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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Fuel Tax (Consequential and
Transitional Provisions) Bill 2006**

No. , 2006

(Treasury)

**A Bill for an Act to deal with consequential and
transitional matters arising from the enactment of
the *Fuel Tax Act 2006*, and for other purposes**

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1 **A Bill for an Act to deal with consequential and**
2 **transitional matters arising from the enactment of**
3 **the *Fuel Tax Act 2006*, and for other purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Fuel Tax (Consequential and*
7 *Transitional Provisions) Act 2006*.

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.

13

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, Part 1	1 July 2006.	1 July 2006
3. Schedule 1, items 4 to 6	1 January 2007.	1 January 2007
4. Schedule 1, item 7	1 July 2009.	1 July 2009
5. Schedule 1, Part 3	1 January 2007.	1 January 2007
6. Schedule 2, Part 1	1 July 2006.	1 July 2006
7. Schedule 2, Part 2	1 July 2007.	1 July 2007
8. Schedule 3, Parts 1 to 4	1 July 2006.	1 July 2006
9. Schedule 3, Part 5	1 July 2010.	1 July 2010
10. Schedule 3, Parts 6 and 7	1 July 2012.	1 July 2012
11. Schedule 3, Part 8, Division 1	1 July 2007.	1 July 2007
12. Schedule 3, Part 8, Division 2	1 July 2010.	1 July 2010
13. Schedule 3, Part 8, Division 3	1 July 2012.	1 July 2012
14. Schedule 3, Part 8, Division 4	1 July 2013.	1 July 2013
15. Schedule 4, items 1 and 2	The day on which the Bill for this Act is introduced into the Parliament.	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
16. Schedule 4, item 3	Immediately after the commencement of section 34 of the <i>Product Grants and Benefits Administration Act 2000</i> .	19 June 2000
17. Schedule 4, item 4	The day on which this Act receives the Royal Assent.	
18. Schedule 5, Part 1	At the same time as the <i>Fuel Tax Act 2006</i> commences.	1 July 2006
19. Schedule 5, items 59 and 60	The later of: (a) immediately after the commencement of the <i>Fuel Tax Act 2006</i> ; and (b) the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> . However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	
20. Schedule 5, items 61 and 62	Immediately before the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> . However, if Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> commences before the <i>Fuel Tax Act 2006</i> commences, the provision(s) do not commence at all.	
21. Schedule 5, Part 3	At the same time as the <i>Fuel Tax Act 2006</i> commences.	1 July 2006
22. Schedule 5, Part 4	The later of: (a) immediately after the commencement of the <i>Fuel Tax Act 2006</i> ; and (b) the commencement of Schedule 4 to the <i>Tax Laws Amendment (2005 Measures No. 4) Act 2005</i> . However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	

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

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

3 Schedule(s)

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.

4 Regulations

The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

1
2 **Schedule 1—Amendments relating to the**
3 **repeal of the Fuel Sales Grants Act**
4 **2000**

5 **Part 1—Amendments commencing on 1 July 2006**

6 *Fuel Sales Grants Act 2000*

7 **1 Paragraph 7(c)**

8 Omit “2000.”, substitute “2000 but before 1 July 2006.”.

9 *Product Grants and Benefits Administration Act 2000*

10 **2 After paragraph 15(2)(d)**

11 Insert:

12 (da) if the claim is for payment of a fuel sales grant—must be
13 given to the Commissioner before the earlier of:

14 (i) 1 January 2007; and

15 (ii) the end of 3 years after the start of the claim period; and

16 **3 Paragraph 15(2)(e)**

17 Before “must be”, insert “otherwise—”.

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2 **Part 2—Amendments commencing on or after**
3 **1 January 2007**

4 *Product Grants and Benefits Administration Act 2000*

5 **4 Section 8 (table item 1)**

6 Repeal the item.

7 **5 Subsection 9(3)**

8 Repeal the subsection.

9 **6 Paragraph 15(2)(da)**

10 Repeal the paragraph.

11 **7 Subparagraphs 47(3)(c)(ia) and (d)(ia)**

12 Repeal the subparagraphs.

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2 **Part 3—Repeal of Fuel Sales Grants Act 2000 on**
3 **1 January 2007**

4 *Fuel Sales Grants Act 2000*

5 **8 The whole of the Act**

6 Repeal the Act.

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**Schedule 2—Amendments relating to the
repeal of the States Grants (Petroleum
Products) Act 1965**

Part 1—Amendments commencing on 1 July 2006

States Grants (Petroleum Products) Act 1965

1 At the end of subsection 5(1)

Add:

Note: For the cessation of a scheme, see subsection (5).

2 Paragraph 5(5)(a)

Repeal the paragraph, substitute:

- (a) must provide for the payment by the State to registered distributors of eligible petroleum products, in respect of:
 - (i) the sale by them, before 1 July 2006; and
 - (ii) the delivery by them, before 1 July 2006, to places to which the scheme applies;
- of any eligible petroleum products, of amounts ascertained in accordance with the scheme; and

3 Paragraph 5(5)(aa)

After “by them”, insert “, before 1 July 2006,”.

4 Subparagraph 5(5)(b)(i)

After “by them”, insert “, before 1 July 2006,”.

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**Part 2—Repeal of States Grants (Petroleum
Products) Act 1965 on 1 July 2007**

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States Grants (Petroleum Products) Act 1965

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5 The whole of the Act

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Repeal the Act.

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Schedule 3—Fuel credits arising from before 1 July 2006 and until 1 July 2012

Part 1—Definitions

1 Definitions

In this Schedule:

Energy Grants Act means the *Energy Grants (Credits) Scheme Act 2003*.

Fuel Tax Act means the *Fuel Tax Act 2006*.

off-road credit means an off-road credit under Part 4 of the Energy Grants Act.

off-road diesel fuel has the meaning given by section 4 of the Energy Grants Act.

on-road alternative fuel has the meaning given by section 4 of the Energy Grants Act.

on-road credit means an on-road credit under Part 3 of the Energy Grants Act.

on-road diesel fuel has the meaning given by section 4 of the Energy Grants Act.

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2 **Part 2—Energy grants arising before 1 July 2006**

3 **Division 1—Energy grants claimed under the Energy**
4 **Grants Act**

5 ***Energy Grants (Credits) Scheme Act 2003***

6 **2 Section 40**

7 Before “This”, insert “(1)”.

8 **3 At the end of section 40**

9 Add:

- 10 (2) You are not entitled to an on-road credit if you purchase or import
11 on-road diesel fuel on or after 1 July 2006.

12 Note: Claims under the *Product Grants and Benefits Administration Act*
13 *2000* for energy grants for on-road diesel fuel must be made before
14 1 July 2007 (see subsection 15(2) of that Act). Alternatively, you can
15 claim such grants under the *Fuel Tax Act 2006* (see item 9 of
16 Schedule 3 to the *Fuel Tax (Consequential and Transitional*
17 *Provisions) Act 2006*).

18 **4 Section 51**

19 Before “This”, insert “(1)”.

20 **5 At the end of section 51**

21 Add:

- 22 (2) You are not entitled to an off-road credit if you purchase or import
23 off-road diesel fuel on or after 1 July 2006.

24 Note: Claims under the *Product Grants and Benefits Administration Act*
25 *2000* for energy grants for off-road diesel fuel must be made before
26 1 July 2007 (see subsection 15(2) of that Act). Alternatively, you can
27 claim such grants under the *Fuel Tax Act 2006* (see item 9 of
28 Schedule 3 to the *Fuel Tax (Consequential and Transitional*
29 *Provisions) Act 2006*).

30 ***Product Grants and Benefits Administration Act 2000***

31 **6 Before paragraph 15(2)(e)**

1 Insert:

2 (db) if the claim is for payment of an energy grant in respect of an
3 on-road credit for on-road diesel fuel, or an off-road credit
4 for off-road diesel fuel—must be given to the Commissioner
5 before the earlier of:

- 6 (i) 1 July 2007; and
7 (ii) the end of 3 years after the start of the claim period; and

8 **7 After subsection 15(2)**

9 Insert:

10 (2A) Despite the provisions of Part 3 and the *Energy Grants (Credits)*
11 *Scheme Act 2003*, you are not entitled to an energy grant for:

12 (a) an on-road credit for on-road diesel fuel; or

13 (b) an off-road credit for off-road diesel fuel;

14 if you have already given the Commissioner a return under the
15 *Fuel Tax Act 2006* that includes a net fuel amount that takes into
16 account a decreasing fuel tax adjustment that relates to the fuel.

17 **8 At the end of section 15**

18 Add:

19 (4) In this section:

20 *decreasing fuel tax adjustment* has the meaning given by
21 section 110-5 of the *Fuel Tax Act 2006*.

22 *net fuel amount* has the meaning given by section 110-5 of the
23 *Fuel Tax Act 2006*.

24 *off-road credit* means an off-road credit under Part 4 of the *Energy*
25 *Grants (Credits) Scheme Act 2003*.

26 *off-road diesel fuel* has the meaning given by section 4 of the
27 *Energy Grants (Credits) Scheme Act 2003*.

28 *on-road credit* means an on-road credit under Part 3 of the *Energy*
29 *Grants (Credits) Scheme Act 2003*.

30 *on-road diesel fuel* has the meaning given by section 4 of the
31 *Energy Grants (Credits) Scheme Act 2003*.

1 **Division 2—Energy grants claimed under the Fuel Tax**
2 **Act**

3 **9 Grants claimed under the Fuel Tax Act**

- 4 (1) For the purposes of the Fuel Tax Act, you have a *decreasing fuel tax*
5 *adjustment* if:
- 6 (a) you purchased or imported on-road diesel fuel or off-road
7 diesel fuel between 1 July 2003 and 30 June 2006 (inclusive);
8 and
 - 9 (b) you were entitled to an on-road credit or an off-road credit in
10 respect of the fuel (disregarding section 41 or 52 of the
11 Energy Grants Act, as the case requires); and
 - 12 (c) you have not made a claim for payment of an energy grant in
13 respect of the credit under section 15 of the *Product Grants*
14 *and Benefits Administration Act 2000*.
- 15 (2) The amount of the adjustment is the amount of the credit that you were
16 entitled to under the Energy Grants Act.
- 17 (3) The adjustment is attributable to the tax period or fuel tax return period
18 that you choose that ends before 1 July 2009.
- 19 (4) If you have a decreasing fuel tax adjustment under this item, then:
- 20 (a) Division 44 of the Fuel Tax Act (which is about fuel tax
21 adjustments) applies as if a reference to a fuel tax credit were
22 a reference to an on-road credit or an off-road credit, as the
23 case requires; and
 - 24 (b) sections 49 and 55 of the Energy Grants Act do not apply to
25 the fuel.

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2 **Part 3—Fuel tax credits arising between 1 July 2006**
3 **and 30 June 2012**

4 **Division 1—Credits arising between 1 July 2006 and**
5 **30 June 2008**

6 **10 Fuel acquired, manufactured or imported between 1 July**
7 **2006 and 30 June 2008**

8 (1) This item applies if:

- 9 (a) you acquire, manufacture or import taxable fuel between
10 1 July 2006 and 30 June 2008 (inclusive); and
11 (b) you acquire, manufacture or import the fuel for use in
12 carrying on your enterprise, other than:
13 (i) for use in a vehicle travelling on a public road; or
14 (ii) for incidental use (within the meaning of section 8 of
15 the Energy Grants Act) in relation to a vehicle covered
16 by subparagraph (i); or
17 (iii) for use by you in generating electricity; or
18 (iv) for use other than as a fuel; or
19 (v) for use other than as a fuel in an internal combustion
20 engine; or
21 (vi) for use as heating oil; and
22 (c) apart from this item, you would be entitled to a fuel tax credit
23 under section 41-5 of the Fuel Tax Act.

24 (2) You are not entitled to the credit under section 41-5 of the Fuel Tax Act
25 unless you meet a condition in subitem (3) or (5).

26 *Entitlement to a credit if you would have been entitled to an*
27 *on-road credit*

28 (3) You are not entitled to the credit under section 41-5 of the Fuel Tax Act
29 unless you would have been entitled to an on-road credit in respect of
30 the fuel, assuming:

- 31 (a) that you had disregarded subsection 40(2) and sections 41
32 and 49A of the Energy Grants Act; and

1 (b) that references in Part 3 of that Act to “purchase or import
2 into Australia” were instead references to “acquire or
3 manufacture in, or import into, Australia”.

4 (4) If subitem (3) applies to you, you are taken, for the purposes of
5 section 43-10 of the Fuel Tax Act, to have acquired, manufactured or
6 imported the fuel to use, in a vehicle, for travelling on a public road.

7 Note: The effect of this subitem is that the amount of the fuel tax credit is reduced under
8 section 43-10 of the Fuel Tax Act by the amount of the road user charge.

9 *Entitlement to a credit if you would have been entitled to an*
10 *off-road credit*

11 (5) You are not entitled to the credit under section 41-5 of the Fuel Tax Act
12 unless you would have been entitled to an off-road credit in respect of
13 the fuel, assuming:

14 (a) that you had disregarded subsection 51(2) and sections 52
15 and 55A of the Energy Grants Act; and

16 (b) that references in Part 4 of that Act to “purchase or import
17 into Australia” were instead references to “acquire or
18 manufacture in, or import into, Australia”.

19 *Fuel tax adjustment provisions*

20 (6) If this item applies, then sections 49 and 55 of the Energy Grants Act do
21 not apply to the fuel.

