

EXPOSURE DRAFT

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Tax Laws Amendment (2009 GST Administration Measures) Bill 2009

No. , 2009

(Treasury)

**A Bill for an Act to amend legislation relating to
indirect tax, and for related purposes**

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EXPOSURE DRAFT

1 **A Bill for an Act to amend legislation relating to**
2 **indirect tax, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Tax Laws Amendment (2009 GST*
6 *Administration Measures) Act 2009*.

7 **2 Commencement**

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

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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 this Act receives the Royal Assent.	
2. Schedule 1	The day this Act receives the Royal Assent.	
3. Schedule 2, items 1 and 2	1 July 2010.	1 July 2010
4. Schedule 2, items 3 and 4	The later of: (a) immediately after the commencement of the provision(s) covered by table item 6; and (b) the start of 1 July 2010.	
5. Schedule 2, items 5 to 23	1 July 2010.	1 July 2010
6. Schedules 3 to 6	The day 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.

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9 repealed as set out in the applicable items in the Schedule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.
12

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Time limit on entitlements to input tax credits and fuel tax credits **Schedule 1**
Amendments relating to input tax credits **Part 1**

1 **Schedule 1—Time limit on entitlements to**
2 **input tax credits and fuel tax credits**

3 **Part 1—Amendments relating to input tax credits**

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

5 **1 Section 11-99 (at the end of the table)**

6 Add:
16 16 Time limit on entitlements to input tax Division 93
credits

7 **2 Section 17-99 (after table item 9B)**

8 Insert:
9C Providing additional consideration under Division 133
gross-up clauses

9 **3 Paragraphs 19-70(2)(a) and 19-75(c)**

10 Omit “or 129”, substitute “, 129 or 133”.

11 **4 Section 19-99 (after table item 2)**

12 Insert:
2A Providing additional consideration under Division 133
gross-up clauses

13 **5 Section 37-1 (after table item 23)**

14 Insert:
23A Providing additional consideration under Division 133
gross-up clauses

15 **6 Section 37-1 (before table item 36)**

16 Insert:
35C Time limit on entitlements to input tax Division 93
credits

17 **7 After Division 90**

18 Insert:

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Schedule 1 Time limit on entitlements to input tax credits and fuel tax credits

Part 1 Amendments relating to input tax credits

1 **Division 93—Time limit on entitlements to input tax credits**

2 **93-1 What this Division is about**

3 Your entitlement to input tax credits ceases, except in some special
4 circumstances, unless you include them in your net amounts within
5 4 years.

6 **93-5 Time limit on entitlements to input tax credits**

- 7 (1) You cease to be entitled to an input tax credit for a *creditable
8 acquisition to the extent that you have not taken it into account in
9 working out your *net amount for:
- 10 (a) the tax period to which the input tax credit would be
11 attributable under subsection 29-10(1) or (2); or
12 (b) any other tax period during the period of 4 years after the day
13 on which you were required to give to the Commissioner a
14 *GST return for that tax period.
- 15 (2) However, this section does not apply to the extent that:
- 16 (a) the input tax credit arises as an immediate consequence of
17 circumstances that relate directly to:
- 18 (i) an amount, or an amount of an excess, in relation to
19 which paragraph 105-50(3)(a) in Schedule 1 to the
20 *Taxation Administration Act 1953* applies; or
21 (ii) a refund, other payment or credit in relation to which
22 paragraph 105-55(1)(b) in Schedule 1 to that Act
23 applies;
- 24 and the Commissioner gave to you the notice referred to in
25 that paragraph not later than 4 years after the end of the tax
26 period to which the credit would be attributable under
27 subsection 29-10(1) or (2) of this Act; or
- 28 (b) the input tax credit arises as an immediate consequence of
29 circumstances that relate directly to an amount, or an amount
30 of an excess, in relation to which paragraph 105-50(3)(b) in
31 Schedule 1 to the *Taxation Administration Act 1953* applies;
32 or
33 (c) both of the following apply:

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Time limit on entitlements to input tax credits and fuel tax credits **Schedule 1**
Amendments relating to input tax credits **Part 1**

- 1 (i) the input tax credit arises as an immediate consequence
2 of circumstances that relate directly to a refund, other
3 payment or credit in relation to which paragraph
4 105-55(1)(a) in Schedule 1 to the *Taxation*
5 *Administration Act 1953* applies;
- 6 (ii) you gave to the Commissioner the notice referred to in
7 that paragraph not later than 4 years after the end of the
8 tax period to which the credit would be attributable
9 under subsection 29-10(1) or (2) of this Act.

