
Chapter #

Minor amendments

(This is a draft of the relevant chapter of the explanatory memorandum to the Bill. Please note that the item numbers of the draft legislative provisions are temporary and will be renumbered in the version introduced into Parliament.)

Outline of chapter

1.1 Schedule 10 to this Bill makes various minor amendments to the taxation laws.

Context of amendments

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

1.3 Minor amendment packages now include addressing issues raised through the Tax Issues Entry System (TIES). The TIES website (www.ties.gov.au), which the Australian Taxation Office and Treasury jointly operate, provides a vehicle for tax professionals and the general public to raise issues relating to the care and maintenance of the tax system. The relevant part of the explanatory memorandum identifies TIES issues.

Summary of new law

1.4 The issues these minor amendments deal with include:

- rectifying incorrect terminology;
- correcting grammatical errors;

- repealing inoperative material;
- clarifying ambiguities; and
- ensuring provisions are consistent with the original policy intent.

1.5 Part 1 this Schedule concerns references to Australian Government Ministers, Departments and Secretaries; Part 2 concerns the repeal of Part IV of the *Taxation Administration Act 1953*; Part 3 concerns amendments relating to foreign income tax offsets and foreign losses; and Part 4 has other amendments.

1.6 More significant amendments include:

- putting beyond any doubt that ‘real property’ in the context of Division 855 of the *Income Tax Assessment Act 1997* (ITAA 1997), relating to the types of assets known as ‘taxable Australian property’ on which foreign residents pay capital gains tax, extends to a lease over land, with application to CGT events happening on or after 20 May 1999 (items 2275 and 2278);
- amending the rules in the income tax law relating to the foreign income tax offset and foreign losses to ensure that:
 - the offset is available only to Australian entities;
 - relevant foreign losses converted into tax losses can be deducted in calculating a partnership’s net income or loss;
 - previously recouped foreign losses or CFC (controlled foreign company) losses are not eligible to be convertible foreign losses or convertible CFC losses;
 - the deduction limit for convertible foreign losses does not prevent later year tax losses from being deductible in the current year; and
 - there is no possible double counting in relation to convertible foreign losses used by a subsidiary entity before it joined a consolidated group;

with application in relation to income years, statutory accounting periods and notional accounting periods starting on or after 1 July 2008 (Part 3, comprising items 2075 to 2150);

- ensuring that the capital gains tax small business concessions interact appropriately with Division 149 (loss of pre-CGT status) of the ITAA 1997, with application in relation to payments made by a company or trust on or after the day this Bill receives Royal Assent (this issue having been identified through the TIES system) (items 2271 to 2274);
- amending the fringe benefits tax (FBT) law to ensure that gifts to deductible gift recipients do not result in an employer having a fringe benefits tax liability, with application to the FBT year starting on 1 April 2008 and later FBT years (items 2179J and 2179K); and
- ensuring that first home saver account trusts operated by superannuation funds are a ‘full self-assessment taxpayer’ (as defined) for income tax purposes, with application in relation to the 2009-10 and later income years (items 2180 and 2182).

1.5 All of the amendments in this Schedule apply from the date of Royal Assent unless otherwise stated.

Detailed explanation of new law

Part 1 – References to Ministers, Departments and Secretaries

There are a number of references in taxation legislation to a specific Minister, Secretary or Department.

Using generic references to Ministers, Secretaries and Departments in the taxation laws will minimise the need to update the references in the future. The generic references are flexible enough to accommodate future reallocations of responsibility.

Act being amended	Provision being amended	Amendment
<i>Excise Act 1901</i>	4(1)	Inserts a definition of ‘Finance Minister’. [Schedule 10, item 5, subsection 4(1)]
<i>Excise Act 1901</i>	4(1) definitions	Replaces the definition of ‘Industry Minister’ with ‘Resources Minister’. [Schedule 10, items 10 and 15, subsection 4(1)]
<i>Excise Act 1901</i>	162B(5) 165A(11) 165A(12)	Replaces references to ‘Minister for Finance’ with ‘Finance Minister’. Also includes the word ‘and’ at the end of both paragraphs 162B(5)(a) and (b), consistent with modern drafting practice. [Schedule 10, items 20, 25 and 40 subsections 162B(5,) and subsections 165A(11) and (12)]

<i>Excise Act 1901</i>	165A(1)(b) 165A(2)(b) 165A(3) 165A(4)	Replaces references to 'Industry Minister' with 'Resources Minister'. <i>[Schedule 10, item 30, paragraphs 165A(1)(b) and (2)(b) and item 35 subsections 165A(3) and 165A(4).]</i>
<i>Excise Tariff Act 1921</i>	3(1) definitions	Inserts a definition of 'Energy Minister'. <i>[Schedule 10, item 45, subsection 3(1)]</i> In the definition of 'intermediate area', replaces the reference to 'Minister for Industry, Science and Resources' with 'Resources Minister'. <i>[Schedule 10, item 55, subsection 3(1)]</i> In the definition of 'new oil', replaces the references to 'relevant Energy Minister' with 'Energy Minister'. <i>[Schedule 10, item 50, subsection 3(1)]</i> Repeals the definition of 'relevant Energy Minister'. <i>[Schedule 10, item 60, subsection 3(1)]</i>
<i>Excise Tariff Act 1921</i>	3A(1)	Replaces the reference to 'Minister for Industry, Science and Resources' with 'Resources Minister'. <i>[Schedule 10, item 65, subsection 3A(1)]</i>
<i>Fringe Benefits Tax (Application to the Commonwealth) Act 1986</i>	3(1)	Inserts definitions of 'Finance Minister' and 'Finance Department'. Also includes the word 'and' at the end of paragraph (a) of the definition of 'responsible Department', consistent with modern drafting practice. <i>[Schedule 10, item 68 to 71, subsection 3(1)]</i>
<i>Fringe Benefits Tax (Application to the Commonwealth) Act 1986</i>	7(1)	Replaces the reference to 'Department of the Special Minister' with 'Finance Minister'. <i>[Schedule 10, item 72, subsection 7(1)]</i> Replaces the reference to 'Minister for Finance' with 'Finance Minister'. The heading to section 7 is also altered by omitting 'Minister for Finance' and substituting 'Finance Minister'. <i>[Schedule 10, items 65 and 75, subsection 7(1)]</i>
<i>Fringe Benefits Tax Assessment Act 1986</i>	47(8)(b)	Replaces the reference to the 'Department of Health, Housing, Local Government and Community Services' with 'Families Department'. <i>[Schedule 10, item 80, paragraph 47(8)(b)]</i>
<i>Fringe Benefits Tax Assessment Act 1986</i>	136(1) definitions	Inserts a definition of 'Families Department'. <i>[Schedule 10, item 85, subsection 136(1)]</i>
<i>Income Tax Assessment Act 1936</i>	6(1) definitions	Inserts definitions of 'Agriculture Secretary'; 'Arts Department'; 'Defence Department', 'Defence Minister' and 'Defence Secretary'; 'Education Department' and 'Education Secretary'; 'Employment Department',

