

# EXPOSURE DRAFT

1 Inserts for  
2 **GST Administration Measures:**  
3 **Exposure draft**  
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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Schedule 1	The day this Act receives the Royal Assent.	
2. Schedule 2	The day this Act receives the Royal Assent.	
3. Schedule 3, items 1 to 3	The day this Act receives the Royal Assent.	
4. Schedule 3, item 4	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (2009 GST Administration Measures) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3, items 5 to 7	The day this Act receives the Royal Assent.	
6. Schedule 3, item 8	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Tax Laws Amendment (2009 GST Administration Measures) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
7. Schedule 3, item 9	The day this Act receives the Royal Assent.	

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## Schedule 1—GST groups and GST joint ventures

### Part 1—Forming, changing and dissolving GST groups and GST joint ventures

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

##### **1 Section 48-1**

Omit “be approved as”, substitute “form”.

##### **2 Subdivision 48-A (heading)**

Repeal the heading, substitute:

#### **Subdivision 48-A—Formation and membership of GST groups**

##### **3 Section 48-5**

Repeal the section, substitute:

#### **48-5 Formation of GST groups**

- (1) Two or more entities may form a \*GST group if:
  - (a) each of the entities \*satisfies the membership requirements of the group; and
  - (b) each of the entities agrees to the formation of the group; and
  - (c) one of those entities notifies the Commissioner, in the \*approved form, of the formation of the group; and
  - (d) that entity is nominated, in that notice, to be the \*representative member of the group; and
  - (e) that entity is an \*Australian resident.

A group of entities that is so formed is a ***GST group***.

- (2) If 2 or more entities would \*satisfy the membership requirements for the \*GST group, the group need not include all those entities.
- (3) The formation of the \*GST group takes effect from the day specified in the notice (whether that day is before, on or after the day on which the entities decided to form the group).
- (4) However, the specified day must be a day approved by the Commissioner under section 48-71 if the notice was given to the

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1 Commissioner after the day by which the entities are required to  
2 give to the Commissioner their \*GST returns for the tax period in  
3 which the specified day occurs.

## 4 **48-7 Membership of GST groups**

- 5 (1) A *member* of a \*GST group is an entity that:  
6 (a) formed the group under section 48-5, or was added to the  
7 group under section 48-70; and  
8 (b) \*satisfies the membership requirements of the group.
- 9 (2) However, the entity is not a member of the \*GST group if the  
10 entity has, since the last time the entity became such a member,  
11 left, or been removed from, the group under section 48-70.

## 12 **4 Subdivision 48-B (heading)**

13 Repeal the heading, substitute:

## 14 **Subdivision 48-B—Consequences of GST groups**

### 15 **5 At the end of subsection 48-60(1)**

16 Add:

17 Note: If you were not a member of a GST group during the whole of a tax  
18 period, you are still obliged to give a GST return for the tax period,  
19 but (because of sections 48-40 to 48-55) your net amount for the tax  
20 period will not take into account your activities for that part of the tax  
21 period during which you were a member (unless you were the  
22 representative member).

## 23 **6 Section 48-70**

24 Repeal the section, substitute:

## 25 **48-70 Changing the membership etc. of GST groups**

- 26 (1) The following actions may be taken in relation to a \*GST group:  
27 (a) the \*representative member of the group may, with the  
28 agreement of an entity that \*satisfies the membership  
29 requirements of the GST group, add the entity to the group;  
30 (b) the representative member may:  
31 (i) leave the group; or  
32 (ii) remove from the group any other \*member of the group;

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- 1 (c) another member of the group, nominated by the members,  
2 who is an \*Australian resident may become the representative  
3 member;  
4 (d) the representative member may dissolve the group.
- 5 (2) The action must be notified to the Commissioner, in the \*approved  
6 form, by the \*representative member of the \*GST group; or the new  
7 representative member of the group, as the case requires.
- 8 (3) A notice that another \*member of the \*GST group has become the  
9 \*representative member of the group must be given to the  
10 Commissioner within 21 days after the other member became the  
11 representative member.
- 12 (4) The action takes effect from the day specified in the notice  
13 (whether that day is before, on or after the day on which the notice  
14 was given to the Commissioner).
- 15 (5) However, the specified day must be a day approved by the  
16 Commissioner under section 48-71 if the notice was given to the  
17 Commissioner after the day by which the \*members of the \*GST  
18 group are required to give to the Commissioner their \*GST returns  
19 for the tax period in which the specified day occurs.

## 20 **48-71 Approval of early day of effect of forming GST groups etc.**

- 21 (1) The Commissioner must decide whether to approve a day for the  
22 purposes of subsection 48-5(4) or 48-70(5) if the entity that gave to  
23 the Commissioner the notice to which the approval would relate  
24 applies, in the \*approved form, to the Commissioner for approval.
- 25 Note: Refusing an application for approval under this section is a reviewable  
26 GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation*  
27 *Administration Act 1953*).
- 28 (2) The Commissioner must give notice to that entity of any decision  
29 that he or she makes under this section.

## 30 **7 Section 48-72**

31 Repeal the section.

## 32 **8 Subsection 48-73(1) (note 2)**

33 Repeal the note, substitute:

- 34 Note 2: If the representative member does not make an election under this  
35 section when a member of the group becomes an incapacitated entity,

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1 the member's membership of the group will be taken under  
2 section 48-75 to have ceased on becoming an incapacitated entity.

## 3 **9 After subsection 48-73(1)**

4 Insert:

5 (1A) The notice must be given to the Commissioner within 21 days after  
6 the \*member becomes an \*incapacitated entity.

## 7 **10 After subsection 48-73(2)**

8 Insert:

9 (2A) An election under subsection (1) is taken to have come into effect  
10 immediately after the \*incapacitated entity to which it relates  
11 became an incapacitated entity.

12 Note: Because of this subsection, the election will ensure that a member of a  
13 GST group becoming an incapacitated entity will not cause all  
14 members of the group to fail to satisfy the requirement under  
15 paragraph 48-10(1)(d) that they all have identical tax periods.

## 16 **11 Sections 48-75 to 48-90**

17 Repeal the sections, substitute:

### 18 **48-75 Effect of member becoming an incapacitated entity**

19 (1) A \*member of a \*GST group ceases to be a member of the group if  
20 the member becomes an \*incapacitated entity.

21 (2) However, subsection (1) does not apply, and is taken never to have  
22 applied, in relation to the \*member becoming an \*incapacitated  
23 entity if the \*representative member of the group makes an election  
24 under subsection 48-73(1) relating to the member.

25 (3) If the \*representative member of a \*GST group becomes an  
26 \*incapacitated entity, subsection (1) does not apply for the  
27 purposes of the representative member making an election under  
28 subsection 48-73(1) relating to the representative member.

### 29 **48-80 Effect of representative member becoming an incapacitated 30 entity**

31 (1) If:

32 (a) the \*representative member of a \*GST group becomes an  
33 \*incapacitated entity; and

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- 1 (b) the representative member does not cease to be a \*member of  
2 the group;  
3 the representative member ceases to be the representative member  
4 of the group unless all the other \*members of the group are  
5 incapacitated entities.
- 6 (2) Subsection (1) does not apply for the purposes of the representative  
7 member making an election under subsection 48-73(1) relating to  
8 the representative member.
- 9 (3) The \*representative member of a \*GST group ceases to be the  
10 representative member of the group if:  
11 (a) all the \*members of the group are \*incapacitated entities; and  
12 (b) a member of the group who is not the representative member  
13 ceases to be an incapacitated entity.