10 Note: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953*
11 deals with the time limit within which the Commissioner can recover
12 indirect tax amounts, and section 105-55 in Schedule 1 to that Act
13 deals with the time limit within which you can claim amounts relating
14 to indirect tax.

- 15 (3) This section has effect despite section 11-20 (which is about who is
16 entitled to input tax credits for creditable acquisitions).

17 **8 After Division 132**

18 Insert:

19 **Division 133—Providing additional consideration under** 20 **gross-up clauses**

21 **133-1 What this Division is about**

22 You may have a decreasing adjustment for an acquisition that you
23 made if, to take account of a GST liability that the supplier is
24 subsequently found to have, you provide additional consideration
25 at a time when you can no longer claim an input tax credit.

26 **133-5 Decreasing adjustments for additional consideration provided** 27 **under gross-up clauses**

- 28 (1) You have a *decreasing adjustment* if:
29 (a) you made an acquisition on the basis that:
30 (i) it was not a *creditable acquisition because the supply to
31 which the acquisition relates was not a *taxable supply;
32 or

EXPOSURE DRAFT

Schedule 1 Time limit on entitlements to input tax credits and fuel tax credits

Part 1 Amendments relating to input tax credits

- 1 (ii) it was *partly creditable because the supply to which the
2 acquisition relates was only partly a taxable supply; and
3 (b) you provided *additional consideration for the acquisition in
4 compliance with a contractual obligation that required you, or
5 had the effect of requiring you, to provide additional
6 consideration if:
7 (i) in a case where subparagraph (a)(i) applies—the supply
8 was later found to be a taxable supply, or to be partly a
9 taxable supply; or
10 (ii) in a case where subparagraph (a)(ii) applies—the supply
11 was later found to be a taxable supply to a greater
12 extent; and
13 (c) GST on the supply has not ceased to be due and payable
14 (other than as a result of its payment); and
15 (d) at the time you provided the additional consideration, you
16 were no longer entitled to an input tax credit for the
17 acquisition.

18 Note: Section 93-5 may provide a time limit on your entitlement to an input
19 tax credit.

- 20 (2) The amount of the *decreasing adjustment is the difference
21 between:
22 (a) what would have been the *previously attributed input tax
23 credit amount for the acquisition if:
24 (i) the *additional consideration for the acquisition had
25 been provided as part of the original *consideration for
26 the acquisition; and
27 (ii) in a case where you have not held a *tax invoice for the
28 acquisition—you held such an invoice; and
29 (iii) subsection 29-10(4) did not apply in relation to the
30 acquisition; and
31 (b) the previously attributed input tax credit amount.
- 32 (3) To avoid doubt, **additional consideration** for an acquisition
33 includes a part of the *consideration for the acquisition that:
34 (a) relates to the amount of GST payable on the *taxable supply
35 to which the acquisition relates; and
36 (b) at the time of the acquisition, the parties to the transaction
37 under which the acquisition was made assumed was not
38 payable.

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Time limit on entitlements to input tax credits and fuel tax credits **Schedule 1**
Amendments relating to input tax credits **Part 1**

1 **133-10 Availability of adjustments under Division 19 for acquisitions**

2 (1) If:

3 (a) you have a *decreasing adjustment under this Division for an
4 acquisition; and

5 (b) the circumstances that gave rise to the adjustment also
6 constitute an *adjustment event;

7 you do not have a decreasing adjustment under section 19-70 for
8 the acquisition in relation to those circumstances.

9 (2) This section has effect despite section 19-70 (which is about
10 adjustments for acquisitions arising because of adjustment events).

11 **9 Section 195-1**

12 Insert:

13 *additional consideration* includes the meaning given by subsection
14 133-5(3).

15 **10 Section 195-1 (after table item 6 of the definition of**
16 ***decreasing adjustment*)**

17 Insert:

6A Section 133-5 *Decreasing adjustments for *additional
consideration provided under gross-up
clauses

18 ***Income Tax Assessment Act 1997***

19 **11 Subsection 995-1(1)**

20 Insert:

21 *tax invoice* has the meaning given by section 195-1 of the *GST
22 Act.

