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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

If you have any comments on this exposure draft, they should be sent to the
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**Tax Laws Amendment (Confidentiality
of Taxpayer Information) Bill 2009**

No. , 2009

(Treasury)

**A Bill for an Act to amend the law relating to
confidentiality of information obtained under the
taxation laws, and for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **confidentiality of information obtained under the**
3 **taxation laws, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Tax Laws Amendment (Confidentiality*
7 *of Taxpayer Information) Act 2009.*

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.

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Commencement information

| Column 1 | Column 2 | Column 3 |
|---|--|---------------------|
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent. | |
| 2. Schedule 1 | The day after this Act receives the Royal Assent. | |

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

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

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

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Confidentiality of taxpayer information **Schedule 1**
Main amendments **Part 1**

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Schedule 1—Confidentiality of taxpayer information

Part 1—Main amendments

Taxation Administration Act 1953

1 Division 355 in Schedule 1

Repeal the Division, substitute:

Division 355—Confidentiality of taxpayer information

Table of Subdivisions

Guide to Division 355

355-A—Objects

355-B Disclosure of protected information by taxation officers

355-C On-disclosure of protected information by other people

355-D Disclosure of protected information that has been unlawfully obtained

355-E Other matters

Guide to Division 355

355-1 What this Division is about

The disclosure of information about the tax affairs of a particular entity is prohibited, except in certain specified circumstances.

Those exceptions are designed having regard to the principle that disclosure of information should be permitted only if the public benefit derived from the disclosure outweighs the entity's privacy.

Note: This Division contains the main circumstances in which protected tax information can be disclosed. A number of other Commonwealth laws also allow for the disclosure of, or access to, such information in limited circumstances. Some of these other laws are as follows:

- sections 32 and 33 of the *Auditor-General Act 1997*;

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Confidentiality of taxpayer information **Schedule 1**
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| | | |
|----|--------|---|
| 1 | 355-30 | Consent is not a defence |
| 2 | 355-35 | Generality of Subdivision not limited |
| 3 | 355-40 | Exception—disclosure of publicly available information |
| 4 | 355-45 | Exception—disclosure in performing duties |
| 5 | 355-50 | Exception—disclosure for Treasury estimation and analysis |
| 6 | 355-55 | Exception—disclosure to Ministers and committees of Parliament |
| 7 | 355-60 | Limits on disclosure to Ministers and Parliament |
| 8 | 355-65 | Exception—disclosure for the purposes of other Australian laws |
| 9 | 355-70 | Exception—disclosure to law enforcement agencies and intelligence agencies |
| 10 | | |
| 11 | 355-75 | Exception—disclosure of information for a purpose of the Project Wickenby taskforce |
| 12 | | |
| 13 | 355-80 | Exception—disclosure of information for a purpose of a prescribed taskforce |
| 14 | | |
| 15 | 355-85 | Exception—disclosure to Royal Commissions |
| 16 | 355-90 | Exception—disclosure to prevent or lessen serious threats |
| 17 | 355-95 | Limits on disclosure to courts and tribunals |

18 **Operative provisions**

19 **355-20 Offence—disclosure of protected information by taxation** 20 **officers**

- 21 (1) An entity commits an offence if:
- 22 (a) the entity is or was a *taxation officer; and
- 23 (b) the entity:
- 24 (i) makes a record of information; or
- 25 (ii) discloses information to another entity (other than the
- 26 entity to whom the information relates or an entity
- 27 covered by subsection (2)) or to a court or tribunal; and
- 28 (c) the information is *protected information; and
- 29 (d) the information was obtained by the first-mentioned entity as
- 30 a taxation officer.

31 Penalty: Imprisonment for 2 years.

- 32 (2) An entity (the *covered entity*) is covered by this subsection in
- 33 relation to *protected information that relates to another entity (the
- 34 *primary entity*) if:
- 35 (a) the covered entity is the primary entity's *registered tax agent
- 36 or BAS agent; or

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Part 1 Main amendments

- 1 (b) the covered entity is an *agent of the primary entity (other
2 than an agent covered by paragraph (a)) who has been
3 nominated by the primary entity in the *approved form to act
4 on that entity's behalf with respect to protected information;
5 or
6 (c) the covered entity is the primary entity's trustee (within the
7 meaning of the *Bankruptcy Act 1966*); or
8 (d) the covered entity is the primary entity's registered liquidator
9 (within the meaning of the *Corporations Act 2001*); or
10 (e) the covered entity is the primary entity's *legal personal
11 representative; or
12 (f) the covered entity is the primary entity's guardian where the
13 primary entity is a minor or suffers from mental incapacity.

14 **355-25 Meaning of *taxation officer* and *protected information***

- 15 (1) ***Taxation officer*** means:
16 (a) the Commissioner or a Second Commissioner of Taxation; or
17 (b) an individual appointed or engaged under the *Public Service*
18 *Act 1999* and performing duties in the Australian Taxation
19 Office; or
20 (c) an entity engaged to provide services relating to the
21 Australian Taxation Office; or
22 (d) an individual engaged by, or otherwise performing services
23 for, an entity referred to in paragraph (c); or
24 (e) an individual:
25 (i) appointed or employed by, or performing services for,
26 the Commonwealth; and
27 (ii) performing functions or exercising powers under or for
28 the purposes of a *taxation law.
- 29 (2) ***Protected information*** means information that:
30 (a) was disclosed or obtained under or for the purposes of a law
31 that was a *taxation law when the information was disclosed
32 or obtained; and
33 (b) relates to the affairs of an entity; and
34 (c) identifies, or is reasonably capable of being used to identify,
35 the entity.

36 Note: Tax file numbers do not constitute protected information because they
37 are not, by themselves, reasonably capable of being used to identify an

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1 entity. For offences relating to tax file numbers, see Subdivision BA
2 of Division 2 of Part III.

3 355-30 Consent is not a defence

4 It is not a defence to a prosecution for an offence against
5 section 355-20 that the entity to whom the information relates has
6 consented to:

- 7 (a) the making of the record; or
8 (b) the disclosure of the information.

9 355-35 Generality of Subdivision not limited

10 Except as provided by section 355-60, nothing in this Subdivision
11 limits the generality of anything else in it.

12 Note: This means that each provision in this Subdivision (other than
13 section 355-60) has an independent operation and is not to be
14 interpreted by reference to any other exception within the Subdivision.

15 355-40 Exception—disclosure of publicly available information

16 An entity does not commit an offence against section 355-20 if the
17 information was already lawfully available to the public.

18 Note: A defendant bears an evidential burden in relation to the matters in
19 this section: see subsection 13.3(3) of the *Criminal Code*.

20 355-45 Exception—disclosure in performing duties

21 (1) A *taxation officer does not commit an offence against
22 section 355-20 if the record or disclosure is made in performing the
23 entity's duties as a taxation officer.

24 Note: A defendant bears an evidential burden in relation to the matters in
25 this section: see subsection 13.3(3) of the *Criminal Code*.

26 (2) Without limiting subsection (1), records or disclosures made in
27 performing duties as a *taxation officer include those mentioned in
28 the following table.

29

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Schedule 1 Confidentiality of taxpayer information

Part 1 Main amendments

Records or disclosures in performing duties

| Item | The record is made for or the disclosure is to ... | and the record or disclosure ... |
|------|---|--|
| 1 | any entity, court or tribunal | is for the purpose of administering any *taxation law. |
| 2 | any entity, court or tribunal | is for the purpose of the making, or proposed or possible making, of an order under the <i>Proceeds of Crime Act 2002</i> that is related to a *taxation law. |
| 3 | any entity, court or tribunal | is for the purpose of criminal, civil or administrative proceedings (including merits review or judicial review) that are related to a *taxation law. |
| 4 | any entity | is for the purpose of responding to a request for a statement of reasons under the <i>Administrative Decisions (Judicial Review) Act 1977</i> . |
| 5 | any entity | is for the purpose of: (a) determining whether to make an ex gratia payment; or (b) administering such a payment; in connection with administering a *taxation law. |
| 6 | any entity | is required by the entity to understand or comply with its obligations under a *taxation law. |
| 7 | any entity | is for the purpose of: (a) the design of a *taxation law; or (b) the amendment of a taxation law. |
| 8 | any board or member of a board performing a function or exercising a power under a *taxation law | is for the purpose of performing that function or exercising that power. |
| 9 | a competent authority referred to in an international agreement (within the meaning of section 23 of the <i>International Tax Agreements Act 1953</i>) | is for the purpose of exchanging information under such an international agreement. |

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Confidentiality of taxpayer information **Schedule 1**
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355-50 Exception—disclosure for Treasury estimation and analysis

A *taxation officer does not commit an offence against section 355-20 if:

- (a) the record is made for, or the disclosure is to, the Secretary of the Department administered by the Treasurer, or an officer of that Department authorised by that Secretary; and
- (b) the making of the record, or the disclosure, is for the purpose of that Department estimating or analysing taxation revenue or estimating the cost of policy proposals.

