 26-98.

15 **87 Section 40-235**

16 Omit “26-100” (wherever occurring), substitute “26-97”.

17 **88 Subsection 110-38(7) (the subsection (7) added by item 6**
18 **of Schedule 3 to the *National Disability Insurance***
19 ***Scheme Legislation Amendment Act 2013*)**

20 Omit “26-100” (wherever occurring), substitute “26-97”.

21 **89 Subsection 110-38(7) (the subsection (7) added by item 9**
22 **of Schedule 3 to the *Tax and Superannuation Laws***
23 ***Amendment (2013 Measures No. 1) Act 2013*)**

24 Renumber as subsection (8).

25 **90 Subsection 110-55(9G) (the subsection (9G) inserted by**
26 **item 7 of Schedule 3 to the *National Disability***
27 ***Insurance Scheme Legislation Amendment Act 2013*)**

28 Omit “26-100” (wherever occurring), substitute “26-97”.

- 1 **91 Subsection 110-55(9G) (the subsection (9G) inserted by**
2 **item 7 of Schedule 3 to the *National Disability***
3 ***Insurance Scheme Legislation Amendment Act 2013*)**
4 Renumber as subsection (9H).

1 **Part 4—Other amendments of principal Acts**

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

3 **92 Subsection 111-5(3)**

4 Repeal the subsection, substitute:

5 (3) However, the acquisition is not a *creditable acquisition:

6 (a) to the extent (if any) that:

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

10 (ii) the acquisition would not, because of Division 69, be a
11 creditable acquisition if you made it; or

12 (b) unless the supply of the thing acquired, by the employee,
13 associate, agent, officer or partner in incurring the expense,
14 was a taxable supply; or

15 (c) if you would, because of Division 71, not have been entitled
16 to an input tax credit if you had made the acquisition that the
17 employee, associate, agent, officer or partner made.

18 **93 Application of amendment**

19 The amendment made by item 92 applies in relation to acquisitions
20 made on or after 1 July 2000.

21 *Fuel Tax Act 2006*

22 **94 Paragraph 43-7(2)(a)**

23 Omit “biodiesel”, substitute “*biodiesel”.

24 *Income Tax Assessment Act 1936*

25 **95 Subsection 6(1) (definition of *income tax or tax*)**

26 Repeal the definition.

1 **96 Subsection 6(1)**

2 Insert:

3 *income tax* means income tax imposed as such by any Act, as
4 assessed under this Act, but, except in section 260, does not
5 include mining withholding tax or withholding tax.

6 **97 Subsection 6(1)**

7 Insert:

8 *tax* means income tax imposed as such by any Act, as assessed
9 under this Act, but does not include mining withholding tax or
10 withholding tax.

11 ***Income Tax Assessment Act 1997***

12 **98 Subsection 30-25(1) (cell at table item 2.1.2, column**
13 **headed “Special conditions—fund, authority or**
14 **institution”)**

15 Repeal the cell, substitute:

- (a) the public fund must be:
 - (i) an *Australian government agency; or
 - (ii) a *registered charity; or
 - (iii) operated by an Australian government agency or registered charity; and
- (b) the public university must satisfy the special conditions set out in item 2.1.1

16 **99 Subsection 30-45(1) (cell at table item 4.1.4, column**
17 **headed “Special conditions—fund, authority or**
18 **institution”)**

19 Repeal the cell, substitute:

the public fund must be:

- (a) a *registered charity; or
- (b) operated by a registered charity

1 **100 Subsection 30-50(1) (cell at table item 5.1.2, column**
2 **headed “Special conditions—fund, authority or**
3 **institution”)**

4 Repeal the cell, substitute:
the public institution or public fund must
be:

- (a) an *Australian government agency;
or
- (b) a *registered charity; or
- (c) in the case of a public fund—
operated by an Australian
government agency or registered
charity

5 **101 Subsection 30-50(1) (cell at table item 5.1.3, column**
6 **headed “Special conditions—fund, authority or**
7 **institution”)**

8 Repeal the cell, substitute:
the public fund must be:

- (a) an *Australian government agency;
or
- (b) a *registered charity; or
- (c) operated by an Australian
government agency or registered
charity

9 **102 Subsection 30-70(1) (cells at table items 8.1.1 and 8.1.2,**
10 **column headed “Special conditions—fund, authority or**
11 **institution”)**

12 Repeal the cells, substitute:
the public fund must be:

- (a) a *registered charity; or
- (b) operated by a registered charity

13 **103 Application of amendments**

14 The amendments made by items 98 to 102 apply to gifts made on or
15 after 3 December 2012.

1 **104 Subsections 104-255(1) and (2)**

2 Omit “payment”, substitute “*payment”.

3 **105 Subsection 104-255(6)**

4 Omit “*carried interest”, substitute “*carried interest*”.

5 **106 Section 165-205**

6 Repeal the section, substitute:

7 **165-205 Death of share owner**

8 (1) If an individual beneficially owns *shares in a company when he or
9 she dies, this section applies if and while the shares:

10 (a) are owned by the trustee of the deceased’s estate; or

11 (b) are beneficially owned by someone who receives them as a
12 beneficiary of the deceased’s estate.