23 ***Taxation Administration Act 1953***

24 **12 At the end of subsection 105-55(1) in Schedule 1**

25 Add:

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Schedule 1 Time limit on entitlements to input tax credits and fuel tax credits

Part 1 Amendments relating to input tax credits

1 Note: Division 93 of the GST Act puts a time limit on your entitlement to an
2 input tax credit. Division 47 of the *Fuel Tax Act 2006* puts a time limit
3 on your entitlement to a fuel tax credit.

4 **13 After subsection 105-55(2) in Schedule 1**

5 Insert:

6 (2A) A request by you to the Commissioner to treat a document as a *tax
7 invoice for the purposes of attributing a credit to a *tax period is
8 taken to be a notification, for the purposes of paragraph (1)(a), of
9 your entitlement to the credit if:

- 10 (a) you made the request within the 4 year period referred to in
11 that paragraph in relation to the credit; and
12 (b) the Commissioner agrees to the request (whether or not
13 within that period).
14

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Time limit on entitlements to input tax credits and fuel tax credits **Schedule 1**
Amendments relating to fuel tax credits **Part 2**

1 **Part 2—Amendments relating to fuel tax credits**

2 ***Fuel Tax Act 2006***

3 **14 At the end of Part 3-3**

4 Add:

5 **Division 47—Time limit on entitlements to fuel tax credits**

6 **Table of Subdivisions**

7 Guide to Division 47

8 47-A Time limit on entitlements to fuel tax credits

9 **Guide to Division 47**

10 **47-1 What this Division is about**

11

Your entitlement to fuel tax credits ceases, except in some special 12 circumstances, unless you include them in your net fuel amounts 13 within 4 years.

14 **Subdivision 47-A—Time limit on entitlements to fuel tax credits**

15 **Table of Sections**

16 47-5 Time limit on entitlements to fuel tax credits

17 **47-5 Time limit on entitlements to fuel tax credits**

18 (1) You cease to be entitled to a fuel tax credit to the extent that you
19 have not taken it into account in working out your *net fuel amount
20 for:

21 (a) the *tax period or *fuel tax return period to which the fuel tax
22 credit would be attributable under subsection 65-5(1), (2) or
23 (3); or

24 (b) any other tax period or fuel tax return period during the
25 period of 4 years after the day on which you were required to
26 give the Commissioner a return under section 61-15 for that
27 tax period or fuel tax return period.

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Schedule 1 Time limit on entitlements to input tax credits and fuel tax credits

Part 2 Amendments relating to fuel tax credits

- 1 (2) However, this section does not apply to the extent that:
- 2 (a) the fuel tax credit arises as an immediate consequence of
- 3 circumstances that relate directly to:
- 4 (i) an amount, or an amount of an excess, in relation to
- 5 which paragraph 105-50(3)(a) in Schedule 1 to the
- 6 *Taxation Administration Act 1953* applies; or
- 7 (ii) a refund, other payment or credit in relation to which
- 8 paragraph 105-55(1)(b) or (3)(b) in Schedule 1 to that
- 9 Act applies;
- 10 and the Commissioner gave to you the notice referred to in
- 11 that paragraph not later than 4 years after the end of the tax
- 12 period to which the credit would be attributable under
- 13 subsection 65-5(1), (2) or (3) of this Act; or
- 14 (b) the fuel tax credit arises as an immediate consequence of
- 15 circumstances that relate directly to an amount, or an amount
- 16 of an excess, in relation to which paragraph 105-50(3)(b) in
- 17 Schedule 1 to the *Taxation Administration Act 1953* applies;
- 18 or
- 19 (c) both of the following apply:
- 20 (i) the fuel tax credit arises as an immediate consequence
- 21 of circumstances that relate directly to a refund, other
- 22 payment or credit in relation to which paragraph
- 23 105-55(1)(a) or (3)(a) in Schedule 1 to the *Taxation*
- 24 *Administration Act 1953* applies;
- 25 (ii) you gave to the Commissioner the notice referred to in
- 26 that paragraph not later than 4 years after the end of the
- 27 tax period to which the credit would be attributable
- 28 under subsection 65-5(1), (2) or (3) of this Act.
- 29 Note: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953*
- 30 deals with the time limit within which the Commissioner can recover
- 31 fuel tax amounts, and section 105-55 in Schedule 1 to that Act deals
- 32 with the time limit within which you can claim amounts relating to
- 33 fuel tax.

