



Tax Laws Amendment (2004 Measures No. 6) Bill 2004

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Glossary

The following abbreviations and acronyms are used throughout this Bills Digest

<i>Abbreviation</i>	<i>Definition</i>
ATO	Australian Taxation Office
CGT	capital gains tax
Commissioner	Commissioner of Taxation
DGR	deductible gift recipient
GST	goods and services tax
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i>
FBT	fringe benefits tax
FBTAA 1986	<i>Fringe Benefits Tax Assessment Act 1986</i>
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
PBI	public benevolent institution
SIS	simplified imputation system
TAA 1953	<i>Taxation Administration Act 1953</i>
Lapsed Bills No. 4 & 5	Tax Laws Amendment (2004 Measures No. 4) Bill 2004, and Tax Laws Amendment (2004 Measures No. 4) Bill 2004

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Tax Laws Amendment (2004 Measures No. 6) Bill 2004

Date Introduced: 18 November 2004

House: House of Representatives

Portfolio: Treasury

Commencement: On various dates as explained in the Main Provisions section.

Purpose

There are 12 Schedules to the Tax Laws Amendment (2004 Measures No. 6) Bill 2004 (the [Bill](#)) and the main purpose of each Schedule as stated in the General Outline and Financial Impact section of the [Explanatory Memorandum](#) to the Bill is set out below.¹

1. **Schedule 1** to this Bill provides greater flexibility, clarifies certain aspects of the consolidation regime and ensures that the regime interacts appropriately with other aspects of the income tax law.²
2. **Schedule 2** to this Bill amends the Income Tax Assessment Act 1997 [ITAA 1997], the Income Tax (Transitional Provisions) Act 1997 [ITTP 1997] and the Taxation Administration Act 1953 [TAA 1953] to:
 - ensure that copyright collecting societies are not taxed on any copyright income that they collect and hold on behalf of members, pending allocation to them;
 - minimise compliance costs for copyright collecting societies by ensuring that they are not taxed on the non-copyright income they derive, provided that the amount of non-copyright income derived falls within certain limits; and
 - ensure that any copyright and non-copyright income collected or derived by copyright collecting societies that is exempt from income tax in their hands, is included in the assessable income of members upon distribution.³
3. **Schedule 3** to this Bill:
 - makes consequential amendments to the income tax laws which will:
 - replace references to the former imputation provisions in Part IIIAA of the *Income Tax Assessment Act 1936* (ITAA 1936) to those of the simplified imputation system (SIS) in Part 3-6 of the *Income Tax Assessment Act 1997* (ITAA 1997); and
 - update terminology of the former imputation system to equivalent terms of the SIS;
 - makes various technical amendments in relation to the SIS and other imputation related provisions; and

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- inserts into Division 207 of the ITAA 1997 anti-avoidance rules that apply in relation to certain tax exempt entities that are entitled to a refund of franking credits. These rules were previously in Division 7AA of Part IIIAA of the ITAA 1936.⁴
- 4. **Schedule 4** to this Bill amends the ITAA 1997 to update the lists of specifically-listed deductible gift recipients (DGRs) and include a new category of DGRs for government special schools.⁵
- 5. **Schedule 5** to this Bill amends the ITAA 1997 so that the transitional period for at call loans under the debt/equity rules will extend to 30 June 2005.⁶
- 6. **Schedule 6** to this Bill amends the water facilities and landcare tax concession provisions in the ITAA 1997 to provide irrigation water providers and rural land irrigation water providers access to these concessions.⁷
- 7. **Schedule 7** to this Bill amends the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986) provisions for accessing the fringe benefits tax exemption for incidental costs associated with the acquisition of a dwelling as a result of relocation.⁸
- 8. **Schedule 8** to this Bill extends the scope of CGT event G3 in the ITAA 1997 so that an administrator of a company (in addition to a liquidator) of a company can declare shares and financial instruments in the company to be worthless for capital gains tax (CGT) purposes. The declaration permits taxpayers who hold those shares or financial instruments to choose to make a capital loss.⁹
- 9. **Schedule 9** to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) to remove an anomaly that allows supplies of certain services made to owners of residential property to be GST-free if the owner is not in Australia at the time of the supply. This amendment will result in the same goods and services tax (GST) treatment applying to both non-resident and resident entities whether or not they are in Australia at the time of the supply.¹⁰
- 10. **Schedule 10** to this Bill amends the first child tax offset provisions in the ITAA 1997 affecting adoption.¹¹
- 11. **Schedule 11** to this Bill corrects a technical defect in the citation of an Act in the commencement provision applying to the franking deficit tax (FDT) offset provisions for life insurance companies in Schedule 7 to the *Taxation Laws Amendment Act (No. 8) 2003*.¹²
- 12. **Schedule 12** to this Bill amends the income tax law to alleviate unintended tax consequences that arise when a life insurance company transfers some or all of its life insurance business to another life insurance company under Part 9 of the *Life Insurance Act 1995* or under the *Financial Sector (Transfers of Business) Act 1999*.¹³

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Background

The majority of the measures in this Bill were originally included in [Tax Laws Amendment \(2004 Measures No. 4\) Bill 2004](#)¹⁴ and [Tax Laws Amendment \(2004 Measures No. 5\) Bill 2004](#).¹⁵ However, with the prorogation of the 40th Parliament, these Bills lapsed and the measures in these Bills have been reintroduced in this Bill with minor drafting changes. These significant additional measures in this Bill which were not included in the previous Bills will be indicated in the Main Provisions section. These two Bills are referred to as ‘Lapsed Bills No 4 and 5’ in this Bills Digest.

As there is no central theme to the Bill, the background to the various measures will be discussed under the Main Provisions section.

