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

No.  , 2000

(Treasury)

A Bill for an Act to amend the law about taxation to implement A New Tax System, and for related purposes
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- Fringe Benefits Tax Assessment Act 1986
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- Income Tax Assessment Act 1997
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A Bill for an Act to amend the law about taxation to implement A New Tax System, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the A New Tax System (Tax Administration) Act (No. 2) 2000.

2 Definition

In this Act:

3 Commencement

(1) Subject to this section, this Act commences, or is taken to have commenced, immediately after the commencement of section 1 of the A New Tax System (Goods and Services Tax) Act 1999.

(2) Items 2 to 7 (inclusive) of Schedule 2 commence, or are taken to have commenced, immediately after the commencement of sections 9 and 10 of the Diesel and Alternative Fuels Grants Scheme Act 1999.

(3) Part 4 of Schedule 2 commences, or is taken to have commenced, on 1 April 2001.

(4) Schedule 3 commences, or is taken to have commenced, immediately after the commencement of section 1 of the A New Tax System (Tax Administration) Act (No. 1) 2000.

(5) Schedule 4 commences, or is taken to have commenced, on 1 July 2000.

(6) Items 8 and 9 of Schedule 5 commence, or are taken to have commenced, on 1 July 2000.

4 Schedule(s)

Subject to section 3, the Corporations Law and each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Administrative penalties

Taxation Administration Act 1953

1 Section 265-70 in Schedule 1 (link note)
   Omit “288”, substitute “284”.

2 Before Division 288 in Schedule 1
   Insert:

Division 284—Administrative penalties for statements,
   unarguable positions and schemes

Table of Subdivisions

Guide to Division 284

284-A General provisions
284-B Penalties relating to statements
284-C Penalties relating to schemes
284-D Provisions common to Subdivisions 284-B and 284-C

Guide to Division 284

284-5 What this Division is about

This Division sets out the circumstances in which administrative penalties apply for:

(a) making false or misleading statements; and

(b) taking a position that is not reasonably arguable; and

(c) entering into schemes.

It also sets out the amounts of those penalties.
Subdivision 284-A—General provisions

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284-10 Object of Division

The object of this Division is to provide a uniform administrative penalty regime for all *taxation laws to enable administrative penalties to apply to entities that fail to meet their obligations under those laws in relation to:

(a) making false or misleading statements; and
(b) taking a position that is not reasonably arguable; and
(c) entering into *schemes; and
(d) refusing to provide documents to the Commissioner; and
(e) disregarding *private rulings.

284-15 When a matter is *reasonably arguable*

(1) A matter is *reasonably arguable* if it would be concluded in the circumstances, having regard to relevant authorities, that what is argued for is as likely to be correct as incorrect.

(2) To the extent that a matter involves an assumption about the way in which the Commissioner will exercise a discretion, the matter is only *reasonably arguable* if, had the Commissioner exercised the discretion in the way assumed, a court would be as likely as not to decide that the exercise of the discretion was in accordance with law.

(3) Without limiting subsection (1), these authorities are relevant:

(a) a *taxation law;
(b) material for the purposes of subsection 15AB(1) of the Acts Interpretation Act 1901;
Administrative penalties  

Schedule 1

(c) a decision of a court (whether or not an Australian court), the "AAT or a Board of Review;
(d) a public ruling within the meaning of Part IVAAA.

284-20 Which statements this Division applies to

This Division applies to a statement made orally, in a document or in any other way (including electronically) for a purpose connected with a "taxation law.

284-25 Statements by agents

This Division applies to a statement made in an "approved form by your agent as if it had been made by you.

284-30 Application of Division to trusts

If you are a trustee of a trust and:
(a) you make a statement to the Commissioner or to an officer who is exercising powers or performing functions under a "taxation law about the trust; and
(b) the statement:
   (i) is false or misleading in a material particular, whether because of things in it or omitted from it; or
   (ii) treated an "income tax law as applying to a matter or identical matters in a particular way that was not "reasonably arguable; or
   (iii) treated a taxation law as applying in a particular way to a "scheme;

this Division applies to you as if any "shortfall amount or "scheme shortfall amount of a beneficiary of the trust as a result of the statement were your shortfall amount or scheme shortfall amount.

284-35 Application of Division to partnerships

(1) If you are a partner in a partnership and:
(a) a statement about the partnership net income or partnership loss is made by a partner or the partnership’s agent to the Commissioner or to an entity who is exercising powers or
performing functions under a *taxation law about the
partnership; and
(b) the statement:
(i) is false or misleading in a material particular, whether
because of things in it or omitted from it; or
(ii) treated an *income tax law as applying to a matter or
identical matters in a particular way that was not
*reasonably arguable;
this Division applies to you as if you had made the statement.

(2) If you are a partner in a partnership and:
(a) the partnership participated in a *scheme; and
(b) the partnership net income would have been greater, or the
partnership loss would have been smaller, apart from the
scheme;
this Division applies to you as if the proportion of the *scheme
benefit that is the same as your share of the partnership net income
or partnership loss were your scheme benefit.

Subdivision 284-B—Penalties relating to statements

Guide to Subdivision 284-B

284-70 What this Subdivision is about

You are liable to an administrative penalty if:

(a) you make a false or misleading statement about a
tax-related matter; or

(b) you take a position that is not reasonably arguable
about a tax-related matter; or

(c) the Commissioner determines a tax-related liability
of yours without documents you were required to
provide; or

(d) you do not follow a private ruling about a
tax-related matter.
This Subdivision sets out when the penalties apply and how the amounts of the penalties are calculated.

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Operative provisions

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[This is the end of the Guide.]

Operative provisions

284-75 Liability to penalty

(1) You are liable to an administrative penalty if:

   (a) you or your agent makes a statement to the Commissioner or to an entity that is exercising powers or performing functions under a "taxation law; and

   (b) the statement is false or misleading in a material particular, whether because of things in it or omitted from it; and

   (c) you have a "shortfall amount as a result of the statement.

(2) You are liable to an administrative penalty if:

   (a) you or your agent makes a statement to the Commissioner or to an entity that is exercising powers or performing functions under an "income tax law; and

   (b) in the statement, you or your agent treated an "income tax law as applying to a matter or identical matters in a particular way that was not "reasonably arguable; and

   (c) you have a "shortfall amount as a result of the statement; and

   (d) item 4, 5 or 6 of the table in subsection 284-90(1) applies to you.

(3) You are liable to an administrative penalty if:

   (a) you fail to give a return, notice or other document to the Commissioner by the day it is required to be given; and
Schedule 1 Administrative penalties

(b) that document is necessary for the Commissioner to
determine a *tax-related liability of yours accurately; and
(c) the Commissioner determines the tax-related liability without
the assistance of that document.

Note: You are also liable to an administrative penalty for failing to give the
document on time: see Subdivision 286-C.

(4) You are liable to an administrative penalty if:

(a) a *private ruling has been made about the way in which a
*taxation law applies to you; and
(b) after the ruling was made, you make a statement to the
Commissioner treating that law as applying to you in a
different way; and
(c) you have a *shortfall amount as a result of the statement.

284-80 Shortfall amounts

You have a shortfall amount if an item in this table applies to you.
That amount is the amount by which the relevant liability, or the
payment or credit, is less than or more than it would otherwise
have been.

<table>
<thead>
<tr>
<th>Item</th>
<th>You have a shortfall amount in this situation:</th>
</tr>
</thead>
</table>
| 1    | A *tax-related liability of yours for an accounting period, or for a *taxable
|      | importation, worked out on the basis of the statement is less than it would be |
|      | if the statement were not false or misleading |
| 2    | An amount that the Commissioner must pay or credit to you under a
|      | *taxation law for an accounting period, or under a tourist refund scheme |
|      | under Division 168 of the *GST Act, worked out on the basis of the |
|      | statement is more than it would be if the statement were not false or |
|      | misleading |
| 3    | A *tax-related liability of yours for an accounting period worked out on the |
|      | basis of the statement is less than it would be if the statement did not treat an |
|      | *income tax law as applying in a way that was not *reasonably arguable |
| 4    | An amount that the Commissioner must pay or credit to you under an |
|      | *income tax law for an accounting period worked out on the basis of the |
|      | statement is more than it would be if the statement did not treat an *income |
|      | tax law as applying in a way that was not *reasonably arguable |
### Shortfall amounts

<table>
<thead>
<tr>
<th>Item</th>
<th>You have a shortfall amount in this situation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>A *tax-related liability of yours for an accounting period worked out on the basis of the statement is less than it would be if the statement were consistent with the *private ruling</td>
</tr>
<tr>
<td>6</td>
<td>An amount that the Commissioner must pay or credit to you under a *taxation law for an accounting period worked out on the basis of the statement is more than it would be if the statement were consistent with the *private ruling</td>
</tr>
</tbody>
</table>

Note: Section 284-215 may reduce or eliminate your shortfall amount.