Taxation Administration Act 1953

15 At the end of subsection 105-55(3) in Schedule 1

34 Add:

35 Note: Division 47 of the *Fuel Tax Act 2006* puts a time limit on your

36 entitlement to a fuel tax credit.

37

38

39

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Time limit on entitlements to input tax credits and fuel tax credits **Schedule 1**
Application of amendments **Part 3**

1 **Part 3—Application of amendments**

2 **16 Application of amendments relating to input tax credits**

3 The amendments made by Part 1 of this Schedule apply, and are taken
4 to have applied, in relation to acquisitions and adjustments that are
5 taken into account in:

- 6 (a) GST returns given to the Commissioner under the *A New Tax*
7 *System (Goods and Services Tax) Act 1999* after 7.30 pm
8 Australian Eastern Standard Time on 12 May 2009; or
9 (b) assessments made by the Commissioner under
10 Subdivision 105-A in Schedule 1 to the *Taxation*
11 *Administration Act 1953* after that time; or
12 (c) amendments of:
13 (i) GST returns referred to in paragraph (a); or
14 (ii) assessments referred to in paragraph (b).

15 **17 Application of amendments relating to fuel tax credits**

16 The amendments made by Part 2 of this Schedule apply, and are taken
17 to have applied, in relation to acquisitions, manufacturing, importations
18 and adjustments that are taken into account in:

- 19 (a) returns given to the Commissioner under section 61-15 of the
20 *Fuel Tax Act 2006* on or after 1 July 2010; or
21 (b) amendments of such returns.
22

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Schedule 2 Refund collection system

1
2

Schedule 2—Refund collection system

3

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

4

1 After paragraph 38-185(3)(e)

5

Insert:

6

; and (f) if that entity is covered by paragraph 168-5(1A)(c)—the
supplier has a declaration by that entity stating that:

7

8

(i) a payment has not been sought under section 168-5 for
the supply; and

9

10

(ii) if the goods are wine (within the meaning of the *A New
Tax System (Wine Equalisation Tax) Act 1999*)—a
payment has not been sought under section 25-5 of that
Act for the supply.

11

12

13

14

2 At the end of subsection 38-185(3)

15

Add:

16

Note: The entity will be covered by paragraph 168-5(1A)(c) if the entity is
an individual who resides in an external Territory.

17

18

3 After paragraph 38-185(4)(e)

19

Insert:

20

; and (f) if the associate is covered by paragraph 168-5(1A)(c)—the
supplier has a declaration by the associate stating that:

21

22

(i) a payment has not been sought under section 168-5 for
the supply; and

23

24

(ii) if the goods are wine (within the meaning of the *A New
Tax System (Wine Equalisation Tax) Act 1999*)—a
payment has not been sought under section 25-5 of that
Act for the supply.

25

26

27

28

4 At the end of subsection 38-185(4)

29

Add:

30

Note: The associate will be covered by paragraph 168-5(1A)(c) if the
associate is an individual who resides in an external Territory.

31

32

5 Section 168-1

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Refund collection system **Schedule 2**

1 After “baggage,” insert “or you are a resident of an external Territory
2 and send goods home,”.

3 **6 Before subsection 168-5(1)**

4 Insert:

5 *Exporting goods as accompanied baggage*

6 **7 After subsection 168-5(1)**

7 Insert:

8 *Resident of external Territory sending goods home*

9 (1A) If:

- 10 (a) you make an acquisition of goods the supply of which to you
11 is a *taxable supply; and
12 (b) the acquisition is of a kind specified in the regulations; and
13 (c) at the time of the acquisition, you are an individual to whom
14 one of the following subparagraphs applies:
15 (i) you reside in an external Territory;
16 (ii) your domicile is in an external Territory;
17 (iii) you have actually been in an external Territory,
18 continuously or intermittently, during more than half of
19 the last 12 months; and
20 (d) at the time of the acquisition, you are not *registered or
21 *required to be registered; and
22 (e) you leave Australia, and export the goods to the external
23 Territory:
24 (i) in circumstances not covered by paragraph (1)(c); and
25 (ii) in circumstances specified in the regulations;
26 the Commissioner must, on behalf of the Commonwealth, pay to
27 you an amount equal to:
28 (f) the amount of the GST payable on the taxable supply; or
29 (g) such proportion of that amount of GST as is specified in the
30 regulations.