22 Note: Division 44 of the *Fuel Tax Act 2006* deals with adjustments of fuel tax credits.

23 **Division 2—Credits arising between 1 July 2008 and**
24 **30 June 2012**

25 **11 Fuel acquired, manufactured or imported between 1 July**
26 **2008 and 30 June 2012**

27 (1) This item applies if:

28 (a) you acquire, manufacture or import taxable fuel between
29 1 July 2008 and 30 June 2012 (inclusive); and

30 (b) you acquire, manufacture or import the fuel for use in
31 carrying on your enterprise, other than:

32 (i) for use in a vehicle travelling on a public road; or

- 1 (ii) for incidental use (within the meaning of section 8 of
2 the Energy Grants Act) in relation to a vehicle covered
3 by subparagraph (i); or
4 (iii) for use by you in generating electricity; or
5 (iv) for use other than as a fuel; or
6 (v) for use other than as a fuel in an internal combustion
7 engine; or
8 (vi) for use as heating oil; and
9 (c) apart from this item, you would be entitled to a fuel tax credit
10 under section 41-5 of the Fuel Tax Act.
- 11 (2) You are not entitled to the credit under section 41-5 of the Fuel Tax Act
12 unless you meet a condition in subitem (3), (5), (6) or (7).
- 13 *Entitlement to a full credit if you would have been entitled to an*
14 *on-road or off-road credit*
- 15 (3) You are not entitled to the credit under section 41-5 of the Fuel Tax Act
16 unless you would have been entitled to an on-road credit in respect of
17 the fuel, assuming:
18 (a) that you had disregarded subsection 40(2) and sections 41
19 and 49A of the Energy Grants Act; and
20 (b) that references in Part 3 of that Act to “purchase or import
21 into Australia” were instead references to “acquire or
22 manufacture in, or import into, Australia”.
- 23 (4) If subitem (3) applies to you, you are taken, for the purposes of
24 section 43-10 of the Fuel Tax Act, to have acquired, manufactured or
25 imported the fuel to use, in a vehicle, for travelling on a public road.
- 26 Note: The effect of this subitem is that the amount of the fuel tax credit is reduced under
27 section 43-10 of the Fuel Tax Act by the amount of the road user charge.
- 28 (5) You are entitled to the credit under section 41-5 of the Fuel Tax Act if
29 you would have been entitled to an off-road credit in respect of the fuel,
30 assuming:
31 (a) that you had disregarded subsection 51(2) and sections 52
32 and 55A of the Energy Grants Act; and
33 (b) that references in Part 4 of that Act to:
34 (i) “purchase or import into Australia” were instead
35 references to “acquire or manufacture in, or import into,
36 Australia”; and
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1 (ii) “off-road diesel fuel” were instead references to the
2 fuel.

3 *Entitlement to half a credit if you would not have been entitled to*
4 *a credit*

5 (6) You are entitled to the credit under section 41-5 of the Fuel Tax Act
6 even if you do not meet a condition in subitem (3) or (5). However,
7 subject to subitem (7), the amount of the credit is half of the amount it
8 would have been under Division 43 of the Fuel Tax Act apart from this
9 subitem.

10 Note: You are entitled to a full credit under subitem (7) if you acquire, manufacture or import
11 on-road alternative fuel between 1 July 2011 and 30 June 2012.

12 *Entitlement to a full credit for alternative fuel acquired,*
13 *manufactured or imported between 1 July 2011 and 30 June*
14 *2012*

15 (7) You are entitled to the credit under section 41-5 of the Fuel Tax Act if:
16 (a) the fuel you acquire, manufacture or import is on-road
17 alternative fuel; and
18 (b) you acquire, manufacture or import the fuel between 1 July
19 2011 and 30 June 2012 (inclusive).

20 *Fuel tax adjustment provisions*

21 (8) If this item applies, then sections 49 and 55 of the Energy Grants Act do
22 not apply to the fuel.

23 Note: Division 44 of the *Fuel Tax Act 2006* deals with adjustments of fuel tax credits.

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2 **Part 4—Fuel tax credits for vehicles of 4.5 tonnes**

3 **12 Fuel acquired, manufactured or imported on or after 1 July**
4 **2006**

- 5 (1) This item applies if:
- 6 (a) you acquire, manufacture or import on-road diesel fuel on or
7 after 1 July 2006; and
 - 8 (b) you acquire, manufacture or import the fuel:
 - 9 (i) for use in a vehicle with a gross vehicle mass of 4.5
10 tonnes for travelling on a public road; or
 - 11 (ii) for incidental use (within the meaning of section 8 of
12 the Energy Grants Act) in relation to such a vehicle; or
 - 13 (iii) for use in such a vehicle in circumstances not covered
14 by subparagraph (i) or (ii) in which you would have
15 been entitled to an on-road credit under the Energy
16 Grants Act, assuming that you had disregarded
17 subsection 40(2) and sections 41 and 49A of the Energy
18 Grants Act; and
 - 19 (c) you acquired the vehicle before 1 July 2006.
- 20 (2) You are entitled to a credit under section 41-5 of the Fuel Tax Act if
21 you would have been entitled to a credit in respect of the fuel under that
22 section, disregarding section 41-20 of that Act.
- 23 (3) To avoid doubt, this item continues to apply despite the repeal of the
24 Energy Grants Act on 1 July 2012.

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2 **Part 5—Alternative fuel energy grants arising under**
3 **the Energy Grants Act**

4 **Division 1—Energy grants claimed under the Energy**
5 **Grants Act**

6 *Product Grants and Benefits Administration Act 2000*

7 **13 After paragraph 15(2)(d)**

8 Insert:

9 (da) if the claim is for payment of an energy grant in respect of an
10 on-road credit for on-road alternative fuel—must be given to
11 the Commissioner before the earlier of:

12 (i) 1 July 2011; and

13 (ii) the end of 3 years after the start of the claim period; and

14 **14 Paragraph 15(2)(e)**

15 Before “must be”, insert “otherwise—”.

16 **15 After subsection 15(2)**

17 Insert:

18 (2A) Despite the provisions of Part 3 and the *Energy Grants (Credits)*
19 *Scheme Act 2003*, you are not entitled to an energy grant for an
20 on-road credit for on-road alternative fuel if you have already
21 given the Commissioner a return under the *Fuel Tax Act 2006* that
22 includes a net fuel amount that takes into account a decreasing fuel
23 tax adjustment that relates to the fuel.

24 **16 At the end of section 15**

25 Add:

26 (4) In this section:

27 *decreasing fuel tax adjustment* has the meaning given by
28 section 110-5 of the *Fuel Tax Act 2006*.

29 *net fuel amount* has the meaning given by section 110-5 of the
30 *Fuel Tax Act 2006*.

1 *on-road alternative fuel* has the meaning given by section 4 of the
2 *Energy Grants (Credits) Scheme Act 2003*.

3 *on-road credit* means an on-road credit under Part 3 of the *Energy*
4 *Grants (Credits) Scheme Act 2003*.

5 **Division 2—Energy grants claimed under the Fuel Tax**
6 **Act**

7 **17 Grants claimed under the Fuel Tax Act**

- 8 (1) For the purposes of the Fuel Tax Act, you have a *decreasing fuel tax*
9 *adjustment* if:
- 10 (a) you purchased or imported on-road alternative fuel before
11 1 July 2010; and
 - 12 (b) you were entitled to an on-road credit in respect of the fuel
13 (disregarding section 41 of the Energy Grants Act); and
 - 14 (c) you have not made a claim for payment of an energy grant in
15 respect of the credit under section 15 of the *Product Grants*
16 *and Benefits Administration Act 2000*.
- 17 (2) The amount of the adjustment is the amount of the credit that you were
18 entitled to under the Energy Grants Act.
- 19 (3) The adjustment is attributable to the tax period or fuel tax return period
20 that you choose that ends before 1 July 2013.
- 21 (4) If you have a decreasing fuel tax adjustment under this item, then:
- 22 (a) Division 44 of the Fuel Tax Act (which is about fuel tax
23 adjustments) applies as if a reference to a fuel tax credit were
24 a reference to an on-road credit; and
 - 25 (b) section 49 of the Energy Grants Act does not apply to the
26 fuel.

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2 **Part 6—Amendments relating to the repeal of the**
3 **Energy Grants Act on 1 July 2012**

4 *Product Grants and Benefits Administration Act 2000*

5 **18 Section 5 (definition of *energy grants scheme fuel*)**

6 Repeal the definition.

7 **19 Section 8 (table item 3)**

8 Repeal the item.

9 **20 Subsection 9(4)**

10 Repeal the subsection.

11 **21 Subsections 27(1A) and (1B)**

12 Repeal the subsections.

13 **22 Section 27A**

14 Repeal the section.

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2 **Part 7—Repeal of Energy Grants Act on 1 July 2012**

3 *Energy Grants (Credits) Scheme Act 2003*

4 **23 The whole of the Act**

5 Repeal the Act.

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Part 8—Other amendments relating to the transitional period

Division 1—Amendments commencing on 1 July 2007

Product Grants and Benefits Administration Act 2000

24 Section 5 (definition of *energy grants scheme fuel*)

Omit “on-road diesel fuel, on-road alternative fuel, or off-road diesel fuel,”, substitute “on-road alternative fuel”.

25 Paragraph 15(2)(db)

Repeal the paragraph.

26 Paragraph 15(2)(e)

Omit “otherwise—”.

27 Subsections 15(2A) and (4)

Repeal the subsections.

28 Paragraph 16A(1)(a)

Omit “designated grant”, substitute “cleaner fuel grant”.

29 Paragraph 16A(1)(a)

Omit “grant fuel”, substitute “cleaner fuel”.

30 Paragraph 16A(1)(b)

Omit “designated grant”, substitute “cleaner fuel grant”.

31 Subsection 16A(2)

Omit “designated grant”, substitute “cleaner fuel grant”.

32 Subsection 16A(2)

Omit “grant fuel”, substitute “cleaner fuel”.

33 Subsection 16A(3)

1 Repeal the subsection.

2 **34 Subparagraph 27A(b)(i)**

3 Omit “energy grant scheme fuel”, substitute “energy grants scheme
4 fuel”.

5 Note: The heading to section 27A is altered by omitting “energy grant scheme fuel” and
6 substituting “energy grants scheme fuel”.

7 **Division 2—Amendments commencing on 1 July 2010**

8 *Fuel Tax Act 2006*

9 **35 Subsection 65-10(1) (note)**

10 Omit “item 9”, substitute “items 9 and 17”.

11 **36 Section 110-5 (paragraph (b) of the definition of**
12 *decreasing fuel tax adjustment*)

13 Omit “item 9”, substitute “items 9 and 17”.

14 **Division 3—Amendments commencing on 1 July 2012**

15 *Fuel Tax Act 2006*

16 **37 Subsection 41-5(1) (note 1)**

17 Omit “of this Act and Part 3 of Schedule 3 to the *Fuel Tax*
18 *(Consequential and Transitional Provisions) Act 2006*”.

19 **38 Section 41-20 (note)**

20 Repeal the note.

21 **39 Paragraph 43-5(3)(b)**

22 Repeal the paragraph.

23 **Division 4—Amendments commencing on 1 July 2013**

24 *Fuel Tax Act 2006*

25 **40 Subsection 65-10(1) (note)**

1 Repeal the note, substitute:

2 Note: For another attribution rule for fuel tax adjustments, see subsection
3 46-5(4) (GST instalment taxpayers).

4 **41 Section 110-5 (definition of *decreasing fuel tax***
5 ***adjustment*)**

6 Repeal the definition, substitute:

7 *decreasing fuel tax adjustment* has the meaning given by
8 section 44-5 and subsection 45-5(2).

9 ***Product Grants and Benefits Administration Act 2000***

10 **42 Paragraph 15(2)(da)**

11 Repeal the paragraph.

12 **43 Paragraph 15(2)(e)**

13 Omit “otherwise—”.

14 **44 Subsections 15(2A) and (4)**

15 Repeal the subsections.

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Schedule 4—Other amendments

Energy Grants (Credits) Scheme Act 2003

1 Paragraph 20(a)

After “sand”, insert “(other than mineral sands)”.

2 At the end of section 20

Add:

; or (c) minerals produced from a synthetic production process or from a manufacturing process; or

(d) any of the above materials, or any inherent constituent materials of any of the above materials, that are extracted for the manufacture of products, or materials, for use in building, road making, landscaping, construction or similar purposes.

Product Grants and Benefits Administration Act 2000

3 Subsection 34(3) (paragraph (a) of the definition of *scheme*)

Omit “; and”, substitute “; or”.

4 Subsection 53(2) (table items 5 and 6)

Repeal the items.

1
2 **Schedule 5—Administrative provisions**

3 **Part 1—Administrative provisions**

4 *Administrative Decisions (Judicial Review) Act 1977*

5 **1 Paragraph (e) of Schedule 1**

6 After “*Fringe Benefits Tax Assessment Act 1986*”, insert:
Fuel Tax Act 2006

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

8 **2 At the end of subsection 48-40(1)**

9 Add:

10 Note: However, each member is jointly and severally liable to pay the GST
11 that is payable by the representative member (see section 444-90 in
12 Schedule 1 to the *Taxation Administration Act 1953*).

13 **3 At the end of subsection 51-30(1)**

14 Add:

15 Note: However, each participant is jointly and severally liable to pay the
16 GST that is payable by the joint venture operator (see section 444-80
17 in Schedule 1 to the *Taxation Administration Act 1953*).

18 *Income Tax Assessment Act 1936*

19 **4 At the end of section 202**

20 Add:

21 ; and (p) to facilitate the administration of the fuel tax law (within the
22 meaning of section 110-5 of the *Fuel Tax Act 2006*).

23 *Income Tax Assessment Act 1997*

24 **5 Subsection 995-1(1)**

25 Insert:

26 *Defence Minister* means the Minister administering the *Defence*
27 *Act 1903*.

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

2 Insert:

3 *fuel tax credit* has the meaning given by section 110-5 of the *Fuel*
4 *Tax Act 2006*.

5 **7 Subsection 995-1(1)**

6 Insert:

7 *fuel tax law* has the meaning given by section 110-5 of the *Fuel*
8 *Tax Act 2006*.

9 **8 Subsection 995-1(1)**

10 Insert:

11 *fuel tax return period* has the meaning given by section 61-20 of
12 the *Fuel Tax Act 2006*.

13 **9 Subsection 995-1(1)**

14 Insert:

15 *GST-free* has the meaning given by section 195-1 of the *GST Act.

16 **10 Subsection 995-1(1)**

17 Insert:

18 *incapacitated entity* has the meaning given by section 195-1 of the
19 *GST Act.

20 **11 Subsection 995-1(1)**

21 Insert:

22 *indirect tax* means any of the following:

- 23 (a) *GST;
24 (b) *wine tax;
25 (c) *luxury car tax.

26 **12 Subsection 995-1(1)**

27 Insert:

28 *indirect tax document* means a document that:

- 1 (a) was obtained by you in the course of:
2 (i) your appointment or employment by the
3 Commonwealth; or
4 (ii) the performance of services by you for the
5 Commonwealth; or
6 (iii) the exercise of powers, or the performance of functions,
7 by you under a delegation by the Commissioner; and
8 (b) was made or given under, or for the purposes of, an *indirect
9 tax law.

