

1996-97

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 95

TUESDAY, 17 JUNE 1997

1 The House met, at 2 p.m., pursuant to adjournment. The Speaker (the Honourable Bob Halverson) took the Chair, and read Prayers.

**2 MINISTERIAL ARRANGEMENTS**

Mr Fischer (Acting Prime Minister) informed the House that, during the absence abroad of Mr Sharp (Minister for Transport and Regional Development), Mr Scott (Minister for Veterans' Affairs) would answer questions on his behalf.

**3 QUESTIONS**

Questions without notice being asked—

*Member ordered to withdraw*

At 2.34 p.m. the Member for Holt (Mr G. J. Evans—Deputy Leader of the Opposition) was ordered, under standing order 304A, to withdraw from the House for one hour for raising a frivolous point of order after having been cautioned not to do so, and he accordingly withdrew from the Chamber.

Questions without notice continuing—

*Paper*

Mr S. F. Smith, in accordance with standing order 321, having called for documents quoted from by Dr Kemp (Minister for Schools, Vocational Education and Training)—

Dr Kemp presented the following paper:

NSW opposes ill-conceived federal schools employment agency plan—Copy of media release by Mr Aquilina, New South Wales Minister for Education and Training, 12 June 1997.

Questions without notice continuing—

*Member ordered to withdraw*

At 2.42 p.m. the Member for Corio (Mr O'Connor) was ordered, under standing order 304A, to withdraw from the House for one hour for refusing to resume his seat when directed to do so by the Chair, and he accordingly withdrew from the Chamber.

Questions without notice continued.

#### 4 SUSPENSION OF STANDING AND SESSIONAL ORDERS MOVED

Mr O'Keefe moved—That so much of the standing and sessional orders be suspended as would prevent the Member for Burke moving forthwith—That this House, in light of:

- (1) the Government's election commitment not to reduce the sugar tariff below the present level of \$55 per tonne, as Australia had already met its current obligations under the World Trade Organisation agreement;
- (2) the fact that Australia's Uruguay Round obligation for sugar is a tariff of \$70 per tonne by the year 2000, and Australia's current tariff, at \$55 per tonne, sits comfortably within that obligation;
- (3) the fact that many of our export destinations have sugar tariffs massively higher than us, which suggests that there is no reason for Australia to go it alone on the sugar tariff;
- (4) the fact that, despite the above, the Government has decided to abolish the sugar tariff effective from 1 July 1997;
- (5) the fact that the abolition of the tariff will mean job losses and a loss of income of \$27m. for Australian sugar growers; and
- (6) the fact that the Government has no plans to bring the measure before the Parliament for debate before it comes into effect on 1 July this year—

therefore calls for order of the day No. 64, government business, to be brought on forthwith so that Members will have an opportunity to debate and vote on the proposals contained in Customs Tariff Proposal No. 2 (1997) to remove customs duty from sugar and sugar by-products.

Debate ensued.

The time allowed by standing order 91 for debate on the motion having expired—

Question—put.

The House divided (the Deputy Speaker, Mr Nehl, in the Chair)—

## AYES, 43

Mr Albanese	Mr M. J. Evans	Mr Kerr	Mr O'Keefe
Mr Andren	Mr M. J. Ferguson	Mr Latham	Mr Price
Mr Beddall	Mr Fitzgibbon	Dr Lawrence	Mr Quick
Mr Bevis	Mr E. L. Grace*	Mr Lee	Mr Sawford*
Mr Brereton	Mr Griffin	Mr McClelland	Mr Sercombe*
Mr Brown	Mr Hatton	Mr McLeay	Mr S. F. Smith
Mr Crean	Mr Holding	Mr McMullan	Mr Tanner
Mrs Crosio	Mr Hollis	Mr Martin	Dr Theophanous
Mr Dargavel	Mr Jenkins	Mr Melham	Mr K. J. Thomson
Ms Ellis	Mr Jones	Mr A. A. Morris	Mr Willis
Mr G. J. Evans	Mr Katter	Mr P. F. Morris	

## NOES, 76

Mr Abbott	Mrs Elson	Mr McArthur*	Mr Scott
Mr Anderson	Mr Entsch	Mr McDougall	Mr Sinclair
Mr J. N. Andrew	Mr R. D. C. Evans	Mr McGauran	Mr Slipper
Mr Anthony	Mr Fahey	Mr McLachlan	Mr A. C. Smith
Mr Barresi	Ms Gambaro	Mr Miles	Mr W. L. Smith
Mr Bartlett	Mrs Gash	Mr Moore	Dr Southcott
Mr Billson	Mr Georgiou	Mrs Moylan	Mrs Sullivan
Mrs Bishop	Mrs E. J. Grace	Mr Mutch	Mr Taylor
Mr Bradford	Mr Hardgrave	Mr Nairn	Mr A. P. Thomson
Mr Broadbent	Mr Hawker	Dr Nelson	Mr Truss
Mr Brough	Mr Hicks*	Mr Neville	Mr Tuckey
Mr Cadman	Mr Hockey	Mr Nugent	Mr M. A. J. Vaile
Mr E. H. Cameron	Ms Jeanes	Mr Prosser	Mrs D. S. Vale
Mr R. A. Cameron	Mr Jull	Mr Pyne	Mr Wakelin
Mr Causley	Miss J. M. Kelly	Mr Randall	Mrs West
Mr Charles	Dr Kemp	Mr Reid	Mr Williams
Mr Cobb	Mr Lieberman	Mr Reith	Dr Wooldridge
Mr Costello	Mr Lindsay	Mr Ronaldson	Ms Worth*
Mrs Draper	Mr Lloyd	Mr Ruddock	Mr Zammit

\* Tellers

And so it was negatived.

## 5 PAPERS

The following papers were presented:

Corporations and Securities—Parliamentary Joint Committee—Report—Section 1316 of the Corporations Law, 27 November 1995—Government response.

Finance—

Advance to the Minister for Finance—

Statements for March and April 1997.

Supporting applications of issues from the Advance during March and April 1997.

Provision for running costs borrowings—

Statement for April 1997.

Supporting applications of issues from the Provision during April 1997.

Financing Jervis Bay Territory—Report by Don Nicholls, AM, December 1995—Government response and explanatory note.

Industry Commission Act—Industry Commission—Report No. 58—The automotive industry, 26 May 1997—

Volume I—Report.

Volume II—Appendices.

King Island Dairy Products Pty Limited ACN 009 513 231—Investigation by the Australian Securities Commission—Final report, 21 May 1997, Volumes 1 to 5.

National Common Police Services—Australasian Police Ministers' Council—Report for 1995-96.

National Crime Authority—Parliamentary Joint Committee—Report—Law enforcement in Australia: An international perspective, February 1997—Government response.

Native Title and the Aboriginal and Torres Strait Islander Land Fund—Parliamentary Joint Committee—Report—Annual reports for 1994-95, prepared pursuant to Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989*, July 1996—Government response.

Services Trust Funds Act—Australian Military Forces Relief Trust Fund—Report for 1996.

Treaties—

*Bilateral with national interest analysis—*

Agreement on Economic, Trade and Technical Cooperation between the Government of Australia and the Government of the Republic of Lebanon, done at Beirut on 11 March 1997.

*Multilateral with national interest analysis—*

Amendment, done at New York on 22 May 1995, to article 20, paragraph (1) of the Convention on the Elimination of all Forms of Discrimination against Women, of 18 December 1979.

## 6 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Reith (Leader of the House) moved—That the House take note of the following papers:

Financing Jervis Bay Territory—Report by Don Nicholls, AM, December 1995—Government response and explanatory note.

Industry Commission Act—Industry Commission—Report No. 58—The automotive industry, 26 May 1997—

Volume I—Report.

Volume II—Appendices.

National Common Police Services—Australasian Police Ministers' Council—Report for 1995-96.

