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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Tax Laws Amendment (2009 GST
Administration Measures) Bill 2009**

No. , 2009

(Treasury)

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

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

3 The Parliament of Australia enacts:

4 **1 Short title**

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

7 **2 Commencement**

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

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	The day this Act receives the Royal Assent.	
3. Schedule 2, items 1 and 2	1 July 2010.	1 July 2010
4. Schedule 2, items 3 and 4	The later of: (a) immediately after the commencement of the provision(s) covered by table item 6; and (b) the start of 1 July 2010.	
5. Schedule 2, items 5 to 23	1 July 2010.	1 July 2010
6. Schedules 3 to 6	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

3 Schedule(s)

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.
12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **7 After Division 90**

18 Insert:

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

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

3 Your entitlements to input tax credits for creditable acquisitions
4 cease unless you include them in your net amounts within 4 years.

5 However, this time limit might not apply to any such entitlements
6 relating to amounts that the Commissioner has notified to you, that
7 arise as a result of fraud or evasion, or that you have notified to the
8 Commissioner.

9 Note: These amounts are dealt with in sections 105-50 and 105-55 in
10 Schedule 1 to the *Taxation Administration Act 1953*.

11 **93-5 Time limit on entitlements to input tax credits**

- 12 (1) You cease to be entitled to an input tax credit for a *creditable
13 acquisition to the extent that you have not taken it into account in
14 working out your *net amount for:
- 15 (a) the tax period to which the input tax credit would be
16 attributable under subsection 29-10(1) or (2); or
 - 17 (b) any other tax period for which you give to the Commissioner
18 a *GST return during the period of 4 years after the day on
19 which you were required to give to the Commissioner a GST
20 return for the tax period referred to in paragraph (a).

21 Note: Section 93-10 sets out circumstances in which your entitlement to the
22 input tax credit does not cease under this section.

- 23 (2) This section has effect despite section 11-20 (which is about who is
24 entitled to input tax credits for creditable acquisitions).

25 **93-10 Exceptions to time limit on entitlements to input tax credits**

26 *Commissioner has notified you of excess or refund etc.*

- 27 (1) You do not cease under section 93-5 to be entitled to an input tax
28 credit to the extent that:
- 29 (a) the input tax credit arises out of circumstances that also gave
30 rise to the whole or a part of:

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- (i) an amount, or an amount of an excess, in relation to which paragraph 105-50(3)(a) in Schedule 1 to the *Taxation Administration Act 1953* applies; or
 - (ii) a refund, other payment or credit in relation to which paragraph 105-55(1)(b) in Schedule 1 to that Act applies; and
- (b) the Commissioner gave to you the notice referred to in that paragraph not later than 4 years after the end of the tax period to which the credit would be attributable under subsection 29-10(1) or (2) of this Act.

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

Note 2: Section 93-15 of this Act may preclude this subsection from applying to the input tax credit, in which case section 93-5 of this Act will apply.

Excess relates to amount avoided by fraud or evaded

- (2) You do not cease under section 93-5 to be entitled to an input tax credit to the extent that the input tax credit arises out of circumstances that also gave rise to:
- (a) the whole or a part of an amount in relation to which paragraph 105-50(3)(b) in Schedule 1 to the *Taxation Administration Act 1953* applies; or
 - (b) an amount of an excess, in relation to which that paragraph applies.

Note 1: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953* deals with the time limit within which the Commissioner can recover indirect tax amounts.

Note 2: Section 93-15 of this Act may preclude this subsection from applying to the input tax credit, in which case section 93-5 of this Act will apply.

You have notified the Commissioner of refund etc.

- (3) You do not cease under section 93-5 to be entitled to an input tax credit to the extent that:
- (a) the input tax credit arises out of circumstances that also gave rise to the whole or a part of a refund, other payment or credit

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

1 in relation to which paragraph 105-55(1)(a) in Schedule 1 to
2 the *Taxation Administration Act 1953* applies; and
3 (b) you gave to the Commissioner the notice referred to in that
4 paragraph not later than 4 years after the end of the tax period
5 to which the credit would be attributable under subsection
6 29-10(1) or (2) of this Act.

7 Note 1: Section 105-55 in Schedule 1 to the *Taxation Administration Act 1953*
8 deals with the time limit within which you can claim amounts relating
9 to indirect tax.