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

355-55 Exception—disclosure to Ministers and committees of Parliament

- (1) A *taxation officer does not commit an offence against section 355-20 if an item in the following table covers the making of the record or the disclosure.

Records or disclosures to Ministers

| Item | The record is made for or the disclosure is to ... | and the record or disclosure ... |
|------|--|--|
| 1 | any Minister | is for the purpose of enabling the Minister to exercise a power or perform a function under a *taxation law. |
| 2 | the Minister | (a) is about an entity; and (b) is for the purpose of enabling the Minister to respond to the entity in relation to a representation made by the entity to the Minister, or to another member of a House of the Parliament. |
| 3 | the Minister | is for the purpose of informing decisions made under the scheme known as the Compensation for Detriment Caused by Defective Administration Scheme. |
| 4 | the Minister administering the <i>Financial Management and Accountability Act 1997</i> | is for the purpose of: (a) the making, or possible making, of a payment referred to in section 33 of |

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Records or disclosures to Ministers

| Item | The record is made for or the disclosure is to ... | and the record or disclosure ... |
|------|--|----------------------------------|
|------|--|----------------------------------|

that Act (about act of grace payments) in connection with administering a *taxation law; or
(b) the waiver, or possible waiver, of a tax debt under section 34 of that Act.

| | | |
|---|--------------|---|
| 5 | any Minister | is for the purpose of: (a) determining whether to make an ex gratia payment; or (b) administering such a payment. |
|---|--------------|---|

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

3 Note 2: Section 19A of the *Acts Interpretation Act 1901* provides that the
4 expression “the Minister”, as used in table items 2 and 3, refers to the
5 Minister or Ministers administering the relevant provision.

- 6 (2) An entity that is or was a *taxation officer does not commit an
7 offence against section 355-20 if:
8 (a) the record is made for, or the disclosure is to, a committee of
9 one or both Houses of the Parliament; and
10 (b) the making of the record or the disclosure is in response to a
11 request of the committee for the record or the information;
12 and
13 (c) the record or disclosure is for the purpose of the committee
14 performing any of its functions or exercising any of its
15 powers.

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

355-60 Limits on disclosure to Ministers and Parliament

- 19 (1) Sections 355-40 and 355-55 provide the only circumstances in
20 which an entity who is or was a *taxation officer can disclose
21 *protected information to a Minister, a House of the Parliament or
22 a committee of one or both Houses of the Parliament.
- 23 (2) Subsection (1) does not affect a disclosure of *protected
24 information to a Minister if the Minister is:

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- 1 (a) the entity to whom the information relates; or
2 (b) an entity covered by subsection 355-20(2) in relation to the
3 information.
- 4 (3) This section has effect despite any power, privilege or immunity of
5 either House of the Parliament or of the members or committees of
6 either House of Parliament, except to the extent that those powers,
7 privileges or immunities can be invoked to compel the disclosure
8 of *protected information.

9 **355-65 Exception—disclosure for the purposes of other Australian** 10 **laws**

- 11 (1) A *taxation officer does not commit an offence against
12 section 355-20 if an item in a table in this subsection covers the
13 making of the record or the disclosure.

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

16

Table 1: Records or disclosures relating to social welfare or health

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|---|--|
| 1 | an Agency Head (within the meaning of the <i>Public Service Act 1999</i>) of an agency (within the meaning of that Act) dealing with matters relating to the social security law (within the meaning of subsection 23(17) of the <i>Social Security Act 1991</i>) | is for the purpose of administering that law. |
| 2 | the Secretary of the Department administered by the Minister who administers the <i>National Health Act 1953</i> | is for the purpose of administering any law of the Australian Capital Territory or of the Northern Territory which is administered by the Minister administering that Act. |
| 3 | the Repatriation Commission | is for the purpose of administering any *Commonwealth law relating to pensions. |
| 4 | the Secretary of the Department administered by the Minister who administers the <i>Social</i> | is for the purpose of administering any *Commonwealth law relating to pensions, allowances or benefits. |

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Part 1 Main amendments

Table 1: Records or disclosures relating to social welfare or health

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|---|--|
| | <i>Security Act 1991</i> , insofar as it relates to the Disability Support Pension or to Austudy for individuals who are students | |
| 5 | the Secretary of the Department dealing with matters relating to the social security law (within the meaning of subsection 23(17) of the <i>Social Security Act 1991</i>) or the Secretary of the Department administered by the Minister who administers the <i>Higher Education Support Act 2003</i> | is for the purpose of administering any *Commonwealth law relating to financial assistance to students. |
| 6 | the Secretary of the Department administered by the Minister who administers the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> | is for the purpose of administering that Act |
| 7 | the Child Support Registrar | is for the purpose of administering the <i>Child Support (Registration and Collection) Act 1988</i> or the <i>Child Support (Assessment) Act 1989</i> . |
| 8 | the Chief Executive Officer of Medicare Australia | is for the purpose of administering the <i>Private Health Insurance Incentives Act 1998</i> or Part 2-2 or 6-4 of the <i>Private Health Insurance Act 2007</i> . |

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Table 2: Records or disclosures relating to superannuation or finance

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|--|--|
| 1 | a financial sector supervisory agency (within the meaning of section 3 of the <i>Australian Prudential Regulation Authority Act 1998</i>) | (a) is of information that was obtained under or in relation to the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> ; and (b) is for the purpose of the agency performing any of its functions or |

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Table 2: Records or disclosures relating to superannuation or finance

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|---|---|
| | | exercising any of its powers. |
| 2 | (a) an agency having the function, in Australia or in a foreign country, of supervising or regulating *financial institutions; or (b) any other agency (including a foreign agency) specified in the regulations | (a) is of information that was obtained under or in relation to the <i>Superannuation (Self Managed Superannuation Funds) Taxation Act 1987</i> or the <i>Superannuation Industry (Supervision) Act 1993</i> ; and (b) is for the purpose of performing any of its functions or exercising any of its powers; and (c) is made in accordance with the conditions (if any) imposed by the regulations in relation to the disclosure of information under this item. |
| 3 | the Superannuation Complaints Tribunal established by section 6 of the <i>Superannuation (Resolution of Complaints) Act 1993</i> | (a) is of information that was obtained under or in relation to the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> ; and (b) is for the purpose of the Tribunal performing any of its functions or exercising any of its powers. |
| 4 | the Australian Prudential Regulation Authority (<i>APRA</i>) | is for the purpose of administering: (a) the <i>Financial Institutions Supervisory Levies Collection Act 1998</i> ; or (b) the <i>Superannuation Industry (Supervision) Act 1993</i> . |
| 5 | APRA | (a) is of information that was obtained under or in relation to the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> ; and (b) is for the purpose of APRA performing any of its functions or exercising any of its powers. |
| 6 | APRA | is for the purpose of APRA performing any of its functions or exercising any of its powers in relation to *FHSAs. |
| 7 | an individual who is or was an | (a) is of information that relates to the |

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Schedule 1 Confidentiality of taxpayer information

Part 1 Main amendments

Table 2: Records or disclosures relating to superannuation or finance

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|---|---|
| | employee (within the meaning of the <i>Superannuation Guarantee (Administration) Act 1992</i>) | Commissioner's response to a complaint by the individual about a failure by the individual's employer or former employer to comply with the employer's obligations under the <i>Superannuation Guarantee (Administration) Act 1992</i> in relation to the employee; and (b) does not relate to the general financial affairs of the employer. |
| 8 | any entity, court or tribunal | is of information that was obtained under, or for the purposes of the <i>Superannuation (Self Managed Funds) Taxation Act 1987</i> or the <i>Superannuation Industry (Supervision) Act 1993</i> and is for the purpose of all or any of the following: (a) identifying a particular self-managed superannuation fund; (b) enabling members of the public to contact persons who perform functions in relation to a particular self-managed superannuation fund; (c) enabling the Commissioner to provide an opinion to members of the public as to whether or not a particular self-managed superannuation fund is a complying superannuation fund in relation to a particular income year for the purposes of Division 2 of Part 5 of the <i>Superannuation Industry (Supervision) Act 1993</i> ; (d) describing: (i) court proceedings in relation to a breach or suspected breach by a person of a provision of the <i>Superannuation (Self Managed Funds) Taxation</i> |

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Table 2: Records or disclosures relating to superannuation or finance

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|---|---|
| | | <i>Act 1987 or the Superannuation Industry (Supervision) Act 1993; or</i> (ii) activity engaged in, or proposed to be engaged in, by the Commissioner in relation to such a breach or suspected breach |

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Table 3: Records or disclosures relating to corporate regulation, business or research