Treaty—

*Multilateral with national interest analysis—*

Amendment, done at New York on 22 May 1995, to article 20, paragraph (1) of the Convention on the Elimination of all Forms of Discrimination against Women, of 18 December 1979.

Debate adjourned (Mr Crean), and the resumption of each debate made an order of the day for the next sitting.

**7 KING ISLAND DAIRY PRODUCTS PTY LIMITED—REPORT OF THE AUSTRALIAN SECURITIES COMMISSION—PUBLICATION OF PAPER**

Mr Reith (Leader of the House), by leave, moved—That this House authorises the publication of the final report of the investigation by the Australian Securities Commission into the affairs of King Island Dairy Products Pty Limited ACN 009 513 231, 21 May 1997—Volumes 1 to 5.

Question—put and passed.

**8 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—UNEMPLOYMENT**

The House was informed that Mr M. J. Ferguson had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The shocking loss of more than 40,000 jobs in May, further adding to the rising levels of unemployment caused by the Government’s failed policies”.

The proposed discussion having received the necessary support—

Mr M. J. Ferguson rising to address the House—

Mr Reith (Leader of the House) moved—That the business of the day be called on.

Question—put and passed.

**9 BILLS REFERRED TO MAIN COMMITTEE**

Mr Cadman (Chief Government Whip), pursuant to notice, moved—That the following Bills be referred to the Main Committee for further consideration:

Wool International Amendment 1997;

International Monetary Agreements Amendment 1997;

Commonwealth Vehicles (Registration and Exemption from Taxation) 1997;

Commonwealth Motor Vehicles (Liability) Amendment 1997; and

Broadcasting Services Amendment 1996.

Debate ensued.

Question—put and passed.

**10 DEVELOPMENT OF NO. 6 SQUADRON FACILITIES AT RAAF BASE AMBERLEY, QLD—APPROVAL OF WORK**

Mr Jull (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on

which the committee has duly reported to Parliament: Development of No. 6 Squadron facilities at RAAF Base Amberley, Qld.

Question—put and passed.

#### 11 TAXATION LAWS AMENDMENT BILL (NO. 3) 1997

The order of the day having been read for the further consideration in detail of the Bill—

Schedule 1—

Debate resumed on the Schedule and on the amendments moved together by Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), viz.:

*Amendment—*

Item 3, page 13 (line 28), omit “1990-91”, substitute “1992-93”.

*New Parts and new items—*

Page 26 (after line 22), at the end of the Schedule, add:

### **Part 2—Amendment of the Terminations Payments Tax (Assessment and Collection) Act 1997**

#### **44 Subsection 7(2)**

After “invalidity payment”, insert “or CGT exempt component”.

### **Part 3—Application**

#### **45 Application**

The amendments made by this Schedule apply to disposals of assets on or after 1 July 1997.

Question—That the amendments be agreed to—put and passed.

Schedule, as amended, agreed to.

Schedule 2, by leave, taken as a whole—

Mr S. F. Smith moved the following amendment: Page 27 (lines 4-32), omit item 1, substitute:

#### **1 Paragraph 23(pa)**

Omit subparagraphs (ia), (ib) and (ic), substitute:

those rights to mine were acquired by the person before 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996 and the person was a bona fide prospector, that is to say—

Debate continued.

Amendment negatived.

Mr S. F. Smith moved the following amendment: Page 27 (lines 4-32), omit item 1, substitute:

**1 Paragraph 23(pa)**

Omit subparagraphs (ia), (ib) and (ic), substitute:

- (ia) those rights to mine were acquired by the person before 7.30 pm, by legal time in the Australian Capital Territory on 20 August 1996; and
- (ib) the income was derived prior to 20 August 2001; and
- (ic) the person on or before 20 August 1996 was a bona fide prospector, that is to say—

Debate continued.

Question—That the amendment be agreed to—put.

The House divided (the Second Deputy Speaker, Mr Jenkins, in the Chair)—

AYES, 43

Mr Albanese	Mr L. D. T. Ferguson	Mr Latham	Mr Price
Mr Beddall	Mr M. J. Ferguson	Dr Lawrence	Mr Quick
Mr Bevis	Mr Fitzgibbon	Mr Lee	Mr Rocher
Mr Breton	Mr E. L. Grace*	Mr McClelland	Mr Sawford*
Mr Brown	Mr Griffin	Mr McMullan	Mr Sercombe*
Mr Crean	Ms Hanson	Mr Martin	Mr S. F. Smith
Mrs Crosio	Mr Hatton	Mr Melham	Mr Tanner
Mr Dargavel	Mr Holding	Mr A. A. Morris	Dr Theophanous
Ms Ellis	Mr Hollis	Mr P. F. Morris	Mr K. J. Thomson
Mr G. J. Evans	Mr Jones	Mr O'Connor	Mr Willis
Mr M. J. Evans	Mr Kerr	Mr O'Keefe	

NOES, 78

Mr Abbott	Mr R. D. C. Evans	Mr Lloyd	Mr Sinclair
Mr Anderson	Mr Fahey	Mr McArthur*	Mr Slipper
Mr K. J. Andrews	Mr Filing	Mr McDougall	Mr A. C. Smith
Mr Anthony	Mr Forrest	Mr McLachlan	Mr W. L. Smith
Mr Barresi	Ms Gambaro	Mr Miles	Dr Southcott
Mr Bartlett	Mrs Gash	Mr Moore	Mrs Sullivan
Mr Billson	Mr Georgiou	Mrs Moylan	Mr Taylor
Mrs Bishop	Mrs E. J. Grace	Mr Mutch	Mr A. P. Thomson
Mr Bradford	Mr Hardgrave	Mr Nairn	Mr Truss
Mr Broadbent	Mr Hawker	Mr Nehl	Mr Tuckey
Mr Brough	Mr Hicks*	Dr Nelson	Mr M. A. J. Vaile
Mr Cadman	Mr Hockey	Mr Neville	Mrs D. S. Vale
Mr E. H. Cameron	Ms Jeanes	Mr Nugent	Mr Wakelin
Mr R. A. Cameron	Mr Jull	Mr Pyne	Mrs West
Mr Causley	Mr Katter	Mr Randall	Mr Williams
Mr Charles	Mrs D. M. Kelly	Mr Reid	Dr Wooldridge
Mr Cobb	Miss J. M. Kelly	Mr Reith	Ms Worth*
Mrs Draper	Dr Kemp	Mr Ronaldson	Mr Zammit
Mrs Elson	Mr Lieberman	Mr Ruddock	
Mr Entsch	Mr Lindsay	Mr Scott	

\* Tellers

And so it was negatived.

Mr S. F. Smith moved the following amendment: Page 27 (lines 12 and 13), omit “, and at the time the income was derived,”.

Debate continued.

Amendment negatived.

On the motion of Mr Miles the following amendment was made, after debate: Page 27 (after line 32), at the end of the Schedule, add:

***Income Tax Assessment Act 1997***

**2 Subsection 330-60(1)**

Omit “If you are a \*genuine prospector, your \*ordinary income (for the 1997-98 income year or a later income year)”, substitute “Your \*ordinary income”.

**3 Subsection 330-60(1)**

After “income tax”, insert:

if:

- (d) you acquired those rights before 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996; and
- (e) you \*derive the \*ordinary income before 20 August 2001; and
- (f) you were a \*genuine prospector on or before 20 August 1996, and you are one when you derive the ordinary income.

**4 After subsection 330-60(1)**

Insert:

- (1A) If you \*derived the \*ordinary income under a contract for the sale, transfer or assignment of the rights entered into after 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996, the exemption applies only to:
  - (a) so much of the ordinary income as you would have derived if those rights had been sold for their market value at that time; reduced by:
  - (b) any amounts you incurred before that time that you have deducted or can deduct for an earlier income year under Division 10 of Part III of the *Income Tax Assessment Act 1936* in respect of expenditure on exploration or prospecting (within the meaning of section 122J or 122JF of that Act) in that area.

**5 Subsection 330-60(2)**

Omit “The exemption”, substitute “If subsection (1A) does not apply, the exemption”.