10 Note 2: Section 93-15 of this Act may preclude this subsection from applying
11 to the input tax credit, in which case section 93-5 of this Act will
12 apply.

13 **93-15 GST ceasing to be payable on the related supply**

14 Section 93-10 does not apply if:

- 15 (a) GST has ceased to be payable (other than as a result of its
16 payment) on the supply that is related to the *creditable
17 acquisition for which you would be entitled to an input tax
18 credit but for this section; and
19 (b) at the time of the cessation, you did not hold a *tax invoice
20 for the creditable acquisition.

21 **8 Section 129-80 (heading)**

22 Repeal the heading, substitute:

23 **129-80 Effect of adjustment under Division 19, 21 or 133**

24 **9 Section 129-80**

25 Omit “Division 19 or 21”, substitute “Division 19, 21 or 133”.

26 **10 Subsection 132-5(2) (paragraph (c) of the definition of**
27 ***adjusted input tax credit*)**

28 Omit “Division 129”, substitute “Division 129 or 133”.

29 **11 After Division 132**

30 Insert:

1 **Division 133—Providing additional consideration under**
2 **gross-up clauses**

3 **133-1 What this Division is about**

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

8 **133-5 Decreasing adjustments for additional consideration provided**
9 **under gross-up clauses**

10 (1) You have a *decreasing adjustment* if:

11 (a) you made an acquisition on the basis that:

12 (i) it was not a *creditable acquisition because the supply to
13 which the acquisition relates was not a *taxable supply;
14 or

15 (ii) it was *partly creditable because the supply to which the
16 acquisition relates was only partly a taxable supply; and

17 (b) you provided *additional consideration for the acquisition in
18 compliance with a contractual obligation that required you, or
19 had the effect of requiring you, to provide additional
20 consideration if:

21 (i) in a case where subparagraph (a)(i) applies—the supply
22 was later found to be a taxable supply, or to be partly a
23 taxable supply; or

24 (ii) in a case where subparagraph (a)(ii) applies—the supply
25 was later found to be a taxable supply to a greater
26 extent; and

27 (c) GST on the supply has not ceased to be payable (other than
28 as a result of its payment); and

29 (d) at the time you provided the additional consideration, you
30 were no longer entitled to an input tax credit for the
31 acquisition.

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

- 1 (2) The amount of the *decreasing adjustment is the difference
2 between:
3 (a) what would have been the *previously attributed input tax
4 credit amount for the acquisition if:
5 (i) the *additional consideration for the acquisition had
6 been provided as part of the original *consideration for
7 the acquisition; and
8 (ii) in a case where you have not held a *tax invoice for the
9 acquisition—you held such an invoice; and
10 (iii) subsection 29-10(4) did not apply in relation to the
11 acquisition; and
12 (b) the previously attributed input tax credit amount.
- 13 (3) To avoid doubt, *additional consideration* for an acquisition
14 includes a part of the *consideration for the acquisition that:
15 (a) relates to the amount of GST payable on the *taxable supply
16 to which the acquisition relates; and
17 (b) at the time of the acquisition, the parties to the transaction
18 under which the acquisition was made assumed was not
19 payable.

20 **133-10 Availability of adjustments under Division 19 for acquisitions**

- 21 (1) If:
22 (a) you have a *decreasing adjustment under this Division for an
23 acquisition; and
24 (b) the circumstances that gave rise to the adjustment also
25 constitute an *adjustment event;
26 you do not have a decreasing adjustment under section 19-70 for
27 the acquisition in relation to those circumstances.
- 28 (2) This section has effect despite section 19-70 (which is about
29 adjustments for acquisitions arising because of adjustment events).

30 **12 Section 195-1**

31 Insert:

32 *additional consideration* includes the meaning given by subsection
33 133-5(3).