Schedule 1—Consolidation: measures to provide greater flexibility

The consolidation regime was introduced with effect from 1 July 2002. The basic concepts underlying the consolidation regime are outlined in the ATO publication [Consolidation in brief - taxing wholly owned corporate groups as single entities](#).¹⁶

On 4 December 2003, the Minister for Revenue and Assistant Treasurer foreshadowed in [Press Release No. C116/03](#) certain measures to provide greater flexibility and clarify certain aspects of the consolidation regime. A brief outline of the measures in relation to the consolidation regime proposed in this Bill is set out below. Readers are referred to the [Explanatory Memorandum](#) (pages 15 to 78; paragraphs 1.1 to 1.230) which give the details of the measures with examples of their application.¹⁷

Clarifying beneficial ownership for consolidation membership rules

Item 2 of Part 2 of Schedule 1 inserts **proposed subsection 703-30(3)** into the ITAA 1997 to provide that entities under external administration, whether under the *Corporations Act 2001* or similar foreign law, will not be prevented from being or remaining members of consolidated groups.¹⁸

Modification of tax cost setting in relation to finance leases

Item 5 of Part 3 of Schedule 1 inserts **proposed section 705-56** into the ITAA 1997 to provide special rules for setting the tax cost of assets where an entity that becomes, or ceases to be, a member of a consolidated group is subject to a finance lease. These rules take into account the different treatment of finance leases under accounting standards and the income tax law.¹⁹

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Application of cost setting rules to certain types of mining or quarrying expenditure

Part 4 of Schedule 1 contains rules to clarify the operation of the cost setting rules and the inherited history rules for assets that have arisen from allowable capital expenditure, transport capital expenditure or exploration and prospecting expenditure.²⁰

Low-value and software development pools

Item 11 of Part 5 of Schedule 1 inserts **proposed Subdivision 716-G** into the ITAA 1997 to provide that the head company of a consolidated group receives the appropriate allowances for the decline in value of assets in a joining entity's low-value pool. The rules also ensure that the head company and a leaving entity receive the appropriate allowances for the decline in value of the pools where the leaving entity takes the pool upon leaving the consolidated group.²¹

Item 11 also inserts **proposed sections 716-340 and 716-345** to the ITAA 1997 to ensure that the head company of a consolidated group receives the appropriate allowances for the decline in value of the joining entity's software development pool. The rules also ensure that the head company and a leaving entity receive the appropriate allowances for the decline in value of the pools where the leaving entity takes part of the pool with it upon leaving the consolidated group.²²

Notice requirements for inter-entity loss multiplication rules

The amendments proposed to the ITAA 1997 by **items 13 to 19 of Part 6 of Schedule 1** alleviate the notice requirements under the entity loss multiplication rules during the consolidation transitional period for entities that are in the same consolidation group.²³ The Commissioner of Taxation is given the discretion to extend the time for giving notices under **proposed paragraph 165-115ZC(7A)** of the ITAA 1997 to be inserted by **item 18** or to waive the notice requirements under **proposed paragraph 165-115ZC(7B)**, also inserted by **item 18**. The matters to be taken into account by the Commissioner in exercising this discretion are set out in **proposed paragraph 165-115ZC (7C)**.

Source of certain distributions for allocable cost amount purposes

On formation or entry to a consolidated group, the tax cost of each asset of a joining subsidiary is based on a share of the allocable cost amount (ACA) of that subsidiary. The ACA consists of the cost of the membership interests in the entity together with its liabilities, which become liabilities of the group. Adjustments are made to reflect certain undistributed profits, distributions and losses of the joining entity and certain deductions to which the head company becomes entitled.

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Part of the ACA is allocated to the subsidiary's retained cost base assets (i.e. assets such as cash that retain their cost bases at the joining time). The remainder of the ACA is then apportioned to the subsidiary's reset cost base assets in proportion to their market values, subject to further adjustments for revenue-like assets and over-depreciated assets.

Part 7 of Schedule 1 to this Bill contains rules to simplify the method of working out the ACA. It accepts a last-in-first-out method of accounting for profits where the entity must determine which prior year's profits were used to pay a particular dividend.²⁴ The reader is referred to paragraphs 1.135 to 1.148 on pages 56 to 58 of the [Explanatory Memorandum](#) for a detailed explanation of the proposed changes.²⁵

This is a new measure which was not in the Lapsed Bills No. 4 and 5.

Adjustment to step 3 of allocable cost amount to take account of certain losses

Part 8 of Schedule 1 to this Bill has rules which provide that the full amount of undistributed profits that have accrued to a consolidated group before the joining time is included when calculating the ACA for a joining entity. The reader is referred to paragraphs 1.149 to 1.155 on pages 58 to 61 of the [Explanatory Memorandum](#) for a detailed explanation of the proposed changes.²⁶

This is a new measure which was not in the Lapsed Bills No. 4 and 5.

Transitional treatment of tax liabilities for allocable cost amount and CGT purposes

Part 9 of Schedule 1 to this Bill contains rules that reduce compliance costs in applying the consolidation cost setting rules for transitional entities which have a change in the amount of deferred tax liabilities associated with assets that have their tax cost reset.²⁷ The reader is referred to paragraphs 1.156 to 1.162 on pages 61 to 62 of the [Explanatory Memorandum](#) for a detailed explanation of the proposed changes.²⁸

This is a new measure which was not in the Lapsed Bills No. 4 and 5.

Entry and exit history rules and choices

Item 26 of Schedule 1 inserts into the ITAA 1997 **proposed Subdivision 715-J—Entry history rule and choices** and also inserts **proposed Subdivision 715-K—Exit history rule and choices**.

Proposed Subdivisions 715-J and 715-K replace Subdivisions 717-F and 717-G respectively which are repealed by **item 27**.

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A comparison of the proposed rules with the existing rules succinctly set out in table in the Explanatory Memorandum is reproduced below.²⁹

<i>Proposed Law</i>	<i>Current Law</i>
<i>Entry and exit rules and choices</i>	
<p>The head company of a consolidated group does not inherit the choices (or lack of choices) made by the joining entities.</p> <p>All pre-joining time or pre-consolidation time choices of joining entities are withdrawn and the head company may make a choice effective from consolidation/joining time.</p>	<p>Under Subdivision 717-F a head company of a group does not inherit the joining entity's irrevocable elections or choices. Instead, the head company has a choice whether to make the irrevocable elections itself or to be bound by the pre-joining time elections/decisions of the joining entities.</p>
<p>Any choice made by the head company, or taken to have been made by the head company, is disregarded for leaving entity core rule purposes.</p>	<p>Similarly, under Subdivision 717-G entities leaving a consolidated group are not bound by the head company's choice or elections.</p>
<p>On leaving, the leaving entity is entitled to make a choice effective from the leaving time.</p>	<p>The leaving entity is allowed to choose for itself whether or not to make an irrevocable election.</p>
<i>Entry and exit history rules – inconsistent choices</i>	
<p>At consolidation, if the choices of the joining entities are inconsistent, those choices are disregarded and the head company is allowed to make a choice.</p> <p>If prior to the joining time, the making of an election is relevant to the group, then any choices made (or no choice) by the joining entities will be disregarded and the head company may make a new choice.</p> <p>On leaving, the leaving entity is entitled to make a fresh choice effective from the leaving time if the head company's choice differs from the entity's choice prior to the joining time or consolidation.</p>	<p>There are no equivalent provisions dealing with inconsistent choices in either Subdivision 717-F or 717-G.</p>

