

# EXPOSURE DRAFT

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Inserts for  
**Treasury Laws Amendment (Measures  
for a later sitting) Bill 2018: Limiting  
deductions for vacant land**

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**Commencement information**

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| Column 1      | Column 2   | Column 3     |
|---------------|--|--------------|
| Provisions    | Commencement   | Date/Details |
| 1.            |  |              |
| 2. Schedule # | The first 1 January, 1 April, 1 July or<br>1 October to occur after the day this Act<br>receives the Royal Assent. |              |
| 3.            |  |              |

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## Schedule #—Limiting deductions for vacant land

### *Income Tax Assessment Act 1997*

#### **1 Section 12-5 (before table item headed “land degradation”)**

Insert:

##### **land**

land degradation, see *primary production*

vacant land, limit on deduction ..... 26-105

#### **2 Section 12-5 (table item headed “land degradation”)**

Repeal the item.

#### **3 At the end of Division 26**

Add:

#### **26-105 Expenses associated with holding vacant land**

##### *Limit on deduction*

(1) If, at a particular time:

- (a) you incur a loss or outgoing relating to holding land; and
- (b) on the land, there is no substantive permanent building, or other substantive permanent structure, that is in use or ready for use;

you can only deduct under this Act the loss or outgoing to the extent that the land is being used at that time in carrying on a \*business for the purpose of gaining or producing the assessable income of one or more of the entities covered by subsection (2).

(2) The entities are as follows:

- (a) you;
- (b) your \*affiliate, or an entity of which you are an affiliate;
- (c) if you are an individual—your \*spouse, or any of your \*children who is under 18 years of age;
- (d) an entity \*connected with you.

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*Disregard certain residential premises if not rented etc.*

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2 (3) For the purposes of paragraph (1)(b), disregard a building that is  
3 \*residential premises and has been constructed, or \*substantially  
4 renovated, while you hold the land unless:  
5 (a) the residential premises are lawfully able to be occupied; and  
6 (b) the residential premises are:  
7 (i) leased, hired, or licensed; or  
8 (ii) available for lease, hire or licence.

9 Note: If all of the substantive permanent structures on the land are  
10 disregarded under this subsection, then subsection (1) may deny you a  
11 deduction for a loss or outgoing relating to the land.

12 *Exception—kind of entity*

- 13 (4) Subsection (1) does not stop you deducting a loss or outgoing if, at  
14 any time during the income year in which the loss or outgoing is  
15 incurred, you are:  
16 (a) a \*corporate tax entity; or  
17 (b) a \*superannuation plan that is not a \*self managed  
18 superannuation fund; or  
19 (c) a \*managed investment trust; or  
20 (d) a public unit trust (within the meaning of section 102P of the  
21 *Income Tax Assessment Act 1936*); or  
22 (e) a unit trust or partnership, if each \*member of the trust or  
23 partnership is covered by a paragraph of this subsection at  
24 that time during the income year.

## 4 Application of amendments

25  
26 The amendments made by this Schedule apply in relation to losses or  
27 outgoings incurred on or after 1 July 2019 (whether the applicable land  
28 is acquired before, on or after 1 July 2019).