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|--|--|
| 1 | the Australian Securities and Investments Commission (<i>ASIC</i>) | is for the purpose of enforcing a law <i>ASIC</i> administers that either: (a) imposes a pecuniary penalty; or (b) creates an offence. |
| 2 | <i>ASIC</i> | (a) is of information that was obtained under or in relation to the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> ; and (b) is for the purpose of <i>ASIC</i> performing any of its functions or exercising any of its powers. |
| 3 | <i>ASIC</i> | is for the purpose of administering: (a) the <i>Superannuation Industry (Supervision) Act 1993</i> ; or (b) Chapter 7 of the <i>Corporations Act 2001</i> ; or (c) Division 2 of Part 2 of the <i>Australian Securities and Investments Commission Act 2001</i> (about unconscionable conduct and consumer protection in relation to financial services). |
| 4 | <i>ASIC</i> | is for the purpose of administering |

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Part 1 Main amendments

Table 3: Records or disclosures relating to corporate regulation, business or research

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|--|---|
| | | Chapter 5A of the <i>Corporations Act 2001</i> (relating to deregistration, and transfer of registration, of companies). |
| 5 | ASIC | is for the purpose of ASIC performing any of its functions or exercising any of its powers in relation to *FHSAs. |
| 6 | Innovation Australia established under section 6 of the <i>Industry Research and Development Act 1986</i> | is for the purpose of administering any *Commonwealth law relating to venture capital. |
| 7 | the Australian Competition and Consumer Commission | (a) is of information that relates to fuel sales grants; and (b) is for the purpose of Part V (about consumer protection), VB (about price exploitation in relation to A New Tax System) or VC (about offences) of the <i>Trade Practices Act 1974</i> . |
| 8 | The Secretary of the Department administered by the Treasurer, or an officer of that Department authorised by that Secretary | is for the purpose of briefing the Treasurer in relation to a decision that the Treasurer may make under the <i>Foreign Acquisitions and Takeovers Act 1975</i> . |

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Table 4: Records or disclosures relating to other taxation matters

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|--|---|
| 1 | a State taxation officer, or a Territory taxation officer, within the meaning of subsection 13D(1) of this Act | is for the purpose of administering a *State law or *Territory law relating to taxation, if a State taxation officer or a Territory taxation officer is authorised by law to communicate information obtained under such a law to the Commissioner. |
| 2 | a State taxation officer, or a | is of information obtained under or in |

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Table 4: Records or disclosures relating to other taxation matters

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|--|---|
| | Territory taxation officer, within the meaning of subsection 13D(1) of this Act | relation to <i>First Home Saver Accounts Act 2008</i> and is for the purpose of administering the <i>First Home Owner Grant Act 2000</i> of New South Wales, or a similar *State law or *Territory law. |
| 3 | the Development Allowance Authority established by section 94 of the <i>Development Allowance Authority Act 1992</i> | is for the purpose of: (a) administering that Act; or (b) Part III of this Act (prosecutions and offences), in so far as that Part applies in relation to the <i>Development Allowance Authority Act 1992</i> . |
| 4 | an individual who holds an office of a State or Territory, being an office prescribed for the purpose of this table item | (a) is of information that 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

2

Table 5: Records or disclosures relating to rehabilitation or compensation

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|-------------|---|--|
| 1 | an authority of the Commonwealth established under a *Commonwealth law relating to rehabilitation or compensation | is for the purpose of performing any of its functions or exercising any of its powers under that law. |
| 2 | the Secretary of the Department administered by the Minister who administers the <i>Defence Act 1903</i> | is for the purpose of administering any *Commonwealth law relating to payments in respect of dependants of members of the Defence Force. |

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Table 6: Records or disclosures relating to the environment

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|---|---|
| 1 | the Secretary of the Department administered by the Minister who administers the <i>Fuel Quality Standards Act 2000</i> | is for the purpose of administering cleaner fuel grants. |
| 2 | the Secretary of the Department administered by the Minister who administers the <i>Environment Protection and Biodiversity Conservation Act 1999</i> | is for the purpose of administering: (a) product stewardship (oil) benefits; or (b) the programme known as the Greenhouse Challenge Plus Programme. |

1

2

Table 7: Records or disclosures relating to miscellaneous matters

| Item | The record is made for or the disclosure is to... | and the record or disclosure... |
|------|--|---|
| 1 | the Australian Statistician | is for the purpose of administering the <i>Census and Statistics Act 1905</i> . |
| 2 | the Chief Executive Officer of Customs | is for the purpose of administering a law of customs (within the meaning of the <i>Customs Administration Act 1985</i>). |
| 3 | the Secretary of the Department administered by the Minister who administers the <i>Migration Act 1958</i> | is for the purpose of locating persons who are unlawfully in Australia. |

3

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5

6

(2) To avoid doubt, the exception in table item 7 in table 2 in subsection (1) has effect even if at the time the complaint referred to in that item is made it is in dispute or uncertain whether the individual is an employee or former employee of the employer.

7

8

355-70 Exception—disclosure to law enforcement agencies and intelligence agencies

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11

12

(1) An entity does not commit an offence against section 355-20 if:
(a) the entity is the Commissioner or a *taxation officer authorised by the Commissioner to make the record or disclosure; and

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- 1 (b) the record is made for, or the disclosure is to, an *authorised
2 law enforcement agency officer; and
3 (c) the information is for the purpose of:
4 (i) enforcing a law the contravention of which is a *serious
5 offence; or
6 (ii) the making, or proposed or possible making, of a
7 *proceeds of crime order.

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

10 Note 2: The Commissioner is required to include in an annual report
11 information about disclosures made under this subsection: see
12 section 3B.

- 13 (2) An entity does not commit an offence against section 355-20 if:
14 (a) the entity is the Commissioner or a *taxation officer
15 authorised by the Commissioner to make the record or
16 disclosure; and
17 (b) the record is made for, or the disclosure is to, an *authorised
18 ASIO officer; and
19 (c) the information is for the purpose of performing ASIO's
20 functions under subsection 17(1) of the *Australian Security*
21 *Intelligence Organisation Act 1979*.

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

24 Note 2: The Commissioner is required to include in an annual report
25 information about disclosures made under this subsection: see
26 section 3B.

27 (3) **Authorised ASIO officer** means:

- 28 (a) the Director-General of Security holding office under the
29 *Australian Security Intelligence Organisation Act 1979*; or
30 (b) any other individual employed under paragraph 84(1)(a) or
31 (b) of that Act who has been authorised in writing by the
32 Director-General of Security to receive particular tax
33 information.

34 (4) **Authorised law enforcement agency officer** means:

- 35 (a) the head of a *law enforcement agency; or
36 (b) an officer of a law enforcement agency, or a person engaged
37 by, or otherwise performing services for, a law enforcement
38 agency, authorised in writing by the head of the agency to

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1 perform the functions of an authorised law enforcement
2 agency officer under this Act.

3 (5) **Law enforcement agency** means:

- 4 (a) the Australian Federal Police; or
5 (b) the police force of a State or Territory; or
6 (c) the Office of the Director of Public Prosecutions established
7 by section 5 of the *Director of Public Prosecutions Act 1983*;
8 or
9 (d) the Australian Commission for Law Enforcement Integrity;
10 or
11 (e) the Australian Crime Commission; or
12 (f) the Independent Commission Against Corruption established
13 by the *Independent Commission Against Corruption Act 1988*
14 of New South Wales; or
15 (g) the New South Wales Crime Commission; or
16 (h) the Police Integrity Commission of New South Wales; or
17 (i) the Office of Police Integrity of Victoria; or
18 (j) the Crime and Misconduct Commission of Queensland; or
19 (k) the Corruption and Crime Commission of Western Australia;
20 or
21 (l) the Australian Securities and Investments Commission.

22 (6) **Proceeds of crime order** means an order, relating to an entity's
23 commission of a *serious offence, under:

- 24 (a) Chapter 2 (about confiscation of property in relation to
25 certain offences) or Division 1 of Part 3-1 (about examination
26 orders) of the *Proceeds of Crime Act 2002*; or
27 (b) Part II (about confiscation) or III (about control of property
28 liable to confiscation) of the *Proceeds of Crime Act 1987*; or
29 (c) a *State law or *Territory law corresponding to a law referred
30 to in paragraph (a) or (b); or
31 (d) Division 3 of Part XIII (about recovery of pecuniary penalties
32 for dealings in narcotic goods) of the *Customs Act 1901*.

33 (7) **Serious offence** means an offence against an *Australian law that
34 is punishable by imprisonment for a period exceeding 12 months.

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1 **355-75 Exception—disclosure of information for a purpose of the**
2 **Project Wickenby taskforce**

- 3 (1) An entity does not commit an offence against section 355-20 if:
- 4 (a) the entity is the Commissioner or a *taxation officer
5 authorised by the Commissioner to make the record or
6 disclosure; and
- 7 (b) the record is made for, or the disclosure is to, a *Project
8 Wickenby officer, or a court or tribunal; and
- 9 (c) the record or disclosure is for or in connection with a
10 *purpose of the Project Wickenby taskforce; and
- 11 (d) the record or disclosure is made before 1 July 2012, or a later
12 prescribed day.