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<i>Proposed Law</i>	<i>Current Law</i>
Choices with ongoing effect	
<p>The following treatment applies elections attaching to certain assets, liabilities and transactions that have an ongoing effect. At consolidation/joining time, choices made by entities prior to joining are taken to have been made by the head company. This treatment essentially 'sees through' consolidation and continues to apply the election to assets, liabilities and transactions of a consolidated group as it applied prior to consolidation/joining.</p> <p>Despite this, the head company may choose to have the election apply to all of its assets from the consolidation/joining time.</p> <p>On leaving, the leaving entity will continue to apply the election as applied prior to consolidation/joining. If the choice were first made by the head company then the leaving entity simply inherits the election status of the head company.</p>	<p>There are no equivalent provisions in either Subdivision 717-F or 717-G.</p>

The reader is referred to paragraphs 1.183 to 1.230 on pages 66 to 78 of the [Explanatory Memorandum](#) for a detailed explanation of the proposed changes and examples of the operation of the new rules to give relief to companies by allowing the head company to modify elections or choices that are irrevocable or not immediately revocable to meet the requirements of the consolidated group.³⁰

This is a new measure which was not in the Lapsed Bills No. 4 and 5.

Trusts

The amendments of a technical nature proposed in **Part 11 of Schedule 1** are intended to clarify certain cost setting provisions applying to trusts which become members of a consolidated group. The reader is referred to paragraphs 1.163 to 1.167 on page 63 of the [Explanatory Memorandum](#) for a detailed explanation of the proposed changes.³¹

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Application

Item 1 of Part 1 of Schedule 1 provides that the amendments made by **Schedule 1** apply on and after 1 July 2002, except as otherwise provided. This was the date when the consolidation regime came into effect.

This is a new measure which was not in the lapsed Bills No. 4 & 5.

Schedule 2—Copyright collecting societies

Copyright collecting societies are organisations that administer certain rights of copyright on behalf of copyright owners, including authors and composers. Such societies receive income in relation to copyrights pending identification and allocation to the appropriate copyright owners.

Following the recommendations in the Simpson Report into Copyright Collecting Societies (1995),³² the ATO took the view that a trust relationship exists between the societies as trustees and their members as beneficiaries. The trustee would be liable to tax under section 99A of the ITAA 1936 on income not allocated to members in a financial year at the top personal tax rate of 47% with effect from 1 July 2002. The ATO by [Taxation Ruling IT 328](#) as a matter of administrative practice allows a further two months to identify and allocate income to beneficiaries to minimise the impact of section 99A. However, in practice a substantial part of the income of these societies are taxed at the top marginal tax rate due to the difficulty of identifying beneficiaries within the extended two month period allowed by the ATO.

On 1 August 2002, the Minister for Revenue and Assistant Treasurer announced in [Press Release No. C081/02](#) that the tax law would be amended to ensure that copyright collecting societies are not taxed on income they collect on behalf of copyright owners. The measures in **Schedule 2** to the Bill give effect to this proposal.

Exemption of copyright income and non-copyright income of copyright collecting societies under certain conditions

Item 6 of Schedule 2 inserts **proposed section 51-43** into the ITAA 1997 and exempts from income tax the following income:

- copyright income collected or derived by a copyright collecting society (society) in an income year (**proposed paragraph 51-43(2)(a)**), and
- non-copyright income derived by the society to the extent that it does not exceed the lesser of:
 - (i) 5% of the total amount of the copyright income and non-copyright income collected and derived by the society in the income year; and

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(ii) \$5 million or such other amount that is prescribed by regulations (**proposed paragraph 51-43(2) (b)**).

A definition of ‘copyright collecting society’ is inserted into subsection 995-1(1) of the ITAA 1997 by **item 8 of Schedule 2** and includes both copyright collecting societies declared under the *Copyright Act 1968* and non-declared societies, subject to certain conditions.

A definition of ‘copyright income’ is inserted into subsection 995-1(1) of the ITAA 1997 by **item 9 of Schedule 2** and means ordinary or statutory income of the following kinds:

- royalties or interest on royalties collected or derived by the society, and
- such other amounts relating to copyright that are derived by the society as are prescribed by the regulations.

A ‘member’ of a copyright collecting society means:

- any person who has been admitted as a member under the society’s constitution, or
- any person who has authorised the society to license the use of his or her copyright material (**item 10 of Schedule 2**).

Application

Item 14(1) of Schedule 2 provides that the amendments apply from 1 July 2002. However, societies may make an election to defer entry into the new taxation regime until 1 July 2004 to avoid the retrospective operation of the amendments under the transitional provisions in **proposed section 410-1** of the *Income Tax (Transitional Provisions) Act 1997* (**item 12 of Schedule 2**).

Schedule 3—Simplified imputation system

The simplified imputation system (SIS) which applied from 1 July 2002 was introduced by the *New Business Tax System (Imputation) Act 2002*. The background to the introduction of SIS following the *Review of Business Taxation* is set out in [Bills Digest No. 165 2001-02](#) to the New Business Tax System (Imputation) Bill 2002. The SIS replaced the former imputation system in Part IIIAA of the ITAA 1936. An overview of the SIS can be ascertained from the document [Simplified imputation snapshot view](#) on the ATO website.

The [Explanatory Memorandum](#) to the Bill states at paragraph 3.6 on page 88 that as a result of the introduction of SIS a number of consequential amendments are required to the following income tax laws:

- the ITAA 1997,
- the ITAA 1936, and

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- the Taxation Administration Act 1953.³³

The amendments proposed in **Schedule 3** to these tax laws will:

- replace references to the former imputation system with those of the SIS,
- update terminology of the former imputation provisions to equivalent terms of the SIS, and
- ensure that the various provisions, including the anti-avoidance provisions, operate as intended.

The reader is referred to pages 87 to 96 (paragraphs 3.1 to 3.33) of the [Explanatory Memorandum](#) for a detailed explanation of the new law.³⁴

Application

Item 111 of **Schedule 3** provides that the consequential amendments and the anti-avoidance provisions will generally apply to events on or after 1 July 2002 when the SIS commenced operations.