10 Example: A GST return is a document made for the purposes of an indirect tax
11 law.

12 **13 Subsection 995-1(1)**

13 Insert:

14 *indirect tax information* means information that:

- 15 (a) was obtained by you in the course of:
16 (i) your appointment or employment by the
17 Commonwealth; or
18 (ii) the performance of services by you for the
19 Commonwealth; or
20 (iii) the exercise of powers, or the performance of functions,
21 by you under a delegation by the Commissioner; and
22 (b) was disclosed or obtained under an *indirect tax law; and
23 (c) relates to the affairs of an entity other than you.

24 **14 Subsection 995-1(1)**

25 Insert:

26 *indirect tax law* means any of the following:

- 27 (a) the *GST law;
28 (b) the *wine tax law;
29 (c) the *luxury car tax law;
30 (d) the *fuel tax law.

31 **15 Subsection 995-1(1)**

32 Insert:

33 *indirect tax ruling* means any ruling or advice given or published
34 by the Commissioner in relation to an *indirect tax law (other than

1 the *fuel tax law), including one that has been previously altered,
2 but not including:
3 (a) one given orally; or
4 (b) an assessment.

5 **16 Subsection 995-1(1)**

6 Insert:

7 *joint venture operator* for a *GST joint venture has the meaning
8 given by section 195-1 of the *GST Act.

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

10 Insert:

11 *luxury car tax* has the meaning given by section 27-1 of the
12 *Luxury Car Tax Act.

13 **18 Subsection 995-1(1)**

14 Insert:

15 *Luxury Car Tax Act* means the *A New Tax System (Luxury Car*
16 *Tax) Act 1999*.

17 **19 Subsection 995-1(1)**

18 Insert:

19 *luxury car tax law* has the meaning given by section 27-1 of the
20 *Luxury Car Tax Act.

21 **20 Subsection 995-1(1)**

22 Insert:

23 *net fuel amount* has the meaning given by section 60-5 of the *Fuel*
24 *Tax Act 2006*.

25 **21 Subsection 995-1(1)**

26 Insert:

27 *private indirect tax ruling* means an *indirect tax ruling given to a
28 particular entity.

29 **22 Subsection 995-1(1)**

1 Insert:

2 *public indirect tax ruling* means an *indirect tax ruling other than a
3 *private indirect tax ruling.

4 **23 Subsection 995-1(1)**

5 Insert:

6 *representative* of an *incapacitated entity has the meaning given by
7 section 195-1 of the *GST Act.

8 **24 Subsection 995-1(1)**

9 Insert:

10 *representative member* for a *GST group has the meaning given by
11 section 195-1 of the *GST Act.

12 **25 Subsection 995-1(1)**

13 Insert:

14 *reviewable fuel tax decision* has the meaning given by subsection
15 112-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

16 **26 Subsection 995-1(1)**

17 Insert:

18 *reviewable GST decision* has the meaning given by subsection
19 110-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

20 **27 Subsection 995-1(1)**

21 Insert:

22 *reviewable GST transitional decision* has the meaning given by
23 subsection 110-50(3) in Schedule 1 to the *Taxation Administration*
24 *Act 1953*.

25 **28 Subsection 995-1(1)**

26 Insert:

27 *reviewable indirect tax decision* has the meaning given by
28 subsection 105-40(2) in Schedule 1 to the *Taxation Administration*
29 *Act 1953*.

1 **29 Subsection 995-1(1)**

2 Insert:

3 *reviewable wine tax decision* has the meaning given by subsection
4 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953*.

5 **30 Subsection 995-1(1)**

6 Insert:

7 *taxable fuel* has the meaning given by section 110-5 of the *Fuel*
8 *Tax Act 2006*.

9 **31 Subsection 995-1(1)**

10 Insert:

11 *taxable importation of a luxury car* has the meaning given by
12 section 27-1 of the *Luxury Car Tax Act.

13 **32 Subsection 995-1(1)**

14 Insert:

15 *taxable supply of a luxury car* has the meaning given by
16 section 27-1 of the *Luxury Car Tax Act.

17 **33 Subsection 995-1(1)**

18 Insert:

19 *visiting force* has the meaning given by section 5 of the *Defence*
20 *(Visiting Forces) Act 1963*.

21 **34 Subsection 995-1(1)**

22 Insert:

23 *wine tax* has the meaning given by section 33-1 of the *Wine Tax
24 Act.

25 **35 Subsection 995-1(1)**

26 Insert:

27 *wine taxable dealing* means a taxable dealing (within the meaning
28 of section 33-1 of the *Wine Tax Act).

1 **36 Subsection 995-1(1)**

2 Insert:

3 *Wine Tax Act* means the *A New Tax System (Wine Equalisation*
4 *Tax) Act 1999*.

5 **37 Subsection 995-1(1)**

6 Insert:

7 *wine tax credit* has the meaning given by section 33-1 of the *Wine
8 Tax Act.

9 **38 Subsection 995-1(1)**

10 Insert:

11 *wine tax law* has the meaning given by section 33-1 of the *Wine
12 Tax Act.

13 ***Taxation Administration Act 1953***

14 **39 Part VI**

15 Repeal the Part.

16 **40 Before Part 2-1 in Schedule 1**

17 Insert:

18 **Chapter 2—Collection, recovery and**
19 **administration of income tax**

20 **41 After Part 2-10 in Schedule 1**

21 Insert:

1 **Chapter 3—Collection, recovery and**
2 **administration of other taxes**

3 **Part 3-10—Indirect taxes**

4 **Division 105—General rules for indirect taxes**

5 **Table of Subdivisions**

6	Guide to Division 105
7	105-A Assessments
8	105-B Review of indirect tax decisions
9	105-C Limits on credits, refunds and recovering amounts
10	105-D General interest charge and penalties
11	105-E Evidence
12	105-F Indirect tax refund schemes
13	105-G Other administrative provisions

14 **Guide to Division 105**

15 **105-1 What this Division is about**

16 This Division contains rules relating to the administration of the
17 indirect tax laws.

18 Note: Administration rules relevant to particular indirect tax
19 laws are in Divisions 110, 111 and 112.

20 The rules in this Division deal with the following:

- 21 (a) how assessments are made or amended and their
22 effect;
- 23 (b) review of assessments;
- 24 (c) limits on credits, refunds and recovering amounts;
- 25 (d) the effect of relying on a ruling;

- 1 (e) the effect of not passing on refunds of overpaid
2 amounts;
- 3 (f) charges and penalties;
- 4 (g) the evidentiary effect of official indirect tax
5 documents;
- 6 (h) refunding indirect tax because of Australia's
7 international obligations;
- 8 (i) your address for service of documents and
9 requirements for notifications.

10 **Subdivision 105-A—Assessments**

11 **Table of sections**

12	105-5	Commissioner may make assessment of indirect tax
13	105-10	Request for assessment
14	105-15	Indirect tax liabilities do not depend on assessment
15	105-20	Commissioner must give notice of the assessment
16	105-25	Amendment of assessment
17	105-30	Later assessment prevails in case of inconsistency

18 **105-5 Commissioner may make assessment of indirect tax**

- 19 (1) The Commissioner may at any time make an assessment of:
- 20 (a) your *net amount, or any part of your net amount, for a *tax
21 period; or
- 22 (b) your *net fuel amount, or any part of your net fuel amount,
23 for a tax period or *fuel tax return period.
- 24 (2) The Commissioner may at any time make an assessment of the
25 amount of *indirect tax payable by you on an importation of goods.
- 26 (3) The Commissioner may make an assessment under this section
27 even if he or she has already made an assessment for the *tax
28 period, *fuel tax return period or importation concerned.
- 29 Note: An assessment made under this section is a reviewable indirect tax
30 decision: see Subdivision 105-B.

1 **105-10 Request for assessment**

- 2 (1) You may request the Commissioner in the *approved form to make
3 an assessment of:
4 (a) your *net amount for a *tax period; or
5 (b) your *net fuel amount for a tax period or *fuel tax return
6 period; or
7 (c) an amount of *indirect tax payable by you on an importation
8 of goods.
- 9 (2) The Commissioner must comply with the request if it is made
10 within:
11 (a) 4 years after:
12 (i) the end of the *tax period or *fuel tax return period; or
13 (ii) the importation; or
14 (b) such further period as the Commissioner allows.

15 **105-15 Indirect tax liabilities do not depend on assessment**

- 16 (1) Your liability to pay *indirect tax or a *net fuel amount, and the
17 time by which a *net amount, a net fuel amount or an amount of
18 indirect tax must be paid, do not depend on, and are not in any way
19 affected by, the making of an assessment under this Subdivision.
- 20 (2) The Commissioner's obligation to pay:
21 (a) a *net amount under section 35-5 of the *GST Act; or
22 (b) a *net fuel amount under section 61-5 of the *Fuel Tax Act*
23 *2006*;
24 and the time by which it must be paid, do not depend on, and are
25 not in any way affected by, the making of an assessment under this
26 Subdivision.
- 27 Note: However, a notice of assessment can be used as evidence of liability:
28 see section 105-100.

29 **105-20 Commissioner must give notice of the assessment**

- 30 (1) The Commissioner must give you notice of an assessment as soon
31 as practicable after the assessment is made. However, failing to do
32 so does not affect the validity of the assessment.

- 1 (2) The Commissioner may give you the notice electronically if you
2 are required to lodge or have lodged your *GST returns
3 electronically.

4 **105-25 Amendment of assessment**

5 The Commissioner may amend an assessment at any time. An
6 amended assessment is an assessment for all purposes of any
7 *indirect tax law.

8 Note 1: However, there is a time limit on the recovery of overpaid or
9 underpaid net amounts, net fuel amounts and indirect tax: see
10 sections 105-50 and 105-55.

11 Note 2: An amendment under this section is a reviewable indirect tax
12 decision: see Subdivision 105-B.

13 **105-30 Later assessment prevails in case of inconsistency**

14 If there is an inconsistency between assessments that relate to the
15 same *tax period, *fuel tax return period or importation of goods,
16 the later assessment prevails to the extent of the inconsistency.

17 **Subdivision 105-B—Review of indirect tax decisions**

18 **Table of sections**

19 105-40 Reviewable indirect tax decisions

20 **105-40 Reviewable indirect tax decisions**

21 (1) You may object, in the manner set out in Part IVC, against a
22 decision you are dissatisfied with that is a *reviewable indirect tax
23 decision relating to you.

24 (2) A decision under section 105-5 or 105-25 involving an assessment
25 of a *net amount, a *net fuel amount or an amount of *indirect tax
26 is a *reviewable indirect tax decision*.

27 **Subdivision 105-C—Limits on credits, refunds and recovering**
28 **amounts**

29 **Table of sections**

Schedule 5 Administrative provisions
Part 1 Administrative provisions

1	105-50	Time limit on recovering unpaid net amounts, net fuel amounts and indirect
2		taxes
3	105-55	Time limit on refunds and credits
4	105-60	Reliance on Commissioner's interpretation of an indirect tax law (other
5		than a fuel tax law)
6	105-65	Restriction on refunds

7 **105-50 Time limit on recovering unpaid net amounts, net fuel**
8 **amounts and indirect taxes**

9 Any unpaid *net amount, *net fuel amount or amount of *indirect
10 tax (together with any relevant *general interest charge under
11 section 105-80) ceases to be payable 4 years after it became
12 payable by you unless:

- 13 (a) within those 4 years the Commissioner has required payment
14 of the amount by giving a notice to you; or
15 (b) the Commissioner is satisfied that the payment of the amount
16 was avoided by fraud or evaded.

17 **105-55 Time limit on refunds and credits**

18 (1) You are not entitled to a refund or credit to which this subsection
19 applies in respect of a *tax period or importation unless:

- 20 (a) within 4 years after:
21 (i) the end of the tax period; or
22 (ii) the importation;
23 as the case requires, you notify the Commissioner (in a *GST
24 return or otherwise) that you are entitled to the refund or
25 credit; or
26 (b) within that period the Commissioner notifies you (in a notice
27 of assessment or otherwise) that you are entitled to the refund
28 or credit; or
29 (c) in the case of a credit—the credit is taken into account in
30 working out a *net amount or *net fuel amount that the
31 Commissioner may recover from you only because of
32 paragraph 105-50(b).

33 (2) Subsection (1) applies to:

- 34 (a) a refund under section 35-5 of the *GST Act or section 61-5
35 of the *Fuel Tax Act 2006* in respect of a particular *tax
36 period; or

- 1 (b) an *input tax credit or *fuel tax credit that is attributable to a
2 particular tax period; or
3 (c) a *wine tax credit the amount of which could have been
4 included in a reduction of your *net amount for a tax period
5 under section 21-15 of the *Wine Tax Act; or
6 (d) a refund of an amount of *indirect tax relating to an
7 importation.

8 *Fuel tax—non-business taxpayers*

- 9 (3) If you are neither *registered for GST nor *required to be registered
10 for GST, you are not entitled to a refund or *fuel tax credit to
11 which this subsection applies in respect of a *fuel tax return period,
12 acquisition, manufacture or importation unless:
13 (a) within 4 years after:
14 (i) the end of the fuel tax return period; or
15 (ii) the acquisition, manufacture or importation;
16 (as the case requires) you notify the Commissioner that you
17 are entitled to the refund or credit; or
18 (b) within that period the Commissioner notifies you (in a notice
19 of assessment or otherwise) that you are entitled to the refund
20 or credit; or
21 (c) in the case of a fuel tax credit—the credit is taken into
22 account in working out a *net fuel amount that the
23 Commissioner may recover from you only because of
24 paragraph 105-50(b).
- 25 (4) Subsection (3) applies to:
26 (a) a refund, under section 61-5 of the *Fuel Tax Act 2006*, of a
27 *net fuel amount attributable to a *fuel tax return period; or
28 (b) a *fuel tax credit for *taxable fuel that you acquire,
29 manufacture or import.
- 30 (5) To avoid doubt, if, under subsection (3), you are not entitled to a
31 *fuel tax credit, then you are not entitled to a refund under
32 section 61-5 of the *Fuel Tax Act 2006* in relation to the credit.