## 14 **48-85 Notification of changes to membership etc.**

- 15 (1) The \*representative member of a \*GST group must notify the  
16 Commissioner, in the \*approved form, if a \*member of the group  
17 no longer \*satisfies the membership requirements for that GST  
18 group.
- 19 (2) The notice must be given within 21 days after the \*representative  
20 member becomes aware that the \*member no longer \*satisfies the  
21 membership requirements for that \*GST group.
- 22 (3) If a \*member of a \*GST group ceases to be the \*representative  
23 member of the group, the group is taken to be dissolved unless,  
24 within 21 days after ceasing to be the representative member:  
25 (a) another member of the group (who is not an \*incapacitated  
26 entity) becomes the representative member; and  
27 (b) the Commissioner is notified, in the \*approved form, that that  
28 other member is the representative member.

## 29 **12 Section 51-1**

30 Omit “have it approved as”, substitute “form”.

## 31 **13 Subdivision 51-A (heading)**

32 Repeal the heading, substitute:

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## 1 Subdivision 51-A—Formation of and participation in GST joint 2 ventures

### 3 14 Subsection 51-5(1)

4 Omit “The Commissioner must approve 2 or more entities as”,  
5 substitute “Two or more entities may become”.

### 6 15 Paragraph 51-5(1)(c)

7 Repeal the paragraph.

### 8 16 Paragraph 51-5(1)(e)

9 Repeal the paragraph, substitute:

10 (e) each of those entities agrees to the \*formation of the joint  
11 venture as a GST joint venture; and

12 (ea) one of those entities, or another entity, is nominated, in that  
13 notice, to be the \*joint venture operator of the joint venture;  
14 and

15 (eb) the nominated joint venture operator notifies the  
16 Commissioner, in the \*approved form, of the formation of the  
17 joint venture as a GST joint venture; and

### 18 17 Subsection 51-5(1)

19 Omit “A joint venture that is so approved”, substitute “Such a joint  
20 venture”.

### 21 18 Subsection 51-5(2) (including the note)

22 Repeal the subsection, substitute:

23 (2) Not all of the entities that are engaged in, or intend to engage in,  
24 the joint venture need to become \*participants in the \*GST joint  
25 venture.

26 (3) The \*formation of the \*GST joint venture takes effect from the day  
27 specified in the notice (whether that day is before, on or after the  
28 day on which the entities decided to form the joint venture).

29 (4) However, the specified day must be a day approved by the  
30 Commissioner under section 51-75 if the notice was given to the  
31 Commissioner after the day by which the entities are required to  
32 give to the Commissioner their \*GST returns for the tax period in  
33 which the specified day occurs.

### 34 19 After section 51-5

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1 Insert:

2 **51-7 Participants in GST joint ventures**

- 3 (1) A *participant* in a \*GST joint venture is an entity that:
- 4 (a) became a participant in the joint venture under section 51-5
- 5 or was added to the joint venture under section 51-70; and
- 6 (b) \*satisfies the participation requirements for the joint venture.
- 7 (2) However, the entity is not a participant in the \*GST joint venture if
- 8 the entity has, since the last time the entity became such a
- 9 participant, left, or been removed from, the joint venture under
- 10 section 51-70.

11 **20 Subdivision 51-B (heading)**

12 Repeal the heading, substitute:

13 **Subdivision 51-B—Consequences of GST joint ventures**

14 **21 Subdivision 51-C**

15 Repeal the Subdivision, substitute:

16 **Subdivision 51-C—Administrative matters**

17 **51-70 Changing the participants etc. of GST joint ventures**

- 18 (1) The following actions may be taken in relation to a \*GST joint
- 19 venture:
- 20 (a) the \*joint venture operator of the joint venture may, with the
- 21 agreement of an entity that \*satisfies the participation
- 22 requirements of the GST joint venture, add the entity to the
- 23 joint venture;
- 24 (b) the joint venture operator may:
- 25 (i) if the joint venture operator is a \*participant in the joint
- 26 venture—leave the joint venture; or
- 27 (ii) remove from the joint venture a participant in the joint
- 28 venture;
- 29 (c) another entity, nominated by the participants in the joint
- 30 venture, that satisfies the requirements of paragraphs
- 31 51-10(c) and (f) may become the joint venture operator;
- 32 (d) the joint venture operator may dissolve the joint venture.

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- 1 (2) The action must be notified to the Commissioner, in the \*approved  
2 form, by the \*joint venture operator of the \*GST joint venture, or  
3 the new joint venture operator of the joint venture, as the case  
4 requires.
- 5 (3) A notice that another entity has become the \*joint venture operator  
6 of the \*GST joint venture must be given to the Commissioner  
7 within 21 days after the other entity became the joint venture  
8 operator.
- 9 (4) The action takes effect from the day specified in the notice  
10 (whether that day is before, on or after the day on which the notice  
11 was given to the Commissioner).
- 12 (5) However, the specified day must be a day approved by the  
13 Commissioner under section 51-75 if the notice was given to the  
14 Commissioner after the day by which the \*participants in the \*GST  
15 joint venture are required to give to the Commissioner their \*GST  
16 returns for the tax period in which the specified day occurs.

## 17 **51-75 Approval of early day of effect of forming GST joint ventures** 18 **etc.**

- 19 (1) The Commissioner must decide whether to approve a day for the  
20 purposes of subsection 51-5(4) or 51-70(5) if the entity that gave to  
21 the Commissioner the notice to which the approval would relate  
22 applies, in the \*approved form, to the Commissioner for approval.
- 23 Note: Refusing an application for approval under this section is a reviewable  
24 GST decision (see Subdivision 110-F in Schedule 1 to the *Taxation*  
25 *Administration Act 1953*).
- 26 (2) The Commissioner must give notice to that entity of any decision  
27 that he or she makes under this section.

## 28 **51-80 Notification of changes in participation etc.**

- 29 (1) The \*joint venture operator of a \*GST joint venture must notify the  
30 Commissioner, in the \*approved form, if a \*participant in the joint  
31 venture no longer \*satisfies the participation requirements for that  
32 GST joint venture.
- 33 (2) The notice must be given within 21 days after the \*joint venture  
34 operator becomes aware that the \*participant no longer \*satisfies  
35 the participation requirements for that GST joint venture.

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1 (3) If an entity ceases to be the \*joint venture operator of a \*GST joint  
2 venture, the joint venture is taken to be dissolved unless, within 21  
3 days after ceasing to be the joint venture operator:

4 (a) another entity becomes the joint venture operator of the joint  
5 venture; and

6 (b) the Commissioner is notified, in the \*approved form, that that  
7 other entity is the joint venture operator.

## 8 **22 Sections 151-65 and 151-70**

9 Repeal the sections.

## 10 **23 Section 162-95**

11 Repeal the section.

## 12 **24 Section 195-1**

13 Insert:

14 *formation*, in relation to a \*GST joint venture, means 2 or more  
15 entities becoming \*participants in the joint venture as mentioned in  
16 subsection 51-7(1).

## 17 **25 Section 195-1 (definition of *joint venture operator*)**

18 Repeal the definition, substitute:

19 *joint venture operator*, of a \*GST joint venture, is the entity last  
20 nominated in relation to the joint venture as mentioned in  
21 paragraph 51-5(1)(ea) or 51-70(1)(c).