**6 Paragraph 330-60(2)(b)**

Omit “section 122J”, substitute “Division 10 of Part III”.

**7 Paragraph 330-60(2)(b)**

Omit “that section”, substitute “section 122J or 122JF of that Act”.

Schedule, as amended, agreed to.

Schedules 3 to 10, by leave, taken together, and agreed to, after debate.

Remainder of Bill, by leave, taken as whole—

On the motion of Mr Miles, by leave, the following amendments were made together, after debate:

Schedule 11—

*New items—*

Page 61 (before line 4), before item 1, insert:

**1A Subsection 73B(1) (definition of *residual feedstock expenditure*)**

After “income” (first occurring), insert “in relation to related research and development activities”.

**1B Subsection 73B(1) (paragraph (a) of the definition of *residual feedstock expenditure*)**

After “income”, insert “in relation to those activities”.

**1C Subsection 73B(1) (paragraph (b) of the definition of *residual feedstock expenditure*)**

After “income”, insert “in relation to those activities”.

**1D Subsection 73B(4H) (table)**

Omit “Annual deduction percentage”, substitute “Percentage”.

**1E Subsection 73B(12B) (formula)**

Omit “past”.

**1F Subsection 73B(12B) (definition of *undeducted past expenditure*)**

Repeal the definition, substitute:

*undeducted expenditure* means so much of the core technology expenditure incurred by the company during the current year or previous years of income in relation to the relevant core technology under contracts entered into at or after the time referred to in subsection (12) as has not been allowed as a deduction from the company’s assessable income of any of those previous years of income.

**1G Subsection 73B(12B) (paragraph (b) of the definition of *current year core technology adjustment amount*)**

Omit “73B(27)(c)”, substitute “73B(27C)(c)”.

**1H Subsection 73B(14B)**

After “income” (first occurring), insert “in relation to related research and development activities”.

**1J After subsection 73B(24A)**

Insert:

(24B) Where:

- (a) a deduction has been allowed or is allowable to an eligible company under subsection (15AA) in respect of expenditure incurred in the acquisition or construction of a unit of post-23 July 1996 pilot plant; and
- (b) during a year of income, the unit of post-23 July 1996 pilot plant is disposed of, lost or destroyed; and
- (c) the company had used the unit of post-23 July 1996 pilot plant before it was disposed of, lost or destroyed exclusively for the purpose of the carrying on by or on behalf of the company of research and development activities; and
- (d) no deduction has been allowed or is allowable to the company under section 54 in respect of the unit of post-23 July 1996 pilot plant;

then:

- (e) in a case where the consideration receivable in respect of the disposal, loss or destruction is less than the written-down value of the unit of post-23 July 1996 pilot plant:
  - (i) if the aggregate research and development amount in relation to the company in relation to the year of income is greater than \$20,000—the amount ascertained by multiplying the amount by which that written-down value exceeds that consideration receivable by 1.25; or
  - (ii) if the aggregate research and development amount in relation to the company in relation to the year of income is less than or equal to \$20,000—the amount by which that written-down value exceeds that consideration receivable;

is allowable as a deduction from the assessable income of the company of the year of income; or

- (f) in a case where the consideration receivable in respect of the disposal, loss or destruction is greater than the written-down value of the unit of post-23 July 1996 pilot plant—so much of the excess as does not exceed the difference between the cost of the unit of post-23 July 1996 pilot plant and the written-down value of the unit of post-23 July 1996 pilot

plant shall be included in the assessable income of the company of the year of income.

*Amendments—*

Item 3, page 61 (line 21), omit “1 and”, substitute “1A to”.

Schedule 14—

Item 17, page 73 (lines 3 to 14), omit the item, substitute:

**17 Application**

- (1) The amendments made by this Part apply to the 1996-97 year of income.
- (2) However, the amendments made by items 5 to 15 have effect only in respect of acts, omissions or events happening after 26 March 1997.

Item 25, page 75 (line 1) to page 77 (line 8), omit sections 160JA and 160JB, substitute:

**160JA Interpretative provisions for Divisions 3A, 3B, 3C, 3CA, 3CB, 3CC, 3CD and 3D**

In Divisions 3A, 3B, 3C, 3CA, 3CB, 3CC, 3CD and 3D, unless the contrary intention appears:

**100% subsidiary** has the meaning given by section 975-505 of the *Income Tax Assessment Act 1997*.

**abnormal trading** has the meaning given by Subdivision 960-H of the *Income Tax Assessment Act 1997*.

**approved deposit fund** has the meaning given by section 10 of the *Superannuation Industry (Supervision) Act 1993*.

**arrangement** has the same meaning as in the *Income Tax Assessment Act 1997*.

**capital shareholding of less than 1%** has the meaning given by section 160ZNSQ.

**complying approved deposit fund** means a complying approved deposit fund within the meaning of section 47 of the *Superannuation Industry (Supervision) Act 1993*.

**complying superannuation fund** means a complying superannuation fund within the meaning of section 45 of the *Superannuation Industry (Supervision) Act 1993*.

**constitution** of a company has the same meaning as in the *Income Tax Assessment Act 1997*.

**dividend** has the meaning given by subsections 6(1), (4) and (5) and section 94L.

**dividend shareholding of less than 1%** has the meaning given by section 160ZNSQ.

**entity** has the meaning given by section 960-100 of the *Income Tax Assessment Act 1997*.

**head company** has the meaning given by section 160ZNSM.

**indirectly** has the same meaning as in the *Income Tax Assessment Act 1997*.

**interposed company** has the meaning given by section 160ZNSN.

**listed public company** has the same meaning as in the *Income Tax Assessment Act 1997*.

**member** of a company includes a shareholder or stockholder.

**more than a 50% stake** has the meaning given by section 160ZNC.

**more than 50% of the company's capital distributions** has the meaning given by section 160ZNJ.

**more than 50% of the company's dividends** has the meaning given by section 160ZNI.

**more than 50% of the listed public company's capital distributions** has the meaning given by section 160ZNSJ.

**more than 50% of the listed public company's dividends** has the meaning given by section 160ZNSI.

**more than 50% of the voting power** has the meaning given by section 160ZNH.

**more than 50% of the voting power in the listed public company** has the meaning given by section 160ZNSH.

**notional net capital gain** has the meaning given by subsection 160ZNF(1).

**notional net capital loss** has the meaning given by subsection 160ZNF(2).

**notional shareholder** has the meaning given by section 160ZNSO.

**ownership test period** has the meaning given by section 160ZNC.

**ownership test time** has the meaning given by section 160ZNSG.

**part of a substantial shareholding** has the meaning given by section 166-245 of the *Income Tax Assessment Act 1997*.

**public company** means a company that is a public company as defined by section 103A for the year of income.

**redeemable shares** has the same meaning as in the *Income Tax Assessment Act 1997*.

**same business test** has the meaning given by Division 3C.

**same business test period** has the meaning given by sections 160ZNB, 160ZND and 160ZNE and subsection 160ZNSB(5).

**shareholding interest** has the meaning given by section 175-65 of the *Income Tax Assessment Act 1997*.

**special company** has the same meaning as in the *Income Tax Assessment Act 1997*.

*substantial continuity of ownership* has the meaning given by section 160ZNSG.

*substantial shareholding*: see *part of a substantial shareholding*.

*superannuation fund* has the meaning given by section 10 of the *Superannuation Industry (Supervision) Act 1993*.

*test period* has the meaning given by section 160ZNSB.

*test time* has the meaning given by sections 160ZNB, 160ZND, 160ZNE and 160ZNSB.

*voting share* in a company means:

- (a) if the company is a body corporate—a voting share as defined by section 9 of the Corporations Law; and
- (b) otherwise—a share that would be a voting share as defined by that section if the company were a body corporate.

*voting shareholding of less than 1%* has the meaning given by section 160ZNSQ.