13 (2) For the purposes of a test:

14 (a) the *shares are taken to continue to be beneficially owned by
15 the deceased; and

16 (b) as a result of being taken to continue to beneficially own the
17 shares, the deceased is taken to continue:

18 (i) to have any rights to exercise, or to be able to control
19 (whether directly, or indirectly through one or more
20 interposed entities), any of the voting power in the
21 company; and

22 (ii) to have any rights to receive for the deceased’s own
23 benefit (whether directly or *indirectly) any *dividends
24 that the company may pay; and

25 (iii) to have any rights to receive for the deceased’s own
26 benefit (whether directly or indirectly) any distributions
27 of capital of the company.

28 **107 Application of amendment**

29 The amendment made by item 106 applies to assessments for the
30 1997-98 income year and later income years.

1 **108 Section 219-70**

2 Repeal the section, substitute:

3 **219-70 Tax offset under section 205-70**

4 (1) For the purposes of paragraph 205-70(1)(c), if a *life insurance
5 company was entitled to a *tax offset under section 205-70 for a
6 previous income year, assume section 63-10 applied to the part of
7 the company's basic income tax liability for that previous income
8 year that was attributable to its shareholders.

9 (2) In working out the part of the company's basic income tax liability
10 that was attributable to its shareholders, have regard to the
11 company's accounting records.

12 Example: The following apply to a life insurance company that satisfies the
13 residency requirement for an income year:

- 14 (a) the company has a tax offset of \$60,000 under section 205-70
15 (the franking deficit offset) for that year;
- 16 (b) the company's basic income tax liability for that year would be
17 \$100,000 if the franking deficit offset were disregarded;
- 18 (c) 20% of the \$100,000 is attributable to the company's
19 shareholders (the shareholders' part).

20 As a result of applying \$20,000 of the franking deficit offset to reduce
21 the shareholders' part to nil, the company's basic income tax liability
22 becomes \$80,000. The remaining \$40,000 of the offset will be
23 included in a franking deficit tax offset for the next income year for
24 which the company satisfies the residency requirement.

25 **109 Subsection 219-75(1) (note)**

26 Omit "amount mentioned in paragraph 219-70(1)(b)", substitute
27 "company's basic income tax liability mentioned in
28 subsection 219-70(1)".

29 **110 Subsection 219-75(2) (method statement, step 1)**

30 Omit "amount mentioned in paragraph 219-70(1)(b)", substitute
31 "company's basic income tax liability mentioned in
32 subsection 219-70(1)".

33 **111 Subsection 219-75(2) (method statement, step 1, note)**

34 Omit "paragraph 219-70(1)(b)", substitute "that subsection".

1 **112 Application of amendments**

2 The amendments made by items 108 to 111 apply in relation to the
3 2006-07 income year and later income years.

4 **113 Section 355-400 (note)**

5 Omit “arms’ length”, substitute “arm’s length”.

6 **114 Paragraph 701-55(2)(d)**

7 Repeal the paragraph, substitute:

8 (d) where just before that time the prime cost method applied for
9 working out the asset’s decline in value and the asset’s *tax
10 cost setting amount exceeds the joining entity’s terminating
11 value for the asset—either:

12 (i) the *head company were required to choose at that time
13 an effective life for the asset in accordance with
14 subsections 40-95(1) and (3), and any choice of an
15 effective life determined by the Commissioner were
16 limited to one in force at that time; or

17 (ii) an effective life for the asset were worked out under
18 subsection 40-95(7), (8), (9) or (10) at that time; and

19 **115 Paragraph 709-185(1)(c)**

20 Repeal the paragraph, substitute:

21 (c) an amount (the *joining entity’s excess*) of the offset remains
22 after applying section 63-10 (about the tax offset priority
23 rules) to the joining entity’s basic income tax liability for that
24 income year.