31 **8 Before subsection 168-5(2)**

32 Insert:

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Schedule 2 Refund collection system

1 *Paying the refund*

2 **9 Subsection 168-5(2)**

3 Omit “The amount”, substitute “An amount payable under this section”.

4 **10 At the end of section 168-5**

5 Add:

6 *You may be found not to be a resident of an external Territory*

7 (3) Subparagraph (1A)(c)(ii) does not apply to you if the
8 Commissioner is satisfied that your permanent place of abode is
9 outside that external Territory.

10 (4) Subparagraph (1A)(c)(iii) does not apply to you if the
11 Commissioner is satisfied:

12 (a) that your usual place of abode is outside that external
13 Territory; and

14 (b) that you do not intend to take up residence in that Territory.

15 **11 At the end of Division 168**

16 Add:

17 **168-10 Supplies later found to be GST-free supplies**

18 (1) If:

19 (a) you are paid an amount under subsection 168-5(1A) for a
20 supply; and

21 (b) the supply is or becomes a *GST-free supply;

22 you become liable to repay the amount (the *recoverable amount*)
23 to the Commonwealth on the later of the following days (the *due*
24 *day*):

25 (c) the day you were paid the recoverable amount;

26 (d) the day the supply becomes a GST-free supply.

27 (2) You are liable to pay general interest charge on the whole, or any
28 part, of the recoverable amount that remains unpaid after the due
29 day for each day in the period that:

30 (a) starts on the due day; and

31 (b) finishes at the end of the last day at the end of which any of
32 the following remains unpaid:

EXPOSURE DRAFT

Refund collection system **Schedule 2**

- 1 (i) the recoverable amount;
2 (ii) general interest charge on any of the recoverable
3 amount.

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

5 **12 Section 25-1**

6 After “baggage,” insert “or you are a resident of an external Territory
7 and send wine home,”.

8 **13 Before subsection 25-5(1)**

9 Insert:

10 *Exporting wine as accompanied baggage*

11 **14 After subsection 25-5(1)**

12 Insert:

13 *Resident of external Territory sending wine home*

14 (1A) If:

- 15 (a) you have *borne wine tax on wine that you purchased; and
16 (b) the purchase is of a kind specified in the regulations; and
17 (c) an amount is payable to you under subsection 168-5(1A) of
18 the *GST Act for the *taxable supply corresponding to the
19 purchase;
20 the Commissioner must, on behalf of the Commonwealth, pay to
21 you an amount equal to:
22 (d) the amount of the wine tax that you have borne on the wine;
23 or
24 (e) such proportion of that amount of wine tax as is specified in
25 the regulations.

26 **15 Before subsection 25-5(2)**

27 Insert:

28 *Working out amounts of wine tax borne*

29 **16 Before subsection 25-5(3)**

EXPOSURE DRAFT

Schedule 2 Refund collection system

1 Insert:

2 *Paying the refund*

3 **17 Subsection 25-5(3)**

4 Omit “The amount”, substitute “An amount payable under this section”.

5 **18 At the end of Division 25**

6 Add:

7 **25-10 Purchases later found to be GST-free supplies**

8 (1) If:

- 9 (a) you are paid an amount under subsection 25-5(1A) for a
10 purchase; and
11 (b) the supply corresponding to the purchase is or becomes a
12 *GST-free supply;
13 you become liable to repay the amount (the *recoverable amount*)
14 to the Commonwealth on the later of the following days (the *due*
15 *day*):
16 (c) the day you were paid the recoverable amount;
17 (d) the day the supply becomes a GST-free supply.

- 18 (2) You are liable to pay general interest charge on the whole, or any
19 part, of the recoverable amount that remains unpaid after the due
20 day for each day in the period that:
21 (a) starts on the due day; and
22 (b) finishes at the end of the last day at the end of which any of
23 the following remains unpaid:
24 (i) the recoverable amount;
25 (ii) general interest charge on any of the recoverable
26 amount.