		<p>‘Employment Minister’ and ‘Employment Secretary’; ‘Families Secretary’; ‘Health Department’, ‘Health Minister’ and ‘Health Secretary’; ‘Housing Secretary’; ‘Immigration Department’, ‘Immigration Minister’ and ‘Immigration Secretary’; ‘Research Department’, ‘Research Minister’ and ‘Research Secretary’; ‘Trade Department’, ‘Trade Minister’ and ‘Trade Secretary’; and ‘Veterans’ Affairs Department’, ‘Veterans’ Affairs Minister’ and ‘Veterans’ Affairs Secretary’. [Schedule 10, items 90 to 178 and 180 to 205, subsection 6(1)]</p> <p>Inserts a definition of ‘social security law’. [Schedule 10, item 179, subsection 6(1)]</p>
<i>Income Tax Assessment Act 1936</i>	16(4)(e)	<p>Repeals this paragraph and replaces it with ‘... Employment Secretary, or the Families Secretary, for the purpose of the administration of the social security law’. Also includes the word ‘or’ at the end of paragraphs 16(4)(a), (b), (c) and (d), consistent with modern drafting practice. [Schedule 10, items 210 and 212, paragraph 16(4)(e)]</p>
<i>Income Tax Assessment Act 1936</i>	16(4)(ea)	<p>Replaces the reference to ‘Secretary to the Department of Employment, Education and Training’ with ‘Employment Secretary’. [Schedule 10, item 215, paragraph 16(4)(ea)]</p>
<i>Income Tax Assessment Act 1936</i>	16(4)(f)	<p>Replaces the reference to ‘Secretary to the Department of Health’ with ‘Health Secretary’. Also includes the word ‘or’ at the end of paragraph 16(4)(ea), and at the end of paragraph 16(4)(eb) (after removing some now unnecessary words), consistent with modern drafting practice. [Schedule 10, items 220 to 225, paragraph 16(4)(f)]</p> <p>Replaces the reference to ‘Minister of State for Health’ with ‘Health Minister’. [Schedule 10, item 230, paragraph 16(4)(f)]</p>
<i>Income Tax Assessment Act 1936</i>	16(4)(fc)	<p>Replaces the reference to ‘Secretary of the Department of Family and Community Services’ with ‘Families Secretary’. Also includes the word ‘or’ at the end of paragraphs 16(4)(f), (fa) and (fb), consistent with modern drafting practice. [Schedule 10, items 235 and 240, paragraph 16(4)(fc)]</p>
<i>Income Tax Assessment Act 1936</i>	16(4)(h)	<p>Replaces the reference to ‘Secretary, Department of Defence’ with ‘Defence Secretary’. Also includes the word ‘or’ at the end of paragraphs 16(4)(fc), (fd), (g), (gaa) and (gb), consistent with modern drafting practice. [Schedule 10, items 245 and 250, paragraph 16(4)(h)]</p>

<i>Income Tax Assessment Act 1936</i>	16(4)(hb)	Replaces the reference to 'Secretary to the Department of Education and the Secretary to the Department of Social Security' with 'Education Secretary'. Also includes the word 'or' at the end of paragraphs 16(4)(h) and (ha), consistent with modern drafting practice. <i>[Schedule 10, items 255 and 260, paragraph 16(4)(hb)]</i>
<i>Income Tax Assessment Act 1936</i>	16(4)(hd)	Replaces the reference to 'Secretary to the Department of Immigration and Ethnic Affairs' with 'Immigration Secretary'. Also includes the word 'or' at the end of paragraphs 16(4)(hb), (hba), (hc), (hca), (hcaa) and (hcb), consistent with modern drafting practice. <i>[Schedule 10, items 265 and 270, paragraph 16(4)(hd)]</i>
<i>Income Tax Assessment Act 1936</i>	16(4)(j)	Replaces the reference to 'Secretary to the Department of Housing and Construction' with 'Housing Secretary'. Also includes the word 'or' at the end of paragraph 16(4)(hd), consistent with modern drafting practice. <i>[Schedule 10, items 275 to 285, paragraph 16(4)(j)]</i>
<i>Income Tax Assessment Act 1936</i>	16(5B) 16(5C)	Replaces the reference to 'Secretary to the Department of Trade' with 'Trade Secretary'. <i>[Schedule 10, items 290 and 295, subsections 16(5B) and 16(5C)]</i>
<i>Income Tax Assessment Act 1936</i>	23AF(11) to (14) 23AF(18)	Replaces the reference to the 'Minister for Trade' with 'Trade Minister'. Also includes the word 'or' at the end of paragraphs (a) to (d) of the definition of 'eligible project' in subsection 23AF(18). <i>[Schedule 10, items 296, 296A and 296B, subsections 23AF(11) to (14) and (18)]</i>
<i>Income Tax Assessment Act 1936</i>	73A(6)	Repeals the definition of 'Research Secretary'. <i>[Schedule 10, item 297, subsection 73A(6)]</i>
<i>Income Tax Assessment Act 1936</i>	124K(1) 124K(1A) 124K(1B) 124K(1D) 124ZAA(1) 124ZAA(11) 124ZAB(1) 124ZAB(2)(c) 124ZAB(3) 124ZAB(4) 124ZAB(5) 124ZAB(6)(a) 124ZAB(6A) 124ZAB(7) 124ZAC(1) 124ZAC(2)(c)	Replaces the reference to 'Minister' with 'Arts Minister' and references to 'Secretary to the Minister's Department' and 'Minister's Department' with 'Arts Department'. Also includes the word 'and' in various places, consistent with modern drafting practice. Finally, the heading to section 124ZADAB is altered by omitting 'Minister' and substituting 'Arts Minister'. <i>[Schedule 10, items 300-415 subsections 124K(1), 124K(1A), 124K(1B), 124K(1D), 124ZAA(1), 124ZAA(11) and 124ZAB(1), paragraph 124ZAB(2)(c), subsections 124ZAB(3), 124ZAB(4) and 124ZAB(5), paragraph 124ZAB(6)(a), subsections 124ZAB(6A), 124ZAB(7) and 124ZAC(1), paragraph 124ZAC(2)(c), subsections 124ZAC(3) and 124ZAC(5), section 124ZAD, and subsections 124ZADAA(1), 124ZADAB(1), and</i>