1 **13 Section 195-1 (after table item 6 of the definition of**
2 ***decreasing adjustment*)**

3 Insert:

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

4 ***Income Tax Assessment Act 1997***

5 **14 Subsection 995-1(1)**

6 Insert:

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

9 ***Taxation Administration Act 1953***

10 **15 At the end of subsection 105-55(1) in Schedule 1**

11 Add:

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

15 **16 After subsection 105-55(2) in Schedule 1**

16 Insert:

17 (2A) A request by you to the Commissioner to treat a document as a *tax
18 invoice for the purposes of attributing a credit to a *tax period is
19 taken to be a notification, for the purposes of paragraph (1)(a), of
20 your entitlement to the credit if:

- 21 (a) you made the request within the 4 year period referred to in
22 that paragraph in relation to the credit; and
23 (b) the Commissioner agrees to the request (whether or not
24 within that period).
25

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

2 ***Fuel Tax Act 2006***

3 **17 At the end of Part 3-3**

4 Add:

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

6 **Table of Subdivisions**

7 Guide to Division 47

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

9 **Guide to Division 47**

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

11 Your entitlements to fuel tax credits cease unless you include them
12 in your net fuel amounts within 4 years.

13 However, this time limit might not apply to any such entitlements
14 relating to amounts that the Commissioner has notified to you, that
15 arise as a result of fraud or evasion, or that you have notified to the
16 Commissioner.

17 Note: These amounts are dealt with in sections 105-50 and 105-55 in
18 Schedule 1 to the *Taxation Administration Act 1953*.

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

20 **Table of Sections**

21 47-5 Time limit on entitlements to fuel tax credits

22 47-10 Exceptions to time limit on entitlements to fuel tax credits

23 **47-5 Time limit on entitlements to fuel tax credits**

24 You cease to be entitled to a fuel tax credit to the extent that you
25 have not taken it into account in working out your *net fuel amount
26 for:

- 1 (a) the *tax period or *fuel tax return period to which the fuel tax
2 credit would be attributable under subsection 65-5(1), (2) or
3 (3); or
4 (b) any other tax period, or fuel tax return period, for which you
5 give to the Commissioner a return under section 61-15 during
6 the period of 4 years after the day on which you were
7 required to give to the Commissioner such a return for the tax
8 period or fuel tax return period referred to in paragraph (a).

9 Note: Section 47-10 sets out circumstances in which your entitlement to the
10 fuel tax credit does not cease under this section.

11 **47-10 Exceptions to time limit on entitlements to fuel tax credits**

12 *Commissioner has notified you of excess or refund etc.*

- 13 (1) You do not cease under section 47-5 to be entitled to a fuel tax
14 credit to the extent that:
15 (a) the fuel tax credit arises out of circumstances that also gave
16 rise to the whole or a part of:
17 (i) an amount, or an amount of an excess, in relation to
18 which paragraph 105-50(3)(a) in Schedule 1 to the
19 *Taxation Administration Act 1953* applies; or
20 (ii) a refund, other payment or credit in relation to which
21 paragraph 105-55(1)(b) or (3)(b) in Schedule 1 to that
22 Act applies; and
23 (b) the Commissioner gave to you the notice referred to in that
24 paragraph not later than 4 years after the end of the tax period
25 to which the credit would be attributable under subsection
26 65-5(1), (2) or (3) of this Act.

27 Note: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953*
28 deals with the time limit within which the Commissioner can recover
29 indirect tax amounts, and section 105-55 in Schedule 1 to that Act
30 deals with the time limit within which you can claim amounts relating
31 to indirect tax.

32 *Excess relates to amount avoided by fraud or evaded*

- 33 (2) You do not cease under section 47-5 to be entitled to a fuel tax
34 credit to the extent that the fuel tax credit arises out of
35 circumstances that also gave rise to:

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

1 (a) the whole or a part of an amount in relation to which
2 paragraph 105-50(3)(b) in Schedule 1 to the *Taxation*
3 *Administration Act 1953* applies; or

4 (b) an amount of an excess, in relation to which that paragraph
5 applies.

6 Note: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953*
7 deals with the time limit within which the Commissioner can recover
8 indirect tax amounts.

9 *You have notified the Commissioner of refund etc.*

10 (3) You do not cease under section 47-5 to be entitled to a fuel tax
11 credit to the extent that:

12 (a) the fuel tax credit arises out of circumstances that also gave
13 rise to the whole or a part of a refund, other payment or credit
14 in relation to which paragraph 105-55(1)(a) or (3)(a) in
15 Schedule 1 to the *Taxation Administration Act 1953* applies;
16 and

17 (b) you gave to the Commissioner the notice referred to in that
18 paragraph not later than 4 years after the end of the tax period
19 to which the credit would be attributable under subsection
20 65-5(1), (2) or (3) of this Act.