27 ***Taxation Administration Act 1953***

28 **19 Subsection 8AAB(5) (after table item 1AA)**

29 Insert:

 1AB 168-10 *A New Tax System (Goods and Services Tax)*
 Act 1999

EXPOSURE DRAFT

Refund collection system **Schedule 2**

1 **20 Subsection 8AAB(5) (before table item 1A)**

2 Insert:

1AD 25-10 *A New Tax System (Wine Equalisation Tax)
Act 1999*

3 **21 Subsection 250-10(2) in Schedule 1 (before table item 15)**

4 Insert:

13 repayments of amounts 168-10 *A New Tax System (Goods and
paid under tourist Services Tax) Act 1999*
refund scheme

5 **22 Subsection 250-10(2) in Schedule 1 (after table item 20)**

6 Insert:

21 repayments of amounts 25-10 *A New Tax System (Wine
paid under tourist Equalisation Tax) Act 1999*
refund scheme

7 **23 Application**

8 The amendments made by this Schedule apply in relation to goods
9 acquired, and wine purchased, on or after 1 July 2010.
10

EXPOSURE DRAFT

Schedule 3 Agency provisions

1 **Schedule 3—Agency provisions**
2

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

4 **1 Division 153 (heading)**

5 Repeal the heading, substitute:

6 **Division 153—Agents etc. and insurance brokers**

7 **2 Section 153-1**

8 Omit “acquisition made through an agent”, substitute “acquisition made
9 through, or facilitated by, an entity on your behalf”.

10 **3 Subsection 153-15(2) (note)**

11 Omit “agent”, substitute “intermediary”.

12 **4 Subdivision 153-B (heading)**

13 Repeal the heading, substitute:

14 **Subdivision 153-B—Principals and intermediaries as separate
15 suppliers or acquirers**

16 **5 Section 153-50 (heading)**

17 Repeal the heading, substitute:

18 **153-50 Arrangements under which intermediaries are treated as
19 suppliers or acquirers**

20 **6 Section 153-50**

21 Before “An”, insert “(1)”.

22 **7 Section 153-50**

23 Omit “(the *agent*)”, substitute “(the *intermediary*)”.

24 **8 Paragraph 153-50(a)**

25 Repeal the paragraph, substitute:

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Agency provisions **Schedule 3**

- 1 (a) the intermediary will, on the principal's behalf, do any or all
2 of the following:
3 (i) make or facilitate supplies to third parties;
4 (ii) make or facilitate acquisitions from third parties;
5 (iii) make or facilitate both supplies to third parties and
6 acquisitions from third parties; and

7 **9 Paragraphs 153-50(c), (d) and (e)**

8 Omit "agent" (wherever occurring), substitute "intermediary".

9 **10 At the end of section 153-50**

10 Add:

- 11 (2) For the purposes of subsection (1), an entity can be an intermediary
12 whether or not the entity is the agent of the principal.

13 **11 Subsection 153-55(1)**

14 Omit "through the agent", substitute "that is made through the
15 intermediary or facilitated by the intermediary".

16 **12 Subsection 153-55(1)**

17 Omit "agent" (second and third occurring), substitute "intermediary".

18 **13 Subsection 153-55(2)**

19 Omit "to the agent", substitute "to the intermediary".

20 **14 Paragraph 153-55(2)(a)**

21 Omit "*agent's supply*) that the agent", substitute "*intermediary's*
22 *supply*) that the intermediary".

23 **15 Paragraph 153-55(2)(b)**

24 Omit "agent in respect of the agent's", substitute "intermediary in
25 respect of the intermediary's".

26 **16 Subsection 153-55(2)**

27 Omit "The agent", substitute "The intermediary".

28 **17 Subsection 153-55(3)**

EXPOSURE DRAFT

Schedule 3 Agency provisions

1 Omit “agent for the agent’s”, substitute “intermediary for the
2 intermediary’s”.

3 **18 Paragraphs 153-55(3)(a) and (b)**

4 Omit “agent” (wherever occurring), substitute “intermediary”.

5 **19 Subsection 153-60(1)**

6 Omit “through the agent”, substitute “that is made through the
7 intermediary or facilitated by the intermediary”.

8 **20 Subsection 153-60(1)**

9 Omit “agent” (second and third occurring), substitute “intermediary”.

10 **21 Subsection 153-60(2)**

11 Omit “, the agent”, substitute “, the intermediary”.

12 **22 Paragraph 153-60(2)(a)**

13 Omit “*agent’s acquisition*) that the agent”, substitute “*intermediary’s*
14 *acquisition*) that the intermediary”.

15 **23 Paragraph 153-60(2)(b)**

16 Omit “agent by the principal in respect of the agent’s”, substitute
17 “intermediary by the principal in respect of the intermediary’s”.