	124ZAC(3) 124ZAC(5) 124ZAD 124ZADAA(1) 124ZADAB(1) 124ZADAB(2)	124ZADAB(2)]
<i>Income Tax Assessment Act 1936</i>	159J(6) (definitions)	Replaces the reference to 'Department of Health' in paragraph (c) of the definition of 'invalid relative' with 'Health Department'. [Schedule 10, item 425 subsection 159J(6)] Replaces the reference to 'Secretary to the Department of Social Security' in paragraph (c) of the definition of 'invalid relative' with 'Families Secretary'. [Schedule 10, item 430 subsection 159J(6)]
<i>Income Tax Assessment Act 1936</i>	202CB(6)	Replaces the reference to 'Secretary to the Department of Social Security' with 'Employment Secretary'. [Schedule 10, item 435, subsection 202CB(6)]
<i>Income Tax Assessment Act 1936</i>	202CB(7) 202CE(8)	Replaces the reference to 'Secretary to the Department of Veterans' Affairs' with 'Veterans' Affairs Secretary'. [Schedule 10, items 440 and 450, subsection 202CB(7) and 202CE(8)]
<i>Income Tax Assessment Act 1936</i>	202CE(7)	Replaces the reference to 'Secretary of the Department of Social Security' with 'Employment Secretary'. [Schedule 10, item 445 subsection 202CE(7)]
<i>Income Tax Assessment Act 1936</i>	202CE(8)	Replaces the reference to 'Secretary to the Department of Veterans' Affairs' with 'Veterans' Affairs Secretary'. [Schedule 10, item 450, subsection 202CE(8)]
<i>Income Tax Assessment Act 1936</i>	251R(5)(d)	Replaces the reference to 'Secretary of the Department whose Minister administers that Act' with 'Families Secretary'. [Schedule 10, item 455 paragraph 251R(5)(d)]
<i>Income Tax Assessment Act 1936</i>	251U(1)(f)	Replaces the reference to 'Minister for Health' with 'Health Minister'. Also includes the word 'or' at the end of paragraphs 251U(1)(a), (b), (c), (ca), (caa), (cb), (cc) and (d) and of paragraph 251U(1)(f), consistent with modern drafting practice. [Schedule 10, items 460 to 47, paragraph 251U(1)(f)]
<i>Income Tax Assessment Act 1936</i>	264AA(1)	Replaces the reference to 'Secretary to the Department of Primary Industries and Energy' with 'Agriculture Secretary'. Also the heading to section 264AA is altered by omitting 'Department of Primary Industries and Energy' and substituting 'Agriculture Secretary'. [Schedule 10, item 475, subsection

		264AA(1)
<i>Income Tax Assessment Act 1997</i>	25-7 (note)	Replaces the reference to ‘Secretary to the Department of Family and Community Services’ with ‘Families Secretary’. [<i>Schedule 10, item 480 section 25-7 (note)</i>]
<i>Income Tax Assessment Act 1997</i>	30-25(1) (table item 2.1.7). 30-30(1)(c) and (d)	Replaces the references to ‘Minister for Employment, Education, Training and Youth Affairs’ and to ‘Minister’ with ‘Education Minister’. [<i>Schedule 10, item 485 subsection 30-25(1)(table item 2.1.7), item 490 paragraph 30-30(1)(c) and (d)</i>]
<i>Income Tax Assessment Act 1997</i>	30-75	Replaces the reference to ‘Minister’ with ‘Families Minister’. [<i>Schedule 10, item 497 section 30-75</i>]
<i>Income Tax Assessment Act 1997</i>	30-80(1) (table item 9.1.2) 30-85(2)(a) and (b) 30-85 (5)	Replaces references to ‘Minister for Foreign Affairs’ with ‘Foreign Affairs Minister’. [<i>Schedule 10, items 500 to 515, subsection 30-80(1) (table item 9.1.2), paragraphs 30-85(2)(a) and (b), and subsection 30-85(5)</i>]
<i>Income Tax Assessment Act 1997</i>	30-210(1) 30-230(5) 30-235(1) 30-240 30-295 30-300(6) and (7) 30-305(1) and (4) 30-310(1) 375-865(2)(b) 376-10(1)(b) and (c) 376-230(1)(a) and (b) 376-240(3)(d)	Replaces references to ‘Minister for Communications and the Arts’ with ‘Arts Minister’ and to ‘Secretary to the Department of the Department of Communications and the Arts’ with ‘Arts Secretary’. Also ensures that asterisking protocols for defined terms are followed. [<i>Schedule 10, items 525 to 535, 655, 660, and 565 to 585, subsections 30-210(1), 30-230(5), 30-235(1) and 30-289(4), section 30-295, subsections 30-300(7), 30-305(1), 30-305(1) and (4), 30-310(1), and 30-310(1), and paragraphs 375-865(2)(b), 376-10(1)(b) and (c), 376-230(1)(a) and (b), and 376-240(3)(d)</i>]
<i>Income Tax Assessment Act 1997</i>	30-287 30-289(4) 30-289A(3) 30-289B(1) and (4) 30-289C(1)	Replaces references to Minister or Secretary for ‘Family and Community Services’ with ‘Families Minister’ or ‘Families Secretary’. [<i>Schedule 10, items 540 to 560, section 30-287, subsections 30-289(4), 30-289A(3), 30-289B(1) and (4), and 30-289C(1)</i>]
<i>Income Tax Assessment Act 1997</i>	34-25(1)	Replaces the reference to ‘Secretary to the Department of Industry, Science and Tourism (the Industry Secretary)’ with ‘ Industry Secretary ’. [<i>Schedule 10, item 590, subsection 34-25(1)</i>]
<i>Income Tax Assessment Act 1997</i>	34-65	Replaces the reference to ‘Department of Industry, Science and Tourism’ with ‘Industry Department’. [<i>Schedule 10, items 595, section 34-65</i>]