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#### 284-85 Amount of penalty

1. Work out the *base penalty amount under section 284-90. If the base penalty amount is not increased under section 284-220 or reduced under section 284-225, this is the amount of the penalty.

2. Otherwise, use this formula:

\[
BPA + \left( BPA \times \frac{\text{increase} \% - \text{reduction} \%}{100} \right)
\]

where:

- \( BPA \) is the *base penalty amount.
- \( \text{increase} \% \) is the percentage increase (if any) under section 284-220.
- \( \text{reduction} \% \) is the percentage reduction (if any) under section 284-225.

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#### 284-90 Base penalty amount

1. The base penalty amount under this Subdivision is worked out using this table:
### Base penalty amount

<table>
<thead>
<tr>
<th>Item</th>
<th>In this situation:</th>
<th>The base penalty amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Your *shortfall amount or part of it resulted from intentional disregard of a *taxation law by you or your agent</td>
<td>75% of your *shortfall amount or part</td>
</tr>
<tr>
<td>2</td>
<td>Your *shortfall amount or part of it resulted from recklessness by you or your agent as to the operation of a *taxation law</td>
<td>50% of your *shortfall amount or part</td>
</tr>
<tr>
<td>3</td>
<td>Your *shortfall amount or part of it resulted from a failure by you or your agent to take reasonable care to comply with a *taxation law</td>
<td>25% of your *shortfall amount or part</td>
</tr>
<tr>
<td>4</td>
<td>Your *shortfall amount or part of it resulted from you or your agent treating an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable, and that amount is more than the greater of $10,000 or 1% of the income tax payable by you for the income year, worked out on the basis of your *income tax return</td>
<td>25% of your *shortfall amount or part</td>
</tr>
<tr>
<td>5</td>
<td>You have a *shortfall amount because of section 284-30 (about trusts) and: (a) your shortfall amount or part of it resulted from you or your agent treating an *income tax law as applying to a matter or identical matters in a particular way that was not *reasonably arguable; and (b) because of that treatment, the trust’s net income would have been reduced, or the trust’s *tax loss would have been increased, for the income year by more than the greater of $20,000 or 2% of the trust’s net income (if any) for that year worked out on the basis of the trust’s *income tax return</td>
<td>25% of your *shortfall amount or part</td>
</tr>
</tbody>
</table>
### Base penalty amount

<table>
<thead>
<tr>
<th>Item</th>
<th>In this situation:</th>
<th>The base penalty amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>You have a &quot;shortfall amount because of section 284-35 (about partnerships) and: (a) your shortfall amount or part of it resulted from you or your agent treating an &quot;income tax law as applying to a matter or identical matters in a particular way that was not &quot;reasonably arguable; and (b) because of that treatment, the partnership net income would have been reduced, or the partnership loss would have been increased, for the income year by more than the greater of $20,000 or 2% of the partnership net income (if any) for that year, worked out on the basis of the partnership’s &quot;income tax return</td>
<td>25% of your &quot;shortfall amount or part</td>
</tr>
<tr>
<td>7</td>
<td>You are liable to an administrative penalty under subsection 284-75(3)</td>
<td>75% of the tax-related liability concerned</td>
</tr>
<tr>
<td>8</td>
<td>Your &quot;shortfall amount or part of it resulted you or your agent disregarding a &quot;private ruling</td>
<td>25% of your &quot;shortfall amount or part</td>
</tr>
</tbody>
</table>

Note: Section 284-215 may reduce or eliminate your shortfall amount.

(2) If 2 or more items in that table apply to you for your "shortfall amount or a part of it and one of them produces a greater "base penalty amount than any of the others, use that item.

### Subdivision 284-C—Penalties relating to schemes

### Guide to Subdivision 284-C

#### 284-140 What this Subdivision is about

You are liable to an administrative penalty if you attempt to reduce your tax-related liabilities or increase your credits through a scheme.
This Subdivision sets out when the penalties apply and how the amounts of the penalties are calculated.

Table of sections

Operative provisions

284-145 Liability to penalty

(1) You are liable to an administrative penalty if:
   (a) you would, apart from a provision of a *taxation law or action taken under such a provision (the adjustment provision), get a *scheme benefit from a *scheme; and
   (b) having regard to any relevant matters, it is reasonable to conclude that:
      (i) an entity that (alone or with others) entered into or carried out the scheme, or part of it, did so with the sole or dominant purpose of that entity or another entity getting a scheme benefit from the scheme; or
      (ii) for a scheme referred to in Division 165 of the A New Tax System (Goods and Services Tax) Act 1999—a principal effect of the scheme, or of part of the scheme, is that you would, apart from the adjustment provision, get the scheme benefit from the scheme directly or indirectly.

(2) You are also liable to an administrative penalty if:
   (a) you would, apart from section 136AD or 136AE of the Income Tax Assessment Act 1936, or the application of the International Tax Agreements Act 1953 to those sections,
(also the *adjustment provision) get a *scheme benefit from a *scheme; and
(b) subparagraph (1)(b)(i) is not satisfied for the scheme.

(3) It does not matter whether the *scheme, or any part of the scheme, was entered into or carried out inside or outside Australia.

284-150 Scheme benefits and scheme shortfall amounts

(1) An entity gets a scheme benefit from a *scheme if:
   (a) a *tax-related liability of the entity for an accounting period is, or could reasonably be expected to be, less than it would be apart from the scheme or a part of the scheme; or
   (b) an amount that the Commissioner must pay or credit to the entity under a *taxation law for an accounting period is, or could reasonably be expected to be, more than it would be apart from the scheme or a part of the scheme.

(2) The amount of the *scheme benefit that you would, apart from the adjustment provision, have got from the *scheme is called your scheme shortfall amount.

Note: Section 284-215 may reduce or eliminate your scheme shortfall amount.

284-155 Amount of penalty

(1) Work out the *base penalty amount under section 284-160. If the base penalty amount is not increased under section 284-220 or reduced under section 284-225, this is the amount of the penalty.

(2) Otherwise, use this formula:

\[
BPA + \left( BPA \times \text{Increase \%} - \text{Reduction \%} \right)
\]

where:

- \( BPA \) is the *base penalty amount.
- increase \% is the percentage increase (if any) under section 284-220.
- reduction \% is the percentage reduction (if any) under section 284-225.
**Schedule 1  Administrative penalties**

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**284-160  Base penalty amount: schemes**

The *base penalty amount* for a *scheme* is:

(a) for a scheme to which subsection 284-145(1) applies:
   (i) 50% of your *scheme shortfall amount; or
   (ii) 25% of your scheme shortfall amount if it is *reasonably arguable that the adjustment provision does not apply;

or

(b) for a scheme to which subsection 284-145(2) applies:
   (i) 25% of your *scheme shortfall amount; or
   (ii) 10% of your scheme shortfall amount if it is *reasonably arguable that the adjustment provision does not apply.

Note: Section 284-215 may reduce or eliminate your scheme shortfall amount.

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**Subdivision 284-D—Provisions common to Subdivisions 284-B and 284-C**

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<tr>
<td>284-225</td>
<td>Reduction of base penalty amount</td>
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</tbody>
</table>

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**284-215  Exceptions**

(1) If, apart from this section, you would have a *shortfall amount or a *scheme shortfall amount for an accounting period and:
   (a) your shortfall amount or scheme shortfall amount, or part of it, was caused by you or your agent treating a *taxation law as applying in a particular way; and
   (b) that way agrees with:
      (i) advice given to you or your agent by or on behalf of the Commissioner; or
      (ii) general administrative practice under that law; or
      (iii) a statement in a publication approved in writing by the Commissioner;

your shortfall amount or scheme shortfall amount is reduced to the extent that it was caused by that treatment.
(2) You do not have a *shortfall amount as a result of a statement that is false or misleading in a material particular to the extent that you and your agent (if any) took reasonable care in making the statement.