Item 32, page 78 (line 12), omit “and 3C”, substitute “, 3C, 3CB, 3CC and 3CD”.

Item 32, page 86 (line 20), omit “constituent document”, substitute “constitution”.

Item 32, page 86 (line 33), omit “constituent document”, substitute “constitution”.

Item 32, page 88 (after line 19), after Division 3C, insert:

**Division 3CA—Net capital gain or net capital loss of  
listed public company or its 100% subsidiary  
for year of income in which ownership or  
control of the company changed**

**Guide to Division 3CA**

**160ZNSA What this Division is about**

This Division modifies the way in which the rules in Division 3A apply to a listed public company (and also its 100% subsidiaries). It makes it easier for the company to comply with those rules.

If the company has maintained the same owners as between certain points of time, it does not need to prove it has maintained the same owners throughout the periods in between.

The tests for finding out whether the company has maintained the same owners are set out in Divisions 3CB, 3CC and 3CD.

## Table of sections

- 160ZNSB How Division 3A applies to a listed public company
- 160ZNSC How to work out the net capital gain or net capital loss
- 160ZNSD How Division 3A applies to 100% subsidiary of a listed public company
- 160ZNSE Companies can choose that this Division is not to apply to them

### 160ZNSB How Division 3A applies to a listed public company

- (1) This Division modifies the way Division 3A applies to a company that is a listed public company at all times during the year of income (the *test period*).

Note 1: Division 3A is about when a company must calculate its net capital gain or net capital loss for the year of income in a special way.

Note 2: This Division also modifies how Division 3A applies to a 100% subsidiary of a listed public company: see section 160ZNSD.

Note 3: A company can choose that this Division is not to apply to it: see section 160ZNSE.

#### *No abnormal trading*

- (2) If there is *no* abnormal trading in shares in the listed public company during the test period, it is taken to have met the condition in paragraph 160ZNB(1)(a) (which is about there being persons having more than a 50% stake in it during the whole of the year of income).

#### *Abnormal trading, but substantial continuity of ownership*

- (3) If there *is* abnormal trading, but there is substantial continuity of ownership of the company as between the start of the test period and the time of each abnormal trading, the company is also taken to have met the condition in paragraph 160ZNB(1)(a).

Note: See section 160ZNSG to work out whether there is substantial continuity of ownership.

#### *Abnormal trading without substantial continuity of ownership*

- (4) If there *is* abnormal trading, and there is *no* substantial continuity of ownership of the company as between the start of the test period and the time of the abnormal trading, the company is taken to have *failed* to meet the condition in paragraph 160ZNB(1)(a).

#### *Satisfies the same business test*

- (5) However, if the company satisfies the same business test for the rest of the year of income (the *same business test period*) after the first abnormal trading covered by subsection (4), it is taken to have satisfied the condition in paragraph 160ZNB(1)(b) (which is about the company carrying on the same business).

Note: For the same business test: see Division 3C.

- (6) Apply the same business test to the business that the company carried on immediately before the time of the first abnormal trading (the *test time*) covered by subsection (4).

**160ZNSC How to work out the net capital gain or net capital loss**

- (1) If the listed public company must calculate its net capital gain or net capital loss for the year of income under Division 3A, then, in dividing the year of income into periods, apply subsection (2) instead of subsection 160ZNE(3).
- (2) The last period ends at the end of the year of income. Each period (except the last) ends at the *earlier* of:
- (a) the *earliest* time when there is an abnormal trading in shares in the listed public company (except one covered by subsection (3)); or
  - (b) the *earliest* time when a person begins to control, or becomes able to control, the voting power in the listed public company (whether directly, or indirectly through one or more interposed entities) for the purpose, or for purposes including the purpose, of:
    - (i) getting some benefit or advantage to do with how this Act applies; or
    - (ii) getting such a benefit or advantage for someone else.
- (3) In working out when a period ends, disregard an abnormal trading if there is substantial continuity of ownership of the company as between the start of the period and the time of the abnormal trading.

Note: See section 160ZNSG to work out whether there is substantial continuity of ownership.

**160ZNSD How Division 3A applies to 100% subsidiary of a listed public company**

- (1) This Division also modifies the way Division 3A applies to a company that is *not* a listed public company, but only if the conditions in subsections (2) and (3) are met.
- Note: Division 3A is about when a company must calculate its net capital gain or net capital loss for the year of income in a special way.
- (2) The company (the *subsidiary*) must be a 100% subsidiary of another company (the *holding company*) at all times during the subsidiary's year of income.
- (3) Also, the holding company must be a listed public company at all times during that year of income.
- (4) If the conditions are met, then, for the purposes of applying Division 3A to the subsidiary, this Division applies to the subsidiary as if:
- (a) the subsidiary were itself a listed public company at all times during the year of income; and

- (b) an abnormal trading in shares in the holding company during the year of income were an abnormal trading in shares in the subsidiary.

(Divisions 3CB, 3CC and 3CD apply to the subsidiary in the same way and for the same purpose).

**160ZNSE Companies can choose that this Division is not to apply to them**

- (1) The listed public company or subsidiary can choose that Division 3A is to apply to it for the year of income *without* the modifications made by this Division.
- (2) The company must choose on or before the day it lodges its return under section 161, 162 or 163 for the year of income, or before a later day if the Commissioner allows.

**Division 3CB—Tests for finding out whether the listed public company has maintained the same owners**

**Guide to Division 3CB**

**160ZNSF What this Division is about**

This Division has the tests to work out whether a listed public company has maintained the same owners as between different times.

Divisions 3CC and 3CD have rules that make it easier for the company to satisfy these ownership tests.

Note: The rules in this Division also apply to a company that is a 100% subsidiary of a listed public company: see section 160ZNSD.

**Table of sections**

**Substantial continuity of ownership**

160ZNSG Substantial continuity of ownership

**The ownership tests**

160ZNSH Who has more than 50% of the voting power in the listed public company at a particular time

160ZNSI Who has rights to more than 50% of the listed public company's dividends at a particular time

160ZNSJ Who has rights to more than 50% of the listed public company's capital distributions at a particular time

**Rules affecting the operation of the ownership tests**

160ZNSK Rules in Division 3B apply



## Substantial continuity of ownership

### 160ZNSG Substantial continuity of ownership

- (1) There is *substantial continuity of ownership* of the listed public company as between the start of the test period and another time in the test period if (and only if) the conditions in this section are met.

#### *Voting power*

- (2) There must be persons (none of them companies) who had more than 50% of the voting power in the listed public company at the start of the test period. Also, those persons must have had more than 50% of the voting power in the listed public company immediately after the other time in the test period.

Note: To work out who had more than 50% of the voting power: see section 160ZNSH.

#### *Rights to dividends*

- (3) There must be persons (none of them companies) who had rights to more than 50% of the listed public company's dividends at the start of the test period. Also, those persons must have had rights to more than 50% of the listed public company's dividends immediately after the other time in the test period.

Note: To work out who had rights to more than 50% of the listed public company's dividends: see section 160ZNSI.

#### *Rights to capital distributions*

- (4) There must be persons (none of them companies) who had rights to more than 50% of the listed public company's capital distributions at the start of the test period. Also, those persons must have had rights to more than 50% of the listed public company's capital distributions immediately after the other time in the test period.

Note: To work out who had rights to more than 50% of the listed public company's capital distributions: see section 160ZNSJ.

#### *When to apply the test*

- (5) To work out whether a condition in this section was satisfied at a time (the *ownership test time*), apply the ownership test for that condition.

## The ownership tests

### 160ZNSH Who has more than 50% of the voting power in the listed public company at a particular time

If it is the case, or it is reasonable to assume, that there are persons (none of them companies) who, at the ownership test time, between them control, or are able to control, the voting power in the listed public company (whether directly, or indirectly through one or more interposed entities), those persons have *more than 50% of the voting power in the listed public company* at that time.