<i>Income Tax Assessment Act 1997</i>	40-180(2) (table item 10) 40-300(2) (table item 11)	Replaces references to ‘Minister for Finance’ with ‘Finance Minister’. [<i>Schedule 10, items 600 to 605, subsection 40-180(2) (table item 10), subsection 40-300(2) (table item 11)</i>]
<i>Income Tax Assessment Act 1997</i>	40-670(1)(a)	Replaces the reference to ‘Secretary of the Department of Agriculture, Fisheries and Forestry’ with ‘Agriculture Secretary’. [<i>Schedule 10, item 610, paragraph 40-670(1)(a)</i>]
<i>Income Tax Assessment Act 1997</i>	40-670(1)(b)	Replaces the reference to ‘that Department’ with ‘the Agriculture Department’. Replaces the reference to ‘that Secretary’ with ‘the Agriculture Secretary’. [<i>Schedule 10, items 610-620, paragraphs 40-670(1)(a) and (b)</i>]
<i>Income Tax Assessment Act 1997</i>	51-32(3)	Replaces the reference in paragraph (b) to ‘Minister administering section 1 of the Defence Act 1903’ with ‘Defence Minister’. Replaces the words ‘that Act’ with ‘the Defence Act 1903 ’. [<i>Schedule 10, items 625 and 630, paragraph 51-32(3)(b), subsection 51-32(3)</i>]
<i>Income Tax Assessment Act 1997</i>	52-131(9) (note)	Updates the note about the location on the internet of the ABSTUDY Policy Manual to refer to 2009 rather than 2007 and to replace the reference to the ‘Department of Education, Science and Training’ with ‘Education Department’. [<i>Schedule 10, item 635, subsection 52-131(9) (note)</i>]
<i>Income Tax Assessment Act 1997</i>	61-630(3) and (5)	Replaces the references to ‘Minister administering the Student Assistance Act 1973 (the Education Minister)’ with ‘Education Minister’ and ensures the reference is asterisked. [<i>Schedule 10, items 640 and 645, subsections 61-630(3) and (5)</i>]
<i>Income Tax Assessment Act 1997</i>	396-5 396-40 396-65(1) and (2) 396-70 (heading) 396-70(1) 396-70(5), (6) and (7) 396-75(1) and (2) 396-80(1), (4) and (5)(b) 396-90(2) 396-100 396-105 396-110	Replaces the references to ‘Minister for Transport and Regional Development’ with ‘Transport Minister’, with consequential amendments. [<i>Schedule 10, items 665 to 755 and 770 to 775, sections 396-5 and 396-40, subsections 396-65(1) and 396-65(2), section 396-70, subsections 396-70(1), 396-70(5), 396-70(6), 396-70(7), 396-75(1), 396-75(2), 396-80(1), and 396-80(4), paragraph 396-80(5)(b), subsection 396-90(2), and sections 396-100, 396-105 and 396-110</i>]
<i>Income Tax Assessment Act</i>	396-105	Replaces the reference to ‘Secretary to the Minister’s Department’ with ‘Transport

1997		Secretary' and 'Minister's Department' with 'Transport Department'. [Schedule 10, item 760 and 765, section 396-105]
Income Tax Assessment Act 1997	995-1(1) (Dictionary)	Amends definitions of 'Arts Minister', 'Arts Secretary', 'Climate Change Minister', 'Climate Change Secretary', 'Environment Minister', 'Environment Secretary', 'Heritage Secretary', 'Housing Secretary', and 'Industry Secretary', 'Transport Department' and 'Transport Minister'. Inserts definitions of 'Agriculture Department', 'Agriculture Minister', and 'Agriculture Secretary'; 'Arts Department'; 'Climate Change Department'; 'Education Department' and 'Education Minister'; 'Environment Department'; 'Families Department', 'Families Minister' and 'Families Secretary'; 'Finance Minister'; 'Foreign Affairs Minister'; 'Heritage Department' and 'Heritage Minister' 'Housing Minister' and 'Housing Department'; 'Industry Department' and 'Industry Minister'; and 'Transport Secretary'. [Schedule 10, items 780 to 950, subsection 995-1(1)]
Income Tax Assessment (Transitional Provisions) Act 1997	30-10 30-15(1) 30-15(1) (note) 30-20	Replaces references to 'Minister' with 'Arts Minister'. [Schedule 10, items 951 to 953, section 3-10, subsection 30-15(1) and section 30-20]
Petroleum Resource Rent Tax Assessment Act 1987	2	Repeals the definition of 'certifying Minister'. Inserts definitions of 'Resources Minister' and 'Resources Department'. [Schedule 10, items 955 to 965, section 2]
Petroleum Resource Rent Tax Assessment Act 1987	18(2) 18(3) 20(1) 20(2)(b) 20(7) 20(8) 20(12)(a)	Replaces references to 'certifying Minister' with 'Resources Minister' and makes similar changes. [Schedule 10, items 970 to 1015, subsections 18(2), 18(3) and 20(1), paragraph 20(2)(b), subsections 20(7) and 20(8), and paragraph 20(12)(a)]
Petroleum Resource Rent Tax Assessment Act 1987	36B(1)	Replaces the reference to the 'Minister administering the Offshore Petroleum and Greenhouse Gas Storage Act 2006' with 'Resources Minister'. [Schedule 10, item 1020, subsection 36B(1)]
Petroleum Resource Rent Tax Assessment Act 1987	36B(2) 36B(3) 36B(5) 108(5)	Replaces references to 'Minister' and Replaces 'certifying Minister' with 'Resources Minister' and replaces 'Minister's Department' with 'Resources Department'. [Schedule 10, items 1025 to 1035, subsections 36B(2), 36B(3), 36B(5) and

		108(5)]
<i>Superannuation Contributions Tax (Application to the Commonwealth) Act 1997</i>	3(3) 6(1)	Inserts a definition of 'Finance Minister' and replaces the reference to 'Minister for Finance' with 'Finance Minister'. [Schedule 10, items 1040 to 1045, section 3, subsection 6(1)]
<i>Taxation Administration Act 1953</i>	2(1) 14Q(1) 14S(4)(b)(i) 14S(5)	Inserts a definition of 'Immigration Secretary', repeals the definition of 'Immigration Department', and makes consequential amendments. [Schedule 10, items 1050 to 1065, subsections 2(1) and 14Q(1), subparagraph 14S(4)(b)(i) and subsection 14S(5)]
<i>Income Tax Assessment Act 1997</i> (amendments not commencing on Royal Assent)	995-1	Amends paragraph (a) of the definition of 'Transport Department' and the definition of 'Transport Minister' by replacing references to 'Auslink (National Land Transport) Act 2005' with 'Nation Building Program (National Land Transport) Act 2009'. Clause 2 of the Bill provides for special commencement provisions for these amendments. Items 1066 and 1067 are to commence at the later of just after the start of the day on which this amending Bill receives Royal Assent and the time item 1 of Schedule 1 to the <i>Nation Building Program (National Land Transport) Amendment Act 2009</i> commences. However, if the latter does not occur, items 1066 and 1067 do not commence at all. [Schedule 10, items 1066 and 1067, section 995-1, clause 2]
<i>Taxation Administration Act 1953</i> (amendments not commencing on Royal Assent)	2(1) 3ED(1)(b)(i) and (ii) and (3)(a)(i) and (ii) and (b)(i) 3ED(5)	Inserts definitions of 'Immigration Department', 'Immigration Minister' and 'migration officer' and makes consequential changes. Clause 2 of the Bill provides for special commencement provisions for these amendments. Items 1070 to 1090 are to commence at the later of just after the start of the day on which this amending Bill receives Royal Assent and just after the commencement of item 1 of Schedule 2 to the <i>Migration Legislation Amendment (Worker Protection) Act 2008</i> commences. [Schedule 10, items 1070 to 1090, subsection 2(1), paragraphs 3ED(1)(b)(i) and (ii) and (3)(a)(i) and (ii) and (b)(i), and subsection 3ED(5), clause 2]