## 22 **26 Section 195-1 (paragraph (a) of the definition of *member*)**

23 Repeal the paragraph, substitute:

24 (a) in relation to a \*GST group—has the meaning given by  
25 section 48-7; or

## 26 **27 Section 195-1 (definition of *participant*)**

27 Repeal the definition, substitute:

28 *participant*, in relation to a \*GST joint venture, has the meaning  
29 given by section 51-7.

## 30 **28 Section 195-1 (definition of *representative member*)**

31 Repeal the definition, substitute:

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1 *representative member*, of a \*GST group, is the \*member of the  
2 group last nominated as mentioned in paragraph 48-5(1)(c) or  
3 48-70(1)(c).

## 4 *Taxation Administration Act 1953*

### 5 **29 Subsection 110-50(2) in Schedule 1 (table items 23 to 28)**

6 Repeal the items, substitute:

7  
23 refusing an application for approval of a day of subsection 48-71(1)  
effect

### 8 **30 Subsection 110-50(2) in Schedule 1 (table items 35 to 41)**

9 Repeal the items, substitute:

10  
35 refusing an application for approval of a day of subsection 51-71(1)  
effect

### 11 **31 Transitional provisions for GST groups**

12 *GST groups in existence before commencement*

13 (1) Subject to subitems (5) to (8), on the commencement of this item:

14 (a) a GST group that existed immediately before that  
15 commencement is taken to continue in existence as if:

16 (i) it had been formed, and its formation had been notified  
17 to the Commissioner, in accordance with section 48-5 of  
18 the *A New Tax System (Goods and Services Tax) Act*  
19 *1999* as amended by this Act; and

20 (ii) its formation took effect immediately after that  
21 commencement; and

22 (b) the entities that were members of the group immediately  
23 before that commencement are taken, immediately after that  
24 commencement, to continue to be the members of the group;  
25 and

26 (c) the entity that was the representative member of the group  
27 immediately before that commencement is taken,  
28 immediately after that commencement, to continue to be the  
29 representative member of the group.

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1 *GST groups approved, but not in existence, before*  
2 *commencement*

3 (2) If, before the commencement of this item, the Commissioner approved  
4 2 or more entities as a GST group but the approval did not take effect  
5 before that commencement, then, on the date of effect decided by the  
6 Commissioner under section 48-85 of the *A New Tax System (Goods*  
7 *and Services Tax) Act 1999*:

8 (a) the group is taken to have been formed, and its formation is  
9 taken to have been notified to the Commissioner, in  
10 accordance with section 48-5 of that Act as amended by this  
11 Act; and

12 (b) the entities that jointly applied for that approval are taken to  
13 be the members of the group; and

14 (c) the entity that was nominated in the application to be the  
15 representative member of the group is taken to be the  
16 representative member of the group.

17 *GST groups applied for, but not approved, before*  
18 *commencement*

19 (3) If:

20 (a) before the commencement of this item, 2 or more entities  
21 applied, in accordance with section 48-5 of the *A New Tax*  
22 *System (Goods and Services Tax) Act 1999*, for approval of a  
23 GST group; and

24 (b) the application did not contain a request (however described)  
25 for the Commissioner to decide under section 48-85 of that  
26 Act, as a date of effect of approval of the group, a date  
27 occurring before the date of that commencement; and

28 (c) the Commissioner did not approve the group as a GST group,  
29 and did not refuse the application, before that  
30 commencement;

31 then, immediately after that commencement:

32 (d) the group is taken to have been formed, and its formation is  
33 taken to have been notified to the Commissioner, in  
34 accordance with section 48-5 of that Act as amended by this  
35 Act; and

36 (e) the entities that jointly applied for that approval are taken to  
37 be the members of the group; and

38 (f) the entity that was nominated in the application to be the  
39 representative member of the group is taken to be the  
40 representative member of the group.

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1 (4) If:

- 2 (a) before the commencement of this item, 2 or more entities  
3 applied, in accordance with section 48-5 of the *A New Tax*  
4 *System (Goods and Services Tax) Act 1999*, for approval of a  
5 GST group; and  
6 (b) the application contained a request (however described) for  
7 the Commissioner to decide under section 48-85 of that Act,  
8 as a date of effect of approval of the group, a date occurring  
9 before the date of that commencement; and  
10 (c) the Commissioner did not approve the group as a GST group,  
11 and did not refuse the application, before that  
12 commencement;

13 then:

- 14 (d) an application is taken to have been made to the  
15 Commissioner, under section 48-71 of that Act as amended  
16 by this Act, for the Commissioner to approve that date of  
17 effect as the day on which the formation of the GST group  
18 took effect; and  
19 (e) if the Commissioner decides, under that section as so  
20 amended, to give that approval—then, on that day:  
21 (i) the group is taken to have been formed, and its  
22 formation is taken to have been notified to the  
23 Commissioner, in accordance with section 48-5 of that  
24 Act as so amended; and  
25 (ii) the entities that jointly applied for approval of the group  
26 are taken to be the members of the group; and  
27 (iii) the entity that was nominated, in the application for  
28 approval of the group, to be the representative member  
29 of the group is taken to be the representative member of  
30 the group.

31 *Changes to membership etc. of GST groups applied for, but not*  
32 *approved, before commencement*

33 (5) If:

- 34 (a) before the commencement of this item, the representative  
35 member of a GST group applied, in accordance with  
36 section 48-70 of the *A New Tax System (Goods and Services*  
37 *Tax) Act 1999*, for the Commissioner to:  
38 (i) approve another entity as an additional member of the  
39 group; or

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- 1 (ii) revoke the approval of one of the members of the group  
2 as a member of the group; or  
3 (iii) approve another member of the group to replace the  
4 representative member of the group; and  
5 (b) the application did not contain a request (however described)  
6 for the Commissioner to decide under section 48-85 of that  
7 Act, as a date of effect of the approval or revocation, a date  
8 occurring before the date of that commencement; and  
9 (c) the Commissioner did not:  
10 (i) give the approval, or revoke the approval, as requested  
11 in the application; and  
12 (ii) did not refuse the application;  
13 before that commencement;  
14 then, immediately after that commencement, the group is taken to  
15 continue in existence as if:  
16 (d) the Commissioner has been notified, in accordance with  
17 section 48-70 of that Act as amended by this Act, that the  
18 corresponding action referred to in paragraph 48-70(1)(a), (b)  
19 or (c) of that Act as so amended has been taken; and  
20 (e) the action took effect on the date of effect specified in the  
21 application.

22 (6) If:

- 23 (a) before the commencement of this item, the representative  
24 member of a GST group applied, in accordance with  
25 section 48-70 of the *A New Tax System (Goods and Services  
26 Tax) Act 1999*, for the Commissioner to:  
27 (i) approve another entity as an additional member of the  
28 group; or  
29 (ii) revoke the approval of one of the members of the group  
30 as a member of the group; or  
31 (iii) approve another member of the group to replace the  
32 representative member of the group; and  
33 (b) the application contained a request (however described) for  
34 the Commissioner to decide under section 48-85 of that Act,  
35 as a date of effect of the approval or revocation, a date  
36 occurring before the date of that commencement; and  
37 (c) the Commissioner did not:  
38 (i) give the approval, or revoke the approval, as requested  
39 in the application; and  
40 (ii) did not refuse the application;
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1 before that commencement;

2 then:

- 3 (d) an application is taken to have been made to the  
4 Commissioner, under section 48-71 of that Act as amended  
5 by this Act, for the Commissioner to approve that date of  
6 effect as the day on which the approval or revocation took  
7 effect; and
- 8 (e) if the Commissioner decides, under that section as so  
9 amended, to give that approval—then, on that day, the group  
10 is taken to continue in existence as if:
- 11 (i) the Commissioner has been notified, in accordance with  
12 section 48-70 of that Act as so amended, that the  
13 corresponding action referred to in paragraph  
14 48-70(1)(a), (b) or (c) of that Act as so amended has  
15 been taken; and
- 16 (ii) the action took effect on that day.