**160ZNSI Who has rights to more than 50% of the listed public company's dividends at a particular time**

If it is the case, or it is reasonable to assume, that there are persons (none of them companies) who, at the ownership test time, have between them the right to receive for their own benefit (whether directly, or indirectly through one or more interposed entities), more than 50% of any dividends that the listed public company may pay, those persons have rights to *more than 50% of the listed public company's dividends* at that time.

**160ZNSJ Who has rights to more than 50% of the listed public company's capital distributions at a particular time**

If it is the case, or it is reasonable to assume, that there are persons (none of them companies) who, at the ownership test time, have between them the right to receive for their own benefit (whether directly, or indirectly through one or more interposed entities), more than 50% of any distribution of capital of the listed public company, those persons have rights to *more than 50% of the listed public company's capital distributions* at that time.

**Rules affecting the operation of the ownership tests****160ZNSK Rules in Division 3B apply**

- (1) The rules in these sections also apply for the purposes of an ownership test in this Division:
  - (a) 160ZNL (which is about how an ownership test can be satisfied by a single person);
  - (b) 160ZNN (which treats some shares as never having carried rights);
  - (c) 160ZNO (which treats some shares as always having carried rights);
  - (d) 160ZNP (which disregards redeemable shares);
  - (e) 160ZNQ (which is about how other rules do not affect how shares or rights are counted);
  - (f) 160ZNR (which deals with deaths of beneficial owners).
- (2) The rule in section 160ZNM (which is about arrangements affecting beneficial ownership of shares) also applies for the purposes of an ownership test in this Division as if the reference to a particular time during the ownership test period were a reference to the ownership test time.

**Division 3CC—How to treat shareholdings of less than 1%**

**Guide to Division 3CC****160ZNSL What this Division is about**

This Division has rules that make it easier for the listed public company to satisfy the ownership tests in Division 3CB.

All shareholdings of less than 1% in the company are treated as if they were held by a single notional entity. This means that the company does not have to trace through to the persons who beneficially own those shares.

A similar rule applies if another listed public company is interposed between the company and those persons. All shareholdings of less than 1% in the *interposed* company are treated as if they were held by a different single notional entity. This means that the company does not have to trace through the interposed company to the persons who beneficially own those shares in the interposed company.

Note 1: The rules in this Division also apply to a company that is a 100% subsidiary of a listed public company: see section 160ZNSD.

Note 2: The rules in this Division do not apply if they would hide a failure by the company to maintain the same owners: see sections 160ZNSR and 160ZNSS.

**Table of sections****Special tracing rules for listed public companies**

160ZNSM Shareholdings of less than 1% in the listed public company

160ZNSN Shareholdings of less than 1% in an interposed listed public company

160ZNSO Notional shareholder

160ZNSP Notional shareholder taken to have minimum voting control, dividend rights and capital rights

160ZNSQ Voting, dividend and capital shareholding of less than 1%

**When the rules in this Division do not apply**

160ZNSR Limit on listed public company splitting its shares into different classes

160ZNSS If listed public company would not have otherwise passed the ownership tests

**Special tracing rules for listed public companies****160ZNSM Shareholdings of less than 1% in the listed public company**

This Division modifies how the ownership tests are applied to the listed public company (the *head company*) if the company has:

- (a) voting shareholdings of less than 1%; or

- (b) dividend shareholdings of less than 1%; or
- (c) capital shareholdings of less than 1%.

Note: For the ownership tests: see sections 160ZNSH, 160ZNSI and 160ZNSJ.

**160ZNSN Shareholdings of less than 1% in an interposed listed public company**

- (1) This Division also modifies how the ownership tests are applied to the head company if another listed public company (the *interposed company*) meets the conditions in subsections (2) and (3).

Note: For the ownership tests: see sections 160ZNSH, 160ZNSI and 160ZNSJ.

- (2) The interposed company must be interposed between the head company and persons (none of them companies) who:
  - (a) control (or are able to control) voting power in the head company indirectly through the interposed company; or
  - (b) have the right to receive, for their own benefit and indirectly through the interposed company, any dividends the head company may pay; or
  - (c) have the right to receive, for their own benefit and indirectly through the interposed company, any distributions of capital of the head company.
- (3) The interposed company must have:
  - (a) voting shareholdings of less than 1%; or
  - (b) dividend shareholdings of less than 1%; or
  - (c) capital shareholdings of less than 1%.

**160ZNSO Notional shareholder**

*Notional shareholder of the head company*

- (1) The ownership tests in sections 160ZNSH, 160ZNSI and 160ZNSJ are applied to the head company as if, at the ownership test time, a single notional entity (the *notional shareholder*):
  - (a) directly controlled the voting power in the head company that is carried by each voting shareholding of less than 1% in the company at that time; and
  - (b) had the right to receive, for its own benefit and directly:
    - (i) any dividends the head company may pay in respect of each dividend shareholding of less than 1% in the company at that time; and
    - (ii) any distributions of capital of the head company in respect of each capital shareholding of less than 1% in the company at that time; and
  - (c) were a person (other than a company).

*Notional shareholder of the interposed company*

- (2) The tests are also applied to the head company as if, at the ownership test time, for each interposed company, a different single notional entity (the *notional shareholder*):
- (a) directly controlled the voting power in the interposed company that is carried by each voting shareholding of less than 1% in the interposed company at that time; and
  - (b) had the right to receive, for its own benefit and directly:
    - (i) any dividends the interposed company may pay in respect of each dividend shareholding of less than 1% in the interposed company at that time; and
    - (ii) any distributions of capital of the interposed company in respect of each capital shareholding of less than 1% in the interposed company at that time; and
  - (c) were a person (other than a company).

*Persons who actually control or have rights are taken not to*

- (3) The tests are also applied to the head company as if, at the ownership test time:
- (a) the persons (other than companies) who control (or are able to control) the voting power in the head company or interposed company (whether directly, or indirectly through one or more interposed entities) that is carried by each voting shareholding of less than 1% in the company had *not* had that control; and
  - (b) the persons (other than companies) who have the right to receive for their own benefit (whether directly, or indirectly through one or more interposed entities):
    - (i) any dividends that the head company or interposed company may pay in respect of each dividend shareholding of less than 1% in the company; and
    - (ii) any distributions of capital of the head company or interposed company in respect of each capital shareholding of less than 1% in the company;
 had *not* had that right.

**160ZNSP Notional shareholder taken to have minimum voting control, dividend rights and capital rights**

*Minimum control of voting power*

- (1) If the ownership test time is *after* the start of the test period and:
- (a) the voting power in the head company or interposed company that the notional shareholder controls at that time; is greater than:

- (b) the voting power in the company that the notional shareholder controlled at the start of that period;  
the notional shareholder is taken to control voting power in the company at that time only to the extent that it controlled it at the start of that period.

*Minimum percentage of rights to dividends and capital*

- (2) If the ownership test time is *after* the start of the test period and:
- (a) the percentage of the dividends or distributions of capital of the head company or interposed company that the notional shareholder has the right to receive at that time;  
is greater than:
- (b) the percentage (the ***lower percentage***) of the dividends or distributions of capital of the company that the notional shareholder had the right to receive at the start of that period;  
the notional shareholder is taken to have the right to receive the lower percentage of the dividends or distributions of capital at that time.

**160ZNSQ Voting, dividend and capital shareholding of less than 1%**

*Meaning of voting shareholding of less than 1%*

- (1) If all the shares in the head company or interposed company of which an entity is the registered holder at the ownership test time carry (between them) less than 1% of the voting power in the company, those shares (except shares that are part of a substantial shareholding) constitute a ***voting shareholding of less than 1%*** in the company at that time.

*Meaning of dividend shareholding of less than 1%*

- (2) If all the shares in the head company or interposed company of which an entity is the registered holder at the ownership test time carry (between them) the right to receive less than 1% of any dividends that the company may pay, those shares (except shares that are part of a substantial shareholding) constitute a ***dividend shareholding of less than 1%*** in the company at that time.