21 Note: Section 105-55 in Schedule 1 to the *Taxation Administration Act 1953*
22 deals with the time limit within which you can claim amounts relating
23 to indirect tax.

24 ***Taxation Administration Act 1953***

25 **18 At the end of subsection 105-55(3) in Schedule 1**

26 Add:

27 Note: Division 47 of the *Fuel Tax Act 2006* puts a time limit on your
28 entitlement to a fuel tax credit.
29

1 **Part 3—Application of amendments**

2 **19 Application of amendments relating to input tax credits**

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

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

15 **20 Application of amendments relating to fuel tax credits**

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

- 19 (a) returns given to the Commissioner under section 61-15 of the
20 *Fuel Tax Act 2006* on or after 1 July 2010; or
21 (b) amendments of such returns.
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Schedule 2—Refund collection system

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

4

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

5

Insert:

6

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

7

8

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

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

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

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Add:

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

17

18

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

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Insert:

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

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22

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

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24

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

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

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Add:

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

31

32

5 Section 168-1

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

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

4 Insert:

5 *Exporting goods as accompanied baggage*

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

7 Insert:

8 *Resident of external Territory sending goods home*

9 (1A) If:

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

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

32 Insert:

1 *Paying the refund*

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

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

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

5 Add:

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

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

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

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

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

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

16 Add:

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

18 (1) If:

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

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

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

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

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

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

30 (a) starts on the due day; and

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

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

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

5 **12 Section 25-1**

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

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

9 Insert:

10 *Exporting wine as accompanied baggage*

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

12 Insert:

13 *Resident of external Territory sending wine home*

14 (1A) If:

- 15 (a) you have *borne wine tax on wine that you purchased; and
- 16 (b) the purchase is of a kind specified in the regulations; and
- 17 (c) an amount is payable to you under subsection 168-5(1A) of
- 18 the *GST Act for the *taxable supply corresponding to the
- 19 purchase;

20 the Commissioner must, on behalf of the Commonwealth, pay to
21 you an amount equal to:

- 22 (d) the amount of the wine tax that you have borne on the wine;
- 23 or
- 24 (e) such proportion of that amount of wine tax as is specified in
- 25 the regulations.

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

27 Insert:

28 *Working out amounts of wine tax borne*

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

1 Insert:

2 *Paying the refund*

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

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

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

6 Add:

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

8 (1) If:

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

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

- 21 (a) starts on the due day; and
22 (b) finishes at the end of the last day at the end of which any of
23 the following remains unpaid:
24 (i) the recoverable amount;
25 (ii) general interest charge on any of the recoverable
26 amount.

27 ***Taxation Administration Act 1953***

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

29 Insert:

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

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

2 Insert:

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

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

4 Insert:

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

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

6 Insert:

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

7 **23 Application**

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

10 (2) However, if this Act does not receive the Royal Assent on or before
 11 1 July 2010, the amendments made by items 3 and 4 of this Schedule
 12 apply in relation to goods acquired, and wine purchased, on or after the
 13 day this Act receives the Royal Assent.
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Schedule 3—Agency provisions

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

1 Division 153 (heading)

Repeal the heading, substitute:

Division 153—Agents etc. and insurance brokers

2 Section 153-1

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

3 Subsection 153-15(2) (note)

Repeal the note, substitute:

Note: If Subdivision 153-B is to apply to the supply, there will be an arrangement under which only your agent can issue the tax invoice: see paragraph 153-50(1)(d).

4 Subdivision 153-B (heading)

Repeal the heading, substitute:

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

5 Section 153-50 (heading)

Repeal the heading, substitute:

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

6 Section 153-50

Before “An”, insert “(1)”.