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

15 Note 2: The Commissioner is required to include in an annual report
16 information about disclosures made under this subsection: see
17 section 3B.

- 18 (2) An entity is a ***Project Wickenby officer*** if the entity:
- 19 (a) holds an office in, is employed in, or is performing services
20 for:
- 21 (i) a *Project Wickenby taskforce agency; or
22 (ii) a *Project Wickenby taskforce supporting agency; and
- 23 (b) performs duties that relate to a *purpose of the Project
24 Wickenby taskforce.

- 25 (3) The following agencies are ***Project Wickenby taskforce agencies***:
- 26 (a) the Australian Taxation Office;
27 (b) the Australian Crime Commission;
28 (c) the Australian Federal Police;
29 (d) the Australian Securities and Investments Commission;
30 (e) the Office of the Director of Public Prosecutions;
31 (f) a prescribed agency.

- 32 (4) The following agencies are ***Project Wickenby taskforce***
33 ***supporting agencies***:
- 34 (a) the Attorney-General's Department;
35 (b) the Australian Transaction Reports and Analysis Centre;
36 (c) the Australian Government Solicitor;

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- 1 (d) a prescribed agency.
- 2 (5) The *purposes of the Project Wickenby taskforce* are to:
- 3 (a) detect; and
- 4 (b) deter; and
- 5 (c) investigate; and
- 6 (d) enforce the law relating to;
- 7 promoting of or participating in *arrangements of an international
- 8 character, or purported international character, that relate to one or
- 9 more of these:
- 10 (e) tax avoidance or evasion;
- 11 (f) breaches of laws regulating financial markets and
- 12 corporations;
- 13 (g) criminal activity in the nature of fraud or obtaining benefits
- 14 by deception (including deceiving investors or creditors);
- 15 (h) money laundering;
- 16 (i) concealing income or assets.

17 **355-80 Exception—disclosure of information for a purpose of a**

18 **prescribed taskforce**

- 19 (1) An entity does not commit an offence against section 355-20 if:
- 20 (a) the entity is the Commissioner or a *taxation officer
- 21 authorised by the Commissioner to make the record or
- 22 disclosure; and
- 23 (b) the record is made for, or the disclosure is to, a *taskforce
- 24 officer of a prescribed taskforce, or a court or tribunal; and
- 25 (c) the record or disclosure is for or in connection with a purpose
- 26 of the prescribed taskforce; and
- 27 (d) the record or disclosure is made within the time limit, if any,
- 28 prescribed by the regulations.

29 Note 1: A defendant bears an evidential burden in relation to the matters in

30 this subsection: see subsection 13.3(3) of the *Criminal Code*.

31 Note 2: The Commissioner is required to include in an annual report

32 information about disclosures made under this subsection: see

33 section 3B.

- 34 (2) An entity is a *taskforce officer* of a prescribed taskforce if:
- 35 (a) the entity holds an office in, is employed in, or is performing
- 36 services for, an agency in the prescribed taskforce; and

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- 1 (b) the entity's duties relate to a purpose of the prescribed
2 taskforce.
- 3 (3) The regulations may prescribe a taskforce for the purposes of this
4 section. A major purpose of the taskforce must be protecting the
5 public finances of Australia.
- 6 (4) Without limiting subsection (3), regulations made for the purposes
7 of this section may deal with the following matters:
8 (a) the purposes of the taskforce;
9 (b) the agencies in the taskforce.

10 **355-85 Exception—disclosure to Royal Commissions**

- 11 (1) An entity does not commit an offence against section 355-20 if:
12 (a) the entity is the Commissioner or a *taxation officer
13 authorised by the Commissioner to make the record or
14 disclosure; and
15 (b) the record is made for, or the disclosure is to:
16 (i) a Royal Commission in respect of which Letters Patent
17 issued by the Governor-General declare that the Royal
18 Commission is a Royal Commission to which this
19 paragraph applies; or
20 (ii) a member of such a Royal Commission; and
21 (c) the record or disclosure is for the purpose of the Royal
22 Commission conducting its inquiry.
- 23 Note 1: A defendant bears an evidential burden in relation to the matters in
24 this subsection: see subsection 13.3(3) of the *Criminal Code*.
- 25 Note 2: The Commissioner is required to include in an annual report
26 information about disclosures made under this subsection: see
27 section 3B.
- 28 (2) A *taxation officer who is authorised by the Commissioner to make
29 the record or disclosure does not commit an offence against
30 section 355-20 if:
31 (a) the record is made for, or the disclosure is to, a body covered
32 by subsection (3) or a member of such a body; and
33 (b) the information is for the purpose of:
34 (i) enforcing a law the contravention of which is a *serious
35 offence; or

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- 1 (ii) the making, or proposed or possible making, of a
2 *proceeds of crime order.

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

5 Note 2: The Commissioner is required to include in an annual report
6 information about disclosures made under this subsection: see
7 section 3B.

8 (3) A body is covered by this subsection if the body is:

- 9 (a) a Royal Commission of a State or a Territory prescribed
10 by the regulations for the purposes of this paragraph; or
11 (b) a commission of inquiry of a State or a Territory
12 prescribed by the regulations for the purposes of this
13 paragraph; or
14 (c) a board of inquiry of a State or a Territory prescribed by
15 the regulations for the purposes of this paragraph.

16 **355-90 Exception—disclosure to prevent or lessen serious threats**

17 A *taxation officer does not commit an offence against
18 section 355-20 if:

- 19 (a) the record is made for, or the disclosure is to, an *Australian
20 government agency; and
21 (b) the record or disclosure is necessary for the purpose of
22 preventing or lessening:
23 (i) a serious threat to an individual's life, health or safety;
24 or
25 (ii) a serious threat to public health or public safety.

26 Note: A defendant bears an evidential burden in relation to the matters in
27 this section: see subsection 13.3(3) of the *Criminal Code*.

28 **355-95 Limits on disclosure to courts and tribunals**

29 An entity who is or was a *taxation officer cannot be required to
30 disclose to a court or tribunal *protected information that was
31 obtained by the entity as a taxation officer except where it is
32 necessary to do so for the purpose of carrying into effect the
33 provisions of a *taxation law.

34 Note: See also section 8ZK of this Act (about protection of witnesses).

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1 **Subdivision 355-C—On-disclosure of protected information by**
2 **other people**

3 **Guide to Subdivision 355-C**

4 **355-150 What this Subdivision is about**

5 Someone who is not a taxation officer is prohibited from disclosing
6 protected information, except in certain specified circumstances.

7 **Table of sections**

8 **Operative provisions**

| | | |
|----|---------|---|
| 9 | 355-155 | Offence—disclosure of protected information by other people |
| 10 | 355-160 | Consent is not a defence |
| 11 | 355-165 | Generality of Subdivision not limited |
| 12 | 355-170 | Exception—on-disclosure of publicly available information |
| 13 | 355-175 | Exception—on-disclosure for original purpose |
| 14 | 355-180 | Exception—on-disclosure by authorised ASIO officer |
| 15 | 355-185 | Exception—on-disclosure by certain Royal Commissions |
| 16 | 355-190 | Limits on on-disclosure to courts or tribunals |
| 17 | 355-195 | Limits on on-disclosure to Ministers and Parliament |

18 **Operative provisions**

19 **355-155 Offence—disclosure of protected information by other**
20 **people**

21 An entity commits an offence if:

22 (a) the entity:

23 (i) makes a record of information; or

24 (ii) discloses information to another entity (other than an
25 entity to whom the information relates or the entity's
26 *agent) or to a court or tribunal; and

27 (b) the information was obtained by the first-mentioned entity
28 under an exception in this Subdivision or in
29 Subdivision 355-B; and

30 (c) the first-mentioned entity did not obtain the information as a
31 *taxation officer.

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1 Penalty: Imprisonment for 2 years.

2 Note: This section also covers information obtained by or disclosed to an
3 entity (other than as a taxation officer) before the commencement of
4 this section under certain repealed or amended provisions: see
5 item 119 in Schedule 1 to the *Tax Laws Amendment (Confidentiality*
6 *of Taxpayer Information) Act 2009*.

7 **355-160 Consent is not a defence**

8 It is not a defence to a prosecution for an offence against
9 section 355-155 that the entity to whom the information relates has
10 consented to:

- 11 (a) the making of the record; or
12 (b) the disclosure of the information.

13 **355-165 Generality of Subdivision not limited**

14 Except as provided in section 355-195 (about limits on disclosure
15 to Ministers and Parliament), nothing in this Subdivision limits the
16 generality of anything else in it.

17 Note: This means that each provision in this Subdivision (other than
18 section 355-195) has an independent operation and is not to be
19 interpreted by reference to any other exception within the Subdivision.
20 Section 355-195 limits the operation of the other provisions in this
21 Subdivision.