33 **105-60 Reliance on Commissioner's interpretation of an indirect tax**
34 **law (other than a fuel tax law)**

- 35 (1) This section applies to you if:
-

Schedule 5 Administrative provisions
Part 1 Administrative provisions

- 1 (a) the Commissioner alters a previous *indirect tax ruling that
2 applied to you; and
3 (b) relying on the previous ruling, you have underpaid a *net
4 amount or an amount of *indirect tax, or the Commissioner
5 has overpaid an amount under section 35-5 of the *GST Act,
6 in respect of one or more:
7 (i) *taxable supplies or *taxable importations; or
8 (ii) *wine taxable dealings; or
9 (iii) *taxable supplies of luxury cars or *taxable importations
10 of luxury cars; or
11 (iv) *creditable acquisitions or *creditable importations;
12 that happened before the alteration.

13 Note: For reliance on the Commissioner's interpretation of a fuel tax law,
14 see Division 357.

- 15 (2) Unless the Commissioner is satisfied that you contributed to the
16 giving, or continuing in force, of the earlier ruling by a
17 misstatement or by suppressing a material fact:
18 (a) the underpaid *net amount or *indirect tax ceases to be
19 payable; or
20 (b) the overpaid amount under section 35-5 of the *GST Act is
21 taken to have been payable in full;
22 from when the previous ruling was made.
- 23 (3) In deciding whether an *indirect tax ruling applies to you, or
24 whether a ruling has been altered:
25 (a) a *private indirect tax ruling applies only to the entity to
26 whom it was given; and
27 (b) so far as a private indirect tax ruling conflicts with an earlier
28 *public indirect tax ruling, the private indirect tax ruling
29 prevails; and
30 (c) so far as a public indirect tax ruling conflicts with an earlier
31 private indirect tax ruling, the public indirect tax ruling
32 prevails; and
33 (d) an alteration that a later indirect tax ruling makes to an earlier
34 indirect tax ruling is disregarded so far as the alteration
35 results from a change in the law that came into operation
36 after the earlier indirect tax ruling was given.

1 **105-65 Restriction on refunds**

- 2 (1) The Commissioner need not give you a refund to which this
3 section applies, or apply an amount under Division 3 or 3A of
4 Part IIB to which this section applies, if:
5 (a) you overpaid the amount, or the amount was not refunded to
6 you, because a *supply was treated as a *taxable supply to
7 any extent; and
8 (b) the supply is not a taxable supply to that extent (for example,
9 because it is *GST-free); and
10 (c) one of the following applies:
11 (i) the Commissioner is not satisfied that you have
12 reimbursed a corresponding amount to the recipient of
13 the supply;
14 (ii) the recipient is *registered or *required to be registered.

15 Note: Divisions 3 and 3A of Part IIB deal with payments, credits and RBA
16 surpluses.

- 17 (2) This section applies to:
18 (a) so much of any *net amount or amount of *indirect tax as you
19 have overpaid; or
20 (b) so much of any net amount that is payable to you under
21 section 35-5 of the *GST Act as the Commissioner has not
22 paid to you or applied under Division 3 of Part IIB of this
23 Act.

24 Note: Division 3 of Part IIB deals with payments, credits and RBA
25 surpluses.

26 **Subdivision 105-D—General interest charge and penalties**

27 **Table of sections**

28	105-80	General interest charge
29	105-85	Amending Acts cannot impose penalties or general interest charge earlier 30 than 28 days after Royal Assent

31 **105-80 General interest charge**

- 32 (1) If any of an amount (the *liability*) to which this section applies
33 remains unpaid after the time by which it is due to be paid, you are
34 liable to pay the *general interest charge on the unpaid amount of
35 the liability for each day in the period that:

- 1 (a) started at the beginning of the day by which the liability was
2 due to be paid; and
3 (b) finishes at the end of the last day on which, at the end of the
4 day, any of the following remains unpaid:
5 (i) the liability;
6 (ii) general interest charge on any of the liability.

7 Note: The general interest charge is worked out under Division 1 of
8 Part IIA.

- 9 (2) This section applies to either of the following amounts that you are
10 liable to pay:
11 (a) a *net fuel amount;
12 (b) an amount of *indirect tax.

13 **105-85 Amending Acts cannot impose penalties or general interest**
14 **charge earlier than 28 days after Royal Assent**

- 15 (1) An Act that amends an *indirect tax law does not have the effect of
16 making you liable to:
17 (a) a penalty for an offence against an indirect tax law; or
18 (b) *general interest charge under section 105-80;
19 for any act or omission that happens before the 28th day (the
20 *postponed day*) after the day on which the amending Act receives
21 the Royal Assent.
- 22 (2) If the amending Act would (apart from this section) have the effect
23 of making you liable to such a penalty or charge because you
24 contravened a requirement to do something:
25 (a) within a specified period ending before the postponed day; or
26 (b) before a specified time happening before the postponed day;
27 the requirement has effect instead by reference to a period ending
28 at the start of the postponed day, or by reference to the start of the
29 postponed day, as the case requires.
- 30 (3) This section does not relieve you from liability to such a penalty or
31 charge to the extent to which the liability would have existed if the
32 amending Act had not been enacted.

33 **Subdivision 105-E—Evidence**

34 **Table of sections**

- 1 105-100 Production of assessment or declaration is conclusive evidence
2 105-105 Certificate of amount payable is prima facie evidence
3 105-110 Signed copies are evidence

4 **105-100 Production of assessment or declaration is conclusive**
5 **evidence**

6 The production of:

- 7 (a) a notice of assessment under this Part; or
8 (b) a declaration under:
9 (i) section 165-40 or subsection 165-45(3) of the *GST
10 Act; or
11 (ii) section 75-40 or subsection 75-45(3) of the *Fuel Tax*
12 *Act 2006*;

13 is conclusive evidence:

- 14 (c) that the assessment or declaration was properly made; and
15 (d) except in proceedings under Part IVC of this Act on a review
16 or appeal relating to the assessment or declaration—that the
17 amounts and particulars in the assessment or declaration are
18 correct.

19 **105-105 Certificate of amount payable is prima facie evidence**

20 The presentation of a certificate signed by the Commissioner or a
21 Deputy Commissioner certifying that, from the time specified in
22 the certificate, an amount was payable under an *indirect tax law
23 (whether to or by the Commissioner) is prima facie evidence:

- 24 (a) that the amount is payable from that time; and
25 (b) that the particulars stated in the certificate are correct.

26 **105-110 Signed copies are evidence**

- 27 (1) The production of a document signed by the Commissioner or a
28 Deputy Commissioner that appears to be a copy of, or extract from,
29 any document made or given by or to an entity for the purposes of
30 an *indirect tax law is evidence of the matters set out in the
31 document to the same extent as the original document would have
32 been evidence of those matters.
33 (2) To avoid doubt, subsection (1) applies to a copy or extract of a
34 document that was given by or to the Commissioner on a data

1 processing device or by way of electronic transmission, unless it is
2 shown that the document was not authorised.

3 **Subdivision 105-F—Indirect tax refund schemes**

4 **Table of sections**

5	105-120	Refund scheme—defence related international obligations
6	105-125	Refund scheme—international obligations

7 **105-120 Refund scheme—defence related international obligations**

- 8 (1) The Commissioner must, on behalf of the Commonwealth, pay you
9 an amount equal to the amount of *indirect tax borne by you in
10 respect of an acquisition (within the meaning of the *GST Act) if:
11 (a) you are in a class of entities determined by the *Defence
12 Minister; and
13 (b) the acquisition is covered by a determination of the Defence
14 Minister; and
15 (c) the acquisition is made:
16 (i) by or on behalf of a *visiting force that is; or
17 (ii) by a member (within the meaning of the *Defence*
18 *(Visiting Forces) Act 1963*) of the visiting force who is;
19 or
20 (iii) by any other entity that is;
21 covered by a determination of the Defence Minister; and
22 (d) at the time of the acquisition, it was intended for:
23 (i) the official use of the visiting force; or
24 (ii) the use of a member (within the meaning of the *Defence*
25 *(Visiting Forces) Act 1963*) of the visiting force; or
26 (iii) any other use;
27 and that use is covered by a determination of the Defence
28 Minister; and
29 (e) you claim the amount in the *approved form.
- 30 (2) The amount is payable:
31 (a) in accordance with the conditions and limitations; and
32 (b) within the period and manner;
33 determined by the *Defence Minister.

- 1 (3) The *Defence Minister may only determine an entity under
2 subparagraph (1)(c)(iii) or a use under subparagraph (1)(d)(iii) if
3 the Commonwealth is under an international obligation to grant
4 *indirect tax concessions in relation to the kind of entity or the kind
5 of use.
- 6 (4) A determination under this section is a legislative instrument.

7 **105-125 Refund scheme—international obligations**

- 8 (1) The Commissioner must, on behalf of the Commonwealth, pay
9 you, or an entity in a class of entities determined by the
10 Commissioner, an amount equal to the amount of *indirect tax
11 borne by you in respect of an acquisition (within the meaning of
12 the *GST Act) made by you if:
13 (a) you are a kind of entity specified in the regulations; and
14 (b) the acquisition is of a kind specified in the regulations; and
15 (c) you or the entity claims the amount in the *approved form.
- 16 (2) The amount is payable:
17 (a) in accordance with the conditions and limitations; and
18 (b) within the period and manner;
19 set out in the regulations.
- 20 (3) The regulations may only specify a kind of entity for the purposes
21 of paragraph (1)(a) or a kind of acquisition for the purposes of
22 paragraph (1)(b) if the Commonwealth is under an international
23 obligation to grant *indirect tax concessions in relation to the kind
24 of entity or the kind of acquisition.
- 25 (4) A determination by the Commissioner under subsection (1) is not a
26 legislative instrument.

27 **Subdivision 105-G—Other administrative provisions**

28 **Table of sections**

- 29 105-140 Address for service
30 105-145 Commissioner must give things in writing

31 **105-140 Address for service**

- 32 (1) Your address for service for the purposes of an *indirect tax law is:
-

Schedule 5 Administrative provisions
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- 1 (a) if you are registered in the *Australian Business Register—
2 the address shown in the Register as your address for service;
3 or
4 (b) if you are not registered in that Register—the address last
5 notified by you in a document under an indirect tax law; or
6 (c) if you have not notified an address in a document under an
7 indirect tax law—your Australian place of business or
8 residence last known to the Commissioner; or
9 (d) any other address that the Commissioner reasonably believes
10 to be your address for service.

11 Note: If you are a company, see also sections 444-10 and 444-15.

12 (2) If:

- 13 (a) under an *indirect tax law, you are:
14 (i) liable to pay an amount of *indirect tax; or
15 (ii) entitled to a credit; and
16 (b) you change your address for service;
17 you must notify the Commissioner in writing of the new address
18 within 28 days after the change.

19 (3) If:

- 20 (a) a notice or other document must be served on you:
21 (i) under an *indirect tax law; or
22 (ii) in proceedings for recovery of an amount under an
23 indirect tax law; and
24 (b) you have notified the Commissioner of an Australian address
25 for service;
26 the Commissioner may serve the notice or document by post to that
27 address.

28 (4) However, if:

- 29 (a) you must lodge or have lodged *GST returns electronically;
30 and
31 (b) you notify the Commissioner of an address for effecting
32 service by way of electronic transmission;
33 the Commissioner may serve a notice of assessment, or notice of
34 penalty or *general interest charge under an *indirect tax law, on
35 you by electronic transmission to that address.

1 **105-145 Commissioner must give things in writing**

- 2 (1) Any notice, approval, direction, authority or declaration that the
3 Commissioner may give, or must give, to you under an *indirect
4 tax law must be in writing.
- 5 (2) However, this does not prevent the Commissioner giving any of
6 those things to you by electronic transmission if a provision of an
7 *indirect tax law allows the Commissioner to do so.

8 **Division 110—Goods and services tax**

9 **Table of Subdivisions**

10 Guide to Division 110
11 110-F Review of GST decisions

12 **Guide to Division 110**

13 **110-1 What this Division is about**

14 This Division gives you the right to object against reviewable GST
15 decisions that relate to you. Section 110-50 sets out the reviewable
16 GST decisions.

17 **Subdivision 110-F—Review of GST decisions**

18 **Table of sections**

19 110-50 Reviewable GST decisions

20 **110-50 Reviewable GST decisions**

- 21 (1) You may object, in the manner set out in Part IVC, against a
22 decision you are dissatisfied with that is:
23 (a) a *reviewable GST decision relating to you; or
24 (b) a *reviewable GST transitional decision relating to you.

25 Note: You may object to a decision relating to you under section 105-5 or
26 105-25 involving an assessment of a net amount or indirect tax: see
27 Subdivision 105-B.