*Meaning of capital shareholding of less than 1%*

- (3) If all the shares in the head company or interposed company of which an entity is the registered holder at the ownership test time carry (between them) the right to receive less than 1% of any distribution of capital of the company, those shares (except shares that are part of a substantial shareholding) constitute a ***capital shareholding of less than 1%*** in the company at that time.

**When the rules in this Division do not apply**

**160ZNSR Limit on listed public company splitting its shares into different classes**

This Division does not apply unless, at the ownership test time, all the voting shares in the head company carry (between them):

- (a) the right to receive more than 75% of any dividends the head company may pay; and
- (b) the right to receive more than 75% of any distributions of capital of the head company.

**160ZNSS If listed public company would not have otherwise passed the ownership tests**

This Division does not apply for the purposes of section 160ZNSB if the Commissioner considers it reasonable to assume that the head company would not meet the conditions in that section if it were not for the rules in this Division.

Note: The conditions in section 160ZNSB require the listed public company to maintain the same owners at each ownership test time during the test period.

**Division 3CD—How to treat interposed superannuation funds, approved deposit funds and special companies**

**Guide to Division 3CD**

**160ZNST What this Division is about**

This Division has rules that make it easier for the listed public company to satisfy the ownership tests in Division 3CB.

The company does not have to trace through any complying superannuation funds, complying approved deposit funds or special companies that are interposed between the company and persons who control any of the voting power in the company or have rights to its dividends or capital.

Note: The rules in this Division also apply to a company that is a 100% subsidiary of a listed public company: see section 160ZNSD.

**Table of sections**

**Special tracing rules for listed public companies**

160ZNSU When fund or special company is taken to control voting power

160ZNSV When fund or special company is taken to have rights to dividends and capital

## Special tracing rules for listed public companies

### 160ZNSU When fund or special company is taken to control voting power

#### *Modification of application of ownership test about voting power*

- (1) This section modifies how the ownership test in section 160ZNSH (about control of voting) is applied to the listed public company if:
  - (a) a superannuation fund, approved deposit fund or special company is interposed, at the ownership test time, between persons (none of them companies) and the listed public company; and
  - (b) at the ownership test time, those persons control (or are able to control) any of the voting power in the listed public company indirectly through the fund or special company (or through entities including it); and
  - (c) the fund or special company is a complying superannuation fund, complying approved deposit fund or special company at all times during the year of income of the listed public company in which the ownership test time occurs.

#### *If fund or special company has more than 50 members*

- (2) If the fund or special company has more than 50 members, the test is applied as if, at the ownership test time, the fund or special company were a person (other than a company) who controlled the voting power in the listed public company that those persons control (or are able to control).

#### *If fund or special company has 50 members or less*

- (3) However, if the fund or special company has 50 members or less, the test is applied as if, at the ownership test time, each member were a person (other than a company) who controlled an equal proportion of the voting power in the listed public company that those persons control (or are able to control).

#### *Persons who actually control are taken not to control*

- (4) The test is applied as if, at the ownership test time, the voting power in the listed public company that those persons control (or are able to control) were *not* controlled by them (except as provided by subsection (3)).

### 160ZNSV When fund or special company is taken to have rights to dividends and capital

#### *Modification of application of ownership test about dividend rights and capital rights*

- (1) This section modifies how the ownership test in section 160ZNSI (about dividend rights) or 160ZNSJ (about capital rights) is applied to the listed public company if:



- (a) a superannuation fund, approved deposit fund or special company is interposed, at the ownership test time, between persons (none of them companies) and the listed public company; and
- (b) at the ownership test time, those persons have the right to receive for their own benefit, and indirectly through the fund or special company (or through entities including it):
  - (i) a percentage of any dividends that the listed public company may pay; or
  - (ii) a percentage of any distributions of capital of the listed public company; and
- (c) the fund or special company is a complying superannuation fund, complying approved deposit fund or special company at all times during the year of income of the listed public company in which the ownership test time occurs.

*If fund or special company has more than 50 members*

- (2) If the fund or special company has more than 50 members, the test is applied as if, at the ownership test time, the fund or special company were a person (other than a company) who had the right to receive, for the person's own benefit, that percentage of those dividends or distributions of capital of the listed public company.

*If fund or special company has 50 members or less*

- (3) However, if the fund or special company has 50 members or less, the test is applied as if, at the ownership test time, each member were a person (other than a company) who had the right to receive, for the person's own benefit, an equal proportion of those dividends or distributions of capital.

*Persons who actually control are taken not to have it*

- (4) The test is applied as if, at the ownership test time, the persons (other than companies) who have the right to receive that percentage of those dividends or distributions of capital did *not* have that right (except as provided by subsection (3)).

Item 32, page 91 (line 13), omit "gain", substitute "loss".

Item 32, page 92 (lines 19 to 30), omit Division 3E.

Item 37, page 94 (line 14), omit "gain" (first occurring), substitute "loss".

Item 40, page 94 (lines 27 and 28), omit "Division 3B of Part IIIA (other than subsections 160ZNH(1), 160ZNI(1) and 160ZNJ(1))", substitute "sections 160ZNM to 160ZNR (inclusive)".

*New Parts and new items—*

At the end of Schedule 14, page 96 (after line 9), add:

## Part 4—Income Tax Assessment Act 1997 (revenue losses)

### 43 After subsection 165-60(2)

Insert:

- (2A) So much of any amount included in the company's assessable income under section 97 or 98A as is a capital gain that forms part of a net capital gain is not attributed to a period.

### 44 After subsection 165-60(6)

Insert:

- (6A) A net capital gain is not attributed to a period.

### 45 Subsection 165-60(7)

Repeal the subsection, substitute:

- (7) *Full year amounts* are amounts referred to in paragraphs (2)(a) and (b), so far as they are *not* reasonably attributable to a period, but do not include any part of a capital gain that forms part of a net capital gain. Full year amounts are brought in at a later stage of the process of calculating the company's taxable income for the income year.

### 46 At the end of subsection 165-65(3)

Add "and any net capital gain that accrued to the company in respect of the income year".

### 47 At the end of subsection 165-70(3)

Add:

- ; and (f) any net capital gain that accrued to the company in respect of the income year.

### 48 Section 170-25

Repeal the section, substitute:

#### 170-25 Tax treatment of consideration for transferred tax loss

- (1) If the \*loss company receives any consideration from the \*income company for the amount of the \*tax loss:
- (a) so much of the consideration as, in the opinion of the Commissioner, is given for the amount of the \*tax loss is neither assessable income nor exempt income of the \*loss company; and
  - (b) a capital gain does not accrue to the \*loss company because of the receipt of the consideration.
- (2) If the \*income company gives any consideration to the \*loss company for the amount of the \*tax loss:
- (a) the \*income company cannot deduct the amount or value of the consideration; and

- (b) the \*income company does not incur a capital loss because of the giving of the consideration.

**49 Section 175-10 (heading)**

Repeal the heading, substitute:

**175-10 First case: income or capital gain injected into company because of available tax loss**

**50 Subsection 175-10(1)**

Omit “some or all of which (the *injected income*) it would not have derived”, substitute “, or a capital gain accrued to the company, some or all of which (the *injected amount*) would not have been derived, or would not have accrued,”.

**51 Subsection 175-10(2)**

Omit “derivation of the \*injected income”, substitute “derivation or accrual of the \*injected amount”.

**52 Section 175-20 (heading)**

Repeal the heading, substitute:

**175-20 Income or capital gain injected into company because of available deductions**

**53 Subsection 175-20(1)**

Repeal the subsection (other than the note), substitute:

- (1) The Commissioner may disallow deductions of a company (or parts of them) for an income year if:
  - (a) the company has \*derived assessable income, or a capital gain accrued to the company, some or all of which (the *injected amount*) would not have been derived, or would not have accrued, if the company did not have those deductions; and
  - (b) the income was derived, or the capital gain accrued, in that income year.

The disallowed deductions and parts of deductions may exceed the \*injected amount.