22 **355-170 Exception—on-disclosure of publicly available information**

23 An entity does not commit an offence against section 355-155 if
24 the information was already lawfully available to the public.

25 Note: A defendant bears an evidential burden in relation to the matters in
26 this section: see subsection 13.3(3) of the *Criminal Code*.

27 **355-175 Exception—on-disclosure for original purpose**

- 28 (1) An entity does not commit an offence against section 355-155 if:
29 (a) the information was obtained by the entity under an
30 exception in Subdivision 355-B for a purpose specified in
31 that exception (the *original purpose*); or
32 (b) the information was obtained by the entity under an
33 exception in this Subdivision for, or in connection with, a
34 purpose specified in that exception (also the *original*
35 *purpose*);
-

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Confidentiality of taxpayer information **Schedule 1**
Main amendments **Part 1**

1 and the record or disclosure is made by the entity for the original
2 purpose or in connection with the original purpose.

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

5 *Instances of disclosures in connection with the original purpose*

6 (2) Without limiting subsection (1), a record or disclosure is made by
7 the entity in connection with the original purpose in the
8 circumstances specified in the following table.
9

Records or disclosures for purpose connected with the original purpose

| Item | The record is made for or the disclosure is to ... | and the record or disclosure ... |
|-------------|--|--|
| 1 | any entity, court or tribunal | is for the purpose of criminal, civil or administrative proceedings (including merits review or judicial review) that are related to the original purpose. |
| 2 | a Minister who has a statutory power or function in relation to the original purpose | is for the purpose of deciding whether to exercise the power or perform the function, or for the purpose of exercising the power or performing the function. |

10 *Multiple purposes*

11 (3) Subsection (1) has effect as if a record or disclosure made by the
12 entity for a purpose specified in column 3 of the table were made
13 in connection with the original purpose.
14

Records or disclosures for purpose connected with the original purpose

| Item | Original purpose | purpose connected with the original purpose |
|-------------|---|--|
| 1 | a *purpose of the Project Wickenby taskforce | another purpose of that taskforce. |
| 2 | a purpose of a prescribed taskforce | another purpose of that taskforce. |
| 3 | one of the purposes specified in paragraph 355-70(1)(c) | the other of those purposes. |
| 4 | one of the purposes specified in | the other of those purposes. |

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Records or disclosures for purpose connected with the original purpose

| Item | Original purpose | purpose connected with the original purpose |
|------|------------------|---|
|------|------------------|---|

paragraph 355-85(2)(b)

355-180 Exception—disclosure by authorised ASIO officer

An *authorised ASIO officer does not commit an offence against section 355-155 if:

- (a) the record is made for or the disclosure is to the Inspector-General of Intelligence and Security holding office under the *Inspector-General of Intelligence and Security Act 1986* or a member of staff appointed to assist the Inspector-General under that Act; and
- (b) the record or disclosure is for the purpose of, or in connection with, performing the Inspector-General's, or the officer's, duties in relation to ASIO or officers or employees of ASIO.

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

355-185 Exception—on-disclosure by certain Royal Commissions

An entity does not commit an offence against section 355-155 if:

- (a) the entity is a member of a Royal Commission to which subsection 355-85(1) relates; and
- (b) the information was disclosed to the member of the Royal Commission under subsection 355-85(1); and
- (c) the disclosure is in accordance with section 6P of the *Royal Commissions Act 1902*.

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

Note 2: Section 6P of the *Royal Commissions Act 1902* sets out the circumstances in which a Royal Commission covered by that Act may disclose information it obtains in the course of its inquiry.

355-190 Limits on on-disclosure to courts or tribunals

An entity (other than an entity who is or was a *taxation officer) cannot be required to disclose to a court or tribunal *protected information that was obtained by the entity under Subdivision 355-B or this Subdivision, except where it is necessary

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1 to do so for the purpose of carrying into effect the provisions of a
2 *taxation law.

3 Note: See also section 8ZK of this Act (about protection of witnesses).

4 **355-195 Limits on on-disclosure to Ministers and Parliament**

5 (1) Section 355-170, item 2 of the table in subsection 355-175(2) and
6 section 355-185 provide the only circumstances in which an entity
7 (other than an entity who is or was a *taxation officer) can disclose
8 *protected information to a Minister, a House of the Parliament or
9 a committee of one or both Houses of the Parliament.

10 (2) Subsection (1) does not affect a disclosure of *protected
11 information to a Minister if the Minister is:

- 12 (a) the entity to whom the information relates; or
13 (b) the *agent of the entity to whom the information relates.

14 (3) This section has effect despite any power, privilege or immunity of
15 either House of the Parliament or of the members or committees of
16 either House of Parliament, except to the extent that those powers,
17 privileges or immunities can be invoked to compel the disclosure
18 of *protected information.

19 **Subdivision 355-D—Disclosure of protected information that** 20 **has been unlawfully obtained**

21 **Guide to Subdivision 355-D**

22 **355-260 What this Subdivision is about**

23

| |
|--|
| The disclosure of protected tax information that has been 24 unlawfully obtained is prohibited. |
|--|

25 **Table of sections**

26 **Operative provisions**

27 355-265 Offence—disclosure of protected information obtained in breach of a
28 taxation law

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1 **Operative provisions**

2 **355-265 Offence—disclosure of protected information obtained in**
3 **breach of a taxation law**

- 4 (1) An entity commits an offence if the entity:
- 5 (a) makes a record of, discloses or otherwise makes use of
6 *protected information; and
 - 7 (b) the information was disclosed to or obtained by the entity in
8 breach of a provision of a *taxation law (including this
9 provision); and
 - 10 (c) the information was not disclosed to or obtained by the entity
11 as a *taxation officer.

12 Penalty: Imprisonment for 2 years.

- 13 (2) Subsection (1) does not apply:
- 14 (a) to the extent that the entity's actions are required or permitted
15 by a *taxation law or reasonably necessary in order to comply
16 with an obligation imposed by a taxation law; or
 - 17 (b) if the record was made for or the information was disclosed:
 - 18 (i) to a *taxation officer; and
 - 19 (ii) for a purpose connected with administering a *taxation
20 law.

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

- 23 (3) Except where it is necessary to do so for the purpose of carrying
24 into effect the provisions of a *taxation law, an entity must not be
25 required to disclose to a court or tribunal a matter or thing with
26 respect to information in relation to which subsection (1) applies.

27 **Subdivision 355-E—Other matters**

28 **Guide to Subdivision 355-E**

29 **355-320 What this Subdivision is about**

30

| |
|--|
| The Commissioner may require a taxation officer to make an oath 31 of affirmation to protect information. |
|--|

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1 The Federal Court has power to grant an injunction restraining an
2 entity from engaging in conduct that would constitute an offence
3 against this Division.

4 **Table of sections**

5 **Operative provisions**

6 355-325 Oath or affirmation to protect information

7 355-330 Injunctions to prevent contravention of non-disclosure provisions

8 **Operative provisions**

9 **355-325 Oath or affirmation to protect information**

10 (1) A *taxation officer must, if and when required by the
11 Commissioner to do so, make an oath or affirmation to protect
12 information in accordance with this Division.

13 (2) The Commissioner may determine, in writing:

14 (a) the form of the oath or affirmation; and

15 (b) the manner in which the oath or affirmation must be made.

16 **355-330 Injunctions to prevent contravention of non-disclosure** 17 **provisions**

18 *Injunctions*

19 (1) If an entity has engaged, is engaging or is proposing to engage in
20 any conduct that constituted, constitutes or would constitute an
21 offence against this Division, the Federal Court of Australia may,
22 on the application of the Commissioner, grant an injunction:

23 (a) restraining the entity from engaging in the conduct; and

24 (b) if in the court's opinion it is desirable to do so—requiring the
25 entity to do any act or thing.

26 *Interim injunctions*

27 (2) If an application is made to the court for an injunction under
28 subsection (1), the court may, before considering the application,
29 grant an interim injunction restraining an entity from engaging in

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1 conduct of the kind referred to in that subsection pending the
2 determination of the application.

3 *Discharge or variation of injunctions*

4 (3) The court may discharge or vary an injunction granted under this
5 section.

6 *Exercise of power to grant injunctions*

7 (4) If an application is made to the court for the grant of an injunction
8 restraining an entity from engaging in conduct of a particular kind,
9 the power of the court to grant the injunction may be exercised:

10 (a) if the court is satisfied that the entity has engaged in conduct
11 of that kind—whether or not it appears to the court that the
12 entity intends to engage again, or to continue to engage, in
13 conduct of that kind; or

14 (b) if it appears to the court that, in the event that an injunction is
15 not granted, it is likely that the entity will engage in conduct
16 of that kind—whether or not the entity has previously
17 engaged in conduct of that kind and whether or not there is
18 an imminent danger of substantial damage to any other entity
19 if the entity engages in conduct of that kind.