(3) You do not have a *shortfall amount as a result of a statement referred to in subsection 284-75(4) to the extent that an order of a court or a decision of the *AAT supports the way you treated the *taxation law as applying.

Note: Subsection 284-75(4) deals with statements contrary to private rulings.

284-220 Increase in base penalty amount

(1) The *base penalty amount for your *shortfall amount, or for part of it, for an accounting period is increased by 20% if:
   (a) you took steps to prevent or obstruct the Commissioner from finding out about the shortfall amount; or
   (b) you became aware of the shortfall amount or part after a statement had been made to the Commissioner about the relevant *tax-related liability and you did not tell the Commissioner about it within a reasonable time; or
   (c) the base penalty amount was worked out using item 1, 2 or 3 of the table in subsection 284-90(1) and a base penalty amount for you was worked out under one of those items for a previous accounting period; or
   (d) the base penalty amount was worked out using item 4, 5, 6 or 8 of that table and a base penalty amount for you was worked out under that item for a previous accounting period; or
   (e) your liability to a penalty arises under subsection 284-75(3) and you were liable to a penalty under that subsection for a previous accounting period.

(2) The *base penalty amount for your *scheme shortfall amount, or for part of it, for an accounting period is increased by 20% if:
   (a) you took steps to prevent or obstruct the Commissioner from finding out about the scheme shortfall amount or the part; or
   (b) a base penalty amount for you was worked out under section 284-160 for a previous accounting period.
284-225 Reduction of base penalty amount

(1) The "base penalty amount for your "shortfall amount or "scheme shortfall amount, or for part of it, for an accounting period is reduced by 20% if:

   (a) the Commissioner tells you that a "tax audit is to be conducted of your financial affairs for that period or a period that includes that period; and

   (b) after that time, you voluntarily tell the Commissioner, in the "approved form, about the shortfall or the part of it; and

   (c) telling the Commissioner can reasonably be estimated to have saved the Commissioner a significant amount of time or significant resources in the audit.

(2) The "base penalty amount for your "shortfall amount or "scheme shortfall amount, or for part of it, for an accounting period is reduced under subsection (3) or (4) if you voluntarily tell the Commissioner, in the "approved form, about the shortfall amount or the part of it before the earlier of:

   (a) the day the Commissioner tells you that a "tax audit is to be conducted of your financial affairs for that period or a period that includes that period; or

   (b) if the Commissioner makes a public statement requesting entities to make a voluntary disclosure by a particular day about a "scheme or transaction that applies to your financial affairs—that day.

(3) The "base penalty amount for your "shortfall amount, or for part of it, is:

   (a) reduced by 80% if the shortfall amount, or the part of, it is $1,000 or more; or

   (b) reduced to nil if the shortfall amount, or the part of it, is less than $1,000.

(4) The "base penalty amount for your "scheme shortfall amount, or for part of it, is reduced by 80%.

(5) If you voluntarily tell the Commissioner, in the "approved form, about your "shortfall amount or "scheme shortfall amount, or part of it, after the Commissioner tells you that a "tax audit is to be conducted of your financial affairs, the Commissioner may treat
you as having done so before being told about the audit if the
Commissioner considers it appropriate to do so in the
circumstances.

[The next Division is Division 286.]

Division 286—Penalties for failing to lodge documents on
time

Table of Subdivisions

286-A Guide to Division 286
286-B Object of Division
286-C Penalties for failing to lodge documents on time

Subdivision 286-A—Guide to Division 286

286-1 What this Division is about

You are liable to an administrative penalty if you are required to
give a return, statement, notice or other document to the
Commissioner by a particular time and you do not do so.

This Division sets out when the penalty applies and how the
amounts of the penalty are calculated.

Subdivision 286-B—Object of Division

Table of sections

286-25 Object of Division

286-25 Object of Division

The object of this Division is to provide a uniform administrative
penalty regime for all *taxation laws to enable administrative
penalties to apply for failure to give returns, notices, statements or
other documents to the Commissioner on time.
Schedule 1  Administrative penalties

Subdivision 286-C—Penalties for failing to lodge documents on time

Table of sections

Table of sections

286-75  Liability to penalty
286-80  Amount of penalty

[This is the end of the Guide.]

286-75  Liability to penalty

(1) You are liable to an administrative penalty if:

(a) you are required under a *taxation law to give a return, notice, statement or other document to the Commissioner in the *approved form by a particular day; and

(b) you do not give the return, notice, statement or document to the Commissioner in the approved form by that day.

(2) Subsection (1) does not apply to a return, notice, statement or other document under any of these Acts:

(a) the Superannuation Contributions Tax (Assessment and Collection) Act 1997;

(b) the Superannuation Guarantee (Administration) Act 1992; or

(c) the Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991.

286-80  Amount of penalty

(1) The amount of the penalty is worked out in this way:

(a) work out the *base penalty amount under subsection (2); and

(b) work out whether the base penalty amount is increased under subsection (3) or (4).

(2) The base penalty amount for failing to lodge a return, notice or other document on time or in the *approved form is 1 penalty unit for each period of 28 days or part of a period of 28 days starting on the day when the document is due and ending when you give it to the Commissioner (up to a maximum of 5 penalty units).

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.
Example: An entity lodges a return 31 days late. The base penalty amount under subsection (2) is 2 penalty units.

(3) The *base penalty amount is multiplied by 2 if:
   (a) the entity concerned is a *medium withholder for the month in which the return, notice or other document was required to be given; or
   (b) the entity’s assessable income for the income year in which the return, notice or other document is required to be given is more than $1 million but less than $20 million; or
   (c) the entity’s *current annual turnover worked out at a time in the month in which the return, notice or other document was required to be given is more than $1 million but less than $20 million.

(4) The *base penalty amount is multiplied by 5 if:
   (a) the entity concerned is a *large withholder for the month when the return, notice or other document was required to be given; or
   (b) the entity’s assessable income for the income year in which the return, notice or other document is required to be given is $20 million or more; or
   (c) the entity’s *current annual turnover worked out at a time in the month in which the return, notice or other document was required to be given is $20 million or more.

(5) In working out the *base penalty amount, the amount of a penalty unit is the amount applying at the start of the relevant 28 day period.

(6) The fact that you have not yet lodged the relevant return, notice or other document does not prevent the Commissioner notifying you that you are liable to an administrative penalty under this Subdivision. That penalty may be later increased under this section.

Note: The Commissioner is required to notify you of an administrative penalty: see section 298-10.

3 Transitional
(1) Section 284-220 in Schedule 1 to the Taxation Administration Act 1953 has effect as if a reference in paragraph (1)(c) or (d) of that section to an item specified in this table included a reference to the corresponding provision of the Income Tax Assessment Act 1936.

### 1936 Act equivalent of certain items

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</table>

(2) Section 284-220 in Schedule 1 to the Taxation Administration Act 1953 has effect as if the reference in subsection 284-220(2) to section 284-160 in that Schedule included a reference to section 224, 225, 226 or 226AA of the Income Tax Assessment Act 1936.

### 4 Application of amendments

(1) Subject to this item, the amendments made by this Schedule apply to things done on or after 1 July 2000.

(2) For fringe benefits tax, those amendments apply to fringe benefits tax, and to things done, for the year of tax starting on 1 April 2001 and later years.

(3) Those amendments do not apply to a return, statement, notice or other document, or a statement made or scheme entered into, in relation to:
   (a) for income tax—the 1999-2000 income year or an earlier income year; or
   (b) for fringe benefits tax—the year of tax starting on 1 April 2000 or an earlier year of tax; or
   (c) for other taxes—the year starting on 1 July 1999 or an earlier year.
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A New Tax System (Australian Business Number) Act 1999

1 Section 41 (definition of electronic signature)

Repeal the definition, substitute:

    electronic signature has the meaning given by subsection 995-1(1) of the Income Tax Assessment Act 1997.

Diesel and Alternative Fuels Grants Scheme Act 1999

2 Section 5

Insert:

    general interest charge means the charge worked out under Division 1 of Part IIA of the Taxation Administration Act 1953.

3 Subsections 27(2), (3), (4), (5) and (9)

Repeal the subsections, substitute:

    (2) If an amount of a designated scheme debt that is payable by you remains unpaid after the day by which it must be paid, you are liable, by way of penalty, to pay the general interest charge on the unpaid amount.