**54 Subsection 175-20(2)**

Omit “\*injected income”, substitute “\*injected amount”.

**55 Subsection 175-20(3)**

Omit “\*injected income”, substitute “\*injected amount”.

**56 Section 175-30 (heading)**

Repeal the heading, substitute:

**175-30 Someone else obtains a tax benefit because of a deduction, income or capital gain available to company**

**57 Paragraph 175-30(2)(b)**

Repeal the paragraph, substitute:

- (b) the scheme would not have been entered into or carried out if some or all (the *available amount*) of the assessable income that the company derived or of a capital gain that accrued to the company:
  - (i) before it incurred the losses, outgoings or expenditure that the deductions were for; and
  - (ii) in the same income year as it incurred them; had not been derived or had not accrued, as the case may be.

**58 Subsection 175-30(2)**

Omit “the amount of the available income”, substitute “the available amount”.

**59 Subsection 995-1(1) (after the definition of *in existence*)**

Insert:

*injected amount* has the meaning given by sections 175-10 and 175-20.

**60 Subsection 995-1(1) (definition of *injected income*)**

Repeal the definition.

**Part 5—Income Tax (Consequential Amendments)  
Act 1997**

**61 Schedule 1 (items 236 and 237)**

Repeal the items.

**62 Schedule 1 (items 241 and 242)**

Repeal the items.

**63 Schedule 1 (item 248)**

Repeal the item, substitute:

**248 Subsection 170(13)**

Repeal the subsection, substitute:

- (13) The Commissioner may amend an assessment within 6 years after the day when the tax became due and payable under it, if the amendment is to give effect to any of these provisions:
  - (a) sections 165-180 to 165-205 and Division 175 of the *Income Tax Assessment Act 1997*;
  - (b) sections 63B, 105AAA, 160ZND and 160ZNM to 160ZNR (inclusive), and Division 3D of Part IIIA, of this Act;

(including any of those provisions as applied by any other provision of that Act or this Act).

## 64 Application

The items in Schedule 1 to the *Income Tax (Consequential Amendments) Act 1997* that are repealed by items 61 and 62 of this Schedule are taken never to have had any effect.

*New schedule—*

After Schedule 14, after page 96, insert:

# Schedule 14A—Deductions for gifts

## Part 1—Amendment of the Income Tax Assessment Act 1936

### 1 Subsection 78(3) (before the index entry relating to Academies—professional)

Insert:

AAP Mawson's Huts Foundation (4)-Table 6, item 6.2.23  
Limited

### 2 Subsection 78(3) (after the index entry relating to Art galleries)

Insert:

Australia Foundation for Culture (4)-Table 12, item 12.2.2  
and the Humanities Ltd.

### 3 Subsection 78(3) (after the index entry relating to Australian Ireland Fund)

Insert:

Australian National Korean War (4)-Table 5, item 5.2.10  
Memorial Trust Fund

### 4 Subsection 78(4) (at the end of Table 5)

Add:

5.2.10	Australian National Korean War Memorial Trust Fund	the gift must be made after 1 September 1996 and before 2 September 1998
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### 5 Subsection 78(4) (at the end of Table 6)

Add:

6.2.23	AAP Mawson's Huts Foundation Limited	the gift must be made after 17 March 1997
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**6 Subsection 78(4) (at the end of Table 12)**

Add:

12.2.2	Australia Foundation for Culture and the Humanities Ltd.	the gift must be made after 8 November 1996
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## Part 2—Amendment of the Income Tax Assessment Act 1997

**7 Subsection 30-50(2) (at the end of the table)**

Add:

5.2.6	Australian National Korean War Memorial Trust Fund	the gift must be made before 2 September 1998
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**8 Subsection 30-55(2) (at the end of the table)**

Add:

6.2.23	AAP Mawson's Huts Foundation Limited	the gift must be made after 17 March 1997
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**9 Subsection 30-100(2) (at the end of the table)**

Add:

12.2.2	Australia Foundation for Culture and the Humanities Ltd.	the gift must be made after 8 November 1996
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**10 Subsection 30-315(2) (before table item 1)**

Add:

1A	AAP Mawson's Huts Foundation Limited	item 6.2.23
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**11 Subsection 30-315(2) (after table item 9)**

Insert:

9A	Australia Foundation for Culture and the Humanities Ltd.	item 12.2.2
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**12 Subsection 30-315(2) (after table item 23)**

Insert:

23A	Australian National Korean War Memorial Trust Fund	item 5.2.6
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### 13 Application

The amendments made by this Part apply to assessments for the 1997/98 income year and later income years.

*New items—*

At the end of Schedule 15, page 98 (after line 1), add:

#### ***Taxation Laws Amendment Act (No. 2) 1997***

##### **8 Schedule 1 (item 9)**

Repeal the item, substitute:

##### **9 Subsection 160ZP(7)**

Omit “where” (first occurring), substitute “subsection (7AAA) applies if”.

#### ***Taxation Laws Amendment (Private Health Insurance Incentives) Act 1997***

##### **9 Schedule 3 (before item 1)**

Insert:

#### ***Income Tax Assessment Act 1936***

On the motion of Mr Miles, by leave, the following amendments were made together:

Clause 2—

Page 2 (after line 11), after subclause (6), insert:

- (6A) Part 4 of Schedule 14 commences, or is taken to have commenced, on 1 July 1997, immediately after the commencement of the *Income Tax Assessment Act 1997*.
- (6B) Part 5 of Schedule 14 commences, or is taken to have commenced, on 1 July 1997, immediately after the commencement of the *Income Tax (Consequential Amendments) Act 1997*.

Page 2 (before line 12), before subclause (7), insert:

- (6C) Part 2 of Schedule 14A commences at the later of:
  - (a) the start of the day on which this Act receives the Royal Assent; and
  - (b) immediately after the commencement of Schedule 1 to the *Tax Law Improvement Act 1997*.

Page 2 (after line 26), at the end of the clause, add:

- (12) Item 8 of Schedule 15 is taken to have commenced immediately after the commencement of item 9 of Schedule 1 to the *Taxation Laws Amendment Act (No. 2) 1997*.
- (13) Item 9 of Schedule 15 is taken to have commenced immediately after the commencement of item 1 of Schedule 3 to the *Taxation Laws Amendment (Private Health Insurance Incentives) Act 1997*.

Remainder of Bill, as amended, agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Miles, by leave, the Bill was read a third time.

## **12 INCOME TAX RATES AMENDMENT BILL (NO. 1) 1997**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

## **13 SELECTION COMMITTEE—REPORT**

Mr Nehl (Chair) presented the following paper:

Selection Committee—Report relating to the consideration of committee and delegation reports and private Members' business on Monday, 23 June 1997.

## **14 HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 1) 1997**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr Latham who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) is of the opinion that a properly resourced university sector is vital to Australia's economic and social well-being;
- (2) expresses deep concern at the damage caused by the Government's funding reductions to higher education, which are forcing universities to seek alternative sources of funds, such as undergraduate fees, which in turn are reducing access to universities at the very time when Australia needs to be broadening such access;
- (3) expresses particular concern at the ending of the successful Commonwealth Industry Places Scheme; and
- (4) condemns the Government for failing to recognise the importance of education to Australia's future and for continuing to withdraw public investment in it”.

Debate continued.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for a later hour this day.



**15 APPROPRIATION BILL (NO. 1) 1997-98—REPORT FROM MAIN COMMITTEE—REFERENCE TO MAIN COMMITTEE**

The Deputy Speaker reported that the Bill had been considered by the Main Committee and was returned with an unresolved question (*see item No. 2, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill together with a schedule of the unresolved question.

Unresolved question—That the words proposed to be omitted stand part of the question—put.