20 (5) The power of the court to grant an injunction requiring an entity to
21 do a particular act or thing may be exercised:

22 (a) if the court is satisfied that the entity has refused or failed to
23 do that act or thing—whether or not it appears to the court
24 that the entity intends to refuse or fail again, or to continue to
25 refuse or fail, to do that act or thing; or

26 (b) if it appears to the court that, in the event that an injunction is
27 not granted, it is likely that the entity will refuse or fail to do
28 that act or thing—whether or not the entity has previously
29 refused or failed to do that act or thing and whether or not
30 there is an imminent danger of substantial damage to any
31 other entity if the entity refuses or fails to do that act or thing.

32 *No undertakings as to damages*

33 (6) If the Commissioner makes an application to the court for the grant
34 of an injunction under this section, the court must not require the
35 Commissioner or any other entity, as a condition of the granting of
36 an interim injunction, to give any undertakings as to damages.

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1

Other powers of the court unaffected

2

(7) The powers conferred on the court under this section are in addition to, and not in derogation of, any other powers of the court, whether conferred by this Act or otherwise.

3

4

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1

2 **Part 2—Consequential and other amendments**

3 *Administrative Decisions (Judicial Review) Act 1977*

4 **2 Paragraph (f) of Schedule 1**

5 Repeal the paragraph, substitute:

6 (f) decisions under section 355-70, 355-75, 355-80 or 355-85 in
7 Schedule 1 to the *Taxation Administration Act 1953*;

8 *A New Tax System (Australian Business Number) Act 1999*

9 **3 Section 41 (paragraph (c) of the definition of *protected***
10 ***information*)**

11 After “obtained under”, insert “, or in relation to,”.

12 *Anti-Money Laundering and Counter-Terrorism Financing*
13 *Act 2006*

14 **4 Subsection 125(3)**

15 Repeal the subsection, substitute:

16 *Application of Division 355 of the Taxation Administration Act*
17 *1953*

18 (3) Division 355 in Schedule 1 to the *Taxation Administration Act*
19 *1953* applies in relation to AUSTRAC information obtained by the
20 Commissioner of Taxation or a taxation officer under
21 subsection (1) or (2) of this section as if a reference in that
22 Division to a taxation law included a reference to this Act or the
23 *Financial Transaction Reports Act 1988*.

24 Note: Division 355 in Schedule 1 to the *Taxation Administration Act 1953*
25 deals with confidentiality of taxation information.

26 **5 Subsection 125(4)**

27 Omit “Section 3C of”, substitute “Division 355 in Schedule 1 to”.

28 *Australian Crime Commission Act 2002*

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 **6 At the end of subsection 19A(5)**

2 Add:

3 Note: If the information is protected information (within the meaning of
4 section 355-25 in Schedule 1 to the *Taxation Administration Act*
5 *1953*), the officer or person may decline to disclose that information
6 unless an exception in Division 355 in that Schedule covers the
7 disclosure.

8 **7 At the end of subsection 20(4)**

9 Add:

10 Note: If the information is protected information (within the meaning of
11 section 355-25 in Schedule 1 to the *Taxation Administration Act*
12 *1953*), the officer or person may decline to disclose that information
13 unless an exception in Division 355 in that Schedule covers the
14 disclosure.

15 ***Australian Securities and Investments Commission Act 2001***

16 **8 Subsection 127(1AA)**

17 Repeal the subsection.

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

19 **9 Section 4**

20 Repeal the section, substitute:

21 **4 Secrecy**

22 Division 355 in Schedule 1 to the *Taxation Administration Act*
23 *1953* has effect as if this Act were part of that Act.

24 ***Customs Administration Act 1985***

25 **10 Section 16A**

26 Repeal the section.

27 ***Development Allowance Authority Act 1992***

28 **11 Section 93AA (definition of *State taxation officer***
29 ***disclosure provision*)**

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 Repeal the definition.

2 **12 Paragraph 108(c)**

3 Repeal the paragraph.

4 **13 After section 114**

5 Insert:

6 **114A Disclosure of commercial-in-confidence information obtained** 7 **in breach of this Act**

- 8 (1) A person commits an offence if the person:
- 9 (a) makes a record of, discloses or otherwise makes use of
10 information; and
 - 11 (b) the information is commercial-in-confidence information for
12 the purposes of section 114; and
 - 13 (c) the information was disclosed to or obtained by the person in
14 breach of section 114; and
 - 15 (d) the information was not disclosed to or obtained by the
16 person because of performing duties or functions under this
17 Act.

18 Penalty: Imprisonment for 2 years.

- 19 (2) Subsection (1) does not apply:
- 20 (a) to the extent that the person's actions are required or
21 permitted by a this Act or reasonably necessary in order to
22 comply with an obligation imposed by this Act; or
 - 23 (b) to a disclosure if the disclosure is:
 - 24 (i) to the DAA or a person who is performing duties of
25 functions under this Act; and
 - 26 (ii) for a purpose connected with administering this Act.

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

- 29 (3) Except where it is necessary to do so for the purpose of carrying
30 into effect the provisions of this Act, a person must not be required
31 to disclose to a court or tribunal a matter or thing with respect to
32 information in relation to which subsection (1) applies.

33 **14 Paragraph 118(b)**

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 Repeal the paragraph.

2 ***Energy Grants (Cleaner Fuels) Scheme Act 2004***

3 **15 Section 3 (at the end of the note)**

4 Add “This means, for example, that people who obtain information
5 under this Act are subject to the confidentiality obligations and
6 exceptions in Division 355 in Schedule 1 to the *Taxation Administration*
7 *Act 1953.*”

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

9 **16 At the end of section 3**

10 Add:

11 Note: An effect of this is that people who obtain information under this Act
12 are subject to the confidentiality obligations and exceptions in
13 Division 355 in Schedule 1 to the *Taxation Administration Act 1953.*

14 ***Excise Act 1901***

15 **17 At the end of section 7**

16 Add:

17 Note: An effect of this is that people who obtain information under this Act
18 are subject to the confidentiality obligations and exceptions in
19 Division 355 in Schedule 1 to the *Taxation Administration Act 1953.*

20 **18 Section 159**

21 Repeal the section.

22 ***First Home Saver Accounts Act 2008***

23 **19 At the end of subsection 3(1)**

24 Add:

25 Note: An effect of this is that people who obtain information under these
26 provisions are subject to the confidentiality obligations and exceptions
27 in Division 355 in Schedule 1 to the *Taxation Administration Act*
28 *1953.*

29 **20 Section 18 (definition of *protected information*)**

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 Repeal the definition.

2 **21 Section 70**

3 Repeal the section.

4 ***Franchise Fees Windfall Tax (Collection) Act 1997***

5 **22 At the end of section 5**

6 Add:

7 Note: An effect of this is that people who obtain information under this Act
8 are subject to the confidentiality obligations and exceptions in
9 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

10 ***Freedom of Information Act 1982***

11 **23 Schedule 3**

12 Omit “*Crimes (Taxation Offences) Act 1980*, subsections 4(1A), (1) and
13 (1AA)”, substitute “*Crimes (Taxation Offences) Act 1980*, section 4”.

14 **24 Schedule 3**

15 Omit “*Fringe Benefits Tax Assessment Act 1986*, subsection 5(3)”.

16 **25 Schedule 3**

17 Omit “*Income Tax Assessment Act 1936*, subsections 16(2), (4F),
18 (4FA), (4JB) and (5C)”.

19 **26 Schedule 3**

20 Omit “*Petroleum Resource Rent Tax Assessment Act 1987*, subsection
21 17(3)”.

22 **27 Schedule 3**

23 Omit “*Taxation Administration Act 1953*, section 355-5 in Schedule 1”,
24 substitute “*Taxation Administration Act 1953*, sections 355-20, 355-155
25 and 355-265 in Schedule 1.”

26 **28 Schedule 3**

27 Omit “*Taxation Administration Act 1953*, subsections 3C(2), 3G(6) and
28 (9) and 3H(5) and (8), paragraph 8WB(1)(c) and subsection 8XB(1)”,
29 substitute “*Taxation Administration Act 1953*, paragraph 8WB(1)(c)”.

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 **29 Schedule 3**

2 Omit “*Taxation (Interest on Overpayments and Early Payments) Act*
3 *1983*, subsection 8(2)”.

4 ***Fringe Benefits Tax Assessment Act 1986***

5 **30 At the end of section 3**

6 Add:

7 Note: An effect of this is that people who obtain information under this Act
8 are subject to the confidentiality obligations and exceptions in
9 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

10 **31 Section 5**

11 Repeal the section.

12 ***Income Tax Assessment Act 1936***

13 **32 At the end of section 8**

14 Add:

15 Note: An effect of this is that people who obtain information under this Act
16 are subject to the confidentiality obligations and exceptions in
17 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

18 **33 Sections 16 and 16A**

19 Repeal the sections.

20 **34 Paragraph 202(n)**

21 Repeal the paragraph.

22 ***Income Tax Assessment Act 1997***

23 **35 At the end of section 1-7**

24 Add:

25 Note: An effect of this is that people who obtain information under this Act
26 are subject to the confidentiality obligations and exceptions in
27 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

28 **36 Subsection 30-229(5)**

29 Repeal the subsection.

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 **37 Section 59-5**

2 Repeal the section.

3 **38 Sections 396-95 and 396-100**

4 Repeal the sections.

5 **39 Subsection 995-1(1)**

6 Insert:

7 *authorised ASIO officer* has the meaning given by section 355-70
8 in Schedule 1 to the *Taxation Administration Act 1953*.