    (3) You are liable to pay the charge for each day in the period that:
        (a) started at the beginning of the day on which the amount becomes due to be paid; and
        (b) finishes at the end of the last day at the end of which any of these remains unpaid:
            (i) the unpaid amount;
            (ii) general interest charge on the unpaid amount.

4 Sections 28, 29, 30, 31, 32 and 33
Repeal the sections.

5 Subsection 47(5)
Omit “10 penalty units”, substitute “30 penalty units”.

6 Subsection 47(5) (note)
Omit “Note”, substitute “Note 1”.

7 At the end of subsection 47(5)
Add:

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Fringe Benefits Tax Assessment Act 1986

8 Subsection 101(4)
Repeal the subsection.

9 Before section 114
Insert:

113A Part to stop applying
This Part does not apply to a return or information relating to the year of tax starting on 1 April 2000 or a later year of tax.

Note: See instead Part 4-25 in Schedule 1 to the Taxation Administration Act 1953.

10 Section 119
Repeal the section, substitute:

Note: Section 251L of the Income Tax Assessment Act 1936 prohibits a person from charging a fee for doing things under this Act on behalf of someone else unless the person is a registered tax agent, a member of a recognised professional association or is otherwise approved by the Commissioner.

11 Subsection 127(3) (penalty)
Repeal the penalty, substitute:

Penalty: 30 penalty units.
12 Subsection 132(5) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note 1: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Income Tax Assessment Act 1936

13 Subsection 6(1)

Insert:

approved form has the meaning given by section 388-50 in Schedule 1 to the Taxation Administration Act 1953.

14 Subsection 16(6)

Omit “in the manner and form prescribed”, substitute “in the approved form”.

15 At the end of subsection 98A(2)

Add:

Note: See Division 3A of Part IIB and section 39 of the Taxation Administration Act 1953 for the rules about how the Commissioner must pay the entity. Division 3 of Part IIB allows the Commissioner to apply the amount owing as a credit against tax debts that the entity owes to the Commonwealth.

16 At the end of subsection 102AAZG(1)

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

17 Subsection 102AAZG(2)

Omit “$3,000”, substitute “30 penalty units.”
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18  At the end of subsection 102AAZG(2)
    Add:

Note:  See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

19  Before section 160ARXA
    Insert:

160ARWA  Division to stop applying

This Division does not apply to a return or information relating to a franking year starting on or after 1 July 2000.

Note:  See instead Part 4-25 in Schedule 1 to the Taxation Administration Act 1953.

20  At the end of section 163A
    Add:

(10) This section does not apply to a return for the 2000-01 year of income or a later year of income.

Note:  See instead Division 286 in Schedule 1 to the Taxation Administration Act 1953.

21  At the end of section 163B
    Add:

(11) This section does not apply to a return for the 2000-01 year of income or a later year of income.

Note:  See instead Division 286 in Schedule 1 to the Taxation Administration Act 1953.

22  Subsections 170(6A) and (6B)
    Repeal the subsections, substitute:

(6AA) An application for amendment must be in the approved form.

23  At the end of section 170AA
    Add:

(15) This section does not apply to amendments relating to the 2000-01 year of income or a later year of income.
24 Section 170B

Repeal the section.

25 Paragraph 172(1)(b)

Repeal the paragraph, substitute:

(b) the Commissioner must apply the amount of any tax overpaid in accordance with Divisions 3 and 3A of Part IIB of the

Taxation Administration Act 1953.

26 Subsection 221AZKD(3) (definition of approved form)


27 Paragraph 222AJA(3)(a)

Omit “the estimate”, substitute “the underlying liability”.

28 Before section 222A

Insert:

222AA Part to stop applying

This Part does not apply to statements made, or schemes entered into, in relation to the 2000-01 year of income or a later year of income.

Note: See instead Division 284 in Schedule 1 to the Taxation Administration Act 1953.

29 Section 226A

Repeal the section.

30 Paragraph 226Z(b)

Repeal the paragraph, substitute:

(b) the taxpayer voluntarily tells the Commissioner in writing about the shortfall or part before the earlier of:

(i) the day the Commissioner informs the taxpayer that a tax audit relating to the taxpayer in respect of the year was to be carried out; or
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(ii) if the Commissioner has made a public statement requesting taxpayers to make a voluntary disclosure by a particular day about a scheme or transaction that applies to the taxpayer’s financial affairs—before that day;

31 Section 251A

Insert:

*BAS provision* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

32 Section 251A

Insert:

*BAS service* has the meaning given by section 251L.

33 Section 251A

Insert:

*taxation law* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

34 Subsections 251L(1), (2), (3) and (4)

Repeal the subsections, substitute:

(1) Subject to this section, a person who is not a registered tax agent must not knowingly or recklessly demand or receive any fee for:

(a) preparing or lodging on behalf of a taxpayer a return, notice, statement, application or other document about the taxpayer’s liabilities under a taxation law; or

(b) giving legal advice about a taxation law; or

(c) preparing or lodging on behalf of a taxpayer an objection to an assessment of the taxpayer’s liabilities under a taxation law; or

(d) applying for a review of, or instituting an appeal against, a decision on such an objection; or

(e) on behalf of a taxpayer, dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law.
35  At the end of section 251L

Add:

(6) Subsection (1) does not apply to the provision of a BAS service on behalf of a taxpayer by:
(a) a member of a recognised professional association; or
(b) a bookkeeper working under the direction of a registered tax agent; or
(c) where the BAS service is under Part 2-5 in Schedule 1 to the Taxation Administration Act 1953—a person who provides payroll services to an employer.

(7) A BAS service is any of these:
(a) preparing or lodging an approved form about a taxpayer’s liabilities, obligations or entitlements under a BAS provision;
(b) giving legal advice about a BAS provision;
(c) dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law in relation to a BAS provision.

(8) Subsection (1) does not apply to the provision of any of these services on behalf of a taxpayer by a barrister or solicitor who is acting in the course of his or her profession:
(a) giving legal advice about taxation laws;
(b) preparing or lodging an objection to an assessment of the taxpayer’s liability under a taxation law;
(c) applying for a review of, or instituting an appeal against, a decision on such an objection;
(d) while acting for a trust or a deceased estate for which the barrister or solicitor is the trustee or legal personal representative:
   (i) preparing or lodging an approved form about the trust’s or estate’s liabilities, obligations or entitlements under a taxation law; or
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(ii) dealing with the Commissioner or a person who is exercising powers or performing functions under a taxation law.

(9) A member of a recognised professional association can provide BAS services through an entity for:
   (a) if the member is a partner in a partnership—the partnership; or
   (b) if the member is a director or employee of a company—the company.

(10) A defendant does not bear an evidential burden in relation to a matter specified in subsection (6) or (8).

36  After section 251L

Insert:

251LA  Recognised professional associations

(1) A recognised professional association is an organisation that meets the requirements in subsections (2) to (10).

(2) The organisation must:
   (a) be administered by a committee of management elected by and accountable to its members; and
   (b) not be carried on for profit or gain (excluding a reasonable salary or honorarium) to:
      (i) an office holder of the organisation; or
      (ii) its members; or
      (iii) members of bodies (member bodies) that are its members; and
      (iv) any person who is a member of that committee of management.

(3) The individuals who are members of that committee must be of good fame, integrity and character.

(4) The organisation must have at least 1,000 financial members who have the right to vote at meetings of the organisation.
(5) An individual or member body must not be eligible for membership of the organisation unless the individual, or each individual who is a member of the member body, has completed the requirements for:
   (a) a diploma or certificate in accounting from a college or institute of technical and further education involving at least 2 years’ full time, or 4 years’ part time, study; or
   (b) an Australian tertiary qualification in accountancy involving at least 3 years’ full time, or 6 years’ part time, study; or
   (c) some other similar qualification acceptable to the organisation; or
   (d) admission as a legal practitioner in Australia.

(6) Under the rules of the organisation, individuals who are its members or members of its member bodies and who carry on a profession must:
   (a) be subject to rules controlling their conduct in the practice of the profession; and
   (b) be subject to discipline for breaches of those rules; and
   (c) be required to undertake at least 15 hours of structured continuing professional education in each year (unless exempted in special circumstances); and
   (d) if they are in public practice—have professional indemnity insurance.

(7) The organisation must have in place adequate operational procedures to ensure it is properly managed and its rules are enforced.

(8) The organisation must have satisfactory arrangements in place for:
   (a) notifying clients of its members or of members of its member bodies as to how to make complaints; and
   (b) hearing and deciding those complaints; and
   (c) taking disciplinary action if complaints are justified.