17 *Revocation of approval of GST groups applied for, but revocation*  
18 *not approved, before commencement*

19 (7) If:

- 20 (a) before the commencement of this item, the representative  
21 member of a GST group applied, in accordance with  
22 section 48-75 of the *A New Tax System (Goods and Services*  
23 *Tax) Act 1999*, for the Commissioner to revoke the approval  
24 of the group as a GST group; and
- 25 (b) the application did not contain a request (however described)  
26 for the Commissioner to decide under section 48-85 of that  
27 Act, as a date of effect of the revocation, a date occurring  
28 before the date of that commencement; and
- 29 (c) the Commissioner did not revoke the approval as requested in  
30 the application, and did not refuse the application, before that  
31 commencement;

32 then, immediately after that commencement, the group is taken to be  
33 dissolved as if:

- 34 (d) the Commissioner has been notified, in accordance with  
35 section 48-70 of that Act as amended by this Act, that the  
36 action referred to in paragraph 48-70(1)(d) of that Act as so  
37 amended has been taken; and
- 38 (e) the action took effect on the date of effect specified in the  
39 application.

40 (8) If:

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- 1 (a) before the commencement of this item, the representative  
2 member of a GST group applied, in accordance with  
3 section 48-75 of the *A New Tax System (Goods and Services*  
4 *Tax) Act 1999*, for the Commissioner to revoke the approval  
5 of the group as a GST group; and  
6 (b) the application contained a request (however described) for  
7 the Commissioner to decide under section 48-85 of that Act,  
8 as a date of effect of the revocation, a date occurring before  
9 the date of that commencement; and  
10 (c) the Commissioner did not revoke the approval as requested in  
11 the application, and did not refuse the application, before that  
12 commencement;
- 13 then:
- 14 (d) an application is taken to have been made to the  
15 Commissioner, under section 48-71 of that Act as amended  
16 by this Act, for the Commissioner to approve that date of  
17 effect as the day on which the revocation took effect; and  
18 (e) if the Commissioner decides, under that section as so  
19 amended, to give that approval—then, on that day, the group  
20 is taken to be dissolved as if:
- 21 (i) the Commissioner has been notified, in accordance with  
22 section 48-70 of that Act as amended by this Act, that  
23 the action referred to in paragraph 48-70(1)(d) of that  
24 Act as so amended has been taken; and  
25 (ii) the action took effect on that day.

## 32 Transitional provisions for GST joint ventures

### *GST joint ventures in existence before commencement*

- 26
- 27
- 28 (1) Subject to subitems (5) to (8), on the commencement of this item:
- 29 (a) a GST joint venture that existed immediately before that  
30 commencement is taken to continue in existence as if:
- 31 (i) it had been formed, and its formation had been notified  
32 to the Commissioner, in accordance with section 51-5 of  
33 the *A New Tax System (Goods and Services Tax) Act*  
34 *1999* as amended by this Act; and  
35 (ii) its formation took effect immediately after that  
36 commencement; and  
37 (b) the entities that were participants in the joint venture  
38 immediately before that commencement are taken,  
39 immediately after that commencement, to continue to be the  
40 participants in the joint venture; and
-

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- 
- 1 (c) the entity that was the joint venture operator of the joint  
2 venture immediately before that commencement is taken,  
3 immediately after that commencement, to continue to be the  
4 joint venture operator of the joint venture.

5 *GST joint ventures approved, but not in existence, before*  
6 *commencement*

- 7 (2) If, before the commencement of this item, the Commissioner approved  
8 2 or more entities as a GST joint venture but the approval did not take  
9 effect before that commencement, then, on the date of effect decided by  
10 the Commissioner under section 51-85 of the *A New Tax System (Goods*  
11 *and Services Tax) Act 1999*:
- 12 (a) the joint venture is taken to have been formed, and its  
13 formation is taken to have been notified to the  
14 Commissioner, in accordance with section 51-5 of that Act as  
15 amended by this Act; and
- 16 (b) the entities that jointly applied for that approval are taken to  
17 be the participants in the joint venture; and
- 18 (c) the entity that was nominated in the application to be the joint  
19 venture operator of the joint venture is taken to be the joint  
20 venture operator of the joint venture.

21 *GST joint ventures applied for, but not approved, before*  
22 *commencement*

- 23 (3) If:
- 24 (a) before the commencement of this item, 2 or more entities  
25 applied, in accordance with section 51-5 of the *A New Tax*  
26 *System (Goods and Services Tax) Act 1999*, for approval of a  
27 GST joint venture; and
- 28 (b) the application did not contain a request (however described)  
29 for the Commissioner to decide under section 51-85 of that  
30 Act, as a date of effect of approval of the joint venture, a date  
31 occurring before the date of that commencement; and
- 32 (c) the Commissioner did not approve the joint venture as a GST  
33 joint venture, and did not refuse the application, before that  
34 commencement;
- 35 then, immediately after that commencement:
- 36 (d) the joint venture is taken to have been formed, and its  
37 formation is taken to have been notified to the  
38 Commissioner, in accordance with section 51-5 of that Act as  
39 amended by this Act; and
-

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- 1 (e) the entities that jointly applied for that approval are taken to  
2 be the participants in the joint venture; and  
3 (f) the entity that was nominated in the application to be the joint  
4 venture operator of the joint venture is taken to be the joint  
5 venture operator of the joint venture.

6 (4) If:

- 7 (a) before the commencement of this item, 2 or more entities  
8 applied, in accordance with section 51-5 of the *A New Tax*  
9 *System (Goods and Services Tax) Act 1999*, for approval of a  
10 GST joint venture; and  
11 (b) the application contained a request (however described) for  
12 the Commissioner to decide under section 51-85 of that Act,  
13 as a date of effect of approval of the joint venture, a date  
14 occurring before the date of that commencement; and  
15 (c) the Commissioner did not approve the joint venture as a GST  
16 joint venture, and did not refuse the application, before that  
17 commencement;

18 then:

- 19 (d) an application is taken to have been made to the  
20 Commissioner, under section 51-75 of that Act as amended  
21 by this Act, for the Commissioner to approve that date of  
22 effect as the day on which the formation of the GST joint  
23 venture took effect; and  
24 (e) if the Commissioner decides, under that section as so  
25 amended, to give that approval—then, on that day:  
26 (i) the joint venture is taken to have been formed, and its  
27 formation is taken to have been notified to the  
28 Commissioner, in accordance with section 51-5 of that  
29 Act as so amended; and  
30 (ii) the entities that jointly applied for approval of the joint  
31 venture are taken to be the participants in the joint  
32 venture; and  
33 (iii) the entity that was nominated, in the application for  
34 approval of the joint venture, to be the joint venture  
35 operator of the joint venture is taken to be the joint  
36 venture operator of the joint venture.