9 **40 Subsection 995-1(1)**

10 Insert:

11 *authorised law enforcement agency officer* has the meaning given
12 by section 355-70 in Schedule 1 to the *Taxation Administration Act*
13 *1953*.

14 **41 Subsection 995-1(1)**

15 Insert:

16 *law enforcement agency* has the meaning given by section 355-70
17 in Schedule 1 to the *Taxation Administration Act 1953*.

18 **42 Subsection 995-1(1)**

19 Insert:

20 *proceeds of crime order* has the meaning given by section 355-70
21 in Schedule 1 to the *Taxation Administration Act 1953*.

22 **43 Subsection 995-1(1)**

23 Insert:

24 *Project Wickenby officer* has the meaning given by section 355-75
25 in Schedule 1 to the *Taxation Administration Act 1953*.

26 **44 Subsection 995-1(1)**

27 Insert:

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 *Project Wickenby taskforce agency* has the meaning given by
2 section 355-75 in Schedule 1 to the *Taxation Administration Act*
3 1953.

4 **45 Subsection 995-1(1)**

5 Insert:

6 *Project Wickenby taskforce supporting agency* has the meaning
7 given by section 355-75 in Schedule 1 to the *Taxation*
8 *Administration Act 1953*.

9 **46 Subsection 995-1(1)**

10 Insert:

11 *protected information* has the meaning given by section 355-25 in
12 Schedule 1 to the *Taxation Administration Act 1953*.

13 **47 Subsection 995-1(1)**

14 Insert:

15 *purposes of the Project Wickenby taskforce* has the meaning given
16 by section 355-75 in Schedule 1 to the *Taxation Administration Act*
17 1953.

18 **48 Subsection 995-1(1)**

19 Insert:

20 *serious offence* has the meaning given by section 355-70 in
21 Schedule 1 to the *Taxation Administration Act 1953*.

22 **49 Subsection 995-1(1)**

23 Insert:

24 *taskforce officer* of a prescribed taskforce has the meaning given
25 by section 355-80 in Schedule 1 to the *Taxation Administration Act*
26 1953.

27 **50 Subsection 995-1(1) (paragraph (b) of the definition of** 28 ***taxation law*)**

29 Omit “regulations”, substitute “legislative instruments made”.

30 **51 Subsection 995-1(1)**

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 Insert:

2 *taxation officer* has the meaning given by section 355-25 in
3 Schedule 1 to the *Taxation Administration Act 1953*.

4 **52 Subsection 995-1(1)**

5 Insert:

6 *Trade Secretary* means the Secretary of the Department
7 administered by the Minister who administers the *Export Market*
8 *Development Grants Act 1997*.

9 ***Income Tax (Transitional Provisions) Act 1997***

10 **53 At the end of section 1-7**

11 Add:

12 Note: An effect of this is that people who obtain information under this Act
13 are subject to the confidentiality obligations and exceptions in
14 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

15 ***Inspector-General of Intelligence and Security Act 1986***

16 **54 Subsection 22(3)**

17 Omit “tax law (within the meaning of section 3E of the *Taxation*
18 *Administration Act 1953*)”, substitute “taxation law (within the meaning
19 of the *Income Tax Assessment Act 1997*)”.

20 **55 Subsection 22(3) (note)**

21 Omit “Section 3EC of”, substitute “section 355-175 in Schedule 1 to”.

22 **56 Section 25A (note)**

23 Omit “Section 3EC of”, substitute “section 355-175 in Schedule 1 to”.

24 ***International Tax Agreements Act 1953***

25 **57 At the end of subsection 4(1)**

26 Add:

27 Note: An effect of this is that people who obtain information under this Act
28 are subject to the confidentiality obligations and exceptions in
29 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 **58 Subsection 23(2)**

2 Repeal the subsection.

3 **59 Subsection 23(3)**

4 Omit “Subsections (1) and (2) have”, substitute “Subsection (1) has”.

5 ***Petroleum Resource Rent Tax Assessment Act 1987***

6 **60 At the end of section 15**

7 Add:

8 Note: An effect of this is that people who obtain information under this Act
9 are subject to the confidentiality obligations and exceptions in
10 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

11 **61 Sections 17 and 18**

12 Repeal the sections.

13 ***Privacy Act 1988***

14 **62 Subsection 17(4)**

15 Repeal the subsection.

16 **63 Schedule 2**

17 Repeal the Schedule.

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

19 **64 Section 7 (at the end of the note)**

20 Add “This means, for example, that people who obtain information
21 under this Act are subject to the confidentiality obligations and
22 exceptions in Division 355 in Schedule 1 to the *Taxation Administration*
23 *Act 1953*.”

24 **65 Section 47**

25 Repeal the section.

26 ***Product Stewardship (Oil) Act 2000***

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 **66 Section 7 (at the end of the note)**

2 Add “This means, for example, that people who obtain information
3 under this Act are subject to the confidentiality obligations and
4 exceptions in Division 355 in Schedule 1 to the *Taxation Administration*
5 *Act 1953.*”

6 ***Retirement Savings Accounts Act 1997***

7 **67 At the end of subsection 3(1)**

8 Add:

9 Note: An effect of paragraph (e) is that people who obtain information under
10 Divisions 2 and 4A of Part 11 are subject to the confidentiality
11 obligations and exceptions in Division 355 in Schedule 1 to the
12 *Taxation Administration Act 1953.*

13 **68 Section 16 (definition of *taxation officer*)**

14 Repeal the definition.

15 ***Small Superannuation Accounts Act 1995***

16 **69 At the end of section 6**

17 Add:

18 Note: An effect of this is that people who obtain information under this Act
19 are subject to the confidentiality obligations and exceptions in
20 Division 355 in Schedule 1 to the *Taxation Administration Act 1953.*

21 ***Superannuation Contributions Tax (Assessment and***
22 ***Collection) Act 1997***

23 **70 At the end of section 30**

24 Add:

25 Note: An effect of this is that people who obtain information under this Act
26 are subject to the confidentiality obligations and exceptions in
27 Division 355 in Schedule 1 to the *Taxation Administration Act 1953.*

28 **71 Section 32**

29 Repeal the section.

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 ***Superannuation Contributions Tax (Members of***
2 ***Constitutionally Protected Superannuation Funds)***
3 ***Assessment and Collection Act 1997***

4 **72 At the end of section 26**

5 Add:

6 Note: An effect of this is that people who obtain information under this Act
7 are subject to the confidentiality obligations and exceptions in
8 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

9 **73 Section 28**

10 Repeal the section.

11 ***Superannuation (Government Co-contribution for Low***
12 ***Income Earners) Act 2003***

13 **74 At the end of section 46**

14 Add:

15 Note: An effect of this is that people who obtain information under this Act
16 are subject to the confidentiality obligations and exceptions in
17 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

18 **75 Section 53**

19 Repeal the section.

20 **76 Section 56 (definition of *Deputy Commissioner*)**

21 Repeal the definition.

22 **77 Section 56 (definition of *protected document*)**

23 Repeal the definition.

24 **78 Section 56 (definition of *protected information*)**

25 Repeal the definition.

26 **79 Section 56 (definition of *Second Commissioner*)**

27 Repeal the definition.

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

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 **80 Subsection 6(1) (definition of *taxation officer*)**

2 Repeal the definition.

3 **81 At the end of section 43**

4 Add:

5 Note: An effect of this is that people who obtain information under this Act
6 are subject to the confidentiality obligations and exceptions in
7 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

8 **82 Sections 45 and 45A**

9 Repeal the sections.

10 ***Superannuation Industry (Supervision) Act 1993***

11 **83 At the end of subsection 6(1)**

12 Add:

13 Note: An effect of paragraph (e) is that people who obtain information under
14 those provisions (to the extent that they relate to self-managed
15 superannuation funds) are subject to the confidentiality obligations
16 and exceptions in Division 355 in Schedule 1 to the *Taxation*
17 *Administration Act 1953*.

18 **84 Subsection 131A(1) (note)**

19 Omit all the words after “APRA is the Regulator”, substitute “or
20 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*. In
21 particular, see paragraph (c) of the definition of officer in
22 subsection (1), and subsections (2), (9) and (10), of section 56 of the
23 *Australian Prudential Regulation Authority Act 1998* and
24 section 355-20 in Schedule 1 to the *Taxation Administration Act 1953*.”.