Schedule 4 – Deductible gift recipients

Income tax law allows taxpayers to claim income tax deductions for certain gifts to the value of \$2 or more to deductible gift recipients (DGRs). To be a DGR, an organisation must fall within a category of organisations set out in Division 30 of the ITAA 1997 and be endorsed by the ATO, or be specifically listed under that Division. The amendments in **Schedule 4** will include the funds and organisations specified in the table below as DGRs.

Establishing a new category of DGRs for special schools for students with a disability

[On 11 May 2004](#), the Treasurer announced that the Government will legislate to provide a new category of deductible gift recipient, to allow certain special schools to receive tax deductible donations.³⁵ The background to this announcement was that some not for profit special schools, government bodies as well as non-government, had previously been endorsed by the Commissioner of Taxation as DGRs because they were all considered by the Commissioner to be public benevolent institutions (PBIs). However, the Commissioner subsequently determined that the special government schools were government bodies. Under common law a government body cannot be a PBI and hence the special government schools being government bodies cannot be PBIs. The purpose of the announcement was to ensure that special government schools would receive DGR status.

The table in subsection 30-25(1) of the ITAA 1997 sets out the general categories of education DGRs. **Item 1** of **Schedule 4** inserts at the end of that table **proposed item 2.1.12** to include a government school that:

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- (a) provides special education for students who have a disability that is permanent or is likely to be permanent, and
- (b) does not provide education for other students.

Application

Item 2 of Schedule 4 provides that this amendment to subsection 30-25(1) applies to gifts made on or after 1 April 2004. The [Explanatory Memorandum](#) to the Bill states that the amendments will ensure that special schools that previously had PBI status can continue to receive tax deductible gifts.³⁶

Non-government special schools which operate on a not-for profit basis may continue to qualify for DGR status both before and after 1 April 2004 if they are endorsed as PBIs.

Fire and emergency services bodies listed as DGRs

Item 13 of Schedule 4 inserts **proposed section 30-102** to make the following fire and emergency services as DGRs with effect from the dates shown in the following table.

<i>Name of authority or institution</i>	<i>Established under legislation of the following State or Territory</i>	<i>Special conditions</i>
State Emergency Service	New South Wales	The gift must be made after 22 December 2003.
Country Fire Authority	Victoria	The gift must be made after 22 December 2003.
Victoria State Emergency Service	Victoria	The gift must be made after 22 December 2003.
CFA & Brigades Donations Fund	Victoria	The gift must be made after 30 June 2004.
Queensland Fire and Rescue Service	Queensland	The gift must be made after 22 December 2003.
State Emergency Service	Queensland	The gift must be made after 22 December 2003.
Fire and Emergency Services Authority of Western Australia	Western Australia	The gift must be made after 22 December 2003.

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<i>Name of authority or institution</i>	<i>Established under legislation of the following State or Territory</i>	<i>Special conditions</i>
State Emergency Service South Australia	South Australia	The gift must be made after 22 December 2003.
Tasmania Fire Service	Tasmania	The gift must be made after 22 December 2003.
State Emergency Service	Tasmania	The gift must be made after 22 December 2003.
Rural Firefighting Service	Australian Capital Territory	The gift must be made after 22 December 2003 and before 1 July 2004.
ACT Emergency Service	Australian Capital Territory	The gift must be made after 22 December 2003 and before 1 July 2004.
ACT Rural Fire Service	Australian Capital Territory	The gift must be made after 30 June 2004.
ACT State Emergency Service	Australian Capital Territory	The gift must be made after 30 June 2004.

Source: Table in **proposed section 30-102** inserted by **item 13** of **Schedule 4** modified by the author.

The Government's decision to list fire and emergency services bodies as DGRs was announced by the Treasurer in [Press Release No. 114 of 23 December 2003](#).

Other specific gift recipients listed as DGRs

The following funds are also listed as DGRs in the items specified in **Schedule 4**.

Name of fund	Item in Schedule 4 to the Bill	Special conditions
The Clontarf Foundation Inc.	Item 3	The gift must be made after 30 August 2004.
International Social Service – Australian Branch	Item 4	The gift must be made after 17 March 2004.
Victorian Crime Stoppers Program	Item 4	The gift must be made after 22 April 2004.

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Name of fund	Item in Schedule 4 to the Bill	Special conditions
Coolgardie Honour Roll Committee Fund	Item 10	The gift must be made after 1 June 2004 and before 2 June 2006.
Tamworth Waler Memorial Fund	Item 10	The gift must be made after 19 April 2004 and before 20 April 2006.
City of Onkaparinga Memorial Gardens Association Inc.	Item 10	The gift must be made after 28 April 2004 and before 25 April 2005.
The Finding Sydney Foundation	Item 10	The gift must be made after 26 August 2004 and before 27 August 2006.
Australian Business Week Limited	Item 11	The gift must be made after 8 December 2003.
Lowy Institute for International Policy	Item 12	The gift must be made after 13 August 2003.
Lord Somers Camp and Power House	Item 16	The gift must be made after 4 March 2004.
St George's Cathedral Restoration Fund	Item 16	The gift must be made after 27 September 2004 and before 28 September 2006.

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Extending the period for which deductions are allowed for gifts to certain DGRs

Items 5 to 9 and 14 to 15 of Schedule 4 extend the period for which deductions are allowed for gifts to the following funds and organisations.

Name of fund	Extension
The Shrine of Remembrance Restoration and Development Trust—Item 5.2.1 of the table in subsection 30-50(2) of the ITAA 1997	Gifts must be made before 1 July 2007. (Previously gifts had to be made before 1 July 2005.)
Australian Ex-Prisoners of War Memorial Fund—Item 5.2.9 of the table in subsection 30-50(2) of the ITAA 1997	Gifts must be made after 19 October 1999 and before 20 October 2005. (Previously gifts had to be made after 19 October 1999 and before 20 October 2003.)
The Albert Coates Memorial Trust—Item 5.2.17 of the table in subsection 30-50(2) of the ITAA 1997	Gifts must be made after 30 January 2002 and before 31 January 2006. (Previously gifts had to be made after 30 January 2002 and before 20 October 2004.)
Mount Macedon Memorial Cross Trust—Item 5.2.19 of the table in subsection 30-50(2) of the ITAA 1997	Gifts must be made before 15 August 2005. (Previously gifts had to be made before 15 August 2004.)
Shrine of Remembrance Foundation—Item 5.2.21 in the table in subsection 30-50(2) of the ITAA 1997	Gifts must be made before 1 July 2006. (Previously gifts must be made before 3 July 2004.)
St Patrick’s Cathedral Parramatta Rebuilding Fund—Item 13.2.1 in the table in section 30-105 of the ITAA 1997	Gifts must be made after 24 February 1998 and before 1 July 2004. (Previously gifts must be made after 24 February 1998 and before 25 February 2004.)
St Paul’s Cathedral Restoration Fund—Item 13.2.5 in the table in section 30-105 of the ITAA 1997	Gifts must be made after 22 April 2002 and before 23 April 2006. (Previously gifts must be made after 22 April 2002 and before 23 April 2004.)