The House divided (the Deputy Speaker, Mr J. N. Andrew, in the Chair)—

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Mr Abbott	Mr Entsch	Mr Lloyd	Mr Ruddock
Mr Anderson	Mr R. D. C. Evans	Mr McArthur*	Mr Scott
Mr Andren	Ms Gambaro	Mr McDougall	Mr A. C. Smith
Mr K. J. Andrews	Mrs Gash	Mr McGauran	Dr Southcott
Mr Anthony	Mr Georgiou	Mr McLachlan	Mrs Sullivan
Mr Barresi	Mrs E. J. Grace	Mr Miles	Mr Taylor
Mr Bartlett	Mr Hardgrave	Mr Mutch	Mr A. P. Thomson
Mr Billson	Mr Hawker	Mr Nairn	Mr Truss
Mrs Bishop	Mr Hicks*	Dr Nelson	Mr M. A. J. Vaile
Mr Bradford	Mr Hockey	Mr Neville	Mrs D. S. Vale
Mr Brough	Ms Jeanes	Mr Pyne	Mr Wakelin
Mr Cadman	Miss J. M. Kelly	Mr Randall	Mrs West
Mr R. A. Cameron	Dr Kemp	Mr Reid	Mr Williams
Mrs Draper	Mr Lieberman	Mr Reith	Ms Worth*
Mrs Elson	Mr Lindsay	Mr Ronaldson	Mr Zammit

NOES, 39

Mr Albanese	Mr M. J. Ferguson	Dr Lawrence	Mr O'Keefe
Mr Beddall	Mr Fitzgibbon	Mr Lee	Mr Price
Mr Bevis	Mr E. L. Grace*	Mr McClelland	Mr Sawford*
Mr Brown	Mr Griffin	Mr McLeay	Mr Sercombe*
Mr Crean	Mr Hatton	Mr McMullan	Mr S. F. Smith
Mr Dargavel	Mr Hollis	Mr Martin	Mr Tanner
Ms Ellis	Mr Jenkins	Mr A. A. Morris	Dr Theophanous
Mr G. J. Evans	Mr Jones	Mr P. F. Morris	Mr K. J. Thomson
Mr M. J. Evans	Mr Kerr	Mr Mossfield	Mr Willis
Mr L. D. T. Ferguson	Mr Latham	Mr O'Connor	

\* Tellers

And so it was resolved in the affirmative.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Mr Williams (Attorney-General and Minister for Justice), by leave, moved—That the Bill be referred to the Main Committee for further consideration.

Question—put and passed.

**16 HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 1) 1997**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr Latham, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) is of the opinion that a properly resourced university sector is vital to Australia’s economic and social well-being;
- (2) expresses deep concern at the damage caused by the Government’s funding reductions to higher education, which are forcing universities to seek alternative sources of funds, such as undergraduate fees, which in turn are reducing access to universities at the very time when Australia needs to be broadening such access;
- (3) expresses particular concern at the ending of the successful Commonwealth Industry Places Scheme; and
- (4) condemns the Government for failing to recognise the importance of education to Australia’s future and for continuing to withdraw public investment in it”—

Debate resumed.

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

*Message from the Governor-General*

Message No. 152, dated 30 May 1997, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Abbott (Parliamentary Secretary to the Minister for Employment, Education, Training and Youth Affairs), the Bill was read a third time.

**17 SMALL SUPERANNUATION ACCOUNTS AMENDMENT BILL 1997**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Scott (Minister for Veterans’ Affairs), the Bill was read a third time.

**18 ADJOURNMENT**

It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—The Speaker adjourned the House until tomorrow at 9.30 a.m.

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**PAPER**

The following paper was deemed to have been presented on 17 June 1997:

Employment Services Act—Employment Services (Case Management Documents) Determination 1997 No. 1.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Mr Adams, Mrs Bailey, Mr P. J. Baldwin, Mr R. C. Baldwin, Mr Dondas, Mr Downer, Mrs Gallus, Mr Howard, Mrs Johnston, Mr Sharp, Mr Somlyay, Mrs Stone and Mr Wilton.

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**L. M. BARLIN**

Clerk of the House of Representatives

1996-97

HOUSE OF REPRESENTATIVES  
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 95

**MAIN COMMITTEE****MINUTES OF PROCEEDINGS**

TUESDAY, 17 JUNE 1997

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1 The Main Committee met at 4.30 p.m.

**2 APPROPRIATION BILL (NO. 1) 1997-98—BUDGET DEBATE**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr G. J. Evans (Deputy Leader of the Opposition), viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House notes that the Budget:

- (1) does nothing for jobs—the nation’s most overwhelming current economic and social problem;
- (2) squanders, by breaking the promise to introduce superannuation co-contributions, an historic opportunity to build a massive new private savings pool, and does so in a way that undercuts decent retirement incomes for lower and middle income earners;
- (3) continues the assault on families, the elderly and the needy;
- (4) contains many mindless and counter-productive cuts affecting the quality and decency of life in Australia, and harming our international reputation;
- (5) for all its cuts and destructive impact, did not meet the exaggerated expectations the Government had created as to the size of its deficit reduction achievements and projected future surpluses; and
- (6) has been characterised by even the Government’s best friends as lacking in shape, direction and vision”—

Debate resumed.

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*Suspension of sitting*

At 4.50 p.m., a division having been called in the House, the proceedings were suspended.

*Resumption of sitting*

At 5.02 p.m., the proceedings were resumed.

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Debate continued.

Question—That the words proposed to be omitted stand part of the question—put and not being resolved—Bill to be returned to the House.

**3 APPROPRIATION BILL (NO. 2) 1997-98**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate having been resumed by Mr Latham—

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*Suspension of sitting*

At 8.02 p.m., a division having been called in the House, the proceedings were suspended.

*Resumption of sitting*

At 8.15 p.m., the proceedings were resumed.

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Mr Latham continued his speech.

Mr Latham was granted leave to continue his speech when the debate is resumed.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting.

**4 APPROPRIATION BILL (NO. 1) 1997-98**

The order of the day having been read for the consideration in detail of the Bill—

*Consideration in detail*

Schedule—

Ordered—That the proposed expenditures for the purposes and services in the Schedule be considered in the following order, either separately or together, as shown:

Department of the Prime Minister and Cabinet	}	together
Department of the Treasury		
Department of Finance		
Advance to the Minister for Finance		
Provision for Running Costs Borrowings		

Department of Foreign Affairs and Trade

Department of Primary Industries and Energy

Department of Industrial Relations

Department of Industry, Science and Tourism

Department of Defence	}	together
Department of Veterans' Affairs		

Department of Transport and Regional Development

Department of Health and Family Services

Department of Social Security	}	together
Department of Immigration and Multicultural Affairs		

Department of Employment, Education, Training and Youth Affairs

Attorney-General's Department

Department of the Environment, Sport and Territories	}	together
Department of Communications and the Arts		

Department of Administrative Services

Proposed expenditures—

Department of the Prime Minister and Cabinet, \$1 046 985 000—

Department of the Treasury, \$2 868 893 000—

Department of Finance, \$505 327 000—

Advance to the Minister for Finance, \$215 000 000—

Provision for Running Costs Borrowings, \$20 000 000—

together debated and agreed to.

Proposed expenditure—Department of Foreign Affairs and Trade,  
\$2 107 821 000—debated and agreed to.

Proposed expenditure—Department of Primary Industries and Energy,  
\$435 682 000—debated and agreed to.

Proposed expenditure—Department of Industrial Relations, \$126 844 000—debated and agreed to.

Proposed expenditure—Department of Industry, Science and Tourism, \$1 699 412 000—debated and agreed to.

Proposed expenditures —

Department of Defence, \$10 937 163 000—

Department of veterans' Affairs, \$1 982 406 000—

together—

Debate adjourned (Mr Sercombe), and the resumption of the debate made an order of the day for the next sitting.

## 5 ADJOURNMENT

On the motion of Mr McGauran (Minister for Science and Technology), the Main Committee adjourned at 10.19 p.m.

The Deputy Speaker fixed tomorrow at 9.45 a.m. for the next meeting of the Main Committee.



**I. C. HARRIS**  
Clerk of the Main Committee