25 **85 Section 252C**

26 Repeal the section.

27 ***Superannuation (Self Managed Superannuation Funds)***
28 ***Taxation Act 1987***

29 **86 At the end of section 9**

30 Add:

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 Note: An effect of this is that people who obtain information under this Act
2 are subject to the confidentiality obligations and exceptions in
3 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

4 ***Superannuation (Unclaimed Money and Lost Members) Act*** 5 ***1999***

6 **87 Section 8 (definition of court)**

7 Repeal the definition.

8 **88 Section 8 (definition of protected document)**

9 Repeal the definition.

10 **89 Section 8 (definition of protected information)**

11 Repeal the definition.

12 **90 Part 6**

13 Repeal the Part.

14 **91 At the end of section 40**

15 Add:

16 Note: An effect of this is that people who obtain information under this Act
17 are subject to the confidentiality obligations and exceptions in
18 Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

19 ***Taxation Administration Act 1953***

20 **92 Subsection 2(1) (definition of ASIO officer)**

21 Repeal the definition.

22 **93 Subsection 2(1) (definition of authorised ASIO officer)**

23 Repeal the definition.

24 **94 Subsection 2(1) (definition of authorised law enforcement** 25 **agency officer)**

26 Repeal the definition.

27 **95 Subsection 2(1) (definition of authorised Royal** 28 **Commission officer)**

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 Repeal the definition.

2 **96 Subsection 2(1) (definition of *Chairperson*)**

3 Repeal the definition.

4 **97 Subsection 2(1) (definition of *eligible Royal Commission*)**

5 Repeal the definition.

6 **98 Subsection 2(1) (definition of *head*)**

7 Repeal the definition.

8 **99 Subsection 2(1) (definition of *IGIS officer*)**

9 Repeal the definition.

10 **100 Subsection 2(1) (definition of *Inspector-General*)**

11 Repeal the definition.

12 **101 Subsection 2(1) (definition of *law enforcement agency*)**

13 Repeal the definition.

14 **102 Subsection 2(1) (definition of *official*)**

15 Repeal the definition.

16 **103 At the end of section 3A**

17 Add:

18 Note: An effect of this is that people who obtain information under this Act
19 are subject to the confidentiality obligations and exceptions in
20 Division 355 in Schedule 1.

21 **104 Paragraphs 3B(1AA)(b) to (f)**

22 Repeal the paragraphs, substitute:

23 (b) set out, in relation to each general category of offence and in
24 relation to each law enforcement agency (within the meaning
25 of the *Income Tax Assessment Act 1997*):

26 (i) the number of occasions (if any) during the year on
27 which the Commissioner was requested by, or on behalf
28 of, the head of the agency to disclose information under
29 subsection 355-70(1) in Schedule 1 to authorised law

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

- 1 enforcement agency officers (within the meaning of that
2 Act) representing the agency; and
- 3 (ii) the number of occasions (if any) during the year on
4 which information was disclosed under that subsection
5 to authorised law enforcement agency officers; and
- 6 (c) set out, in relation to each general category of offence and in
7 relation to each Royal Commission or other body referred to
8 in section 355-85 in Schedule 1:
- 9 (i) the number of occasions (if any) during the year on
10 which the Commissioner was requested by the
11 Commission or body to disclose information under
12 section 355-85 in Schedule 1 to the Commission or
13 body; and
- 14 (ii) the number of occasions (if any) during the year on
15 which information was disclosed under that subsection
16 to the Commission or body; and
- 17 (d) set out, in relation to ASIO:
- 18 (i) the number of occasions (if any) during the year on
19 which the Commissioner was requested by, or on behalf
20 of, the Director-General of Security to disclose
21 information under subsection 355-70(2) to an authorised
22 ASIO officer (within the meaning of the *Income Tax*
23 *Assessment Act 1997*); and
- 24 (ii) the number of occasions (if any) during the year on
25 which information was disclosed under that subsection
26 to an authorised ASIO officer; and
- 27 (e) set out:
- 28 (i) the number of occasions (if any) during the year on
29 which the Commissioner or a taxation officer was
30 requested to disclose documents under subsection
31 355-75(1) in Schedule 1 in relation to a purpose of the
32 Project Wickenby taskforce; and
- 33 (ii) the number of occasions (if any) during the year on
34 which the Commissioner or a taxation officer disclosed
35 documents under that subsection; and
- 36 (f) set out, in relation to a taskforce that has been prescribed for
37 the purposes of section 355-80 in Schedule 1:
- 38 (i) the number of occasions (if any) during the year on
39 which the Commissioner or a taxation officer was

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 2 Consequential and other amendments

1 requested to disclose documents under subsection
2 355-80(1) in relation to a purpose of the taskforce; and
3 (ii) the number of occasions (if any) during the year on
4 which the Commissioner or a taxation officer disclosed
5 documents under that subsection.

6 **105 Subsection 3B(1B)**

7 Omit “13J,”.

8 **106 Sections 3C to 3H**

9 Repeal the sections.

10 **107 Section 8XB**

11 Repeal the section.

12 **108 Section 13H**

13 Repeal the section.

14 **109 Division 3 of Part IIIA**

15 Repeal the Division.

16 **110 Sections 17B and 17C**

17 Repeal the sections.

18 **111 Subsection 426-65(4) in Schedule 1**

19 Omit all the words after “contravene”, substitute “section 355-20 or
20 355-155”.

21 ***Taxation (Interest on Overpayments and Early Payments) Act*** 22 ***1983***

23 **112 At the end of section 4**

24 Add:

25 Note: An effect of this is that people who obtain information under this Act
26 are subject to the confidentiality obligations and exceptions in
27 Division 355 in Schedule 1.

28 **113 Section 8**

29 Repeal the section.

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Consequential and other amendments **Part 2**

1 ***Termination Payments Tax (Assessment and Collection) Act***
2 ***1997***

3 **114 At the end of section 21**

4 Add:

5 Note: An effect of this is that people who obtain information under this Act
6 are subject to the confidentiality obligations and exceptions in
7 Division 355 in Schedule 1.

8 **115 Section 23**

9 Repeal the section.

10 ***Trust Recoupment Tax Assessment Act 1985***

11 **116 Subsection 4(4)**

12 Omit “16 of the Assessment Act or section 3C”, substitute “355-20 or
13 355-155 in Schedule 1”.

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 3 Repeal

1

2 **Part 3—Repeal**

3 *A New Tax System (Bonuses for Older Australians) Act 1999*

4 **117 The whole of the Act**

5 Repeal the Act.

EXPOSURE DRAFT

Confidentiality of taxpayer information **Schedule 1**
Application, transitional and savings provisions **Part 4**

1

2 **Part 4—Application, transitional and savings**
3 **provisions**

4 **118 Application of amendments**

5 The amendments made by this Schedule apply to records and
6 disclosures of information made on or after the commencement of this
7 Schedule (whenever the information was obtained).

8 **119 Transitional—information obtained under repealed**
9 **provisions before commencement**

10 Protected information that was obtained by or disclosed to an entity
11 (other than as taxation officer) before the commencement of this item
12 under a provision of an Act that is amended or repealed by Part 2 of this
13 Schedule is taken, after that commencement, to be information obtained
14 by the entity under an exception in Subdivision 355-B or 355-C in
15 Schedule 1 to the *Taxation Administration Act 1953*.

16 **120 Saving—section 159 of the *Excise Act 1901***

- 17 (1) This item applies to an entity who obtained protected information
18 (within the meaning of section 159 of the *Excise Act 1901* as in force
19 immediately before the commencement of item 18 of this Schedule)
20 when the excise law (within the meaning of that Act) was not
21 administered by the Commissioner of Taxation.
- 22 (2) Despite the repeal of section 159 of the *Excise Act 1901* by item 18 of
23 this Schedule, that section continues to apply to the entity after the
24 commencement of this item, in relation to the information, as if the
25 repeal had not happened.

26 **121 Saving—section 252C of the *Superannuation Industry***
27 ***(Supervision) Act 1993***

- 28 (1) This item applies to an entity who obtained, before 8 October 1999,
29 protected information (within the meaning of section 252C of the
30 *Superannuation Industry (Supervision) Act 1993* as in force
31 immediately before the commencement of item 85 of this Schedule).
- 32 (2) Despite the repeal of section 252C of the *Superannuation Industry*
33 *(Supervision) Act 1993* by item 85 of this Schedule, that section

EXPOSURE DRAFT

Schedule 1 Confidentiality of taxpayer information

Part 4 Application, transitional and savings provisions

1 continues to apply to the entity after the commencement of this item, in
2 relation to the information, as if the repeal had not happened.

3 **122 Transitional regulations**

4 The Governor-General may make regulations prescribing matters of a
5 transitional nature (including prescribing any saving or application
6 provisions) in relation to the amendments or repeals made by this
7 Schedule.