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Schedule 5—Debt and equity interests – at call loans

At call loans are typically loans by small business owners to their business with no fixed term and are repayable on demand. Division 974 of the ITAA 1997 sets out the debt/equity rules to determine what is debt and what is equity for various income tax purposes applicable from 1 July 2001. A transitional rule under section 974-75 of the ITAA 1997 provides that certain on call loans entered into on or after 21 February 2001 and on or before 31 December 2002 to be a debt interest.

On 16 December 2002, the Minister for Revenue and Assistant Treasurer announced in [Press Release No. C131/02](#) that the Government would extend this transitional period to 30 June 2004. A further extension to 30 June 2005 was announced by the Minister for Revenue and Assistant Treasurer by [Press Release No. C045/04 of 24 May 2004](#) to give taxpayers extra time to assess existing loans and make adjusting arrangements on the classification of their loans as debt or equity for income tax purposes. The amendments proposed by **items 1 to 3 of Schedule 5** to subsection 974-75(4) will provide that at call loans entered into on or before 30 June 2005 are treated as debt interests.

Application

Item 7 of the table in **clause 2** of the Bill provides that the amendments in **Schedule 5** commence on the day on which the Act receives the Royal Assent.

Schedule 6—Irrigation water providers

On 11 May 2004, the former Minister for Revenue and Assistant Treasurer, Senator the Hon Helen Coonan, and the Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss, in a [Joint Press Release](#) announced that the Government will provide eligible irrigation water providers with access to the water facilities and landcare tax concessions which are currently available to primary producers.³⁷

The proposal was to provide water facilities and landcare tax concessions to those irrigation water providers whose main business is supplying water to primary producers. The landcare tax concession was to be made available to irrigation water providers supplying water to businesses using rural land.

The policy objectives were:

- to assist eligible irrigation water providers to renew water supply infrastructure and to enhance water-efficient delivery to primary producers, and
- to support irrigation water providers in achieving greater water efficiency and system wide works aimed at sustainable land and water management.

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Water facility tax concession for irrigation water providers

The tax concession available for water facilities are set out in Subdivision 40-F of the ITAA 1997. This subdivision provides that you can deduct amounts for capital expenditure on depreciating assets that are water facilities equal to the asset's decline in value during an income year. Section 40-540 states that the decline in value of a water facility is equal to one-third of the expenditure in the year in which the expenditure was incurred and one-third the expenditure for each of the two following years.

Item 2 of Schedule 6 to the Bill inserts **proposed subsections 40-515(5) and (6)** to extend the water facility tax concession to irrigation water providers. Paragraph 40-515(4)(a) provides that you must reduce the deduction for the decline in value of an asset when it was not wholly used on primary production business on land in Australia. **Proposed subsection 40-515(5)** provides that paragraph 40-515(4)(a) does not apply to a water facility if the expenditure incurred on the construction, manufacture, installation or acquisition of the water facility was incurred by an 'irrigation water provider'.

Proposed subsection 40-515(6) defines 'irrigation water provider' to mean an entity whose business primarily and principally is the supply of water to entities for use in primary production businesses in Australia, otherwise than by using a motor vehicle.

Landcare tax concession for rural land irrigation water providers

Subdivision 40-G of the ITAA 1997 provides that you can deduct amounts for capital expenditure on landcare operations as defined in section 40-635.

Item 7 of Schedule 6 inserts **proposed subsection 40-630(1A)** to enable a 'rural land irrigation water provider' to deduct capital expenditure it incurs at any time in an income year on land care operations for:

- (a) land in Australia that other entities use at the time for carrying on a primary production business, or
- (b) rural land in Australia that other entities use at the time for carrying on businesses for taxable purpose from the use of that land except a business of mining operations.

Proposed subsection 40-630(1B) also inserted by **item 7 of Schedule 6**, defines 'rural land irrigation water provider' to mean:

- (a) an irrigation water provider as defined in **proposed subsection 40-515(6)**, or
- (b) an entity whose business is primarily and principally the supply (otherwise than by using a motor vehicle) of water to entities for use in carrying on businesses using rural land, except businesses of mining operations.

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Item 8 of Schedule 6 inserts **proposed subsection 40-630(2B)** into Subdivision 40-G to ensure that a rural land irrigation water provider cannot deduct an amount under Subdivision 40-G for capital expenditure if the entity can deduct an amount for that expenditure under Subdivision 40-F.

Application

Item 14 of Schedule 6 provides that the amendments made by this Schedule apply to expenditure incurred on or after 1 July 2004.

Schedule 7—FBT - Extension of exemption on sale or acquisition of dwelling as a result of relocation of an employee at the request of an employer

Under the present law, costs incidental to the sale or acquisition of a dwelling by an employee relocating for employment purposes are exempt from fringe benefits tax (FBT) under section 58C of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986), subject to certain conditions. The pre-conditions for the application of the exemption are set out in subsection 58C(1). Paragraph 58C(1)(b) requires that the sale of the dwelling in the former locality of employment takes place within two years as a pre-condition before the exempt benefits are accessed by the employer. Paragraph 58C(3)(c) also requires that the employee purchase a dwelling at the new locality within four years of the commencement date of the new employment position. The exemption will not apply if the employer pays the incidental costs of purchasing a new dwelling before the old dwelling is sold as the sale of the old dwelling is a pre-condition under paragraph 58C(1)(b).

On [11 May 2004](#), the Minister for Revenue and Assistant Treasurer announced that the Government will effect changes to the conditions for the FBT exemption for benefits provided to employees who are relocated by their employer, with effect from 1 April 2004. It was indicated that the changes will retain the existing two and four-year limits, but will not require that the sale of the old dwelling occur before the employer accesses the exemption.³⁸

The amendments proposed by **items 1 and 2 of Schedule 7** have the effect of removing the requirement that the old dwelling be sold before the employer is able to access the exemption for incidentals in connection with the acquisition of the new dwelling. However the amendments proposed by **items 3, 4 and 5 of Schedule 7** ensure that this is contingent on the old dwelling being sold within 2 years of commencing the new employment position.