- 28 (2) Each of the following decisions is a *reviewable GST decision*:

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1

Reviewable GST decisions under GST Act		
Item	Decision	Provision of GST Act under which decision is made
1	refusing to register you	subsection 25-5(1)
2	registering you	subsection 25-5(2)
3	deciding the date of effect of your *registration	section 25-10
4	refusing to cancel your *registration	subsection 25-55(1)
5	cancelling your *registration	subsection 25-55(2)
6	refusing to cancel your *registration	section 25-57
7	deciding the date on which the cancellation of your *registration takes effect	section 25-60
8	determining that the *tax periods that apply to you are each individual month	subsection 27-15(1)
9	deciding the date of effect of a determination	subsection 27-15(2)
10	refusing to revoke your election under section 27-10	subsection 27-22(1)
11	deciding the date of effect of a revocation	subsection 27-22(3)
12	refusing to revoke a determination under section 27-15	subsection 27-25(1)
13	deciding the date of effect of a revocation	subsection 27-25(2)
14	determining that a specified period is a *tax period that applies to you	section 27-30
15	refusing a request for a determination	section 27-37
16	revoking a determination under section 27-37	subsection 27-38(1)
17	deciding the date of a revocation	subsection 27-38(2)
18	refusing to permit you to account on a cash basis	subsection 29-45(1)
19	deciding the date of effect of your permission to account on a cash basis	subsection 29-45(2)
20	revoking your permission to account on a cash basis	subsection 29-50(3)
21	deciding the date of effect of the revocation of your permission to account on a cash basis	subsection 29-50(4)
22	refusing an application for a decision that an event is a *fund-raising event	paragraph 40-165(1)(c)

Reviewable GST decisions under GST Act		
Item	Decision	Provision of GST Act under which decision is made
23	refusing an application for approval	section 48-5
24	refusing an application for approval or revocation	subsection 48-70(1)
25	revoking an approval under Division 48	subsection 48-70(2)
26	refusing an application for revocation	subsection 48-75(1)
27	revoking the approval of a *GST group	subsection 48-75(2)
28	deciding the date of effect of any approval, or any revocation of an approval, under Division 48	section 48-85
29	refusing an application for approval	section 49-5
30	refusing an application for approval or revocation	subsection 49-70(1)
31	revoking an approval under Division 49	subsection 49-70(2)
32	refusing an application for revocation	subsection 49-75(1)
33	revoking the approval of a *GST religious group	subsection 49-75(2)
34	deciding the date of effect of any approval, or any revocation of an approval, under Division 49	section 49-85
35	refusing an application for approval	section 51-5
36	disallowing an election to consolidate *GST returns relating to *GST joint ventures	subsection 51-52(5)
37	refusing an application for approval or revocation	subsection 51-70(1)
38	revoking an approval under Division 51	subsection 51-70(2)
39	refusing an application for revocation	subsection 51-75(1)
40	revoking the approval of a *GST joint venture	subsection 51-75(2)
41	deciding the date of effect of any approval, or any revocation of an approval, under Division 51	section 51-85
42	refusing an application for *registration	section 54-5
43	deciding the date of effect of *registration as a *GST branch	section 54-10
44	refusing to cancel the *registration of a *GST branch	subsection 54-75(1)
45	cancelling the *registration of a *GST branch	subsection 54-75(2)
46	deciding the date of effect of the cancellation of the *registration of a *GST branch	section 54-80

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Reviewable GST decisions under GST Act		
Item	Decision	Provision of GST Act under which decision is made
47	cancelling the *registration of an Australian resident agent	subsection 57-25(1)
48	determining that the *tax periods that apply to a resident agent are each individual month	subsection 57-35(1)
49	deciding the date of effect of a determination	subsection 57-35(2)
50	cancelling the *registration of a *non-profit sub-entity	subsection 63-35(1)
51	refusing to allow, or allowing, a further period within which to make an agreement that the margin scheme is to apply	paragraph 75-5(1A)(b)
52	refusing a request to allow an annual apportionment election to take effect from the start of another *tax period	paragraph 131-10(2)(b)
53	disallowing an annual apportionment election	subsection 131-20(3)
54	cancelling the *registration of a *representative of an *incapacitated entity	subsection 147-10(1)
55	refusing a request to allow an annual *tax period election to take effect from the start of another tax period	paragraph 151-10(2)(b)
56	refusing a request to be allowed to make an annual *tax period election on a specified day	subsection 151-20(3)
57	disallowing an annual *tax period election	subsection 151-25(3)
58	refusing a request to allow an election to pay *GST by instalments to take effect from the start of another *tax period	paragraph 162-15(2)(b)
59	refusing a request to be allowed to make an election on a specified day	subsection 162-25(3)
60	disallowing an election to pay *GST by instalments	subsection 162-30(3)
61	making a declaration to negate a GST benefit	section 165-40
62	making a declaration to negate or reduce a GST disadvantage	subsection 165-45(3)

Reviewable GST decisions under GST Act

Item	Decision	Provision of GST Act under which decision is made
63	deciding whether to grant a request for a declaration to negate or reduce a GST disadvantage	subsection 165-45(5)

- 1 (3) A decision under section 24B of the *A New Tax System (Goods and*
2 *Services Tax Transition) Act 1999* refusing an application for a
3 determination under that section, or making a determination under
4 that section, is a **reviewable GST transitional decision**.

5 **Division 111—Wine tax and luxury car tax**

6 **Table of Subdivisions**

- 7 Guide to Division 111
8 111-C Review of wine tax decisions
9 111-D Effect on contracts from amendments to laws

10 **Guide to Division 111**

11 **111-1 What this Division is about**

12 This Division gives you the right to object against decisions that
13 relate to you disallowing the whole or part of a claim for a wine tax
14 credit.

15 It also explains how contracts to supply wine or a luxury car are
16 affected if a wine tax law or luxury car tax law changes.

17 **Subdivision 111-C—Review of wine tax decisions**

18 **Table of sections**

- 19 111-50 Reviewable wine tax decisions

1 **111-50 Reviewable wine tax decisions**

2 (1) You may object, in the manner set out in Part IVC, against a
3 decision you are dissatisfied with that is a *reviewable wine tax
4 decision relating to you.

5 Note: You may object to a decision relating to you under section 105-5 or
6 105-25 involving an assessment of a net amount or indirect tax: see
7 Subdivision 105-B.

8 (2) A decision under section 17-45 of the *Wine Tax Act disallowing
9 the whole or part of a claim for a *wine tax credit is a *reviewable*
10 *wine tax decision*.

11 **Subdivision 111-D—Effect on contracts from amendments to**
12 **laws**

13 **Table of sections**

14 111-60 Alteration of contracts if cost of complying with agreement is affected by
15 later alteration to wine tax or luxury car tax laws

16 **111-60 Alteration of contracts if cost of complying with agreement is**
17 **affected by later alteration to wine tax or luxury car tax**
18 **laws**

19 (1) If, after a contract involving a *supply or a *wine taxable dealing
20 has been made, an alteration to the *wine tax law or the *luxury car
21 tax law happens and the alteration directly causes an increase or
22 decrease in the cost to a party to the agreement of complying with
23 the agreement, then the contract is altered as follows:

24 (a) if the cost is increased—by allowing the party to add the
25 increase to the contract price;

26 (b) if the cost is decreased—by allowing the other party to
27 deduct the decrease from the contract price.

28 (2) The contract is not altered if:

29 (a) the contract has express written provision to the contrary; or

30 (b) it is clear from the terms of the contract that the alteration of
31 the *wine tax law or the *luxury car tax law has been taken
32 into account in the agreed contract price.

1 **Division 112—Fuel tax**

2 **Table of Subdivisions**

3 Guide to Division 112
4 112-E Review of fuel tax decisions

5 **Guide to Division 112**

6 **112-1 What this Division is about**

7 This Division gives you the right to object against reviewable fuel
8 tax decisions that relate to you. Section 112-50 sets out the
9 reviewable fuel tax decisions.

10 **Subdivision 112-E—Review of fuel tax decisions**

11 **Table of sections**

12 112-50 Reviewable fuel tax decisions

13 **112-50 Reviewable fuel tax decisions**

14 (1) You may object, in the manner set out in Part IVC, against a
15 decision you are dissatisfied with that is a *reviewable fuel tax
16 decision relating to you.

17 Note: You may object to a decision relating to you under section 105-5 or
18 105-25 involving an assessment of a net fuel amount: see
19 Subdivision 105-B.

20 (2) Each of the following decisions is a *reviewable fuel tax decision*:
21

Reviewable fuel tax decisions

Item	Decision	Provision of the <i>Fuel Tax Act 2006</i> under which decision is made
1	making a declaration to negate a *fuel tax benefit	section 75-40
2	making a declaration to negate or reduce a *fuel tax disadvantage	subsection 75-45(3)

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Reviewable fuel tax decisions

Item	Decision	Provision of the <i>Fuel Tax Act 2006</i> under which decision is made
3	deciding whether or not to grant a request to negate or reduce a *fuel tax disadvantage	subsection 75-45(5)

1 **42 Before Part 4-15 in Schedule 1**

2 Insert:

3 **Chapter 4—Generic collection and recovery**
4 **rules**

5 **43 Subsection 250-10(2) in Schedule 1 (after table item 35)**

6 Insert:

36 net fuel amount 61-10 *Fuel Tax Act 2006*

7 **44 Before Part 5-1 in Schedule 1**

8 Insert:

9 **Chapter 5—Administration**

10 **45 Before Division 353 in Schedule 1**

11 Insert:

12 **Division 352—Accountability of the Commissioner**

13 **Table of Subdivisions**

14 Guide to Division 352

15 352-A	Accountability of the Commissioner in respect of indirect tax
16	laws

1 **Guide to Division 352**

2 **352-1 What this Division is about**

3 This Division requires the Commissioner to prepare an annual
4 report on the working of the indirect tax laws.

5 **Subdivision 352-A—Accountability of the Commissioner in**
6 **respect of indirect tax laws**

7 **Table of sections**

8 352-5 Commissioner must prepare annual report on indirect tax laws

9 **352-5 Commissioner must prepare annual report on indirect tax**
10 **laws**

- 11 (1) As soon as practicable after 30 June in each year, the
12 Commissioner must prepare and give to the Minister a report on
13 the working of the *indirect tax laws during the year ending on that
14 30 June.
- 15 (2) The report must include a report on any breaches or evasions of the
16 *indirect tax laws that the Commissioner knows about.
- 17 (3) The Minister must cause a copy of the report to be laid before each
18 House of the Parliament within 15 sitting days of that House after
19 the day on which the Minister receives the report.

20 **46 Subsection 353-10(1) in Schedule 1**

21 Repeal the subsection, substitute:

- 22 (1) The Commissioner may by notice in writing require you to do all
23 or any of the following:
- 24 (a) to give the Commissioner any information that the
25 Commissioner requires for the purpose of:
- 26 (i) the application of an *indirect tax law in relation to you
27 or any other entity; or
- 28 (ii) the administration or operation of this Schedule (other
29 than Division 340);

- 1 (b) to attend and give evidence before the Commissioner, or an
2 individual authorised by the Commissioner, for the purpose
3 of:
4 (i) the application of an indirect tax law in relation to you
5 or any other entity; or
6 (ii) the administration or operation of this Schedule (other
7 than Division 340);
8 (c) to produce to the Commissioner any documents in your
9 custody or under your control for the purpose of:
10 (i) the application of an indirect tax law in relation to you
11 or any other entity; or
12 (ii) the administration or operation of this Schedule.

13 Note: Failing to comply with a direction can be an offence against
14 section 8C.

15 **47 Subsection 353-10(3) in Schedule 1**

16 Omit “persons”, substitute “entities”.

17 **48 At the end of Division 353 in Schedule 1**

18 Add:

19 **353-15 Access to premises for the purposes of the indirect tax laws**

- 20 (1) For the purposes of an *indirect tax law, the Commissioner, or an
21 individual authorised by the Commissioner for the purposes of this
22 section:
23 (a) may at all reasonable times enter and remain on any land or
24 premises; and
25 (b) is entitled to full and free access at all reasonable times to
26 any documents, goods or other property; and
27 (c) may inspect, examine, make copies of, or take extracts from,
28 any documents; and
29 (d) may inspect, examine, count, measure, weigh, gauge, test or
30 analyse any goods or other property and, to that end, take
31 samples.
32 (2) An individual authorised by the Commissioner for the purposes of
33 this section is not entitled to enter or remain on any land or
34 premises if, after having been requested by the occupier to produce
35 proof of his or her authority, the individual does not produce an

1 authority signed by the Commissioner stating that the individual is
2 authorised to exercise powers under this section.

3 (3) You commit an offence if:

- 4 (a) you are the occupier of land or premises; and
5 (b) an individual enters, or proposes to enter, the land or
6 premises under this section; and
7 (c) the individual is the Commissioner or authorised by the
8 Commissioner for the purposes of this section; and
9 (d) you do not provide the individual with all reasonable
10 facilities and assistance for the effective exercise of powers
11 under this section.

12 Penalty: 30 penalty units.

13 Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of
14 criminal responsibility.

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

17 (4) Strict liability applies to paragraphs (3)(a) and (c).

18 Note: For strict liability, see section 6.1 of the *Criminal Code*.

19 **49 At the end of Part 5-1 in Schedule 1**

20 Add:

21 **Division 355—Confidentiality**

22 **Table of Subdivisions**

23 Guide to Division 355

24 355-A Protection of confidentiality of indirect tax information

25 **Guide to Division 355**

26 **355-1 What this Division is about**

27 This Division prohibits the disclosure of indirect tax information
28 by officials except in certain circumstances.

1 **Subdivision 355-A—Protection of confidentiality of indirect tax**
2 **information**

3 **Table of sections**

4 355-5 Protection of confidentiality of indirect tax information

5 **355-5 Protection of confidentiality of indirect tax information**

6 *Object*

7 (1) The object of this section is to protect the confidentiality of
8 taxpayers' personal tax affairs by restricting what you may do with
9 *indirect tax information and *indirect tax documents.

10 *Offence*

11 (2) You commit an offence if:

12 (a) you:

13 (i) make a record of information; or

14 (ii) disclose information to anyone else; and

15 (b) the information was disclosed to you, or obtained by you, in
16 the course of:

17 (i) your appointment or employment by the
18 Commonwealth; or

19 (ii) the performance of services by you for the
20 Commonwealth; or

21 (iii) the exercise of powers, or the performance of functions,
22 by you under a delegation by the Commissioner; and

23 (c) the information was disclosed to you, or obtained by you,
24 under an *indirect tax law; and

25 (d) the information relates to the affairs of an entity other than
26 you.

27 Penalty: Imprisonment for 2 years.

28 Note: Chapter 2 of the *Criminal Code* sets out the general principles of
29 criminal responsibility.

30 (3) Strict liability applies to paragraph (2)(c).

31 Note: For strict liability, see section 6.1 of the *Criminal Code*.

- 1 (4) Subsection (2) does not apply if you make the record for, or you
2 disclose the information to, an entity who is not a Minister and:
3 (a) the making of the record or the disclosure is for the purposes
4 of:
5 (i) an *indirect tax law; or
6 (ii) complying with an obligation Australia has under an
7 agreement with another country; or
8 (b) the making of the record or the disclosure is in the course of:
9 (i) the performance of the duties of your appointment or
10 employment by the Commonwealth; or
11 (ii) the performance of services by you for the
12 Commonwealth; or
13 (iii) the exercise of powers, or performance of functions, by
14 you under a delegation by the Commissioner.

15 Note: A defendant bears an evidential burden in relation to the matters in
16 subsection (4): see subsection 13.3(3) of the *Criminal Code*.