37 *Changes to participation etc. in GST joint ventures applied for,*  
38 *but not approved, before commencement*

39 (5) If:

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- 1 (a) before the commencement of this item, the joint venture  
2 operator of a GST joint venture applied, in accordance with  
3 section 51-70 of the *A New Tax System (Goods and Services*  
4 *Tax) Act 1999*, for the Commissioner to:
- 5 (i) approve another entity as an additional participant in the  
6 joint venture; or
- 7 (ii) revoke the approval of one of the participants in the  
8 joint venture as a participant in the joint venture; or
- 9 (iii) approve another entity that satisfies the requirements of  
10 paragraphs 51-10(c) and (f) of that Act as the joint  
11 venture operator of the joint venture; and
- 12 (b) the application did not contain a request (however described)  
13 for the Commissioner to decide under section 51-85 of that  
14 Act, as a date of effect of the approval or revocation, a date  
15 occurring before the date of that commencement; and
- 16 (c) the Commissioner did not:
- 17 (i) give the approval, or revoke the approval, as requested  
18 in the application; and
- 19 (ii) did not refuse the application;  
20 before that commencement;
- 21 then, immediately after that commencement, the joint venture is taken  
22 to continue in existence as if:
- 23 (d) the Commissioner has been notified, in accordance with  
24 section 51-70 of that Act as amended by this Act, that the  
25 corresponding action referred to in paragraph 51-70(1)(a), (b)  
26 or (c) of that Act as so amended has been taken; and
- 27 (e) the action took effect on the date of effect specified in the  
28 application.

29 (6) If:

- 30 (a) before the commencement of this item, the joint venture  
31 operator of a GST joint venture applied, in accordance with  
32 section 51-70 of the *A New Tax System (Goods and Services*  
33 *Tax) Act 1999*, for the Commissioner to:
- 34 (i) approve another entity as an additional participant in the  
35 joint venture; or
- 36 (ii) revoke the approval of one of the participants in the  
37 joint venture as a participant in the joint venture; or
- 38 (iii) approve another entity that satisfies the requirements of  
39 paragraphs 51-10(c) and (f) of that Act as the joint  
40 venture operator of the joint venture; and
-

# EXPOSURE DRAFT

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- 1 (b) the application contained a request (however described) for  
2 the Commissioner to decide under section 51-85 of that Act,  
3 as a date of effect of the approval or revocation, a date  
4 occurring before the date of that commencement; and  
5 (c) the Commissioner did not:  
6 (i) give the approval, or revoke the approval, as requested  
7 in the application; and  
8 (ii) did not refuse the application;  
9 before that commencement;
- 10 then:
- 11 (d) an application is taken to have been made to the  
12 Commissioner, under section 51-75 of that Act as amended  
13 by this Act, for the Commissioner to approve that date of  
14 effect as the day on which the approval or revocation took  
15 effect; and  
16 (e) if the Commissioner decides, under that section as so  
17 amended, to give that approval—then, on that day, the joint  
18 venture is taken to continue in existence as if:  
19 (i) the Commissioner has been notified, in accordance with  
20 section 51-70 of that Act as so amended, that the  
21 corresponding action referred to in paragraph  
22 51-70(1)(a), (b) or (c) of that Act as so amended has  
23 been taken; and  
24 (ii) the action took effect on that day.

25 *Revocation of approval of GST joint ventures applied for, but*  
26 *revocation not approved, before commencement*

- 27 (7) If:
- 28 (a) before the commencement of this item, the joint venture  
29 operator of a GST joint venture applied, in accordance with  
30 section 51-75 of the *A New Tax System (Goods and Services*  
31 *Tax) Act 1999*, for the Commissioner to revoke the approval  
32 of the joint venture as a GST joint venture; and  
33 (b) the application did not contain a request (however described)  
34 for the Commissioner to decide under section 51-85 of that  
35 Act, as a date of effect of the revocation, a date occurring  
36 before the date of that commencement; and  
37 (c) the Commissioner did not revoke the approval as requested in  
38 the application, and did not refuse the application, before that  
39 commencement;
-

# EXPOSURE DRAFT

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1 then, immediately after that commencement the GST joint venture is  
2 taken to be dissolved as if:

- 3 (d) the Commissioner has been notified, in accordance with  
4 section 51-70 of that Act as amended by this Act, that the  
5 action referred to in paragraph (1)(d) of that section as so  
6 amended has been taken; and  
7 (e) the action took effect on the date of effect specified in the  
8 application.

9 (8) If:

- 10 (a) before the commencement of this item, the joint venture  
11 operator of a GST joint venture applied, in accordance with  
12 section 51-75 of the *A New Tax System (Goods and Services  
13 Tax) Act 1999*, for the Commissioner to revoke the approval  
14 of the joint venture as a GST joint venture; and  
15 (b) the application contained a request (however described) for  
16 the Commissioner to decide under section 51-85 of that Act,  
17 as a date of effect of the revocation, a date occurring before  
18 the date of that commencement; and  
19 (c) the Commissioner did not revoke the approval as requested in  
20 the application, and did not refuse the application, before that  
21 commencement;

22 then:

- 23 (d) an application is taken to have been made to the  
24 Commissioner, under section 51-70 of that Act as amended  
25 by this Act, for the Commissioner to approve that date of  
26 effect as the day on which the revocation took effect; and  
27 (e) if the Commissioner decides, under that section as so  
28 amended, to give that approval—then, on that day, the group  
29 is taken to be dissolved as if:  
30 (i) the Commissioner has been notified, in accordance with  
31 section 51-70 of that Act as amended by this Act, that  
32 the action referred to in paragraph 51-70(1)(d) of that  
33 Act as so amended has been taken; and  
34 (ii) the action took effect on that day.  
35

# EXPOSURE DRAFT

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## 1 Part 2—Indirect tax sharing agreements

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

#### 3 **33 Subsection 48-40(1) (note)**

4 Omit “is” (first occurring), substitute “may be”.

#### 5 **34 Subsection 51-30(1) (note)**

6 Omit “is” (first occurring), substitute “may be”.

### 7 *Taxation Administration Act 1953*

#### 8 **35 Before subsection 444-80(1) in Schedule 1**

9 Insert:

10 *Joint and several liability*

#### 11 **36 Subsection 444-80(1) in Schedule 1**

12 After “any amount”, insert “(an *indirect tax amount*)”.

#### 13 **37 After subsection 444-80(1) in Schedule 1**

14 Insert:

15 *Indirect tax sharing agreements*

16 (1A) Despite subsection (1), if:

- 17 (a) before an indirect tax amount relating to a \*tax period  
18 becomes payable under subsection (1), an agreement (the  
19 *indirect tax sharing agreement*) has been entered into  
20 between:
- 21 (i) the \*joint venture operator for the joint venture; and
  - 22 (ii) a \*participant in the joint venture (the *contributing*  
23 *participant*) who is not the joint venture operator; and
- 24 (b) under the indirect tax sharing agreement, the contributing  
25 participant is liable to pay an amount (the *contribution*  
26 *amount*), determined in accordance with the agreement,  
27 relating to that tax period; and
- 28 (c) the contribution amounts for each of the contributing  
29 participants under the indirect tax sharing agreement  
30 represent a reasonable allocation of their shares of the joint