18 **24 Subsection 153-60(2)**

19 Omit “from the agent”, substitute “from the intermediary”.

20 **25 Subsection 153-60(3)**

21 Omit “agent for the agent’s”, substitute “intermediary for the
22 intermediary’s”.

23 **26 Paragraphs 153-60(3)(a) and (b)**

24 Omit “agent” (wherever occurring), substitute “intermediary”.

25 **27 Subsection 153-65(1)**

26 Omit “(the *agent*) makes”, substitute “(the *intermediary*) makes or
27 facilitates”.

28 **28 Subsection 153-65(2)**

EXPOSURE DRAFT

Agency provisions **Schedule 3**

1 Omit “either the agent”, substitute “either the intermediary”.

2 **29 Paragraphs 153-65(2)(a) and (b)**

3 Omit “agent makes”, substitute “intermediary makes or facilitates”.

4 **30 Subsections 188-24(1) and (2)**

5 Omit “agent”, substitute “intermediary”.

6 **31 Application**

7 The amendments made by this Schedule apply in relation to supplies
8 and acquisitions attributable to tax periods commencing on or after
9 1 July 2010.
10

EXPOSURE DRAFT

Schedule 4 Gambling supplies to entities outside Australia

1 **Schedule 4—Gambling supplies to entities**
2 **outside Australia**
3

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

5 **1 Subsection 126-10(3)**

6 Omit “under section 38-270”.

7 **2 Application**

8 (1) The amendment made by this Schedule applies in relation to monetary
9 prizes that you become liable to pay on or after the first day of the first
10 quarterly tax period that starts on or after the commencement of this
11 Schedule.

12 (2) For the purposes of subitem (1), it does not matter whether quarterly tax
13 periods are the tax periods that apply to you.
14

EXPOSURE DRAFT

Recovering overpaid refunds **Schedule 5**

1 **Schedule 5—Recovering overpaid refunds**
2

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

4 **1 Section 35-5**

5 Before “If”, insert “(1)”.

6 **2 At the end of section 35-5**

7 Add:

8 (2) However, if the amount paid or applied exceeds the amount to
9 which you are properly entitled under subsection (1), the excess is
10 to be treated as if it were GST that became payable, and due for
11 payment, by you at the time when it was paid or applied.

12 Note: The main effect of treating the amount as if it were GST is to apply
13 the collection and recovery rules in Part 3-10 in Schedule 1 to the
14 *Taxation Administration Act 1953*.

15 **3 Application**

16 The amendment made by item 2 applies in relation to amounts payable
17 under subsection 35-5(1) of the *A New Tax System (Goods and Services*
18 *Tax) Act 1999* (as amended by this Schedule) for tax periods starting on
19 or after the commencement of this Schedule.

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

21 **4 At the end of Division 17**

22 Add:

23 **17-15 Excess credits must be repaid**

24 If the amount of a credit you claim exceeds the amount to which
25 you are properly entitled under section 17-5, the excess is to be
26 treated as if it were luxury car tax that became payable, and due for
27 payment, by you at the time when the credit was paid or applied to
28 you.

29 Note: The main effect of treating the amount as if it were luxury car tax is to
30 apply the collection and recovery rules in Part 3-10 in Schedule 1 to
31 the *Taxation Administration Act 1953*.