- 17 (5) Subsection (2) does not apply if:
18 (a) you are:
19 (i) the Commissioner; or
20 (ii) a Deputy Commissioner; or
21 (iii) an individual authorised by the Commissioner or a
22 Deputy Commissioner to disclose the information; and
23 (b) an item in the following table covers your disclosure:
24

Disclosures		
Item	The disclosure is to...	and the disclosure...
1	any entity (other than a Minister)	is for the purpose of the entity carrying out functions under a *taxation law.
2	the Administrative Appeals Tribunal	is in connection with proceedings under a *taxation law.
3	the Australian Statistician	is of information to be used for the purposes of the <i>Census and Statistics Act 1905</i> .
4	the Chief Executive Officer of the Commonwealth Services Delivery Agency	is of information to be used for the purpose of the administration of the social security law (within the meaning of the <i>Social Security Act 1991</i>).

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Disclosures

Item	The disclosure is to...	and the disclosure...
5	the Chief Executive Officer of Customs	is for any purpose.
6	the Secretary of the Department dealing with matters relating to the social security law (within the meaning of the <i>Social Security Act 1991</i>)	is of information to be used for the purpose of the administration of that law.
7	an individual who holds an office of a State or Territory, being an office prescribed for the purposes of this table item	both: (a) relates to alcoholic beverages; and (b) is for the purpose of the individual administering an *arrangement for the rebate, refund or other payment or credit by a State or Territory in respect of alcoholic beverages.

1 Note: A defendant bears an evidential burden in relation to the matters in
2 subsection (5): see subsection 13.3(3) of the *Criminal Code*.

3 *Protection of confidentiality of indirect tax information and*
4 *documents from courts*

- 5 (6) You are not to be required:
6 (a) to disclose *indirect tax information to a court; or
7 (b) to produce an *indirect tax document to a court;
8 unless it is necessary for the purposes of an *indirect tax law.

9 **Division 356—General administration of tax laws**

10 **Table of Subdivisions**

11 Guide to Division 356
12 356-A Indirect tax laws

1 **Guide to Division 356**

2 **356-1 What this Division is about**

3 This Division gives the Commissioner the general administration
4 of the indirect tax laws.

5 **Subdivision 356-A—Indirect tax laws**

6 **Table of sections**

7 356-5 Commissioner has general administration of indirect tax laws

8 **356-5 Commissioner has general administration of indirect tax laws**

9 The Commissioner has the general administration of each *indirect
10 tax law.

11 **50 At the end of section 357-55 in Schedule 1**

12 Add:

13 ; (i) a *net fuel amount, or the administration, collection or
14 payment of a net fuel amount.

15 **51 Before Division 388 in Schedule 1**

16 Insert:

17 **Division 382—Record-keeping**

18 **Table of Subdivisions**

19 Guide to Division 382

20 382-A Keeping records of indirect tax transactions

21 **Guide to Division 382**

22 **382-1 What this Division is about**

23 You are required to keep records of indirect tax transactions in
24 accordance with this Division.

1 **Subdivision 382-A—Keeping records of indirect tax**
2 **transactions**

3 **Table of sections**

4 382-5 Keeping records of indirect tax transactions

5 **382-5 Keeping records of indirect tax transactions**

6 *Records of transactions*

7 (1) You must:

- 8 (a) keep records that record and explain all transactions and
9 other acts you engage in that are relevant to a *supply,
10 importation, acquisition, dealing, manufacture or entitlement
11 to which this subsection applies; and
12 (b) retain those records for at least 5 years after the completion
13 of the transactions or acts to which they relate.

14 (2) Subsection (1) applies to:

- 15 (a) a *taxable supply, *taxable importation, *creditable
16 acquisition or *creditable importation made by you; or
17 (b) a *supply made by you that is *GST-free or *input taxed; or
18 (c) a *wine taxable dealing on which you are liable for *wine tax;
19 or
20 (d) any other assessable dealing within the meaning of the *Wine
21 Tax Act made by you; or
22 (e) your entitlement to a *wine tax credit; or
23 (f) a *taxable supply of a luxury car, or a *taxable importation of
24 a luxury car, made by you; or
25 (g) your entitlement to a special credit under the *A New Tax*
26 *System (Goods and Services Tax Transition) Act 1999* or the
27 *A New Tax System (Wine Equalisation Tax and Luxury Car*
28 *Tax Transition) Act 1999*; or
29 (h) if you are entitled to a *fuel tax credit for fuel that you
30 acquire, manufacture or import—the acquisition,
31 manufacture or importation; or
32 (i) if you are liable, as a recipient of a taxable supply, to pay the
33 *GST on a taxable supply because of section 15C of the *A*
34 *New Tax System (Goods and Services Tax Transition) Act*
35 *1999*—the taxable supply.

- 1 (3) If you give the Commissioner a return that takes into account:
2 (a) an *input tax credit that is attributable to a *tax period under
3 subsection 29-10(4) of the *GST Act; or
4 (b) a *fuel tax credit that is attributable to a tax period or *fuel
5 tax return period under subsection 65-5(4) of the *Fuel Tax*
6 *Act 2006*;
7 you must:
8 (c) keep records that record and explain all transactions and
9 other acts you engage in that are relevant to the acquisition or
10 importation in question; and
11 (d) retain those records for at least 5 years after the return was
12 given to the Commissioner.

13 *Records of elections, choices, estimates, determinations and*
14 *calculations*

- 15 (4) If you make any election, choice, estimate, determination or
16 calculation under an *indirect tax law, you must:
17 (a) keep records containing particulars of:
18 (i) the election, choice, estimate, determination or
19 calculation; and
20 (ii) in the case of an estimate, determination or
21 calculation—the basis on which, and the method by
22 which, the estimate, determination or calculation was
23 made; and
24 (b) retain those records:
25 (i) if the indirect tax law specifies circumstances in which
26 the election, choice, estimate, determination or
27 calculation ceases to have effect—for at least 5 years
28 after the election, choice, estimate, determination or
29 calculation ceased to have effect; or
30 (ii) in any other case—for at least 5 years after the election,
31 choice, estimate, determination or calculation was
32 made.
- 33 (5) This section requires a record of an *arrangement entered into
34 under section 153-50 of the *GST Act to be kept and retained by
35 the party entering into the arrangement as principal. It does not
36 require such a record to be kept or retained by the party entering
37 into the arrangement as agent.

- 1 (6) This section requires records of a notice given under subsection
2 153-65(2) of the *GST Act to be kept and retained by both the
3 entity giving the notice and the entity receiving it.
- 4 (7) Without limiting subsection (4), if you choose to apply Division 63
5 (non-profit sub-entities) of the *GST Act, you must:
6 (a) keep records that record:
7 (i) your choice to apply that Division; and
8 (ii) each branch that is treated as a separate entity for the
9 purposes of the *GST law; and
10 (iii) each branch that has ceased to be treated as a separate
11 entity for the purposes of the GST law; and
12 (b) retain those records for at least 5 years after you revoke the
13 choice.

14 *Requirements of records*

- 15 (8) The records must be:
16 (a) in English, or readily accessible and easily convertible into
17 English; and
18 (b) such as to enable your liabilities and entitlements under an
19 *indirect tax law to be readily ascertained.

20 *Offence*

- 21 (9) An entity commits an offence if:
22 (a) the entity is required to keep or retain a record under this
23 section; and
24 (b) the entity does not keep or retain the record in accordance
25 with this section.

26 **Penalty:** 30 penalty units.

27 **Note 1:** Chapter 2 of the *Criminal Code* sets out the general principles of
28 criminal responsibility.

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

31 **Note 3:** Section 288-25 imposes an administrative penalty if an entity does not
32 keep or retain records as required by this section.

- 33 (10) Subsection (9) is an offence of strict liability.

34 **Note:** For strict liability, see section 6.1 of the *Criminal Code*.

1 *Defence*

2 (11) Subsection (9) does not apply if:

3 (a) the Commissioner notifies the entity that the entity does not
4 need to retain the record; or

5 (b) the entity is a company that has been finally dissolved.

6 Note: A defendant bears an evidential burden in relation to the matters in
7 subsection (10): see subsection 13.3(3) of the *Criminal Code*.

8 (12) For the purposes of section 288-25, this section does not require an
9 entity to retain a record if:

10 (a) the Commissioner notifies the entity that the entity does not
11 need to retain the record; or

12 (b) the entity is a company that has been finally dissolved.

13 Note: Section 288-25 imposes an administrative penalty if an entity does not
14 keep or retain records as required by this section.

15 **52 Division 444 in Schedule 1**

16 Repeal the Division, substitute:

17 **Division 444—Obligations of entities on behalf of other**
18 **entities**

19 **Table of Subdivisions**

20 Guide to Division 444

21 444-A Unincorporated associations and bodies and companies

22 444-B Partnerships

23 444-C Superannuation funds

24 444-D Incapacitated entities

25 444-E Indirect tax specific entities

26 **Guide to Division 444**

27 **444-1 What this Division is about**

28 This Division imposes onto other entities the liabilities of
29 unincorporated associations or bodies, companies, partnerships,

1 superannuation funds, incapacitated entities and various indirect
2 tax specific entities.

3 **Subdivision 444-A—Unincorporated associations and bodies**
4 **and companies**

5 **Table of sections**

6	444-5	Unincorporated associations and bodies
7	444-10	Public officers of companies
8	444-15	Liability of directors and officers of a company

9 **444-5 Unincorporated associations and bodies**

- 10 (1) Obligations that would be imposed under this Schedule or an
11 *indirect tax law on an unincorporated association or body of
12 entities are imposed on each member of the committee of
13 management of the association or body, but may be discharged by
14 any of those members.
- 15 (2) Any offence against this Schedule or an *indirect tax law that is
16 committed by the association or body is taken to have been
17 committed by each member of its committee of management.
- 18 (3) In a prosecution of an entity for an offence that the entity is taken
19 to have committed because of subsection (2), it is a defence if the
20 entity proves that the entity:
21 (a) did not aid, abet, counsel or procure the relevant act or
22 omission; and
23 (b) was not in any way knowingly concerned in, or party to, the
24 relevant act or omission (whether directly or indirectly and
25 whether by any act or omission of the entity).

26 Note 1: The defence in subsection (3) does not apply in relation to offences
27 under Part 2.4 of the *Criminal Code*.

28 Note 2: A defendant bears a legal burden in relation to the matters in
29 subsection (3): see section 13.4 of the *Criminal Code*.

30 **444-10 Public officers of companies**

- 31 (1) The individual who is the public officer of a company for the
32 purposes of the *Income Tax Assessment Act 1936* is also the public
33 officer of the company for the purposes of an *indirect tax law. The

- 1 public officer's address for service under that Act is also the public
2 officer's address for service for the same purposes.
- 3 (2) The public officer is answerable for doing everything required to
4 be done by the company under an *indirect tax law, and in case of
5 default is liable to the same penalties.
- 6 (3) A proceeding under an *indirect tax law that is brought against the
7 public officer is taken to have been brought against the company,
8 and the company is liable jointly with the public officer for any
9 penalty imposed on the public officer.
- 10 (4) Everything done by the public officer that the public officer is
11 required to do in that capacity is taken to have been done by the
12 company.
- 13 (5) Service of a notice or other document on the public officer or at the
14 public officer's address for service is sufficient service on the
15 company for the purposes of an *indirect tax law. If at any time
16 there is no public officer, service on an individual who is acting or
17 appears to be acting in the business of the company is sufficient.
- 18 (6) This section does not, by implication, reduce any of the obligations
19 or liabilities of the company.

20 **444-15 Liability of directors and officers of a company**

- 21 (1) Any notice, process or proceeding that may be given to, served on
22 or taken against a company or its public officer under an *indirect
23 tax law may, if the Commissioner considers it appropriate, be
24 given to, served on, or taken against an entity (the *representative*)
25 who is:
26 (a) a director, secretary or other officer of the company; or
27 (b) an attorney or agent of the company.
- 28 (2) The representative has the same liability in respect of the notice,
29 process or proceeding as the company or public officer would have
30 had if it had been given to, served on or taken against the company
31 or public officer.
- 32 (3) This section does not, by implication, reduce any of the obligations
33 or liabilities of the company or public officer.

1 **Subdivision 444-B—Partnerships**

2 **Table of sections**

3 444-30 Partnerships

4 **444-30 Partnerships**

- 5 (1) Obligations that are imposed under this Schedule or an *indirect
6 tax law on a partnership are imposed on each partner, but may be
7 discharged by any of the partners.
- 8 (2) The partners are jointly and severally liable to pay any amount that
9 is payable under this Schedule or an *indirect tax law by the
10 partnership.
- 11 (3) Any offence against this Schedule or an *indirect tax law that is
12 committed by a partnership is taken to have been committed by
13 each of the partners.
- 14 (4) In a prosecution of an entity for an offence that the entity is taken
15 to have committed because of subsection (3), it is a defence if the
16 entity proves that the entity:
17 (a) did not aid, abet, counsel or procure the relevant act or
18 omission; and
19 (b) was not in any way knowingly concerned in, or party to, the
20 relevant act or omission (whether directly or indirectly and
21 whether by any act or omission of the entity).

22 Note 1: The defence in subsection (4) does not apply in relation to offences
23 under Part 2.4 of the *Criminal Code*.

24 Note 2: A defendant bears a legal burden in relation to the matters in
25 subsection (4): see section 13.4 of the *Criminal Code*.

26 **Subdivision 444-C—Superannuation funds**

27 **Table of sections**

28 444-50 Superannuation funds

29 **444-50 Superannuation funds**

30 If a superannuation fund does not have a trustee of the fund, this
31 Schedule applies to the fund as if:

- 1 (a) the entity that manages the fund were the trustee of the fund;
2 or
3 (b) each of the entities that manage the fund were a trustee of the
4 fund.

5 Note: The trustee of a superannuation fund is taken to be an entity: see
6 subsection 960-100(2) of the *Income Tax Assessment Act 1997*.

7 **Subdivision 444-D—Incapacitated entities**

8 **Table of sections**

9 444-70 Representatives of incapacitated entities

10 **444-70 Representatives of incapacitated entities**

11 (1) If there are 2 or more *representatives of the same *incapacitated
12 entity, the representatives are jointly and severally liable to pay any
13 amount that is payable under an *indirect tax law by any of the
14 representatives in relation to that same incapacitated entity.

15 (2) If there are 2 or more *representatives of the same *incapacitated
16 entity, any offence against an *indirect tax law that is committed by
17 one of the representatives is taken to have been committed by each
18 of the representatives.