Application

Item 6 of Schedule 7 provides that the amendments made by this Schedule apply to benefits provided on or after 1 April 2004.

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Schedule 8—CGT event G3 – Liquidator or administrator declares interests worthless

Under section 104-5 of the ITAA 1997, capital gains tax (CGT) event G3 takes place when the liquidator of a company declares shares in a company worthless. A shareholder can choose to make a capital loss under section 104-145. The time of the event is when the liquidator makes the declaration and the capital loss is the shares' reduced cost base under section 104-145. If the declaration is made by an external administrator other than a liquidator, a CGT event does not occur and, consequently, shareholders cannot choose to make a capital loss while the company continues to exist. Instead, they must create a trust over the shares if they wish to utilise their capital losses and incur any associated costs.

On [11 May 2004](#), the former Minister for Revenue and Assistant Treasurer announced that it was proposed to improve and simplify the capital gains tax rules by allowing any insolvency practitioner to declare shares and other securities in a company to be worthless for CGT purposes. Such a declaration will cause a CGT event to occur and will permit the holders of securities to choose to make a capital loss in respect of their shares. It was indicated that the measure will apply to declarations made by insolvency practitioners after the date of Royal Assent of the enabling legislation.³⁹

Item 2 of Schedule 8 proposes to repeal section 104-145 and substitute **proposed new section 104-145** to cover declarations made by a liquidator or administrator of a company that interests of a kind in the company described in **proposed subsection 104-145(3)** are worthless. The kinds of interests described in **proposed subsection 104-145(3)** include:

- (a) shares issued by the company,
- (b) notes or convertible notes issued by the company,
- (c) other similar financial assets issued by the company, and
- (d) rights or options to acquire interests of a kind referred to in a preceding paragraph.

Application

Item 8 of Schedule 8 provides that the amendments made by this Schedule apply to declarations by liquidators or administrators made after the day when this Bill receives the Royal Assent.

Schedule 9—GST: Supplies to offshore owners of Australian real property

The policy intent of the GST legislation is to tax the supply of goods and services and other things that are consumed in Australia. In the general scheme of the GST legislation the rental or sale of residential property and certain commercial accommodation in

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Australia owned by residents is input taxed. This means that no GST is payable on the supply of residential premises and the owners are not entitled to input taxed credits for acquisitions relating to supply, such as advertising, trade and property maintenance services. However, non-resident owners and certain resident owners, who are not in Australia when the supply takes place, can acquire some or all of these services GST-free.

The measures in **items 1 and 2 of Schedule 9** of the Bill amend section 38-190 of the GST Act to remove this anomaly. Thus the same GST treatment will apply to both non-resident and resident entities whether or not they are in Australia at the supply time.

This proposal had not been announced prior to the introduction of this Bill.

The reader is referred to paragraphs 9.5 to 9.8 on pages 139 to 140 of the [Explanatory Memorandum](#) for a detailed explanation of the changes and examples of the operation of the new law.⁴⁰

Application

Item 3 of Schedule 9 states that the amendments will apply to supplies made on or after the first day of the first quarterly tax period that commences after the day on which this Bill receives the Royal Assent.

This is a new measure which was not in the lapsed Bills No. 4 & 5.

Schedule 10—Baby bonus adoption amendments

The eligibility criteria for the first child tax offset in section 61-355 of the ITAA 1997 or the Baby Bonus as it is commonly referred to includes the requirement that the taxpayer must be legally responsible for the child. Adoptive parents are legally responsible for the child only when an adoption order is issued. In practice, the adoption order will be issued only between six to twelve months after the child has been in the care of the adoptive parents. Currently, adoptive parents are not entitled to claim the Baby Bonus for the period between commencing care and the grant of the adoption order.⁴¹

In the [2003-04 Mid-Year Fiscal and Economic Outlook](#) statement it was indicated that the Government will amend the application of the Baby Bonus in relation to adoptive parents.⁴² Adoptive parents will be able to claim the Baby Bonus for the period between commencing care for the child and being granted legal responsibility via an adoption order. This measure will be given effect from 1 July 2001, which was the date on which the Baby Bonus came into effect.

Item 20 of Schedule 10 inserts **proposed section 61-440** to provide for an additional tax offset if a child is in your care before you legally adopt the child under the following conditions:

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- at the time the child is first in the care of the adoptive parents (**proposed paragraph 61-440(3)(a)**):
 - the adopted child is less than 5 years old
 - the child is in your care, but you are not legally responsible for the child, and
 - you are an Australian resident.
- you meet the conditions for eligibility for the Baby Bonus in subsection 61-355(3) in relation to the child in that year or later income year (**proposed paragraph 61-440(3)(b)**)
- you become legally responsible for the child by adopting the child (**proposed paragraph 61-440(3)(c)**), and
- the time is on or after 1 July 2001 but before 1 July 2004 (**proposed paragraph 61-440(3)(d)**).

Application

Item 23 of **Schedule 10** provides that the amendments made by this **Schedule** apply to assessments for income years that commence on or after 1 July 2001.

Schedule 11—Technical correction to the *Taxation Laws Amendment Act (No. 8) 2003*

Item 1 of **Schedule 11** of this Bill amends an error in subsection 2(1) (table item 5) of the *Taxation Laws Amendment Act (No. 8) 2003*. The error relates to a reference in table item 5 to the commencement of Schedule 7 to the *Taxation Laws Amendment Act (No. 7) 2003* instead of to Schedule 7 to the *Taxation Laws Amendment Act (No. 1) 2004*.

This error arose because the franking deficit tax (FDT) offset rules that applied to life insurance companies commenced immediately after the commencement of Schedule 7 to the *Taxation Laws Amendment Act (No. 1) 2004*.

These FDT offset rules were originally in Taxation Laws Amendment Bill (No. 7) 2003 which on enactment became the *Taxation Laws Amendment Act (No. 1) 2004*.

Application

The *Taxation Laws Amendment Act (No. 8) 2003* received Royal Assent on 21 October 2003 and hence the amendment proposed by **item 1** of **Schedule 8** will commence on 21 October 2003.

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Schedule 12—Transfer of life insurance business

Division 320 of the ITAA 1997 contains special rules for taxing life insurance companies. The life insurance industry had raised concerns about the tax consequences that arise when life insurance business is transferred to another life insurance company under Part 9 of the *Life Insurance Act 1995* or under the *Financial Sector (Transfers of Business) Act 1999*.