Part 2 – Repeal of Part IV of the *Taxation Administration Act 1953*

Table 1.1: Amendments to the *Tax Administration Act 1953*

<i>Provision being amended</i>	<i>What the amendment does</i>
Part IV	Repeals inoperative provisions and makes required consequential amendments.
3(1)	Part IV of the <i>Taxation Administration Act 1953</i> , in conjunction with section 39B of the <i>Banking Act 1959</i> , previously dealt with the protection of Commonwealth revenue, and ensured that foreign currency transfers were prevented if they would have led to the avoidance or evasion of an Australian tax liability.
3(2)	
3B(1AA)(a)	
3B(4) (definition of ‘this Act’)	
3C(9) (definition of ‘this Act’)	
8J(2)(p)	Part IV ceased to have effect from 1 July 1990 when the regulations implementing foreign currency controls were withdrawn.
14ZQ (definition of ‘appealable objection decision’)	Foreign currency controls have since been replaced by reporting requirements under the <i>Cash Transaction Reports Act 1988</i> and the <i>Financial Transaction Reports Act 1988</i> .
14ZR(1)(a)	
14ZZ(a) to (c)	
14ZZN	<i>[Schedule 10, items 2015 to 2070, Part IV, sections 14ZZN, 14ZZO, 14ZZP and 14ZQ (definition of ‘appealable objection decision’), subsections 3(1), 3(2) 3B(4) (definition of ‘this Act’) and 3C(9) (definition of this Act), and paragraphs 3B(1AA)(a), 8J(2)(p), 14ZR(1)(a), 14ZZ(a) to (c) and 14ZZ(1)(a) and (b)]</i>
14ZZO	
14ZZP	
14ZZS(1)(a) and (b)	

Table 1.2: Amendments to the *Banking Act 1959*

<i>Provision being amended</i>	<i>What the amendment does</i>
39B	Repeals an inoperative provision. Section 39B depends on Part IV of the <i>Taxation Administration Act 1953</i> , which is being repealed. It prevents the bank authority doing certain things unless the Commissioner of Taxation has issued a certificate under Part IV, which has long been inoperative and which is now being repealed. <i>[Schedule 10, item 2010, section 39B]</i>

Table 1.3: Amendments to the *Administrative Decisions (Judicial Review) Act 1977*

<i>Provision being amended</i>	<i>What the amendment does</i>
Schedule 1, paragraph (g)	Repeals a provision made redundant as a result of repealing Part IV of the <i>Taxation Administration Act 1953</i> . <i>[Schedule 10, item 2005, Schedule 1, paragraph (g)]</i>

Part 3—Amendments relating to foreign income tax offsets and foreign losses

The new foreign income tax offset rules in Division 770 of the *Income Tax Assessment Act 1997* were enacted by the *Tax Laws Amendment (2007 Measures No. 4) Act 2007*. They represented a rewriting and simplification of the previous foreign loss quarantining and foreign tax credit rules. They included transitional rules under Subdivisions 770-A to 770-C of the *Income Tax (Transitional Provisions) Act 1997* to allow certain existing foreign losses of entities to be used under the new foreign income tax offset rules.

All the amendments in Part 3 are to apply to income years, statutory accounting periods and notional accounting periods starting on or after 1 July 2008—the start date for the new foreign income tax offset rules. This will ensure that the new foreign income tax offset rules work as intended from their first application and avoid uncertainty in the law by having a common application date. *[Schedule 10, item 2035]*

Table 1.4: Amendments to the *Income Tax Assessment Act 1997*

<i>Provision being amended</i>	<i>What the amendment does</i>
770-135(1)	Ensures that the section applies only to Australian entities (including partnerships with at least one partner that is an Australian entity). Section 770-135 ensures a streamlined set of rules to deem some foreign income tax paid by controlled foreign companies (CFCs) or foreign investment funds (FIFs) to be paid by the Australian resident taxpayer or partnership holding the interest in the CFCs or FIFs. Foreign income tax paid by second-tier FIFs (that is, FIFs indirectly held by Australian entities through CFCs or other FIFs) was not intended to be eligible for a foreign income tax offset in the hands of the underlying Australian entity. However, the provisions could currently be interpreted to apply not only to Australian entities but also to foreign entities

	<p>(such as CFCs and first-tier FIFs). On that interpretation, the Australian entity <i>indirectly</i> holding the interest could be eligible for an offset for foreign income tax paid by those foreign entities, which was not intended.</p> <p>[Schedule 10, item 2075, subsection 770-135(1)]</p>
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Table 1.5: Amendments to the *Income Tax (Transitional Provisions) Act 1997*

<i>Provision being amended</i>	<i>What the amendment does</i>
770-1	<p>Amends the law by inserting new subsection 770-1(4) to ensure that relevant foreign losses converted into tax losses can be deducted in calculating the partnership's net income or loss under section 90 of the <i>Income Tax Assessment Act 1936</i>, and not be in effect 'trapped' in the partnership holding them.</p> <p>The transitional rules dealing with foreign losses accumulated under the previous foreign loss quarantining rules were intended also to apply to entity structures involving Australian partners and partnerships.</p> <p>However, it would seem that, while certain foreign losses held by a partnership on commencement of the new foreign income tax offset rules are eligible to be converted to tax losses under section 770-1 as intended, there is no mechanism by which they can be deducted from the net assessable income of the partnership (or added to a partnership loss) under section 90 of the <i>Income Tax Assessment Act 1936</i> and so be 'distributed' to the partners for use against their own assessable income. Without such a mechanism, foreign losses could be converted into tax losses but then be 'trapped' in the partnership instead of being available to the partners.</p> <p>[Schedule 10, items 2078 and 2080, section 770-1]</p>
770-5(1)(a) and (b) 770-5(3) 770-10 (heading) 770-10	<p>Amends these provisions to ensure that previously recouped foreign losses are not eligible to be convertible foreign losses.</p> <p>It was not intended that the transitional rules allow an overall foreign loss that had been <i>previously</i> recouped by an entity under the former rules in section 160AFD of the <i>Income Tax Assessment Act 1936</i> be a convertible foreign loss under sections 770-5 and 770-10 of the <i>Income Tax (Transitional Provisions) Act 1997</i>.</p>