19 (3) In a prosecution of an entity for an offence that the entity is taken
20 to have committed because of subsection (2), it is a defence if the
21 entity proves that the entity:

22 (a) did not aid, abet, counsel or procure the relevant act or
23 omission; and

24 (b) was not in any way knowingly concerned in, or party to, the
25 relevant act or omission (whether directly or indirectly and
26 whether by any act or omission of the entity).

27 Note 1: The defence in subsection (3) does not apply in relation to offences
28 under Part 2.4 of the *Criminal Code*.

29 Note 2: A defendant bears a legal burden in relation to the matters in
30 subsection (3): see section 13.4 of the *Criminal Code*.

31 **Subdivision 444-E—Indirect tax specific entities**

32 **Table of sections**

33 444-80 GST joint ventures

1	444-85	Non-profit sub-entities
2	444-90	GST groups

3 **444-80 GST joint ventures**

4 (1) The *participants in a *GST joint venture are jointly and severally
5 liable to pay any amount that is payable under an *indirect tax law
6 by the *joint venture operator for the joint venture, to the extent
7 that the amount relates to the joint venture.

8 (2) Any offence against an *indirect tax law that:

9 (a) is committed by the *joint venture operator for a *GST joint
10 venture; and

11 (b) relates to the joint venture;

12 is taken to have been committed by each of the *participants in the
13 joint venture.

14 (3) In a prosecution of an entity for an offence that the entity is taken
15 to have committed because of subsection (2), it is a defence if the
16 entity proves that the entity:

17 (a) did not aid, abet, counsel or procure the relevant act or
18 omission; and

19 (b) was not in any way knowingly concerned in, or party to, the
20 relevant act or omission (whether directly or indirectly and
21 whether by any act or omission of the entity).

22 Note 1: The defence in subsection (3) does not apply in relation to offences
23 under Part 2.4 of the *Criminal Code*.

24 Note 2: A defendant bears a legal burden in relation to the matters in
25 subsection (3): see section 13.4 of the *Criminal Code*.

26 **444-85 Non-profit sub-entities**

27 (1) Obligations that would be imposed under the *GST law or the *fuel
28 tax law on a *non-profit sub-entity are imposed on each entity who
29 is responsible, to entities or bodies outside the sub-entity, for the
30 management of the sub-entity, but may be discharged by any entity
31 who is so responsible.

32 (2) The entities who are so responsible in respect of the sub-entity are
33 jointly and severally liable to pay any amount that is payable under
34 the *GST law or the *fuel tax law by the sub-entity.

- 1 (3) Any offence against the *GST law or the *fuel tax law that is
2 committed by the sub-entity is taken to have been committed by
3 each entity who is responsible, to entities or bodies outside the
4 sub-entity, for the management of the sub-entity.
- 5 (4) In a prosecution of an entity for an offence that the entity is taken
6 to have committed because of subsection (3), it is a defence if the
7 entity proves that the entity:
8 (a) did not aid, abet, counsel or procure the relevant act or
9 omission; and
10 (b) was not in any way knowingly concerned in, or party to, the
11 relevant act or omission (whether directly or indirectly and
12 whether by any act or omission of the entity).
- 13 Note 1: The defence in subsection (4) does not apply in relation to offences
14 under Part 2.4 of the *Criminal Code*.
- 15 Note 2: A defendant bears a legal burden in relation to the matters in
16 subsection (4): see section 13.4 of the *Criminal Code*.

17 **444-90 GST groups**

- 18 (1) The *members of a *GST group are jointly and severally liable to
19 pay any amount that is payable under an *indirect tax law by the
20 *representative member for the group.
- 21 (2) Subsection (1) does not apply to a *member of a *GST group if an
22 *Australian law has the effect of prohibiting the member from
23 entering into any *arrangement under which the member becomes
24 subject to the liability referred to in that subsection.
- 25 (3) However, a *member to which subsection (2) applies remains
26 liable for any amount payable under an *indirect tax law by the
27 *representative member for the group, to the extent that the liability
28 arises from an act or omission of the member to which
29 subsection (2) applies.
- 30 (4) Any offence against an *indirect tax law that is committed by the
31 *representative member for a *GST group is taken to have been
32 committed by each of the *members of the group.
- 33 (5) In a prosecution of an entity for an offence that the entity is taken
34 to have committed because of subsection (4), it is a defence if the
35 entity proves that the entity:

- 1 (a) did not aid, abet, counsel or procure the relevant act or
2 omission; and
3 (b) was not in any way knowingly concerned in, or party to, the
4 relevant act or omission (whether directly or indirectly and
5 whether by any act or omission of the entity).

6 Note 1: The defence in subsection (5) does not apply in relation to offences
7 under Part 2.4 of the *Criminal Code*.

8 Note 2: A defendant bears a legal burden in relation to the matters in
9 subsection (5): see section 13.4 of the *Criminal Code*.

10 **53 Transitional—rulings about Part VI of the *Taxation***
11 ***Administration Act 1953***

12 If:

- 13 (a) immediately before the commencement of this item, a ruling
14 (within the meaning of section 37 of the *Taxation*
15 *Administration Act 1953*) about a provision (the *old law*) of
16 Part VI of the *Taxation Administration Act 1953* is in force;
17 and
18 (b) the provision is re-enacted or remade by this Schedule (with
19 or without modifications);

20 the ruling is, on the commencement of this item, taken also to be a
21 ruling about the provision as re-enacted or remade (the *new law*), but
22 only so far as the new law expresses the same ideas as the old law.

23 Note: Ideas in the *Taxation Administration Act 1953* are not necessarily different just because
24 different forms of words are used: see section 15AC of the *Acts Interpretation Act 1901*.

25 **54 Transitional—section 40 of the *Taxation Administration***
26 ***Act 1953***

- 27 (1) This item applies if, immediately before the commencement of this
28 item, a person is liable, under section 40 of the *Taxation Administration*
29 *Act 1953*, to pay the general interest charge on an unpaid amount (the
30 *liability*) of any indirect tax.
31 (2) On the commencement of this item, that section ceases to apply to the
32 liability.
33 (3) From the commencement of this item, section 105-80 in Schedule 1 to
34 that Act applies to the liability as if:
35 (a) the liability remains unpaid at that time; and
-

- 1 (b) so much of the charge under section 40 of that Act as remains
2 unpaid at that time had been imposed under section 105-80 in
3 that Schedule and remains unpaid at that time.

4 **55 Transitional—section 62 of the *Taxation Administration***
5 ***Act 1953***

6 If:

- 7 (a) an application has been made for the review of a decision that
8 was:
9 (i) a reviewable GST decision; or
10 (ii) a reviewable wine tax decision; or
11 (iii) a reviewable indirect tax decision; or
12 (iv) a reviewable GST transitional decision;
13 (within the meaning of section 62 of the *Taxation*
14 *Administration Act 1953* as in force immediately before the
15 commencement of this item); and
16 (b) the review has not been completed before the commencement
17 of this item;

18 the review may continue to be dealt with, on and after the
19 commencement of this item, as if it had been sought under Part 3-10 in
20 Schedule 1 to the *Taxation Administration Act 1953* as amended by this
21 Part.

22 **56 Transitional—section 70 of the *Taxation Administration***
23 ***Act 1953***

24 If, immediately before the commencement of this item, you must keep
25 and retain a record under section 70 of the *Taxation Administration Act*
26 *1953*:

- 27 (a) despite the repeal of that section by this Schedule, that
28 section continues to apply to the record; and
29 (b) section 382-5 in Schedule 1 to that Act does not apply to the
30 record.

31 **57 Application—sections 105-40, 110-50 and 111-50 in**
32 **Schedule 1 to the *Taxation Administration Act 1953***

- 33 (1) Section 105-40 in Schedule 1 to the *Taxation Administration Act 1953*
34 applies to:

Schedule 5 Administrative provisions
Part 1 Administrative provisions

- 1 (a) a reviewable indirect tax decision (within the meaning of
2 section 62 of the *Taxation Administration Act 1953* as in
3 force immediately before the commencement of this item) if
4 an application for the review of the decision had not been
5 made before the commencement of this item; or
6 (b) a reviewable indirect tax decision (within the meaning of
7 section 105-40 in that Schedule) made after the
8 commencement of this item.
- 9 (2) Sections 110-50 and 111-50 in Schedule 1 to the *Taxation*
10 *Administration Act 1953* apply to a decision made before or after the
11 commencement of this item.

12 **58 Transitional—instruments**

- 13 (1) The following table has effect:
14

Instruments in force immediately before commencement		
Item	If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...	the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...
1	an instrument approving a form for the purposes of subsection 23(1)	subsection 105-10(1) in Schedule 1.
2	an instrument allowing a further period for the purposes of paragraph 23(2)(b)	paragraph 105-10(2)(b) in Schedule 1.
3	a notice for the purposes of paragraph 35(a)	paragraph 105-50(a) in Schedule 1.
4	a notice, other than a notice of assessment, for the purposes of paragraph 36(1)(f)	paragraph 105-55(1)(b) in Schedule 1.
5	a determination covering an acquisition for the purposes of paragraph 62B(1)(a)	paragraph 105-120(1)(b) in Schedule 1.
6	a determination covering a visiting force, a member of a visiting force or another person, for the purposes of paragraph 62B(1)(a)	paragraph 105-120(1)(c) in Schedule 1.

Instruments in force immediately before commencement

Item	If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...	the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...
7	a determination covering a use for the purposes of paragraph 62B(1)(b)	paragraph 105-120(1)(d) in Schedule 1.
8	a determination of a class of persons for the purposes of subsection 62B(1)	paragraph 105-120(1)(a) in Schedule 1.
9	an instrument approving a form for the purposes of subsection 62B(3)	paragraph 105-120(1)(e) in Schedule 1.
10	a determination for the purposes of subsection 62B(4)	subsection 105-120(2) in Schedule 1.
11	regulations specifying a kind of entity for the purposes of subsection 62C(1)	paragraph 105-125(1)(a) in Schedule 1.
12	regulations specifying a kind of acquisition for the purposes of subsection 62C(1)	paragraph 105-125(1)(b) in Schedule 1.
13	a determination of a class of persons for the purposes of subsection 62C(1)	subsection 105-125(1) in Schedule 1.
14	an instrument approving a form for the purposes of subsection 62C(3)	paragraph 105-125(1)(c) in Schedule 1.
15	regulations for the purposes of subsection 62C(4)	subsection 105-125(2) in Schedule 1.
16	a direction for the purposes of subsection 65(1)	subsection 353-10(1) in Schedule 1.
17	an authorisation for the purposes of paragraph 65(1)(b)	paragraph 353-10(1)(b) in Schedule 1.
18	an authorisation for the purposes of section 66	section 353-15 in Schedule 1.
19	an authorisation for the purposes of paragraph 68(3)(d) or (e)	subparagraph 355-5(5)(a)(iii) in Schedule 1.
20	regulations prescribing an office for the purposes of the definition of <i>State or Territory officer</i> in subsection 68(6)	item 7 in the table in subsection 355-5(5) in Schedule 1.

Schedule 5 Administrative provisions
Part 1 Administrative provisions

Instruments in force immediately before commencement

Item	If, immediately before the commencement of this subitem, the following instrument, made for the purposes of the specified provision of the <i>Taxation Administration Act 1953</i>, was in force...	the instrument is, on the commencement of this subitem, taken to have been made for the purposes of the following provision of that Act...
21	a notice for the purposes of paragraph 70(3)(a)	paragraphs 382-5(11)(a) and (12)(a) in Schedule 1.
22	an authorisation for the purposes of paragraph 353-10(1)(b) in Schedule 1	paragraph 353-10(1)(b) in Schedule 1.
23	regulations prescribing a scale of expenses for the purposes of subsection 353-10(3) in Schedule 1	subsection 353-10(3) in Schedule 1.

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(2) The following table has effect:

Actions before commencement

Item	If, before the commencement of this subitem, the following action...	was done for the purposes of the following provision of the <i>Taxation Administration Act 1953</i>...	the action is, on the commencement of this subitem, taken to have been done for the purposes of the following provision of that Act...
1	making an assessment	Division 2 of Part VI	Subdivision 105-A in Schedule 1.
2	requesting an assessment	subsection 23(1)	subsection 105-10(1) in Schedule 1.
3	notifying	paragraph 36(1)(e)	paragraph 105-55(1)(a) in Schedule 1.

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**Part 2—Amendments conditional on the Tax Laws
Amendment (2005 Measures No. 4) Act 2005**

Taxation Administration Act 1953

59 Subsection 111-50(2) in Schedule 1

Repeal the subsection, substitute:

(2) Each of the following decisions is a *reviewable wine tax decision*:

Reviewable wine tax decisions		
Item	Decision	Provision of Wine Tax Act under which decision is made
1	disallowing the whole or a part of your claim for a * wine tax credit	section 17-45
2	deciding the date of effect of your approval as a New Zealand participant	section 19-7
3	refusing to approve you as a New Zealand participant	section 19-7
4	revoking your approval as a New Zealand participant	section 19-8
5	deciding the date of effect of revocation of your approval as a New Zealand participant	section 19-8

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**60 Transitional—subsection 111-50(2) in Schedule 1 to the
*Taxation Administration Act 1953***

If:

- (a) an application has been made for the review of a decision that was a reviewable wine tax decision within the meaning of subsection 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953* as in force immediately before the commencement of this item; and
- (b) the review has not been completed before the commencement of this item;

Schedule 5 Administrative provisions

Part 2 Amendments conditional on the Tax Laws Amendment (2005 Measures No. 4) Act 2005

1 the review may continue to be dealt with, on and after the
2 commencement of this item, as if it had been sought under subsection
3 111-50(2) in Schedule 1 to the *Taxation Administration Act 1953* as
4 amended by this Part.

5 ***Tax Laws Amendment (2005 Measures No. 4) Act 2005***

6 **61 Part 1 of Schedule 4 (heading)**

7 Repeal the heading.

8 **62 Part 2 of Schedule 4**

9 Repeal the Part.

1

2 **Part 3—Consequential amendments**

3 *Administrative Decisions (Judicial Review) Act 1977*

4 **63 Paragraph (e) of Schedule 1**

5 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

6 *A New Tax System (Commonwealth-State Financial*
7 *Arrangements) Act 1999*

8 **64 At the end of subsection 10(1)**

9 Add:

10 Note: Paragraph B3(ii) of Appendix B to the agreement, as set out in
11 Schedule 2, refers to section 39 of the *Taxation Administration Act*
12 *1953*. That section has been remade as section 105-65 in Schedule 1
13 to that Act.