The measures in **Schedule 12** briefly outlined below are intended to meet the concerns of industry and implement the proposal announced in the former Minister of Financial Services and Regulation's [Media Release No. FSR/069](#) of 12 October 2000.

- **Item 5 of Schedule 12** inserts **proposed Subdivision 320-I** into Division 320 of the ITAA 1997 to ensure that life insurance companies are taxed appropriately when life insurance business is transferred from one life insurance company to another life insurance company.
- **Item 8 of Schedule 12** inserts **proposed Subdivision 126-B** into Division 126 of the ITAA 1997 to allow a CGT roll-over for capital gains and capital losses that arise when life insurance business is transferred if the recipient company and the originating company are members of the same wholly-owned group and the transfer occurs before the end of the consolidation period.⁴³

Proposed Subdivision 320-I and the new CGT roll-over will apply under **proposed section 320-305** and **proposed section 126-150** respectively, if all or part of the life insurance business of a life insurance company is transferred to another life insurance company:

- in accordance with a scheme confirmed by the Federal Court of Australia under Part 9 of the *Life Insurance Act 1995*, or
- under the *Financial Sector (Transfers of Business) Act 1999*.

The reader is referred to paragraphs 12.1 to 12.60 on pages 149 to 164 of [the Explanatory Memorandum](#) for a detailed explanation of the changes.⁴⁴

Application

Item 11 provides that the majority of the amendments made by **Schedule 12** apply to transfers of life insurance business that take place on or after 1 July 2000.

This is a new measure which was not in the Lapsed Bills No. 4 and 5.

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Concluding Comments

Financial impact of measures in the Bill

The thrust of the comments made in the Explanatory Memorandum on pages 3 to 13 as to the financial impact of the measures in the Bill are set out in the following table.

Measures in the Bill	Financial impact
Schedule 1—Consolidation: providing greater flexibility	Majority of the changes are not expected to impact on revenue. The amendment dealing with capital gains and capital losses in the value of deferred liabilities is unquantifiable.
Schedule 2—Copyright collecting societies	The financial impact of the amendments is expected to be negligible.
Schedule 3—Simplified imputation system – consequential and other amendments	Nil.
Schedule 4—Deductible gift recipients – adding to the list of DGRs and granting extensions to certain DGRs	<ul style="list-style-type: none"> • The cost to revenue of creating a new category of DGR for certain government special schools is unquantifiable, but likely to be small. • The DGR listings and extensions to DGR listings have the following financial impacts: <ul style="list-style-type: none"> – St Paul’s Cathedral Restoration Fund: \$2 million for the period of the extension; – St Patrick’s Cathedral Parramatta Rebuilding Fund: \$0.1 million for the period of the extension; – the Shrine of Remembrance Foundation and the Shrine of Remembrance Restoration and Development Trust: \$0.6 million over the period of the extension; – Finding Sydney Foundation: \$1 million over the life of the project; and – St George’s Cathedral Restoration Fund: \$0.9 million over the two year period. – The cost to revenue of the remaining DGR listings and extensions is unquantifiable but insignificant. <p><i>Comment:</i> The 2003 Tax Expenditures Statement states that tax deductible donations of a value of \$2 or more to all DGRs will cost revenue \$400 million in the year 2004-05, rising to \$430 million and \$460 million respectively in 2005-06 and 2006-07.⁴⁵</p>

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Measures in the Bill	Financial impact								
Schedule 5—Debt and equity interests – at call loans	The financial impact of the amendments is expected to be negligible.								
Schedule 6—Irrigation water providers	<p>The impact of this measure is estimated to cost \$15 million over the forward estimate period i.e. over the years 2004-05, 2005-06 and 2006-07.</p> <p><i>Comment:</i> The 2003 Tax Expenditures Statement states that the water facilities tax concession and the land care tax concession will cost \$80 million over the forward estimate period i.e. \$25 million in each of the years 2004-05 and 2005-06 and \$30 million in the year 2006-07.⁴⁶</p>								
Schedule 7—Fringe benefits tax extension of exemption on sale or acquisition of dwelling as a result of relocation of an employee at the request of an employer	This measure will result in an insignificant cost to revenue.								
Schedule 8—CGT event G3	These amendments have an unquantifiable but insignificant cost to revenue.								
Schedule 9—GST: supplies to offshore owners of Australian real property	<p>The gain to GST revenue from this measure is estimated to be as follows:</p> <table border="1" data-bbox="624 1245 1366 1391"> <thead> <tr> <th data-bbox="624 1245 810 1312">2004-2005</th> <th data-bbox="810 1245 997 1312">2005-2006</th> <th data-bbox="997 1245 1184 1312">2006-2007</th> <th data-bbox="1184 1245 1366 1312">2007-2008</th> </tr> </thead> <tbody> <tr> <td data-bbox="624 1312 810 1391">\$19 million</td> <td data-bbox="810 1312 997 1391">\$22 million</td> <td data-bbox="997 1312 1184 1391">\$23 million</td> <td data-bbox="1184 1312 1366 1391">\$24 million</td> </tr> </tbody> </table>	2004-2005	2005-2006	2006-2007	2007-2008	\$19 million	\$22 million	\$23 million	\$24 million
2004-2005	2005-2006	2006-2007	2007-2008						
\$19 million	\$22 million	\$23 million	\$24 million						
Schedule 10—Baby Bonus adoption amendments	This amendment has an insignificant cost to revenue.								
Schedule 11—Technical correction to the <i>Taxation Laws Amendment Act (No. 8) 2003</i>	Nil.								
Schedule 12—Transfer of life insurance business	Negligible.								

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Relief for groups in the consolidation regime

The consolidation regime came into operation from 1 July 2002 and since then there have been numerous changes which have not made it easy for businesses to make the various irrevocable elections under that regime. The consolidation regime was set in place by the *New Business Tax System (Consolidation) Act (No.1) 2002* which received the Royal Assent on 22 August 2002. The ATO [website](#) lists nine Acts of Parliament which received the Royal Assent between 22 August 2002 and 30 June 2004 to give effect to various changes and clarification of the initial legislation. Apart from this Bill, the Taxation Laws Amendment (2004 Measures No. 7) Bill, which was introduced on 8 December 2004, also includes measures to provide greater flexibility to the consolidation regime.

Against this background of changes effected and proposed, it is welcome relief for consolidated groups that the measures in this Bill in **Schedule 1** allow entities to revoke irrevocable choices or elections when they consolidate, join consolidated groups and/or leave consolidated groups.