	<p><i>[Schedule 10, items 2085 to 2115, paragraphs 770-5(1)(a) and (b), subsection 770-5(3), and section 770-10]</i></p>
<p>770-165(1)(a) and (b) 770-165(3) 770-170 (heading) 770-170</p>	<p>Amends the required sections to ensure that previously recouped CFC losses are not eligible to be convertible CFC losses.</p> <p>It was not intended that the transitional rules allow a CFC loss that had been <i>previously</i> recouped under the former section 431 of the <i>Income Tax Assessment Act 1936</i> be a convertible CFC loss under sections 770-165 and 770-170 of the <i>Income Tax (Transitional Provisions) Act 1997</i>.</p> <p><i>[Schedule 10, items 2120 to 2145, paragraphs 770-165(1)(a) and (b), subsection 770-165(3), and section 770-170]</i></p>
<p>770-30</p>	<p>Ensures that the deduction limit applying to convertible foreign losses does not prevent later year tax losses from being deducted in the current year. This is consistent with general practice where earlier year losses are prevented or restricted from being used by ownership tests, deduction limits or quarantining (unless otherwise expressly stated).</p> <p>The transitional rules allow an entity to convert certain foreign losses incurred before the new foreign income tax offset rules begin into convertible foreign losses under section 770-1 of the <i>Income Tax (Transitional Provisions) Act 1997</i>. These convertible foreign losses are then deductible under Division 36 of the <i>Income Tax Assessment Act 1997</i> like ordinary tax losses, up to a limit calculated using the table in subsection 770-30(1) of the <i>Income Tax (Transitional Provisions) Act</i>.</p> <p>If the limit is reached, the entity can deduct no further convertible foreign loss for that income year, with any further convertible foreign loss waiting for a future year, as was intended.</p> <p>However, an entity may also have unrecouped ordinary tax losses, all of which were incurred after the oldest unrecouped convertible foreign loss (the further deduction of which may have been deferred because of the limit). These ordinary tax losses remain deductible despite the earlier year convertible foreign loss not being fully deducted. This is consistent with general practice in relation to using losses unless expressly otherwise stated.</p>

	<i>[Schedule 10, items 2116 and 2117, section 770-30]</i>
770-95(b) 770-95(c) 770-95 (notes 1 and 2) 770-100(2) 770-100(3) 770-165(1)(a) and (b) 770-165(3) 770-170 (heading)	<p>Removes possible double counting in relation to convertible foreign losses used by a subsidiary entity before it joined a consolidated group. This is to ensure that the group’s head company is not disadvantaged by an unintended reduction in its convertible foreign loss deduction limit.</p> <p>The drafting of the special reduction could be interpreted to account twice for such losses, to the unintended detriment of the head company/taxpayer.</p> <p>The current transitional rules include some special rules for head companies of consolidated groups. This is the case particularly where a joining entity had converted its foreign losses incurred before the new foreign income tax offset rules began into convertible foreign losses on commencement of the new foreign income tax offset rules and had used some of these losses before joining the group (that is, before transferring these losses to the head company).</p> <p>Those special rules were included to reduce the head company’s deduction limit for these losses to the extent that they had been utilised prior to transfer.</p> <p><i>[Schedule 10, items 2118 to 2119C, paragraphs 770-95(b) and (c), section 770-95 (notes 1 and 2), subsections 770-100(2) and (3), paragraphs 770-165(1)(a) and (b), subsection 770-165(3) and section 770-170 (heading)]</i></p>

Part 4 – Other Amendments

Table 1.6: Amendments to the *A New Tax System (Australian Business Number) Act 1999*

<i>Provision being amended</i>	<i>What the amendment does</i>
25(2) (note 1) 41 (definition of ‘electronic signature’) 41 (definition of ‘non-cash benefit’) 41 (definition of ‘withholding payment’) 41 (definition of ‘withholding payment’)	<p>Changes references to ‘<i>Income Tax Assessment Act 1997</i>’ to ‘<i>ITAA 1997</i>’, which is defined to mean the <i>Income Tax Assessment Act 1997</i> in this Act.</p> <p><i>[Schedule 10, items 2155 to 2175, subsection 25(2) (note 1), and section 41]</i></p>

covered by a particular provision in Schedule 1 to the <i>Taxation Administration Act 1953</i>)	
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Table 1.7: Amendments to the *Fringe Benefits Tax Assessment Act 1986*

<i>Provision being amended</i>	<i>What the amendment does</i>
10(3)(a)(v)(B) 10(3D)(c)	<p>Repeals some references to sales tax that are no longer necessary in the law.</p> <p>Section 10 provides for the 'cost basis' that employers can use to work out the taxable value of car fringe benefits, and includes outdated references to sales tax. Sales tax has not applied since 1 July 2000. However, the provision was retained to cover affected cars that were still being leased out.</p> <p>Based on the effective life of cars it is likely there are few, if any, pre-2000 vehicles still being leased out and provided as fringe benefits. In other words, these provisions are effectively inoperative.</p> <p>In any event, section 8 (effect of repeal) of the <i>Acts Interpretation Act 1901</i> would apply to any remaining cases to ensure the continued application of the repealed provisions</p> <p>[Schedule 10, items 2176 to 2179B, sub-subparagraph 10(3)(a)(v)(B), and paragraph 10(3D)(c)]</p>
42(1)(a)(i) 42(1)(b)(i)	<p>Removes provisions that increase the taxable value of an in-house benefit where sales tax was not paid, as they are no longer operative.</p> <p>These provisions relate to the taxable value of in-house property fringe benefits. Both subparagraphs provide that the taxable value is increased, where sales tax was not paid on the acquisition by the providers. Following the introduction of the GST, this type of event is not subject to sales tax.</p> <p>[Schedule 10, items 2179BB and 2179C, subparagraphs 42(1)(a)(i) and (b)(ii)]</p>
148	<p>Amends the fringe benefits (FBT) law to ensure that donations made to deductible gift recipients through salary sacrifice arrangements do not result in an employer incurring an FBT liability.</p> <p>The amendment applies from the start of the 2008-09 FBT year to ensure that a consistent treatment applies for the whole FBT year. The 2008-09 year has been chosen because the bushfire appeals make it</p>