(9) The organisation must have satisfactory arrangements in place for publishing annual statistics about:
   (a) the kinds and frequency of complaints (except complaints under this Act about registered tax agents); and
   (b) findings made as a result of the complaints; and
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(c) action taken as a result of those findings.

(10) The organisation must be able to pay its debts as they fall due.

37 At the end of subsection 262A(1)

Add:

Note: There is an administrative penalty if you do not keep or retain records
as required by this section: see section 288-25 in Schedule 1 to the
Taxation Administration Act 1953.

38 After subsection 262A(1C)

Insert:

(1D) A taxpayer who is a full self-assessment taxpayer must:
   (a) keep a record containing particulars of the basis of the
calculation of the amounts that the taxpayer specified under
section 161AA in a return for a year of income; and
   (b) produce to the Commissioner, when and as required by the
Commissioner under this Act, a document containing those
particulars.

39 Subsection 262A(5) (penalty)

Repeal the penalty.

40 At the end of section 262A

Add:

Penalty: 30 penalty units.
Note: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.

41 Subsection 263(3) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.
Note: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.

42 At the end of section 462

Add:

A New Tax System (Tax Administration) Bill (No. 2) 2000  No.  , 2000
Consequential and miscellaneous amendments  

Schedule 2

General  
Part 1

Note: There is an administrative penalty if you do not keep or retain records as required by this Division: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

43 Section 465

Omit “$3,000”, substitute “30 penalty units”.

44 At the end of section 465

Add:

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

45 At the end of section 615

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this Division: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

46 Section 621

Omit “$3,000”, substitute “30 penalty units”.

47 At the end of section 621

Add:

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

48 At the end of subsection 245-265(1) in Schedule 2C

Add:

Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

Income Tax Assessment Act 1997

49 Subsection 121-20(1) (note)

Omit “Note”, substitute “Note 1”.

50 At the end of subsection 121-20(1)

Add:
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Note 2: There is an administrative penalty if you do not keep records as required by this Division: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

51 Subsection 121-20(5) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

52 Subsection 121-25(4) (note)

Omit “Note”, substitute “Note 1”.

53 At the end of subsection 121-25(4)

Add:

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Petroleum Resource Rent Tax Assessment Act 1987

54 Before section 101

Insert:

100A Part to stop applying

This Part does not apply to a return, or information, relating to the year of tax starting on 1 July 2000 or a later year of tax.

Note: See instead Division 284 in Schedule 1 to the Taxation Administration Act 1953.

55 Subsection 107(3) (penalty)

Repeal the penalty, substitute:

Penalty: 30 penalty units.

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

56 Section 112 (penalty)

Repeal the penalty, substitute:
Penalty: 30 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Note 2: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

Superannuation Contributions Tax (Assessment and Collection) Act 1997

57 Subsection 35A(4)

Repeal the subsection, substitute:

(4) The prescribed penalty is 5 penalty units for each week or part of a week during which the contravention continues.

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

58 Subsection 38(3) (penalty)

Omit “10 penalty units”, substitute “30 penalty units”.

59 Subsection 38(3) (note)

Omit “Note”, substitute “Note 1”.

60 At the end of subsection 38(3)

Add:

Note 2: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Superannuation Guarantee (Administration) Act 1992

61 Subsection 38(2) (definition of overpaid amount)

After “Part 7”, insert “of this Act or administrative penalty under Part 4-25 in Schedule 1 to the Taxation Administration Act 1953”.

62 Subsection 59(2)

Repeal the subsection, substitute:
(2) An employer liable to pay superannuation guarantee charge in relation to a year must:
(a) keep a record in relation to the year containing details of the basis of calculation of the following amounts:
  (i) the employer’s annual national payroll for the employer’s base year;
  (ii) the individual superannuation guarantee shortfalls of the employer for the year;
  (iii) the employer’s nominal interest component for the year;
  (iv) the employer’s administration component for the year;
that were specified in a superannuation guarantee statement under section 33 or a statement under section 34; or
(b) produce to the Commissioner, when and as required by the Commissioner under this Act, a document containing details of the basis of calculation of the amounts referred to in paragraph (2)(a) that were specified in a superannuation guarantee statement under section 33 or a statement under section 34.

63 Sections 60 and 61
Repeal the sections.

64 Subsection 76(3) (penalty)
Repeal the penalty, substitute:
Penalty for contravention of this subsection: 30 penalty units.
Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

65 At the end of subsection 79(1)
Add:
Note: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

66 Subsection 79(6)
Omit “$3,000”, substitute “30 penalty units”.

67 At the end of subsection 79(6)
Add:

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Taxation Administration Act 1953

68 Subsection 3AA(4)
Repeal the subsection.

69 Subsection 8AAB(5) (before table item 1)
Insert:

1A 27 Diesel and Alternative Fuels Grants Scheme Act 1999

70 Subsection 8AAB(5) (table items 17C and 17D)
Repeal the items.

71 Subsection 8AAB(5) (before table item 19)
Insert:

18 298-25 in Taxation Administration Act 1953 Schedule 1

72 Subsection 8AAG(5)
Repeal the subsection, substitute:

(5) The Commissioner may remit all or a part of the charge referred to in subsection (2) if the Commissioner is satisfied that:

(a) there are special circumstances because of which it would be fair and reasonable to remit all or a part of the charge; or

(b) it is otherwise appropriate to do so.

73 Before section 8AAI
Insert:

8AAHA Division to stop applying
This Division does not apply to a notification of a liability that arises on or after 1 July 2000.
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74 Before section 8AAO

Insert:

8AANA Division to stop applying

This Division does not apply to a statement, report or form that relates to the 2000-01 year of income or a later year of income.

75 Subsection 8AAZLH(2)

After “nominated” (first occurring), insert “in the approved form”.

76 After subsection 8AAZLH(2)

Insert:

(2A) The account must be one held by:
(a) the entity, or the entity and some other entity; or
(b) the entity’s registered tax agent; or
(c) a legal practitioner as trustee or executor for the entity.

77 At the end of section 8AAZLH

Add:

(5) If the Commissioner pays a refund to the credit of an account nominated by an entity, the Commissioner is taken to have paid the refund to the entity.

78 After section 8AAZM

Insert:

8AAZMA Electronic payment of tax debts

(1) An entity that, under subsection 33-10(2) of the A New Tax System (Goods and Services Tax) Act 1999, is required to pay a net amount for a tax period electronically must also electronically pay the Commissioner all of its other tax debts that are due to be paid during that period.

(2) A large withholder that, under subsection 16-85(1) in Schedule 1, is required to pay an amount electronically in a particular month
must also electronically pay the Commissioner all of its other tax
debts that are due to be paid during that month.

79 Paragraph 8C(1)(a)
Omit “return”, substitute “approved form”.

80 Paragraph 14ZU(a)
Omit “writing”, substitute “the approved form”.

81 Section 16B
Repeal the section, substitute:

16B Certain liabilities to be reduced to nearest multiple of 5 cents
If the amount of a tax-related liability that arises by way of penalty
or because it is assessed by the Commissioner (other than an RBA
deficit or a liability to pay the general interest charge) is not a
multiple of 5 cents, the amount is decreased to the nearest multiple
of 5 cents.

82 Subsection 66(4) (penalty)
Omit “10 penalty units”, substitute “30 penalty units”.

83 At the end of subsection 70(4)
Add:

Note 3: There is an administrative penalty if you do not keep or retain records
as required by this section: see section 288-25 in Schedule 1.

84 Subsection 16-25(1) in Schedule 1 (note 2)
Omit “civil”, substitute “administrative”.

85 Subsection 16-25(2) in Schedule 1 (note 2)
Omit “civil”, substitute “administrative”.

86 Subsection 16-85(1) in Schedule 1 (note 3)
Omit “288-15”, substitute “8AAZMA”.

87 Subsection 16-140(3) in Schedule 1 (note 2)
Omit “civil”, substitute “administrative”. 
Schedule 2  Consequential and miscellaneous amendments

Part 1  General

88 At the end of section 16-142 in Schedule 1

Add:

(2) The Commissioner may register a branch of a *government entity or a *non-profit sub-entity if:

(a) the branch or sub-entity applies, in the *approved form, for registration; and

(b) the branch or sub-entity has an *ABN or has applied for one.