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

15 **65 Section 2-30 (heading)**

16 Repeal the heading, substitute:

17 **2-30 Administration, collection and recovery provisions in the**
18 *Taxation Administration Act 1953*

19 **66 Section 2-30**

20 Omit “Part VI of the *Taxation Administration Act 1953* contains”,
21 substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation*
22 *Administration Act 1953* contain”.

23 **67 Subsection 25-5(1) (note)**

24 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
25 Schedule 1 to”.

26 **68 Subsection 25-5(2) (note)**

27 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
28 Schedule 1 to”.

- 1 **69 Subsection 25-10(1) (note)**
2 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
3 Schedule 1 to”.
- 4 **70 Subsection 25-55(1) (note)**
5 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
6 Schedule 1 to”.
- 7 **71 Subsection 25-55(2) (note)**
8 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
9 Schedule 1 to”.
- 10 **72 Subsection 25-57(1) (note)**
11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.
- 13 **73 Subsection 25-60(1) (note)**
14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.
- 16 **74 Subsection 27-15(1) (note)**
17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.
- 19 **75 Subsection 27-15(2) (note)**
20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.
- 22 **76 Subsection 27-22(1) (note)**
23 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
24 Schedule 1 to”.
- 25 **77 Subsection 27-22(3) (note)**
26 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
27 Schedule 1 to”.
- 28 **78 Subsection 27-25(1) (note)**
29 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
30 Schedule 1 to”.
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1 **79 Subsection 27-25(2) (note)**

2 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
3 Schedule 1 to”.

4 **80 Subsection 27-30(1) (note)**

5 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
6 Schedule 1 to”.

7 **81 Subsection 27-37(1) (note)**

8 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
9 Schedule 1 to”.

10 **82 Subsection 27-38(1) (note)**

11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.

13 **83 Subsection 27-38(2) (note)**

14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.

16 **84 Subsection 29-45(1) (note)**

17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.

19 **85 Subsection 29-45(2) (note)**

20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.

22 **86 Subsection 29-50(3) (note)**

23 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
24 Schedule 1 to”.

25 **87 Subsection 29-50(4) (note)**

26 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
27 Schedule 1 to”.

28 **88 Section 33-1 (notes)**

29 Repeal the notes, substitute:

Schedule 5 Administrative provisions
Part 3 Consequential amendments

- 1 Note 1: For the penalties for failing to comply with these obligations, see the
2 *Taxation Administration Act 1953*.
- 3 Note 2: For provisions about collection and recovery of GST, see
4 Subdivision 105-C, and Part 4-15, in Schedule 1 to the *Taxation*
5 *Administration Act 1953*.
- 6 Note 3: Payments of GST on importations of goods are dealt with separately
7 in section 33-15 of this Act.

8 **89 Section 35-5 (note 1)**

9 Omit “and section 39 of”, substitute “of, and section 105-65 in
10 Schedule 1 to”.

11 **90 Section 35-99 (note)**

12 Omit “Section 39 of”, substitute “Section 105-65 in Schedule 1 to”.

13 **91 Subsection 40-165(1) (note)**

14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.

16 **92 Section 48-5 (note)**

17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.

19 **93 Subsection 48-70(1) (note)**

20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.

22 **94 Subsection 48-70(2) (note)**

23 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
24 Schedule 1 to”.

25 **95 Subsection 48-75(1) (note)**

26 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
27 Schedule 1 to”.

28 **96 Subsection 48-75(2) (note)**

29 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
30 Schedule 1 to”.

31 **97 Section 48-85 (note)**

1 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
2 Schedule 1 to”.

3 **98 Section 49-5 (note)**

4 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
5 Schedule 1 to”.

6 **99 Subsection 49-70(1) (note)**

7 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
8 Schedule 1 to”.

9 **100 Subsection 49-70(2) (note)**

10 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
11 Schedule 1 to”.

12 **101 Subsection 49-75(1) (note)**

13 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
14 Schedule 1 to”.

15 **102 Subsection 49-75(2) (note)**

16 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
17 Schedule 1 to”.

18 **103 Section 49-85 (note)**

19 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
20 Schedule 1 to”.

21 **104 Section 51-5 (note)**

22 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
23 Schedule 1 to”.

24 **105 Subsection 51-52(5) (note)**

25 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
26 Schedule 1 to”.

27 **106 Section 51-60 (note 1)**

28 Omit “and section 39 of”, substitute “of, and section 105-65 in
29 Schedule 1 to,”.

- 1 **107 Subsection 51-70(1) (note)**
2 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
3 Schedule 1 to”.
- 4 **108 Subsection 51-70(2) (note)**
5 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
6 Schedule 1 to”.
- 7 **109 Subsection 51-75(1) (note)**
8 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
9 Schedule 1 to”.
- 10 **110 Subsection 51-75(2) (note)**
11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.
- 13 **111 Section 51-85 (note)**
14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.
- 16 **112 Section 54-5 (note)**
17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.
- 19 **113 Section 54-10 (note)**
20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.
- 22 **114 Section 54-65 (note 1)**
23 Omit “and section 39 of”, substitute “of, and section 105-65 in
24 Schedule 1 to,”.
- 25 **115 Subsection 54-75(1) (note)**
26 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
27 Schedule 1 to”.
- 28 **116 Subsection 54-75(2) (note)**
29 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
30 Schedule 1 to”.
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1 **117 Section 54-80 (note)**

2 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
3 Schedule 1 to”.

4 **118 Subsection 57-25(1) (note)**

5 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
6 Schedule 1 to”.

7 **119 Subsection 57-35(1) (note)**

8 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
9 Schedule 1 to”.

10 **120 Subsection 57-35(2) (note)**

11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.

13 **121 Subsection 63-35(1) (note)**

14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.

16 **122 Subsection 75-5(1A) (note)**

17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.

19 **123 Subsection 131-10(2) (note)**

20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.

22 **124 Subsection 131-20(3) (note)**

23 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
24 Schedule 1 to”.

25 **125 Subsection 147-10(1) (note)**

26 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
27 Schedule 1 to”.

28 **126 Subsection 151-10(2) (note)**

29 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
30 Schedule 1 to”.

1 **127 Subsection 151-20(3) (note)**

2 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
3 Schedule 1 to”.

4 **128 Subsection 151-25(3) (note)**

5 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
6 Schedule 1 to”.

7 **129 Subsection 162-15(2) (note)**

8 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
9 Schedule 1 to”.

10 **130 Subsection 162-25(3) (note)**

11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.

13 **131 Subsection 162-30(3) (note)**

14 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
15 Schedule 1 to”.

16 **132 Section 165-40 (note)**

17 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
18 Schedule 1 to”.

19 **133 Subsection 165-45(3) (note)**

20 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
21 Schedule 1 to”.

22 **134 Subsection 165-45(5) (note)**

23 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
24 Schedule 1 to”.

25 **135 Subsection 184-5(1) (note)**

26 Omit “Section 50 of”, substitute “Section 444-30 in Schedule 1 to”.

27 **136 Subsection 184-5(2) (note)**

28 Omit “Section 52 of”, substitute “Section 444-5 in Schedule 1 to”.

29 **137 Section 195-1 (definition of *reviewable GST decision*)**

1 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
2 Schedule 1 to”.

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

5 **138 Section 151A**

6 Omit “Subsection 36(1) of”, substitute “Section 105-55 in Schedule 1
7 to”.

8 Note: The heading to section 151A is altered by omitting “**section 36 of**” and substituting
9 “**section 105-55 in Schedule 1 to**”.

10 **139 Subsection 24B(5) (note)**

11 Omit “Division 7 of Part VI of”, substitute “Subdivision 110-F in
12 Schedule 1 to”.

13 ***A New Tax System (Luxury Car Tax) Act 1999***

14 **140 Section 2-25 (heading)**

15 Repeal the heading, substitute:

16 **2-25 Administration, collection and recovery provisions in the**
17 ***Taxation Administration Act 1953***

18 **141 Section 2-25**

19 Omit “Part VI of the *Taxation Administration Act 1953* contains”,
20 substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation*
21 *Administration Act 1953* contain”.

22 **142 Subsection 13-20(1) (note 2)**

23 Omit “Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*
24 and Division 3 of Part VI of that Act”, substitute “Subdivision 105-C,
25 and Part 4-15, in Schedule 1 to the *Taxation Administration Act 1953*”.

26 ***A New Tax System (Wine Equalisation Tax) Act 1999***

27 **143 Section 2-35 (heading)**

28 Repeal the heading, substitute:

1 **2-33 Administration, collection and recovery provisions in the**
2 ***Taxation Administration Act 1953***

3 **144 Section 2-35**

4 Omit “Part VI of the *Taxation Administration Act 1953* contains”,
5 substitute “Parts 3-10 and 4-15 in Schedule 1 to the *Taxation*
6 *Administration Act 1953* contain”.

7 **145 Section 17-25 (note)**

8 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

9 **146 Subsection 17-30(3) (note)**

10 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

11 **147 Subsection 17-35(3) (note)**

12 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

13 **148 Subsection 17-37(2) (note)**

14 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

15 **149 Section 17-45 (note)**

16 Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in
17 Schedule 1 to”.

18 **150 Subsection 19-25(4) (note)**

19 Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.

20 **151 Subsection 23-5(1) (note 2)**

21 Omit “Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*
22 and Division 3 of Part VI of that Act”, substitute “Subdivision 105-C,
23 and Part 4-15, in Schedule 1 to the *Taxation Administration Act 1953*”.

24 ***Crimes (Taxation Offences) Act 1980***

25 **152 Subsection 4(5)**

26 Omit “Section 68 of”, substitute “Section 355-5 in Schedule 1 to”.

27 ***Freedom of Information Act 1982***

1 **153 Schedule 3**

2 Omit “*Taxation Administration Act 1953*, section 68”, substitute
3 “*Taxation Administration Act 1953*, section 355-5 in Schedule 1”.

4 ***Income Tax Assessment Act 1936***

5 **154 Subsection 98A(2) (note)**

6 Omit “and section 39 of”, substitute “of, and section 105-65 in
7 Schedule 1 to,”.

8 **155 Paragraph 251L(6)(d)**

9 Omit “Part VI of the *Taxation Administration Act 1953*”, substitute
10 “subsection 995-1(1) of the *Income Tax Assessment Act 1997*”.

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

12 **156 Paragraph 27-15(2)(a)**

13 Omit “*A New Tax System (Wine Equalisation Tax) Act 1999*”, substitute
14 “*Wine Tax Act”.

15 **157 Paragraph 27-15(2)(b)**

16 Omit “*A New Tax System (Luxury Car Tax) Act 1999*”, substitute
17 “*Luxury Car Tax Act”.

18 **158 Paragraph 27-15(2)(c)**

19 Omit “*A New Tax System (Luxury Car Tax) Act 1999*”, substitute
20 “Luxury Car Tax Act”.

21 **159 Subsection 995-1(1) (paragraph (b) of the definition of**
22 ***BAS provisions*)**

23 Repeal the paragraph, substitute:
24 (b) the *indirect tax law; and

25 ***Taxation Administration Act 1953***

26 **160 Subsection 3C(9) (definition of *this Act*)**

27 Omit “Part VI”, substitute “Part 3-10, and Divisions 355 and 382, in
28 Schedule 1”.

1 **161 Subsection 8AAB(5) (table item 17AA)**

2 Repeal the item.

3 **162 Subsection 8AAB(5) (after table item 17J)**

4 Insert:

17K 105-80 in *Taxation Administration Act 1953*
Schedule 1

5 **163 Paragraph 8J(2)(pa)**

6 Repeal the paragraph, substitute:

7 (pa) paragraph 353-10(1)(c) in Schedule 1 to this Act; or

8 **164 Subsection 14ZW(1AAA)**

9 Omit “decision mentioned in item 1 of the table in subsection 62(3) of
10 this Act”, substitute “reviewable indirect tax decision (within the
11 meaning of section 105-40 in Schedule 1)”.

12 **165 Subparagraph 284-145(1)(b)(ii) in Schedule 1**

13 Omit “A *New Tax System (Goods and Services Tax) Act 1999*”,
14 substitute “*GST Act or Division 75 of the *Fuel Tax Act 2006*”.

15 ***Taxation (Interest on Overpayments and Early Payments) Act***
16 ***1983***

17 **166 Subsection 3(1) (paragraph (q) of the definition of**
18 ***relevant tax*)**

19 Omit “subsection 20(1) of the *Taxation Administration Act 1953*”,
20 substitute “subsection 995-1(1) of the *Income Tax Assessment Act*
21 *1997*”.

22 **167 Subsection 3(1) (paragraph (r) of the definition of**
23 ***relevant tax*)**

24 Omit “Division 4 of Part VI of”, substitute “Subdivision 105-D in
25 Schedule 1 to”.

26 ***Tax Laws Amendment (Retirement Villages) Act 2004***

27 **168 Paragraph 15(3)(b) of Schedule 1**

1 Repeal the paragraph, substitute:
2 (b) section 105-55 in Schedule 1 to the *Taxation Administration*
3 *Act 1953* (which is about the time limit on refunds and
4 credits).

5 **169 Item 16 of Schedule 1**

6 Omit “Section 36 of”, substitute “Section 105-55 in Schedule 1 to”.

7 Note: The heading to item 16 of Schedule 1 is altered by omitting “**section 36 of**” and
8 substituting “**section 105-55 in Schedule 1 to**”.

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**Part 4—Consequential amendments conditional on
the Tax Laws Amendment (2005 Measures
No. 4) Act 2005**

3

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A New Tax System (Wine Equalisation Tax) Act 1999

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170 Subsection 19-7(4) (note)

7

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in
Schedule 1 to”.

8

9

171 Subsection 19-7(6) (note)

10

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in
Schedule 1 to”.

11

12

172 Subsection 19-8(1) (note)

13

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in
Schedule 1 to”.

14

15

173 Subsection 19-8(2) (note)

16

Omit “Division 7 of Part VI of”, substitute “Subdivision 111-C in
Schedule 1 to”.

17

18

174 Subsection 19-25(5)

19

Omit “Part VI of”, substitute “Part 3-10 in Schedule 1 to”.