	<p>particularly significant for these arrangements.</p> <p>FBT may be payable by employers who make donations to deductible gift recipients under salary sacrifice arrangements with their employees.</p> <p>Gifts of \$2 or more in cash or property (subject to certain rules) to deductible gift recipients are tax deductible (see Division 30 of the <i>Income Tax Assessment Act 1997</i>).</p> <p>Under the Commissioner of Taxation’s workplace giving program, an employer may make donations to deductible gift recipients on behalf of their employees from the employees’ after-tax salary and wages.</p> <p>The Commissioner then allows the employers to adjust the amount that must be withheld from an employee’s salary and wages (under the pay as you go withholding system) to take account of the deduction the employee will be entitled to for the donation the employer has made on their behalf. This allows the employee in effect to obtain the benefit of the deduction immediately.</p> <p>If an employee enters into a salary sacrifice arrangement with their employer in which they voluntarily reduce their salary and wages in return for a benefit, the FBT regime may tax the employer on the benefit provided.</p> <p>FBT applies to fringe benefits provided to an employee (or their associates) in respect of their employment. The benefit is the donation made to the deductible gift recipient. Although a deductible gift recipient is not likely ordinarily to be an employee’s associate, the anti-avoidance rule in subsection 148(2) of the <i>Fringe Benefits Tax Assessment Act 1986</i> treats the deductible gift recipient as the employee’s associate as the benefit is provided under a salary sacrifice arrangement.</p> <p>[Schedule 10, item 2179J, section 148]</p>
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Table 1.8: Amendments to the *Income Tax Assessment Act 1936*

<i>Provision being amended</i>	<i>What the amendment does</i>
6(1) (at the end of the definition of ‘full self-assessment taxpayer’)	<p>Extends the definition of ‘full self-assessment taxpayer’ to include a ‘FHSA trust’ (that is, a first home saver account trust).</p> <p>This amendment ensures that superannuation funds assess the liability arising from an FHSA trust in the</p>

	<p>same manner as the remainder of the superannuation fund.</p> <p>Superannuation funds (which will be offering first home saver accounts) are already full self-assessment taxpayers and their FHSA trusts should not be treated differently to the superannuation fund itself.</p> <p>The inclusion of FHSA trusts as full self assessment taxpayers is consistent with the other entities listed as full self assessment taxpayers. <i>[Schedule 10, item 2180, subsection 6(1)]</i></p> <p>This amendment applies in relation to the 2009-10 and later income years to ensure that taxpayers and the Australian Taxation Office have time to update their systems. <i>[Schedule 10, item 2182]</i></p>
16(5BA) 16(5C) 16(5C)(a)	<p>Repeals an inoperative provision (subsection 16(5BA)) and makes necessary consequential amendments.</p> <p>Subsection 16(5BA) allows the Commissioner of Taxation to provide the Treasurer and others with information about deductions for shares in companies listed under the <i>Management and Investment Companies Act 1983</i>. This Act was repealed in 2003. <i>[Schedule 10, items 2185 to 2195, subsections 16(5BA) and 16(5C), and paragraph 16(5C)(a)]</i></p>
82KZL(1)(a) (definition of 'excluded expenditure') 82KZL(1)(b) (definition of 'excluded expenditure') 82KZL(2)(a)	<p>Includes the words 'or' or 'and' at the end of each listed paragraph, consistent with modern drafting practice. <i>[Schedule 10, items 2200 to 2205, paragraphs 82KZL(1)(a) and (b) and 82KZL(2)(a)]</i></p>
99H(1)(c)	<p>Replaces an incorrect reference to 'subsection 12-400(4)' with the correct reference to 'subsection 12-405(4)'. <i>[Schedule 10, item 2210, paragraph 99H(1)(c)]</i></p>
128W(1) 128W(2) 128W(3) 128W(7)	<p>Repeals inoperative provisions.</p> <p>Subsections 128W(2), 128W(3) and 128W(7) related to the payment of mining withholding tax that became due and payable before 1 July 2000. The provisions relating to the collection and recovery of mining withholding tax and other amounts are covered by Part 4-15 of Schedule 1 to the <i>Tax Administration Act 1953</i>. <i>[Schedule 10, items 2212 to 2215, subsections 128W(1)(2), (3) and (7)]</i></p> <p>The amendment does not apply to any mining withholding tax that became due and payable before 1 July 2000. <i>[Schedule 10, item 2217]</i></p>

161AA(d)	<p>Replaces references to ‘fund that is an eligible superannuation fund (as defined in section 267)’ with ‘superannuation fund’.</p> <p>Section 267 was repealed in 2007 by Schedule 1, item 8 of the <i>Superannuation Legislation Amendment (Simplification) Act 2007</i>. [Schedule 10, item 2220, paragraph 161AA(d)]</p> <p>The amendment applies in relation to the 2009-10 and later income years. [Schedule 10, item 2222]</p>
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Table 1.9: Amendments to the *Income Tax Assessment Act 1997*

<i>Provision being amended</i>	<i>What the amendment does</i>
30-25(1), table item 2.1.7	<p>Replaces a reference to ‘<i>Employment, Education and Training Act 1988</i>’ with ‘<i>Student Assistance Act 1973</i>’.</p> <p>The <i>Employment, Education and Training Act 1988</i> was repealed by the <i>Australian Research Council (Consequential and Transitional Provisions) Act 2001</i>. The <i>Student Assistance Act 1973</i> covers the same relevant ground as the repealed Act.</p> <p>[Schedule 10, item 2225, of subsection 30-25(1), table item 2.1.7]</p>
30-86(4)	<p>Replaces the word ‘declaration’ with the word ‘recognition’, which is consistent with the language used elsewhere in the section.</p> <p>[Schedule 10, item X, subsection 30-86(4)]</p>
40-425(2)	<p>Changes the punctuation of the subsection to make it easier to understand. [Schedule 10, item X, subsection 40-425(2)]</p>
54-10(2) 54-10(1)(e) 54-10(1A)(e) 995-1(1) (Dictionary)	<p>Extends the definition of ‘State Insurers’ to the whole Act and makes necessary consequential amendments.</p> <p>The term ‘State Insurers’ is at present defined only for the purposes of subsection 54-10(2). Defining a term for only a portion of the Act is inconsistent with drafting protocols, which require definitions to apply across the whole Act where possible.</p> <p>At present, subsection 54-10(2) is the only provision in the Act that uses this term. [Schedule 10, item 2235, subsection 54-10(2), paragraphs 54-10(1)(e) and (1A)(e), and subsection 995-1(1)]</p>
124-10(3) (note 2)	<p>Amends a statutory note to ensure it refers to relevant provisions.</p> <p>Note 2 of subsection 124-10(3) alerts the reader to provisions that modify the consequences of capital gains tax replacement asset roll-overs. This</p>