7 Section 153-50

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

8 Paragraph 153-50(a)

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Repeal the paragraph, substitute:

- (a) the intermediary will, on the principal’s behalf, do any or all of the following:
 - (i) make supplies to third parties;
 - (ii) facilitate supplies to third parties (including by issuing *invoices relating to, or receiving *consideration for, such supplies);
 - (iii) make acquisitions from third parties;
 - (iv) facilitate acquisitions from third parties (including by providing consideration for such acquisitions); and

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

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

10 At the end of section 153-50

Add:

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

11 Subsection 153-55(1)

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

12 Subsection 153-55(2)

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

13 Paragraph 153-55(2)(a)

Omit “*agent’s supply*) that the agent”, substitute “*intermediary’s supply*) that the intermediary”.

14 Paragraph 153-55(2)(b)

Omit “agent in respect of the agent’s”, substitute “intermediary in respect of the intermediary’s”.

15 Subsection 153-55(2)

Omit “The agent”, substitute “The intermediary”.

16 Subsection 153-55(3)

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

3 **17 Paragraphs 153-55(3)(a) and (b)**

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

5 **18 Subsection 153-60(1)**

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

7 **19 Subsection 153-60(2)**

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

9 **20 Paragraph 153-60(2)(a)**

10 Omit “*agent’s acquisition*) that the agent”, substitute “*intermediary’s*
11 *acquisition*) that the intermediary”.

12 **21 Paragraph 153-60(2)(b)**

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

15 **22 Subsection 153-60(2)**

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

17 **23 Subsection 153-60(3)**

18 Omit “agent for the agent’s”, substitute “intermediary for the
19 intermediary’s”.

20 **24 Paragraphs 153-60(3)(a) and (b)**

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

22 **25 Subsection 153-65(1)**

23 Repeal the subsection, substitute:

24 (1) The Commissioner may determine in writing that:

25 (a) supplies of a specified kind to third parties that any entity
26 (the *intermediary*) makes or facilitates (including by issuing
27 *invoices relating to, or receiving *consideration for, such
28 supplies) on behalf of any other entity (the *principal*); or

1 (b) acquisitions of a specified kind from third parties that any
 2 entity (the *intermediary*) makes or facilitates (including by
 3 providing consideration for such acquisitions) on behalf of
 4 any other entity (the *principal*);
 5 are taken to be supplies or acquisitions that are of a kind to which
 6 an arrangement of a kind referred to in section 153-50 applies, and
 7 that are made in accordance with that arrangement.

8 **26 Subsection 153-65(2)**

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

10 **27 Paragraph 153-65(2)(a)**

11 Omit “that the agent makes to third parties”, substitute “to third parties
 12 that the intermediary makes or facilitates (including by issuing *invoices
 13 relating to, or receiving *consideration for, such supplies)”.

14 **28 Paragraph 153-65(2)(b)**

15 Omit “that the agent makes from third parties”, substitute “from third
 16 parties that the intermediary makes or facilitates (including by
 17 providing consideration for such acquisitions)”.

18 **29 Subsections 188-24(1) and (2)**

19 Omit “agent”, substitute “intermediary”.

20 ***Taxation Administration Act 1953***

21 **30 Subsection 382-5(5) in Schedule 1**

22 Omit “agent”, substitute “intermediary (within the meaning of that
 23 section)”.

24 **31 Application**

25 The amendments made by this Schedule apply in relation to supplies
 26 and acquisitions made on or after 1 July 2010.
 27

1 **Schedule 4—Gambling activities by entities**
2 **outside Australia**
3

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

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

6 Omit “under section 38-270”.

7 **2 Application**

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

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

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

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

4 **1 Section 35-5**

5 Before “If”, insert “(1)”.

6 **2 At the end of section 35-5 (after the notes)**

7 Add:

8 (2) However, if the amount paid, or applied under the *Taxation*
9 *Administration Act 1953*, exceeds the amount to which you are
10 properly entitled under subsection (1), the excess is to be treated as
11 if it were GST that became payable, and due for payment, by you
12 at the time when the amount was paid or applied.

13 Note: The main effect of treating the amount as if it were GST is to apply
14 the collection and recovery rules in Part 3-10 in Schedule 1 to the
15 *Taxation Administration Act 1953*, such as a liability to pay the
16 general interest charge under section 105-80 in that Schedule.

17 **3 Application**

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

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

23 **4 At the end of Division 17**

24 Add:

25 **17-15 Excess credits must be repaid**

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

31 Note: The main effect of treating the amount as if it were luxury car tax is to
32 apply the collection and recovery rules in Part 3-10 in Schedule 1 to

1 the *Taxation Administration Act 1953*, such as a liability to pay the
2 general interest charge under section 105-80 in that Schedule.