A branch or sub-entity that is so registered is also a PAYG withholding branch.

89 Subsection 16-150(1) in Schedule 1

After “pay an amount”, insert “(even if it is a nil amount)”.

90 Subsection 16-150(2) in Schedule 1

Repeal the subsection.

91 Subsection 16-153(4) in Schedule 1

Repeal the subsection.

92 Section 16-175 in Schedule 1 (penalty)

Repeal the penalty.

93 Section 16-195 in Schedule 1 (note)

Omit “civil”, substitute “administrative”.

94 Section 16-200 in Schedule 1

Repeal the section.

95 Subsections 18-40(1) and (2) in Schedule 1

Repeal the subsections, substitute:

(1) If an entity has paid to the Commissioner:

(a) an amount of penalty under Subdivision 284-C in relation to a *scheme to which section 177CA of the Income Tax Assessment Act 1936 applies for a *withholding payment; or

(b) an amount of *general interest charge under section 298-25 in relation to that amount;
the person liable to pay the withholding tax for that withholding payment is entitled to a credit equal to the amount paid by the entity.

Remission

(2) If:

(a) an entity has paid an amount under Subdivision 284-C in relation to a penalty mentioned in paragraph (1)(a); and

(b) the Commissioner remits the whole or a part of the amount of the penalty under section 298-20;

then:

(c) any credit under subsection (1) relating to the amount paid by the entity is reduced by the amount that is remitted; and

(d) the Commissioner must pay to the entity an amount equal to the amount that is remitted.

Note: The heading to section 18-40 in Schedule 1 is replaced by the heading “Credit: liability under Part 4-25”.

96 Subsection 18-100(1) in Schedule 1 (note)

Omit “Note”, substitute “Note 1”.

97 At the end of subsection 18-100(1) in Schedule 1

Add:

Note 2: There is an administrative penalty if you do not retain the copy as required by this section: see section 288-25 in Schedule 1.

98 Section 20-80 in Schedule 1 (table item 15)

Repeal the item.

99 Section 20-80 in Schedule 1 (table item 20)

Repeal the item.

100 At the end of section 20-80 in Schedule 1

Add:

Note: Division 298 also provides review rights about remission of administrative penalties.

101 At the end of section 45-25 in Schedule 1
Schedule 2  Consequential and miscellaneous amendments

Part 1  General

Add:

(2) This section does not apply to a notification required to be lodged on or after 1 July 2000.

Note: See instead Division 286 in Schedule 1 to the Taxation Administration Act 1953.

102 Paragraph 45-230(3)(b) in Schedule 1
Repeal the paragraph, substitute:
(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

103 Paragraph 45-232(4)(b) in Schedule 1
Repeal the paragraph, substitute:
(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

104 Paragraph 45-233(5)(b) in Schedule 1
Repeal the paragraph, substitute:
(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

105 Paragraph 45-235(4)(b) in Schedule 1
Repeal the paragraph, substitute:
(b) finishes at the end of the day on which your assessed tax for the income year is due to be paid.

106 Section 45-420 in Schedule 1 (link note)
Repeal the link note.

107 Subsection 250-10(2) in Schedule 1 (table items 95 and 110)
Repeal the items.

108 Subsection 250-10(2) in Schedule 1 (table item 140)
Repeal the item, substitute:
140 administrative penalties Divisions 284, 286 and 288 in Taxation Administration Act 1953 Schedule 1
109 At the end of section 255-10 in Schedule 1

Add:

(3) A deferral under subsection (1) does not defer the time for giving an approved form to the Commissioner.

Note: Section 388-55 allows the Commissioner to defer the time for giving an approved form.

110 Division 288 in Schedule 1 (heading)

Repeal the heading, substitute:

Division 288—Miscellaneous administrative penalties

111 Section 288-5 in Schedule 1

Repeal the section.

112 Paragraph 288-10(b) in Schedule 1

Omit “288-5”, substitute “388-80”.

113 Section 288-15 in Schedule 1

Repeal the section.

114 Paragraph 288-20(b) in Schedule 1

Repeal the paragraph, substitute:

(b) under section 8AAZMA, or subsection 16-85(1) in this Schedule, is required to pay an amount electronically;

115 After section 288-20 in Schedule 1

Insert:

288-25 Penalty for failure to keep or retain records

(1) You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a taxation law requires you to keep or retain a record; and

(b) you do not keep or retain that record in the manner required by that law.

(2) Subsection (1) does not apply to:
Schedule 2  Consequential and miscellaneous amendments

Part 1  General

(a) documents required to be retained under Part X of the *Fringe Benefits Tax Assessment Act 1986* (about statutory evidentiary documents); or
(b) documents required to be kept or retained under Division 900 of the *Income Tax Assessment Act 1997* (about substantiation of expenses).

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

### 288-30 Penalty for failure to retain or produce declarations

You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a *taxation law* requires you to retain or produce a declaration you made about an agent giving an approved form to the Commissioner on your behalf; and

(b) you do not retain or produce that declaration in the manner required by that law.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

### 288-35 Penalty for preventing access etc.

You are liable to an administrative penalty of 20 penalty units if:

(a) a provision of a *taxation law* confers a power on an officer authorised under that law:

(i) to enter or remain on land, premises or a place that you occupy; or

(ii) to have access to documents, goods or other property in your possession; or

(iii) to inspect, copy or take extracts from documents in your possession; or

(iv) to inspect, examine, count, measure, weigh, gauge, test or analyse any goods or other property in your possession and, to that end, take samples; and

(b) you refuse to provide the officer with all reasonable facilities for the officer effectively to exercise that power in accordance with that law.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.


116 Section 298-5 in Schedule 1

Repeal the section, substitute:

298-5 Scope of Division

This Division applies if an administrative penalty is imposed on an entity by another Division in this Part.

117 At the end of Division 298 in Schedule 1

Add:

298-30 Assessment of penalties under Division 284

(1) The Commissioner must make an assessment of the amount of an administrative penalty under Division 284.

(2) An entity that is dissatisfied with such an assessment made about the entity may object against it in the manner set out in Part IVC of the Taxation Administration Act 1953.

(3) The production of a notice of such an assessment, or of a copy of it certified by or on behalf of the Commissioner, is conclusive evidence of the making of the assessment and of the particulars in it.

(4) Subsection (3) does not apply to proceedings under Part IVC of the Taxation Administration Act 1953 on a review or appeal relating to the assessment.

118 Subsection 353-10(2) in Schedule 1

After “oath” (wherever occurring), insert “or affirmation”.

119 Section 360-180 in Schedule 1 (link note)

Omit “400”, substitute “388”.

120 Section 420-5 in Schedule 1 (note 2)

Omit “civil”, substitute “administrative”.

Note: The heading to section 420-5 in Schedule 1 is altered by omitting “civil” and substituting “administrative”.

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Schedule 2  Consequential and miscellaneous amendments
Part 1  General

_Taxation (Interest on Overpayments and Early Payments)_
_Act 1983_

121 Section 13
Repeal the section, substitute:

Note: For rules about allocation of credits arising under this Act, see Division 3 of Part IIB of the _Taxation Administration Act 1953_.

_Tobacco Charges Assessment Act 1955_

122 Before section 29
Insert:

28A Part to stop applying
This Part does not apply to a return, or information, relating to the year starting on 1 July 2000 or a later year.

Note: See instead Division 284 in Schedule 1 to the _Taxation Administration Act 1953_.

123 Subsection 41(3) (penalty)
Repeal the penalty, substitute:

Penalty for a contravention of this subsection: 30 penalty units.

Note: See section 4AA of the _Crimes Act 1914_ for the current value of a penalty unit.

_Termination Payments Tax (Assessment and Collection) Act 1997_

124 Subsection 26(3) (penalty)
Omit “10 penalty units”, substitute “30 penalty units”.

_Wool Tax (Administration) Act 1964_

125 Before section 61
Insert:
60 Part to stop applying

This Part does not apply to a return, or information, relating to the year starting on 1 July 2000 or a later year.

Note: See instead Division 284 in Schedule 1 to the Taxation Administration Act 1953.

126 Subsection 89(1) (penalty)

Omit “$2,000”, substitute “30 penalty units”.

127 At the end of subsection 89(1)

Add:

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Note 2: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the Taxation Administration Act 1953.

128 Subsection 90(3) (penalty)

Repeal the penalty, substitute:

Penalty for a contravention of this subsection: 30 penalty units.