25 **116 Subsection 709-185(2)**

26 Repeal the subsection, substitute:

27 *Transfer of excess to head company*

28 (2) For the purpose of applying subsection 205-70(1) to the *head
29 company of the *consolidated group for the income year in which
30 the joining time occurs:

31 (a) if, as described in paragraph 205-70(1)(c), an amount of a
32 *tax offset remains after applying section 63-10—that

- 1 amount is taken to be increased by the amount of the joining
2 entity's excess; or
3 (b) otherwise:
4 (i) paragraph 205-70(1)(c) is taken to apply to the head
5 company; and
6 (ii) the remaining amount of a tax offset covered by that
7 paragraph is taken to be the amount of the joining
8 entity's excess.

9 Note: Paragraph 205-70(1)(c) refers to tax offsets under section 205-70.

- 10 (2A) In working out whether paragraph (2)(a) applies, take into account
11 any application of this section to any other entity that became a
12 *subsidiary member of the group before the joining time.

13 **117 Paragraph 709-190(b)**

- 14 Repeal the paragraph, substitute:
15 (b) an amount (the *excess*) of the offset remains after applying
16 section 63-10 (about the tax offset priority rules) to the head
17 company's basic income tax liability for that income year;
18 and

19 **118 Paragraph 709-190(d)**

20 Omit "excess mentioned in paragraph (b)", substitute "excess".

21 **119 Application of amendments**

22 The amendments made by items 115 to 118 apply in relation to the
23 2006-07 income year and later income years.

24 **120 Subsection 709-215(4) (after table item 4)**

25 Insert:

- | | | | |
|----|----------------------------------------------|---------------|----------------|
| 4A | Both these conditions are met: | The start of | The end of the |
| | (a) the entity that is owed the debt for the | the debt test | debt test |
| | debt test period is the *head company of | period | period |
| | a *consolidated group; | | |
| | (b) the period ends when a *subsidiary | | |
| | member of the group ceases to be a | | |
| | *member of the group without | | |
| | becoming a member of another | | |

consolidated group

1 **121 Application of amendment**

2 The amendment made by item 120 applies in relation to debt test
3 periods starting on or after 1 July 2002.

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

5 **122 Paragraph 10(3)(a)**

6 Before “benefits”, insert “the minimum”.

7 ***Taxation Administration Act 1953***

8 **123 Subsection 8AAZLGA(7) (note)**

9 Omit “14ZW(1)(aac)”, substitute “14ZW(1)(aad)”.

10 **124 Paragraph 8C(1)(a)**

11 Omit “an approved form or”.

12 **125 Paragraph 14ZW(1AABA)(b)**

13 Omit “a payments”, substitute “a payment”.

14 Note: This item fixes a grammatical error.

15 **126 Paragraph 15-30(d) in Schedule 1**

16 Omit “prescribed”.

17 **127 Subsection 15-50(1) in Schedule 1 (heading)**

18 Repeal the heading, substitute:

19 *Declarations about matters*

20 **128 Paragraph 15-50(1)(b) in Schedule 1**

21 Omit “prescribed”.

22 **129 Paragraph 15-50(2)(b) in Schedule 1**

23 Omit “a prescribed”, substitute “any”.

1 **130 Paragraph 15-50(3)(b) in Schedule 1**

2 Omit “prescribed”.

3 **131 Paragraph 15-50(4)(a) in Schedule 1**

4 Repeal the paragraph.

5 **132 Transitional—existing declarations**

6 (1) This item applies to a declaration:

7 (a) given under subsection 15-50(1) or (3) in Schedule 1 to the
8 *Taxation Administration Act 1953*; and

9 (b) in effect immediately before the commencement of this item.

10 (2) The declaration has effect, after the commencement of this item, as if it
11 had been given under that subsection as amended by this Act.

12 **133 Paragraph 45-235(1)(a) in Schedule 1**

13 Omit “former paragraph 45-115(1)(c) or 45-175(1)(b)”, substitute
14 “paragraph 45-115(1)(c) or former paragraph 45-175(1)(b)”.

15 **134 Subsection 155-15(1) in Schedule 1 (cell at table item 3,
16 column 3)**

17 Repeal the cell, substitute:

return, given as described in
one of the following
provisions, in relation to the
importation:

(a) paragraph 69(8)(a), (b) or
(c), or 70(7)(a), of the
Customs Act 1901;

(b) regulations prescribed
for the purposes of
paragraph 69(8)(d) of
that Act

18 **135 Application of amendment**

19 The amendment made by item 134 applies in relation to GST payable
20 on or after the day this Act receives the Royal Assent on taxable
21 importations.