3 **5 Application**

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

6 ***Fuel Tax Act 2006***

7 **6 At the end of section 61-5**

8 Add:

- 9 (3) However, if the amount (the *refund*) paid, or applied under the
10 *Taxation Administration Act 1953*, for a *tax period or *fuel tax
11 return period exceeds the *amount to which you are properly
12 entitled under subsection (1) for that period, you must pay the
13 excess to the Commissioner as if:
- 14 (a) the excess were a *net fuel amount for that period; and
 - 15 (b) that net fuel amount were an amount greater than zero and
16 equal to the excess; and
 - 17 (c) despite section 61-10, that net fuel amount became payable,
18 and due for payment, by you at the time when the refund was
19 paid or applied.

20 Note: Treating the excess as if it were a net fuel amount has the effect of
21 applying the collection and recovery rules in Part 3-10 in Schedule 1
22 to the *Taxation Administration Act 1953*, such as a liability to pay the
23 general interest charge under section 105-80 in that Schedule.

24 **7 Application**

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

29 ***Taxation Administration Act 1953***

30 **8 Subsection 250-10(2) in Schedule 1 (after table item 10)**

31 Insert:

12	excess refund of GST	35-5(2)	<i>A New Tax System (Goods and Services Tax) Act 1999</i>
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1 **9 Subsection 250-10(2) in Schedule 1 (after table item 15)**

2 Insert:

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

3 **10 Subsection 250-10(2) in Schedule 1 (before table item 20)**

4 Insert:

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

5 **11 Subsection 250-10(2) in Schedule 1 (table item 36)**

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

7

1 **Schedule 6—Interaction of associate**
2 **provisions**
3

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

5 **1 Subsection 38-185(1) (after table item 2)**

6 Insert:

2A	Export of goods—supplies to associates without consideration	a supply of goods without *consideration to an *associate of the supplier, but only if the supplier exports them from Australia.
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7 **2 At the end of section 38-185**

8 Add:

- 9 (4) Without limiting item 2A in the table in subsection (1), a supplier
10 of goods is treated, for the purposes of that item, as having
11 exported the goods from Australia if:
- 12 (a) before the goods are exported, the supplier supplies them to
13 an entity that:
 - 14 (i) is an *associate of the supplier; and
 - 15 (ii) is not *registered or *required to be registered; and
 - 16 (b) the associate exports the goods from Australia within 60 days
17 (or such further period as the Commissioner allows) after the
18 earlier of the following:
 - 19 (i) the day the goods were delivered in Australia to the
20 associate;
 - 21 (ii) the day the goods were made available in Australia to
22 the associate; and
 - 23 (c) the goods have been entered for export within the meaning of
24 section 113 of the *Customs Act 1901*; and
 - 25 (d) since their supply to the associate, the goods have not been
26 altered or used in any way, except to the extent (if any)
27 necessary to prepare them for export; and
 - 28 (e) the supplier has sufficient documentary evidence to show that
29 the goods were exported.

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

3 **3 At the end of Subdivision 72-A**

4 Add:

5 **72-20 Supplies and acquisitions that would otherwise be sales etc.**

- 6 (1) If, apart from a lack of *consideration:
- 7 (a) a supply to your *associate from you; or
- 8 (b) a supply to you from your associate;
- 9 would be a sale or some other kind of supply, the supply is taken
10 for the purposes of the *GST law to be a supply of that kind.
- 11 (2) If, apart from a lack of *consideration:
- 12 (a) an acquisition by your *associate from you; or
- 13 (b) an acquisition by you from your associate;
- 14 would be by sale or some other means, the acquisition is taken for
15 the purposes of the *GST law to be an acquisition by that means.

16 **72-25 Supplies that would otherwise be GST-free, input taxed or**
17 **financial supplies**

- 18 The fact that a supply to or from your *associate is without
19 *consideration does not stop the supply from being any of the
20 following for the purposes of the *GST law:
- 21 (a) a *GST-free supply;
- 22 (b) a supply that is *input taxed;
- 23 (c) a *financial supply.

24 **4 Application**

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