EXPOSURE DRAFT

Schedule 5 Recovering overpaid refunds

1 **5 Application**

2 The amendment made by item 4 applies in relation to claims made on or
3 after the commencement of this Schedule.

4 ***Fuel Tax Act 2006***

5 **6 At the end of section 61-5**

6 Add:

- 7 (3) However, if the amount (the *refund*) paid or applied for a *tax
8 period or *fuel tax return period exceeds the *amount to which you
9 are properly entitled under subsection (1) for that period, you must
10 pay the excess to the Commissioner as if:
- 11 (a) the excess were a *net fuel amount for that period; and
 - 12 (b) that net fuel amount were an amount greater than zero and
13 equal to the excess; and
 - 14 (c) despite section 61-10, that net fuel amount became payable,
15 and due for payment, by you at the time when the refund was
16 paid or applied.

17 Note: Treating the excess as if it were a net fuel amount has the effect of
18 applying the collection and recovery rules in Part 3-10 in Schedule 1
19 to the *Taxation Administration Act 1953*.

20 **7 Application**

21 The amendment made by item 6 applies in relation to amounts payable
22 under subsection 61-5(1) of the *Fuel Tax Act 2006* for tax periods, and
23 fuel tax return periods, starting on or after the commencement of this
24 Schedule.

25 ***Taxation Administration Act 1953***

26 **8 Subsection 250-10(2) in Schedule 1 (after table item 10)**

27 Insert:

12 excess refund of GST 35-5(2) *A New Tax System (Goods and
Services Tax) Act 1999*

28 **9 Subsection 250-10(2) in Schedule 1 (after table item 15)**

29 Insert:

EXPOSURE DRAFT

Recovering overpaid refunds **Schedule 5**

16 excess luxury car tax 17-15 *A New Tax System (Luxury Car
credits Tax) Act 1999*

1 **10 Subsection 250-10(2) in Schedule 1 (before table item 20)**

2 Insert:

18 excess wine tax credits 17-25 *A New Tax System (Wine
Equalisation Tax) Act 1999*

3 **11 Subsection 250-10(2) in Schedule 1 (table item 36)**

4 Omit “61-10”, substitute “61-5(3), 61-10”.

5

EXPOSURE DRAFT

Schedule 6 Interaction of associate provisions

Schedule 6—Interaction of associate provisions

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

1 Subsection 38-185(1) (after table item 2)

Insert:

2A	Export of goods—supplies to associates without consideration	a supply of goods without *consideration to an *associate of the supplier, but only if the supplier exports them from Australia.
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2 At the end of section 38-185

Add:

- (4) Without limiting item 2A in the table in subsection (1), a supplier of goods is treated, for the purposes of that item, as having exported the goods from Australia if:
- (a) before the goods are exported, the supplier supplies them to an entity that:
 - (i) is an *associate of the supplier; and
 - (ii) is not *registered or *required to be registered; and
 - (b) the associate exports the goods from Australia within 60 days (or such further period as the Commissioner allows) after the goods were delivered, or made available in Australia, to the associate; and
 - (c) the goods have been entered for export within the meaning of section 113 of the *Customs Act 1901*; and
 - (d) since their supply to the associate, the goods have not been altered or used in any way, except to the extent (if any) necessary to prepare them for export; and
 - (e) the supplier has sufficient documentary evidence to show that the goods were exported.

However, if the goods are reimported into Australia, the supply is *not* GST-free unless the reimportation is a *taxable importation.

3 At the end of Subdivision 72-A

EXPOSURE DRAFT

Interaction of associate provisions **Schedule 6**

1 Add:

2 **72-20 Supplies and acquisitions that would otherwise be sales etc.**

3 (1) If, apart from a lack of *consideration:

4 (a) a supply to your *associate from you; or

5 (b) a supply to you from your associate;

6 would be a sale or some other kind of supply, the supply is taken
7 for the purposes of the *GST law to be a supply of that kind.

8 (2) If, apart from a lack of *consideration:

9 (a) an acquisition by your *associate from you; or

10 (b) an acquisition by you from your associate;

11 would be by sale or some other means, the acquisition is taken for
12 the purposes of the *GST law to be an acquisition by that means.

13 **72-25 Supplies that would otherwise be GST-free or input taxed**

14 The fact that a supply to or from your *associate is without
15 *consideration does not stop the supply from being either of the
16 following for the purposes of the *GST law:

17 (a) a *GST-free supply;

18 (b) an *input taxed supply.

19 **4 Application**

20 The amendments made by this Schedule apply in relation to supplies,
21 and acquisitions, made on or after the commencement of this Schedule.