In addition, further relief for consolidated groups was announced by the Hon Mal Brough, MP, the Minister for Revenue and Assistant Treasurer in his [Press Release](#) of 20 December 2004. He indicated that the Government will extend the time for making or revoking certain elections to 31 December 2005:

The Government's decision to extend the deadline comes after discussions between the Government and a number of affected stakeholders - providing consolidated groups an extra 12 months to make, revoke or change, certain elections. Specifically:

- the election to retain the existing tax cost for assets or reset their tax cost ('stick' or 'spread');
- the election to utilise certain losses over three years;
- the election under the 'value donor' concessions for calculating an entity's available fraction;
- the election to waive the capital injection rules where the value donor rules could apply; and
- the election to cancel a loss on the transfer of a loss.

However, the election to form a consolidated or Multiple Entry Consolidated group will remain irrevocable.⁴⁷

The extension of time granted may allow small and medium enterprises to reconsider their earlier elections which have impact on taxable income and their tax liability.

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Endnotes

- 1 [Explanatory Memorandum](#) to the Tax Laws Amendment (2004 Measures No. 6) Bill 2004. This Bills Digest draws extensively from the Explanatory Memorandum.
- 2 *ibid.*, p.3.
- 3 *ibid.*, p.4.
- 4 *ibid.*, p. 5.
- 5 *ibid.*, p. 6.
- 6 *ibid.*, p. 9.
- 7 *ibid.*, p. 9.
- 8 *ibid.*, p. 10.
- 9 *ibid.*, p. 11.
- 10 *ibid.*, p. 12.
- 11 *ibid.*, p. 12.
- 12 *ibid.*, p. 13
- 13 *ibid.*, p. 13.
- 14 The reader is referred to the [Explanatory Memorandum to the Tax Laws Amendment \(2004 Measures No. 4\) Bill 2004](#) and the [Correction to the Explanatory Memorandum to the Tax Laws Amendment \(2004 Measures No. 4\) Bill 2004](#) for explanations of the various measures in the Tax Laws Amendment (2004 Measures No. 4) Bill 2004. This Bills Digest also draws from the [Bills Digest no. 8](#) on the Tax Laws Amendment (2004 Measures No. 4) Bill 2004 by Bernard Pulle and Thomas John.
- 15 The reader is referred to the [Explanatory Memorandum to the Tax Laws Amendment \(2004 Measures No. 5\) Bill 2004](#) for explanations of the various measures in the Tax Laws Amendment (2004 Measures No. 5) Bill 2004.
- 16 [Consolidation in brief- taxing wholly owned corporate groups as single entities](#) - NAT 6081-02.2004
- 17 [Explanatory Memorandum](#) to the Tax Laws Amendment (2004 Measures No. 6) Bill 2004, pp. 15 to 78; paragraphs 1.1 to 1.230.
- 18 *ibid.*, p. 16, paragraph 1.5 and p. 25, paragraph 1.17.
- 19 *ibid.*, p.16, paragraph 1.6.
- 20 *ibid.*, p. 17, paragraph 1.7.
- 21 Bernard Pulle and Thomas John, 'Tax Laws Amendment (2004 Measures No. 4) Bill 2004, [Bills Digest, no. 8](#), Parliamentary Library, Canberra, 2004-05.
- 22 Explanatory Memorandum, *op. cit.* p. 17, paragraph 1.9.

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- 23 *ibid.*, p. 18, paragraph 1.14.
- 24 *ibid.*, p. 17, paragraph 1.10.
- 25 *ibid.*, pp 56 to 58; paragraphs 1.135 to 1.148.
- 26 *ibid.*, pp. 58 to 61; paragraphs 1.149 to 1.155.
- 27 *ibid.*, p. 61, paragraph 1.156.
- 28 *ibid.*, pp. 61 to 62; paragraphs 1.156 to 1.162.
- 29 *ibid.*, pp. 24 and 25, paragraph 1.16.
- 30 *ibid.*, pp. 66 to 78; paragraphs 1.183 to 1.230.
- 31 *ibid.*, p. 63, paragraphs 1.163 to 1.167.
- 32 Department of Communications and the Arts, *Review of Australian Copyright Collecting Societies - A report to the Minister for Communications and the Arts and the Minister for Justice by Shane Simpson*, Department for Communications and the Arts, Canberra, 1995.
- 33 Explanatory Memorandum, *op.cit.* p. 88, paragraph 3.6.
- 34 *ibid.*, pp. 87 to 96, paragraphs 3.1 to 3.33.
- 35 The Hon P. Costello, Treasurer, ‘Support for Organisations affected by eligibility changes to fringe benefits tax concessions’, [Press Release No. 32 of 11 May 2004](#).
- 36 Explanatory Memorandum, *op. cit.* p. 98, paragraph 4.8.
- 37 Senator the Hon Helen Coonan, the former Minister for Revenue and Assistant Treasurer, and the Hon Warren Truss, Minister for Agriculture, Fisheries and Forestry, ‘Taxation Concessions for Irrigation Water Providers’, [Joint Press Release](#) No. C040/04 of 11 May 2004.
- 38 Senator the Hon Helen Coonan, the former Minister for Revenue and Assistant Treasurer, ‘Fringe Benefits Tax – Exemptions and Reporting Exclusions’, [Press Release No. C031/04](#) of 11 May 2004.
- 39 Senator the Hon Helen Coonan, the former Minister for Revenue and Assistant Treasurer, ‘Capital Gains Tax Improvements’, [Press Release No. C029/04](#) of 11 May 2004.
- 40 Explanatory Memorandum, *op.cit.*, pp. 139 to 140, paragraphs 9.5 to 9.8.
- 41 *ibid.*, p. 141, paragraph 10.2.
- 42 The Hon. Peter Costello, MP, Treasurer and Senator the Hon. Nick Minchin, Minister for Finance and Administration, [Mid-Year Economic and Fiscal Outlook 2003-04](#) (8 December 2003), p. 123.
- 43 *ibid.*, p.151, paragraph 12.5.
- 44 *ibid.*, pp. 149 to 164, paragraphs 12.1 to 12.60.
- 45 [2003 Tax Expenditures Statement](#), p. 67, TES Code A56.
- 46 *ibid.*, p. 87, TES Code B36.

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- 47 The Hon Mal Brough MP, the Minister for Revenue and Assistant Treasurer, ‘More Time for Consolidated Groups to Make Elections’, [Press Release No. 022 of 20 December 2004](#) .

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