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- 1 venture operator's total liabilities under each \*indirect tax law  
2 in relation to that tax period;
- 3 then:
- 4 (d) if the contributing participant leaves the joint venture during  
5 that tax period, and subsection (1B) applies—the contributing  
6 participant is not liable under subsection (1) in relation to the  
7 indirect tax amount; or
- 8 (e) otherwise—the contributing participant's liability under  
9 subsection (1) in relation to that tax period is not to exceed  
10 that contribution amount.
- 11 (1B) This subsection applies if, before the day on which the \*joint  
12 venture operator is required to give to the Commissioner a \*GST  
13 return for that tax period, the contributing participant pays to the  
14 joint venture operator:
- 15 (a) the contribution amount; or
- 16 (b) if the contribution amount cannot be determined at the time  
17 of the payment—an amount that is a reasonable estimate of  
18 the contribution amount.
- 19 (1C) Subsection (1A) does not apply if:
- 20 (a) the indirect tax sharing agreement was entered into as part of  
21 an arrangement; and
- 22 (b) a purpose of the arrangement was to prejudice the recovery  
23 by the Commissioner of the indirect tax amount or any other  
24 amount payable under an \*indirect tax law.
- 25 (1D) Subsection (1A) does not apply if:
- 26 (a) the Commissioner gives the \*joint venture operator of the  
27 joint venture written notice under this subsection (whether  
28 before, at or after the indirect tax amount becomes payable)  
29 in relation to the indirect tax amount; and
- 30 (b) the notice requires the joint venture operator to give the  
31 Commissioner a copy of the indirect tax sharing agreement in  
32 the \*approved form within 14 days after the notice is given;  
33 and
- 34 (c) the Commissioner does not receive a copy of the agreement  
35 by the time required.
- 36 (1E) Subsection (1A) does not apply if, apart from this subsection, the  
37 requirements of subsection (1A) would be satisfied in relation to 2  
38 or more agreements:
- 39 (a) that were entered into by the \*joint venture operator; and
-

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1 (b) that relate to the same tax period.

2 (1F) For the purposes of subsection (1A), the indirect tax sharing  
3 agreement may be made between the \*joint venture operator of the  
4 joint venture and more than one \*participant in the joint venture.

5 *Criminal liability of participants in GST joint ventures*

## 6 **38 Before subsection 444-90(1) in Schedule 1**

7 Insert:

8 *Joint and several liability*

## 9 **39 Subsection 444-90(1) in Schedule 1**

10 After “any amount”, insert “(an *indirect tax amount*)”.

## 11 **40 After subsection 444-90(1) in Schedule 1**

12 Insert:

13 *Indirect tax sharing agreements*

14 (1A) Despite subsection (1), if:

15 (a) before an indirect tax amount relating to a \*tax period  
16 becomes payable under subsection (1), an agreement (the  
17 *indirect tax sharing agreement*) has been entered into  
18 between:

- 19 (i) the \*representative member of the group; and  
20 (ii) another \*member of the group (the *contributing*  
21 *member*); and

22 (b) under the indirect tax sharing agreement, the contributing  
23 member is liable to pay an amount (the *contribution*  
24 *amount*), determined in accordance with the agreement, in  
25 relation to that tax period; and

26 (c) the contribution amounts for each of the contributing  
27 members under the indirect tax sharing agreement represent a  
28 reasonable allocation of their shares of the representative  
29 member’s total liabilities under each \*indirect tax law in  
30 relation to that tax period;

31 then:

32 (d) if the contributing member leaves the group during that tax  
33 period, and subsection (1B) applies—the contributing  
34 member is not liable under subsection (1) in relation to the  
35 indirect tax amount; or

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- 1 (e) otherwise—the contributing member’s liability under  
2 subsection (1) in relation to that tax period is not to exceed  
3 that contribution amount.
- 4 (1B) This subsection applies if, before the day on which the  
5 representative member is required to give to the Commissioner a  
6 \*GST return for that tax period, the contributing member pays to  
7 the representative member:  
8 (a) the contribution amount; or  
9 (b) if the contribution amount cannot be determined at the time  
10 of the payment—an amount that is a reasonable estimate of  
11 the contribution amount.
- 12 (1C) Subsection (1A) does not apply if:  
13 (a) the indirect tax sharing agreement was entered into as part of  
14 an arrangement; and  
15 (b) a purpose of the arrangement was to prejudice the recovery  
16 by the Commissioner of the indirect tax amount or any other  
17 amount payable under an \*indirect tax law.
- 18 (1D) Subsection (1A) does not apply if:  
19 (a) the Commissioner gives the \*representative member of the  
20 group written notice under this subsection (whether before, at  
21 or after the indirect tax amount became payable) in relation  
22 to the indirect tax amount; and  
23 (b) the notice requires the representative member to give the  
24 Commissioner a copy of the indirect tax sharing agreement in  
25 the \*approved form within 14 days after the notice is given;  
26 and  
27 (c) the Commissioner does not receive a copy of the agreement  
28 by the time required.
- 29 (1E) Subsection (1A) does not apply if, apart from this subsection, the  
30 requirements of subsection (1A) would be satisfied in relation to 2  
31 or more agreements:  
32 (a) that were entered into by the \*representative member; and  
33 (b) that relate to the same tax period.
- 34 (1F) For the purposes of subsection (1A), the indirect tax sharing  
35 agreement may be made between the \*representative member of  
36 the group and more than one other \*member of the group.
-

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*Effect of prohibitions on certain arrangements*

**41 Before subsection 444-90(4) in Schedule 1**

Insert:

*Criminal liability of members of GST groups*

**42 Application**

The amendments made by this Part apply to tax periods starting on or after 1 July 2010.

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## Schedule 2—Rulings

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

#### **1 Section 2-30**

Omit “and 4-15”, substitute “, 4-15 and 5-5”.

#### **2 At the end of section 9-99**

Add:

Note: There are other laws that may affect the amount of GST on taxable supplies. For example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule).

#### **3 At the end of section 11-25**

Add:

Note: The basic rule for working out the GST payable on the supply is in Subdivision 9-C. However, the GST payable may be affected by other provisions in:

- (a) this Act (for a list of provisions, see section 9-99); and
- (b) other GST laws (for example, see subsection 357-60(3) in Schedule 1 to the *Taxation Administration Act 1953* (about the effect of rulings made under Part 5-5 in that Schedule)).

### *Excise Act 1901*

#### **4 At the end of Part XII**

Add:

#### **155 Limited dispute rights because of objection against private ruling**

- (1) This section applies if there has been a taxation objection under Part IVC of the *Taxation Administration Act 1953* against a private ruling (within the meaning of the *Income Tax Assessment Act 1997*) that relates to:
  - (a) the amount or rate of duty; or
  - (b) the liability of goods to duty.
- (2) The right of the owner to commence an action mentioned in subsection 154(2) of this Act in relation to the goods is limited to a

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1 right to bring an action on the grounds that neither were, nor could  
2 have been, grounds for the taxation objection against the ruling.

## 3 *Income Tax Assessment Act 1997*

### 4 **5 Subsection 995-1(1)**

5 Insert:

6 *excise duty* has the meaning given by the \*GST Act.

### 7 **6 Subsection 995-1(1)**

8 Insert:

9 *indirect tax or excise ruling* means a \*public ruling or a \*private  
10 ruling, to the extent that the ruling relates to any of the following:

- 11 (a) \*indirect tax, or the administration or collection of indirect  
12 tax;  
13 (b) \*excise duty, or the administration or collection of excise  
14 duty;  
15 (c) a \*net amount, or the administration, collection or payment of  
16 a net amount;  
17 (d) a \*wine tax credit, or the administration or payment of a wine  
18 tax credit.