Note: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

129 Transitional—existing RBAs

Although the A New Tax System (Pay As You Go) Act 1999 repealed subsection 8AAZL(3) of the Taxation Administration Act 1953, special priority credits referred to in that subsection are to continue to be applied in accordance with that subsection.
Schedule 2  Consequential and miscellaneous amendments

Part 2  Amendments applying to returns etc. for the 2000-01 year and later years

Part 2—Amendments applying to returns etc. for the 2000-01 year and later years

**Income Tax Assessment Act 1936**

130 Section 160ARG

Repeal the section, substitute:

**160ARG  Requirements for returns**

A return under this Part must be in the approved form.

131 Subsection 161(1)

Omit “or such further period as the Commissioner allows”.

132 At the end of subsection 161(1)

Add:

Note: The Commissioner may defer the time for giving the return: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

133 Subsection 161A(1)

Repeal the subsection, substitute:

(1) The return must be in the approved form.

134 Section 161B

Repeal the section.

135 Section 161C

Repeal the section.

136 Section 161D

Repeal the section.

137 Section 161E

Repeal the section.

138 Section 162
Repeal the section, substitute:

162 Further returns and information

A person must, if required by the Commissioner, whether before or after the end of the year of income, give the Commissioner, within the time required and in the approved form:
(a) a return or a further or fuller return for a year of income or a specified period, whether or not the person has given the Commissioner a return for the same period; or
(b) any information, statement or document about the person’s financial affairs.

139 Section 163
Omit “in the manner”, substitute “in the approved form”.

140 Section 165
Repeal the section.

141 Section 264B
Repeal the section.

142 Section 264C
Repeal the section.

Taxation Administration Act 1953

143 Before Part 5-30 in Schedule 1
Insert:

Part 5-25—Record-keeping and other obligations of taxpayers

Division 388—Requirements about giving material to the Commissioner

Table of Subdivisions
Subdivision 388-A—Object of Division

388-5 Object of Division

The object of this Division is to set out requirements to ensure the integrity and efficiency of giving material to the Commissioner.

Subdivision 388-B—General provisions

Table of sections

388-50 Approved forms
388-55 Commissioner may defer time for lodgment
388-60 Declaration by entity
388-65 Declaration by entity where agent gives document
388-70 Declaration by agent
388-75 Signing declarations
388-80 Electronic notification of BAS amounts
388-85 Truncating amounts

388-50 Approved forms

(1) A return, notice, statement, application or other document under a taxation law is in the approved form if, and only if:
(a) it is in the form approved in writing by the Commissioner for that kind of return, notice, statement, application or other document; and
(b) it contains a declaration signed by a person or persons as the form requires (see section 388-75); and
(c) it contains the information that the form requires, and any further information, statement or document as the Commissioner requires, whether in the form or otherwise; and
(d) for a return, notice, statement, application or document that is required to be given to the Commissioner—it is given in the manner that the Commissioner requires (which may include electronically).
(2) The Commissioner may combine in the same *approved form more
than one return, notice, statement, application or other document.

(3) The Commissioner may approve a different *approved form for
different entities.

Example: The Commissioner may require high wealth individuals to lodge a
different income tax return to that required to be lodged by an
individual whose only income is a salary.

388-55 Commissioner may defer time for lodgment

(1) The Commissioner may defer the time within which an *approved
form is required to be given to the Commissioner or to another
entity.

(2) A deferral under subsection (1) does not defer the time for payment
of any amount to the Commissioner.

Note: Section 255-10 allows the Commissioner to defer the time for
payment of an amount of a tax-related liability.

388-60 Declaration by entity

If you give a return, notice, statement, application or other
document to the Commissioner in the *approved form, you must
make a declaration in the approved form that any information in
the document is true and correct.

388-65 Declaration by entity where agent gives document

(1) If a return, notice, statement, application or other document of
yours is to be given to the Commissioner in the *approved form by
an agent on your behalf, you must make a declaration in writing:
   (a) stating that you have authorised the agent to give the
document to the Commissioner; and
   (b) declaring that any information you provided to the agent for
the preparation of the document is true and correct.

(2) You must give the declaration to the agent.

(3) You must retain the declaration or a copy of it for:
   (a) if you are not a *SPOR taxpayer—5 years after it is made; or
   (b) if you are a SPOR taxpayer—2 years after it is made.
Schedule 2  Consequential and miscellaneous amendments
Part 2  Amendments applying to returns etc. for the 2000-01 year and later years

1 (4) You must produce the declaration or copy if requested to do so within that period by the Commissioner.

2 (5) The agent must not give the document to the Commissioner before you make the declaration.

3 (6) You must sign the declaration.

388-70 Declaration by agent

If an agent gives a return, notice, statement, application or other document to the Commissioner in the *approved form on behalf of another entity, the agent must, if the document so requires, make a declaration in the approved form stating that:

(a) the document has been prepared in accordance with the information supplied by the other entity; and

(b) the agent has received a declaration from the other entity stating that the information provided to the agent is true and correct; and

(c) the agent is authorised by the other entity to give the document to the Commissioner.

388-75 Signing declarations

(1) You must sign a declaration in a return, notice, statement, application or other document you give to the Commissioner in paper form.

(2) If your agent gives a return, notice, statement, application or other document to the Commissioner on your behalf in paper form, the document must contain:

(a) a declaration signed by you; and

(b) if the document so requires—an agent’s declaration signed by your agent.

(3) Any return, notice, statement, application or other document of yours that is *lodged electronically:

(a) if you give it to the Commissioner—must contain your declaration (see section 388-60) with your *electronic signature; or
(b) if your agent gives it to the Commissioner—must contain the agent’s declaration (see section 388-70) with the agent’s electronic signature.

(4) Any return, notice, statement, application or other document of yours that is given by telephone:

(a) if you give it—must contain your telephone signature; or

(b) if your agent gives it—must contain your agent’s telephone signature.

388-80 Electronic notification of BAS amounts

An entity that, under section 31-25 of the *GST Act, chooses or is required to lodge a *GST return electronically must also electronically notify the Commissioner of all other *BAS amounts whose notification is required on the same day as the GST return (ignoring any extension allowed by the Commissioner under section 31-10 of that Act or a deferral under section 388-55).

388-85 Truncating amounts

If an *approved form that you are required to give the Commissioner specifies that amounts set out in the form are to be expressed in whole dollars, you truncate the amounts to the nearest whole dollar.

Example: Stefan Pty Ltd calculates that its PAYG instalment for a quarter is $8,496.73. Because the approved form requires amounts to be truncated, the amount would be reported in its BAS as $8,496.

144 Application of amendments

(1) Subject to this item, the amendments made by this Part apply to:

(a) for income tax—returns, statements, notices and other documents given for the 2000-01 income year and later years; and

(b) for fringe benefits tax—returns, statements, notices and other documents for the year of tax starting on 1 April 2000 and later years; and

(c) for other taxes—returns, statements, notices and other documents for the period starting on 1 July 2000 and later periods.
Schedule 2  Consequential and miscellaneous amendments

Part 2  Amendments applying to returns etc. for the 2000-01 year and later years

(2) Section 388-85 in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms required to be given to the Commissioner on or after 1 July 2000.
Part 3—Amendments applying to tax payable for the 2000-01 year and later years

Income Tax Assessment Act 1936

145 Subsection 204(1)
Repeal the subsection, substitute:

(1) Subject to the provisions of this Part, the tax payable by a taxpayer other than a full self-assessment taxpayer for a year of income becomes due and payable:

(a) if the taxpayer’s return of income is lodged on or before the due date for lodgment—on the later of:

(i) 21 days after the due date for lodgment of that return specified in the Gazette under section 161 for the year of income; or

(ii) 21 days after a notice of assessment is given to the taxpayer; or

(b) in any other case—21 days after that due date for lodgment.

Note 1: The Commissioner may defer the time at which the tax is, or would become, due and payable: see section 255-10 in Schedule 1 to the Taxation Administration Act 1953.

Note 2: The Commissioner may defer the due date for lodgment: see section 388-55 in that Schedule.

146 Subsection 204(2)
Repeal the subsection.

147 Application of amendments
The amendments made by this Part apply to income tax payable for the 2000-01 year of income and later years.
Part 4—FBT amendments commencing on 1 April 2001

Fringe Benefits Tax Assessment Act 1986

148 Section 70

Repeal the section, substitute:

70 Keeping records of indirect tax transactions

A return under section 68 or 69 must:
(a) be in the approved form; and
(b) specify:
   (i) the fringe benefits taxable amount of the employer of
       the year of tax concerned; and
   (ii) the amount of tax payable on that amount.