1 **136 Section 280-170 in Schedule 1**

2 Omit “*Division 293 tax,,”, substitute “*Division 293 tax,”.

3 **137 Paragraph 298-5(c) in Schedule 1**

4 Omit “section 426-120”, substitute “section 420-5 or 426-120”.

5 **138 Subsection 340-10(2) in Schedule 1 (table item 3)**

6 Omit “or 170AA”, substitute “, former section 170AA”.

7 **139 Subsection 355-65(2) in Schedule 1 (table item 5A)**

8 Repeal the item, substitute:

5A	the *Families Secretary or the Chief Executive Centrelink (within the meaning of the <i>Human Services (Centrelink) Act</i> 1997)	is for the purpose of administering the <i>Paid Parental Leave Act 2010</i> .
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9 **140 Application of amendment**

10 The amendment made by item 139 applies to records and disclosures of
11 information made on or after 1 July 2011 (whenever the information
12 was acquired).

1 **Part 5—Other amendments of amending Acts**

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

4 **141 Item 34 of Schedule 13 (heading)**

5 Repeal the heading, substitute:

6 **34 Subsection 995-1(1)**

7 **142 Item 34 of Schedule 13**

8 Omit “Repeal the definition, substitute:”, substitute “Insert:”.

9 **143 Item 19 of Schedule 15 (heading)**

10 Repeal the heading, substitute:

11 **19 After Division 976**

12 *Superannuation Legislation Amendment (Stronger Super)*
13 *Act 2012*

14 **144 After subitem 20(1) of Schedule 1**

15 Insert:

16 (1A) Subject to subitems (2), (3) and (3A), the amendments made by this
17 Schedule apply in relation to an entity that is an employer in relation to
18 conduct that occurs on or after 1 July 2015.

19 **145 After subitem 20(3) of Schedule 1**

20 Insert:

21 (3A) The amendments made by this Schedule apply in relation to an entity in
22 relation to conduct that occurs on or after a day (the *test day*) in the
23 period beginning on 2 July 2014 and ending on 30 June 2015 if:

- 24 (a) neither subitem (2) nor (3) applies to the entity; and
25 (b) the entity starts to be an employer on the test day; and

1 (c) at a time on the test day, the entity is a medium to large
2 employer.

3 ***Tax Laws Amendment (2009 Budget Measures No. 2) Act***
4 ***2009***

5 **146 Item 55 of Schedule 1 (heading)**

6 Repeal the heading, substitute:

7 **55 Subsection 707-325(5) (note 1)**

8 ***Tax Laws Amendment (2011 Measures No. 9) Act 2012***

9 **147 Item 29 of Schedule 6**

10 Repeal the item, substitute:

11 **29 Paragraph 8C(1)(a)**

12 Omit “furnish”, substitute “give”.

13 **29A Paragraph 8C(1)(a)**

14 After “information”, insert “or document”.

15 **148 Item 83 of Schedule 6 (heading)**

16 Repeal the heading, substitute:

17 **83 Subsection 995-1(1) (definition of *untaxable***
18 ***Commonwealth entity*)**

19 **149 Item 140 of Schedule 6 (heading)**

20 Repeal the heading, substitute:

1 **140 Section 11-15 (before table item headed “resale royalty**
2 **collecting societies”)**

3 ***Tax Laws Amendment (2012 Measures No. 3) Act 2012***

4 **150 Item 12 of Schedule 1**

5 Repeal the item, substitute:

6 **12 Subsection 15-10(2) in Schedule 1**

7 After “12-FB”, insert “, 12-FC”.

8 ***Tax Laws Amendment (2012 Measures No. 6) Act 2013***

9 **151 Section 4**

10 Before “Section 170”, insert “(1)”.

11 **152 At the end of section 4**

12 Add:

13 (2) Section 170 of the *Income Tax Assessment Act 1936* does not
14 prevent the amendment of an assessment if:

15 (a) the assessment was made before the commencement of this
16 subsection; and

17 (b) the amendment is made within 2 years after that
18 commencement; and

19 (c) the amendment is made for the purposes of giving effect to
20 item 30 or 31 of Schedule 8 (about farm management
21 deposits) to this Act.

22 ***Tax Laws Amendment (Research and Development) Act 2011***

23 **153 Item 49 of Schedule 3**

24 Omit “73G(1),”, substitute “73G(1)”.

25 **154 Item 50 of Schedule 3**

26 Omit “73G,”, substitute “73G”.

1 ***Tax Laws Amendment (Temporary Budget Repair Levy) Act***
2 ***2014***

3 **155 Section 3**

4 Omit “Each Act”, substitute “(1) Each Act, and each regulation,”.

5 **156 At the end of section 3**

6 Add:

7 (2) The amendment of any regulation under subsection (1) does not
8 prevent the regulation, as so amended, from being amended or
9 repealed by the Governor-General.