### 19 **7 Subsection 995-1(1) (definition of *indirect tax ruling*)**

20 Repeal the definition.

### 21 **8 Subsection 995-1(1) (definition of *private indirect tax ruling*)**

22 Repeal the definition.

### 23 **9 Subsection 995-1(1) (definition of *public indirect tax ruling*)**

24 Repeal the definition.

## 25 *Taxation Administration Act 1953*

### 26 **10 Subsection 2(1)**

27 Insert:

28 *excise law* means:

- 29 (a) the *Excise Act 1901*; and

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- 1 (b) any Act that imposes excise duty (within the meaning of the  
2 *A New Tax System (Goods and Services Tax) Act 1999*); and  
3 (c) this Act, so far as it relates to any Act covered by  
4 paragraphs (a) and (b); and  
5 (d) any other Act, so far as it relates to any Act covered by  
6 paragraphs (a) to (c) (or to so much of that Act as is covered);  
7 and  
8 (e) regulations under any Act, so far as they relate to any Act  
9 covered by paragraphs (a) to (d) (or to so much of that Act as  
10 is covered).

## 11 **11 Subsection 2(1)**

12 Insert:

13 *indirect tax law* has the meaning given by the *Income Tax*  
14 *Assessment Act 1997*.

## 15 **12 Subsection 2(1)**

16 Insert:

17 *private indirect tax ruling* means a private ruling, to the extent that  
18 it relates to any of the following:

- 19 (a) indirect tax (within the meaning of the *Income Tax*  
20 *Assessment Act 1997*), or the administration or collection of  
21 indirect tax;  
22 (b) a net amount (within the meaning of the *A New Tax System*  
23 *(Goods and Services Tax) Act 1999*), or the administration,  
24 collection or payment of a net amount;  
25 (c) a wine tax credit (within the meaning of the *A New Tax*  
26 *System (Wine Equalisation Tax) Act 1999*), or the  
27 administration or payment of a wine tax credit.

## 28 **13 Subsection 2(1)**

29 Insert:

30 *private ruling* has the meaning given by section 359-5 in  
31 Schedule 1.

## 32 **14 Section 14ZQ (definition of *private ruling*)**

33 Repeal the definition.

## 34 **15 Section 14ZVA**

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# EXPOSURE DRAFT

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1 Omit “against an assessment”, substitute “under this Part against an  
2 assessment, or against a decision made under an indirect tax law or an  
3 excise law,”.

## 4 **16 Subsection 14ZW(1AAA)**

5 After “ Schedule 1)”, insert “, or a private indirect tax ruling,”.

## 6 **17 Section 105-1 in Schedule 1**

7 Omit:

8 

(d) the effect of relying on a ruling;
--

## 9 **18 Section 105-60 in Schedule 1**

10 Repeal the section.

## 11 **19 After paragraph 357-55(fa) in Schedule 1**

12 Insert:

13 (fb) \*indirect tax;

14 (fc) \*excise duty;

## 15 **20 Paragraph 357-55(g) in Schedule 1**

16 After “taxes”, insert “, levies and duties”.

## 17 **21 At the end of section 357-55 in Schedule 1**

18 Add:

19 ; (j) a \*net amount, or the administration, collection or payment of  
20 a net amount;

21 (k) a \*wine tax credit, or the administration or payment of a wine  
22 tax credit.

## 23 **22 Subsection 357-60(1) in Schedule 1 (after example 2)**

24 Insert:

25 Example 3: Cathie obtains a private ruling that a type of supply she makes is  
26 GST-free. She relies on the ruling by:

27 (a) giving her customers invoices that show no GST payable on the  
28 supplies; and

29 (b) lodging her GST return on the basis that the supplies are GST  
30 free.

31 The Commissioner must administer the GST law in relation to Cathie  
32 on the basis that the supplies to which the ruling relates are GST free.  
33 This does not apply if Cathie stops relying on the ruling, such as by

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issuing tax invoices that show GST payable on the supplies: see paragraph (1)(b).

## 23 At the end of section 357-60 in Schedule 1

Add:

### *GST rulings*

(3) The \*GST payable on a \*supply is the amount worked out in accordance with a ruling (if any) that:

(a) relates to the GST payable on the supply; and

(b) binds the Commissioner in relation to the supplier of the supply.

Note: The ruling will stop affecting the GST payable if the supplier stops relying on the ruling: see paragraph (1)(b).

(4) Subsection (3) does not apply for the purposes of an objection to the ruling under section 359-60.

## 24 Subsection 357-75(1) in Schedule 1

After “inconsistency”, insert “, and do not apply to \*indirect tax or excise rulings”.

## 25 Subsection 357-75(1) in Schedule 1 (at the end of the table heading)

Add “(other than indirect tax or excise rulings)”.

## 26 After subsection 357-75(1) in Schedule 1

Insert:

(1A) The rules in this table have effect if:

(a) an \*indirect tax or excise ruling and a later indirect tax or excise ruling both apply to you; and

(b) the 2 rulings are inconsistent.

However, the rules in the table only apply to the extent of the inconsistency.

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### **Inconsistent indirect tax or excise rulings**

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<b>Item</b>	<b>If the earlier ruling is:</b>	<b>And the later inconsistent ruling is:</b>	<b>The result is:</b>
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1	A *public ruling	A public ruling	You may rely on either ruling.
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**Inconsistent indirect tax or excise rulings**

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<b>Item</b>	<b>If the earlier ruling is:</b>	<b>And the later inconsistent ruling is:</b>	<b>The result is:</b>
2	A *public ruling	A *private ruling	The later ruling is taken to apply from the later of: (a) the time it is made; and (b) the time (if any) specified in the ruling as being the time from which it begins to apply. The earlier ruling is taken to cease to apply at that later time.
3	A *private ruling	Any ruling	The later ruling is taken to apply from the later of: (a) the time it is made; and (b) the time (if any) specified in the ruling as being the time from which it begins to apply. The earlier ruling is taken to cease to apply at that later time.

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1 **27 Subsection 357-75(2) in Schedule 1**

2 Before “table”, insert “relevant”.

3 **28 Subsections 358-10(2) and 358-20(3) in Schedule 1**

4 After “\*public ruling”, insert “, other than an \*indirect tax or excise  
5 ruling”.

6 **29 Subsection 359-25(4) in Schedule 1**

7 After “\*private ruling”, insert “, other than an \*indirect tax or excise  
8 ruling”.

9 **30 At the end of subsection 359-25(4) in Schedule 1**

10 Add:

11 Note: A private indirect tax or excise ruling that does not specify an end  
12 time continues to apply until it is overridden by a later indirect tax or  
13 excise ruling; see subsection 357-75(1A).

14 **31 Paragraph 359-30(a) in Schedule 1**

15 Before “the beneficiaries”, insert “if the ruling is not an \*indirect tax or  
16 excise ruling—”.

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# EXPOSURE DRAFT

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## 32 Paragraph 359-30(b) in Schedule 1

Before “another trustee”, insert “in any case—”.

## 33 Paragraph 359-55(1)(b) in Schedule 1

Before “when”, insert “if the ruling is not an \*indirect tax or excise ruling—”.

## 34 Subsection 359-55(1) in Schedule 1 (note)

Omit “public”.

## 35 Subsection 359-55(3) in Schedule 1

Omit “in the circumstances mentioned in paragraph (1)(b)”.

## 36 At the end of section 359-55 in Schedule 1

Add:

(5) However, if:

(a) the \*private ruling is an \*indirect tax or excise ruling; and

(b) the revised private ruling specifies the time from which the revision begins to apply (being a time after the time the revision is made);

the ruling in its initial form stops applying to you at the time so specified.