149 Section 70A

Repeal the section.

150 Section 70B

Repeal the section.

151 Section 71

Repeal the section.

152 Subsections 74(6A) and (6B)

Repeal the subsections, substitute:

(6A) An application for amendment must be in the approved form.

153 Section 124B

Repeal the section.

154 Section 124C

Repeal the section.

155 Subsection 136(1)
1 Insert:

approved form has the meaning given by section 388-50 in Schedule 1 to the Taxation Administration Act 1953.

156 Subsection 136(1) (definition of electronic signature)

Repeal the definition, substitute:

electronic signature has the meaning given by subsection 995-1(1) of the Income Tax Assessment Act 1997.

157 Application of amendments

The amendments made by this Part apply to returns for the year of tax starting on 1 April 2001 and later years.
Schedule 3—Pay As You Go (PAYG) withholding system

Taxation Administration Act 1953

1 At the end of paragraph 12-60(1)(b) in Schedule 1
   Add “, or directly for a client of another entity”.

2 Paragraph 12-190(2)(a) in Schedule 1
   Omit “supply”, substitute “*supply”.

3 After subsection 12-190(2) in Schedule 1
   Insert:
      (2A) The payer need not withhold an amount under this section if the
           other entity has made the *supply, or proposes to make the supply,
           through an agent and, when the payment is made:
           (a) the agent has given the payer an *invoice that relates to the
               supply and *quotes the agent’s *ABN; or
           (b) the payer has some other document relating to the supply on
               which the agent’s ABN is *quoted.

4 Subsection 12-190(3) in Schedule 1
   Omit “also”.

5 Paragraph 12-190(3)(a) in Schedule 1
   Omit “supply”, substitute “*supply”.

6 After subsection 12-190(3) in Schedule 1
   Insert:
      (3A) The payer need not withhold an amount under this section if the
           other entity has made the *supply, or proposes to make the supply,
           through an agent and, when the payment is made:
           (a) the agent has given the payer an *invoice that relates to the
               supply and purports to *quote the agent’s *ABN, or the payer
               has some other document that relates to the supply and
               purports to *quote the agent’s ABN; and
(b) the agent does not have an ABN, or the invoice or other
document does not in fact quote the agent’s ABN; and
(c) the payer has no reasonable grounds to believe that the agent
does not have an ABN, or that the invoice or other document
does not quote the agent’s ABN.

7 Paragraph 12-190(4)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) the payment is made otherwise than in the course or
furtherance of an "enterprise" carried on in Australia by the
payer; or

8 Paragraph 12-190(4)(b) in Schedule 1

After “the payment”, insert “(disregarding so much of it as relates to
"GST payable on the "supply) or, if the payer has also made, or
proposes to make, one or more other payments to the other entity for the
supply, the total of all the payments (disregarding so much of them as
relates to "GST payable on the supply")”.

9 Subparagraph 12-190(6)(a)(i) in Schedule 1

Omit “supply”, substitute “"supply”.

10 Subsection 15-25(1) in Schedule 1

Omit “11-1(b) and (c)”, substitute “11-1(b), (c), (da) and (db)”.

11 Paragraph 16-155(1)(a) in Schedule 1

After “12-85,”, insert “12-190,”.

12 Paragraph 16-160(1)(a) in Schedule 1

After “12-85,”, insert “12-190,”.

13 After section 16-165 in Schedule 1

Insert:

16-167 Payment summary for payment to recipient who does not
quote ABN

(1) An entity (the payer) that makes a "withholding payment covered
by section 12-190 (about payments to recipients who do not quote

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Schedule 3  Pay As You Go (PAYG) withholding system

their ABN) to another entity (the recipient) must give the recipient a "payment summary (and a copy of it) that covers that payment, unless the "amount required to be withheld from the payment is nil.

(2) The summary must cover only that payment.

(3) The payer must give the summary to the recipient when making the payment, or as soon as practicable afterwards.

14 Subsection 16-170(3) in Schedule 1
Omit “or 16-165”, substitute “, 16-165 or 16-167”.

15 Section 16-175 in Schedule 1
Omit “or 16-165”, substitute “, 16-165 or 16-167”.

16 After section 16-175 in Schedule 1
Insert in Subdivision 16-C:

16-180 Commissioner may exempt entity from giving payment summary

(1) The Commissioner may, having regard to the circumstances of a particular case or class of cases, exempt an entity from specified requirements of any of sections 16-155 to 16-167. If the Commissioner does so, the exemption has effect accordingly.

(2) An exemption must be made by a written notice:
(a) if it applies to a particular entity—that is given to that entity; or
(b) if it applies to a class of entities—that is given to each of the entities, or a copy of which is published in the Gazette.

A New Tax System (Tax Administration) Act 1999

17 Items 26 and 27 of Schedule 18
Repeal the items.

Note: See instead items 8 and 9 of Schedule 5 to this Act.

18 Application
The items in Schedule 18 to the *A New Tax System (Tax Administration) Act 1999* that are repealed by item 17 of this Schedule are taken never to have had any effect.
Schedule 4—Amendment of the Corporations Law consequential on Pay As You Go (PAYG) withholding system

1 Subsection 443BA(2) (at the end of the definition of *remittance provision*)
   Add:
   ; and any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

2 Subsection 459E(5)
   Before “even if”, insert “and any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*,”.

3 Subsection 588F(2) (at the end of the definition of *remittance provision*)
   Add:
   ; or any of the provisions of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

4 At the end of subsection 588FGA(1)
   Add:
   ; or under a provision of Subdivision 16-B in Schedule 1 to the *Taxation Administration Act 1953*.

1 Subsection 995-1(1) (definition of approved form)
   Repeal the definition, substitute:

   approved form has the meaning given by section 388-50 in Schedule 1 to the Taxation Administration Act 1953.

2 Subsection 995-1(1)
   Insert:

   base penalty amount: the base penalty amount for calculating the amount of an administrative penalty is worked out under the relevant provision in this table:

<table>
<thead>
<tr>
<th>Base penalty amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

3 Subsection 995-1(1)
   Insert:

   current annual turnover has the meaning given by section 195-1 of the "GST Act.

4 Subsection 995-1(1) (definition of electronic signature)
   Repeal the definition, substitute:

   electronic signature of an entity means a unique identification of the entity in electronic form that is approved by the Commissioner.

5 Subsection 995-1(1)
**Schedule 5** Consequential amendment of Chapter 6 (the Dictionary) of the Income Tax Assessment Act 1997

Insert:

*fringe benefits taxable amount* has the meaning given by section 5B of the *Fringe Benefits Tax Assessment Act 1986*.

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

Insert:

*government entity* has the meaning given by section 41 of the *New Tax System (Australian Business Number) Act 1999*.

7 **Subsection 995-1(1)**

Insert:

*non-profit sub-entity* has the meaning given by section 195-1 of the *GST Act*.

8 **Subsection 995-1(1) (definition of PAYE earner)**

Repeal the definition.

9 **Subsection 995-1(1) (definition of PAYE earnings)**

Repeal the definition.

10 **Subsection 995-1(1)**

Insert:

*reasonably arguable* has the meaning given by section 284-15 in Schedule 1 to the *Taxation Administration Act 1953*.

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

Insert:

*scheme benefit* has the meaning given by section 284-150 in Schedule 1 to the *Taxation Administration Act 1953*.

12 **Subsection 995-1(1)**

Insert:

*scheme shortfall amount* has the meaning given by section 284-150 in Schedule 1 to the *Taxation Administration Act 1953*.
13 Subsection 995-1(1)
Insert:

*shortfall amount* has the meaning given by section 284-80 in Schedule 1 to the *Taxation Administration Act 1953*.

14 Subsection 995-1(1) (definition of *tax audit*)
Repeal the definition, substitute:

*tax audit* means an examination by the Commissioner of an entity's financial affairs for the purposes of a *taxation law*.

15 Subsection 995-1(1)
Insert:

*taxable importation* has the meaning given by section 195-1 of the *GST Act*.

16 Subsection 995-1(1)
Insert:

*telephone signature* of an entity is a unique identification of the entity that can be given by telephone and that is approved by the Commissioner.