	<p>amendment includes in the note a reference to ‘Subdivision 124-C (about statutory licences)’.</p> <p><i>[Schedule 10, item 2250, subsection 124-10(3) (note 2)</i></p>
<p>124-140(1) 124-140(1) (note 1)</p>	<p>Includes a statutory note (note 2) to provide a signpost to provisions in Subdivision 124-C of the <i>Income Tax (Transitional Provisions) Act 1997</i> that modify the capital gains tax statutory licences roll-over for certain water-related licences.</p> <p>A consequential amendment renumbers the existing unnumbered note as note 1.</p> <p><i>[Schedule 10, items 2255 and 2260, subsection 124-140(1)]</i></p>
<p>130-90(3)(a)(i) 130(3)(a)(ii) 130-90(3)(c)</p>	<p>Amends the capital gains tax provisions relating to employee share schemes to ensure that they operate as intended. The amendment clarifies that there is no potential for double taxation in the described circumstance.</p> <p><i>Tax Laws Amendment (Budget Measures) Act 2008</i> amended subsection 130-90(3) to remove double taxation by disregarding capital gains or capital losses arising when an employee becomes entitled to shares held in the trust as a result of exercising a right acquired under an employee share scheme.</p> <p>There arguably remains potential for double taxation in the circumstance where an employee share scheme right is exercised and the shares remain in the trust because of restrictions that apply to the shares. This creates uncertainty about whether the employee on ultimately acquiring the shares from the satisfaction of a beneficial has acquired the shares as a result of exercising a right acquired under an employee share scheme. <i>[Schedule 10, item X and X, subparagraphs 130-90(3)(a)(i) and (ii) and paragraph 130-90(3)(c)]</i></p>
<p>149-30(1) 149-30(2) 152-110(1) 152-125(1)(a) 152-125(1)(a)(iii)</p>	<p>(These amendments give effect to a suggestion made through the Tax Issues Entry System.)</p> <p>Amends these provisions (including by making consequential amendments) to ensure that they apply more appropriately.</p> <p>Section 152-125 (which is part of the capital gains tax small business concessions) allows a company or trust to make exempt payments to a CGT concession stakeholder, including payments reflecting a capital gain that is exempt under the 15-year exemption or a pre-CGT capital gain.</p>

	<p>The amendments allow the pre-CGT capital gain that existed on an asset before the operation of Division 149, which turns a pre-CGT asset into a post-CGT asset where there has been at least a 50 per cent change in ownership of a company or trust, to be distributed tax-free to a CGT concession stakeholder of the company or trust.</p> <p>This is achieved firstly by amending subsection 149-30(1) so that it comprises two subsections.</p> <p>The application of new subsection 149-30(1A) and section 149-35 is then ignored for the purposes of section 152-125.</p> <p>The effect of these two amendments is that, where Division 149 has treated a pre-CGT asset as a post-CGT asset, the asset retains its original cost base and time of acquisition for the purposes of section 152-125.</p> <p>This means the total capital gain, comprising the actual pre-CGT gain and actual post-CGT gain, is treated as a post-CGT gain for the purposes of allowing that capital gain to be an exempt amount under subsection 152-125(1).</p> <p>The amendments also clarify that, in calculating the period an entity has continuously owned an asset for the purposes of section 152-110, any change in majority underlying interests in the asset is ignored. This means that the period of ownership of the CGT asset starts from the time the entity originally acquired the asset.</p> <p>The amendments similarly result in any change in majority underlying interests in an asset being ignored for testing whether an entity had a significant individual for at least 15 years for the purposes of section 152-110. <i>[Schedule 10, items 2271 to 2273, subsections 149-30(1) and (2), subsection 152-110(1), subparagraph 152-125(1)(a)(iii), paragraph 152-125(1)(a)]</i></p> <p>The amendments apply to payments made by a company or trust on or after the day on which this Bill receives Royal Assent. <i>[Schedule 10, item 2274]</i></p>
855-20(a)	<p>A foreign resident is liable for capital gains tax if the relevant CGT asset is 'taxable Australian property' (as defined). This includes real property in Australia.</p>

	<p>The amendment puts beyond doubt that ‘real property’ in this context includes a lease over land. This accords with the Australian Taxation Office’s interpretation of the existing law and with the intended application of the provisions when introduced.</p> <p>The amendment applies in relation to CGT events happening on or after 20 May 2009, the date on which the amendment was first foreshadowed. The amendment is to be disregarded when applying the provisions in their previous form in relation to CGT events happening before 20 May 2009.</p> <p><i>[Schedule 10, items 2275 and 2278, paragraph 855-20(a)]</i></p>
960-190(1) (table item 3)	<p>Corrects asterisking of a defined term. In the <i>Income Tax Assessment Act 1997</i>, the drafting protocol is to mark defined terms with an asterisk but to do so only for the first occurrence of the term in each subsection (see subsection 2-15(1)). However, ‘partnership’ is included in the list in subsection 2-15(3) of defined terms not identified with an asterisk. <i>[Schedule 10, item 2280, subsection 960-190(1) table item 3]</i></p>
995-1 (paragraph (a) and (b) for the definition of <i>legal personal representative</i>)	<p>Replaces references to ‘a person’ with ‘an individual’ given that only an individual can die or be under a legal disability.</p> <p><i>[Schedule 10, item 2285, section 995-1 paragraph (a) and (b) for the definition of ‘legal personal representative’]</i></p>

Table 1.10: Amendments to the *International Tax Agreements Act 1953*

<i>Provision being amended</i>	<i>What the amendment does</i>
16(4) 16(5)(b)	<p>Omits references to the repealed section 104 of the <i>Income Tax Assessment Act 1936</i> and consequentially rewrites the provision.</p> <p>Section 104 was repealed by the <i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>. It previously made private companies liable to pay additional tax on undistributed profits. It ceased to apply from 1 July 1986 with the introduction of the imputation system. <i>[Schedule 10, item 2295, subsections 16(4) and (5)]</i></p>

Table 1.11: Amendments to the *Tax Laws Amendment (2007 Measures No. 5) Act 2007*

<i>Provision being amended</i>	<i>What the amendment does</i>
Item 14 of Schedule 7	<p>Corrects an error in the <i>Tax Laws Amendment (2007 Measures No.5) Act 2007</i> that incorrectly applies an application provision to a general regulation-making power also inserted by the Schedule.</p> <p>Item 13 of Schedule 7 of the Act created a general regulation-making power for the <i>Income Tax (Transitional Provisions) Act 1997</i>. The remaining items of Schedule 7 concerned capital gains tax statutory licence roll-over provisions in Subdivision 124-C in the Transitional Provisions Act.</p> <p>Item 14 of Schedule 7 at present inappropriately applies all the amendments made by Schedule 7 to CGT events happening in the 2005-06 and later income years.</p> <p>This is inappropriate for the general regulation-making power given that regulations made under it may have nothing to do with CGT events. At this stage, no regulations have been made for the purposes of the Income Tax (Transitional Provisions) Act.</p> <p>The amendment omits item 13 from the application provisions.</p> <p>[Schedule 10, item 2300, item 14 of Schedule 7]</p>