## 37 At the end of subsection 359-60(3) in Schedule 1

Add:

; or (c) the ruling relates to:

(i) \*excise duty on goods that have been (or have been taken to be) entered for or delivered into home consumption within the meaning of the *Excise Act 1901*; or

(ii) a \*taxable importation, or a \*taxable importation of a luxury car, that has already been made.

## 38 Before subsection 360-5(1) in Schedule 1

Insert:

*Applying for oral rulings*

## 39 After subsection 360-5(2) in Schedule 1

Insert:

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- 1 (2A) You or your \*legal personal representative must not apply for  
2 advice under this section in relation to any of the following:
- 3 (a) \*indirect tax, or the administration or collection of indirect  
4 tax;
  - 5 (b) \*excise duty, or the administration or collection of excise  
6 duty;
  - 7 (c) a \*net amount, or the administration, collection or payment of  
8 a net amount;
  - 9 (d) a \*wine tax credit, or the administration or payment of a wine  
10 tax credit.

11 *Making of oral rulings*

## 12 **40 Transitional provision**

### 13 *Interpretation*

- 14 (1) In this item:
- 15 ***indirect tax ruling*** has the meaning given by the *Income Tax*  
16 *Assessment Act 1997*, as in force just before the commencement of this  
17 item.
- 18 ***private indirect tax ruling*** has the meaning given by the *Income Tax*  
19 *Assessment Act 1997*, as in force just before the commencement of this  
20 item.

### 21 *Rulings*

- 22 (2) A private indirect tax ruling that is in force just before the  
23 commencement of this item has effect, from that commencement, as if  
24 it had been made under Division 359 in Schedule 1 to the *Taxation*  
25 *Administration Act 1953*, as amended by this Schedule.
- 26 (3) An indirect tax ruling that:
- 27 (a) is in force just before the commencement of this item; and
  - 28 (b) is labelled as a public ruling;
- 29 has effect, from that commencement, as if it had been made under  
30 Division 358 in Schedule 1 to the *Taxation Administration Act 1953*, as  
31 amended by this Schedule.

### 32 *Applications for private rulings*

- 33 (4) An application for a private indirect tax ruling is taken to have been  
34 made under Division 359 in Schedule 1 to the *Taxation Administration*  
35 *Act 1953*, as amended by this Schedule, if:

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- 1 (a) you made the application before the commencement of this  
2 item; and  
3 (b) just before the commencement of this item:  
4 (i) the Commissioner had neither made the ruling nor  
5 declined to make the ruling; and  
6 (ii) you had not withdrawn the application.

## 7 **41 Application provision—excise disputes**

8 The amendment made by item 4 of this Schedule does not apply to  
9 actions brought before the commencement of this item.

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## Schedule 3—Tax invoices

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

#### **1 Subsection 29-70(1)**

Repeal the subsection, substitute:

(1) A *tax invoice* is a document that complies with the following requirements:

- (a) it is issued by the supplier of the supply or supplies to which the document relates, unless it is a \*recipient created tax invoice (in which case it is issued by the \*recipient);
- (b) it is in the \*approved form;
- (c) it contains enough information to enable the following to be clearly ascertained:
  - (i) the supplier's identity and the supplier's \*ABN;
  - (ii) if the total \*price of the supply or supplies is at least \$1,000 or such higher amount as the regulations specify—the recipient's identity or the recipient's ABN;
  - (iii) what is supplied, including the quantity (*if applicable*) and the price of what is supplied;
  - (iv) the extent to which each supply to which the document relates is a \*taxable supply;
  - (v) the date the document is issued;
  - (vi) the amount of GST (if any) payable in relation to each supply to which the document relates;
  - (vii) such other matters as the regulations specify;
- (d) it is clearly intended by the entity that issued the document to be a tax invoice.

Note: If the recipient is a member of a GST group, section 48-57 may relax the tax invoice requirements.

(1A) A \*tax invoice may consist of 2 or more documents, issued by the supplier of the supply or supplies to which the documents relate, if:

- (a) taken together, the documents comply with the requirements for a tax invoice; and
- (b) those documents include an \*invoice relating to the supply or supplies in question.

(1B) However, the Commissioner may treat as a \*tax invoice:

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- 1 (a) a particular document that would not, apart from this  
2 subsection, be a tax invoice; or  
3 (b) 2 or more particular documents that, taken together, do not  
4 meet the requirements of subsection (1A).

## 2 At the end of subsection 29-70(1B)

6 Add:

7 Note: A request to the Commissioner, to which the Commissioner agrees, to  
8 treat a document or documents as a tax invoice is taken to be a  
9 notification of your entitlement to the relevant input tax credit: see  
10 subsection 105-55(2A) in Schedule 1 to the *Taxation Administration*  
11 *Act 1953*.

## 3 Section 29-99 (after table item 3)

13 Insert:

3A GST groups Division 48

## 4 After section 48-55

15 Insert:

### 48-57 Tax invoices that are required to identify recipients

- 17 (1) A document issued for a supply is taken to be a *tax invoice* if:
- 18 (a) it would not, but for this section, be a tax invoice because it  
19 does not contain enough information to enable the identity, or  
20 the \*ABN, of the \*recipient of the supply to be clearly  
21 ascertained; and
- 22 (b) there is no other reason why it would not be a tax invoice;  
23 and
- 24 (c) the \*representative member of a \*GST group is entitled under  
25 section 48-45 to an input tax credit for the \*creditable  
26 acquisition relating to the supply; and
- 27 (d) the document contains enough information to enable the  
28 identity of at least one of the following to be clearly  
29 ascertained:
- 30 (i) the GST group;
- 31 (ii) the representative member;
- 32 (iii) another entity that is or was a \*member of the GST  
33 group, if the representative member would still have  
34 been entitled under section 48-45 to that input tax credit  
35 if that other entity had been the recipient of the supply.

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1 Note: Subparagraph (d)(iii) ensures that a member of the GST group  
2 named in the document was a member of the group at the  
3 relevant time for the supply in question.

- 4 (2) However, any obligation that the supplier of a \*taxable supply has  
5 under subsection 29-70(2) is an obligation to give to the \*recipient  
6 of the supply a document that would be a \*tax invoice for the  
7 supply even if subsection (1) of this section had not been enacted.

8 Note: This subsection ensures that a recipient's entitlement to a tax invoice,  
9 including (if subparagraph 29-70(1)(c)(ii) requires it) an entitlement to  
10 a tax invoice that names the recipient, is unaffected by this section.

- 11 (3) This section has effect despite section 29-70 (which is about tax  
12 invoices).

## 13 **5 Section 195-1 (definition of *tax invoice*)**

14 Repeal the definition, substitute:

15 *tax invoice* has the meaning given by subsections 29-70(1) and  
16 48-57(1), and includes:

- 17 (a) 2 or more documents that meet the requirements of  
18 subsection 29-70(1A); and  
19 (b) a document that the Commissioner treats as a tax invoice  
20 under subsection 29-70(1B).

21 However, it does not include a document that does not comply with  
22 the requirements of section 54-50 (if applicable).

## 23 ***Taxation Administration Act 1953***

### 24 **6 Subsection 105-55(2A) in Schedule 1**

25 After "a document", insert ", or 2 or more documents,".

### 26 **7 Application of amendments**

27 The amendments made by this Schedule apply in relation to net  
28 amounts for tax periods starting on or after 1 July 2010.