

# EXPOSURE DRAFT

2013-2014-2015-2016

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT
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## **International Tax Agreements Amendment Bill 2016**

**No.     , 2016**

*(Treasury)*

**A Bill for an Act to amend the law relating to  
taxation, and for related purposes**

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1  
2 **A Bill for an Act to amend the law relating to**  
3 **taxation, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *International Tax Agreements*  
7 *Amendment Act 2016*.

8 **2 Commencement**

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

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day this Act receives the Royal Assent.	

14 Note: This table relates only to the provisions of this Act as originally  
15 enacted. It will not be amended to deal with any later amendments of  
16 this Act.

- 17 (2) Any information in column 3 of the table is not part of this Act.  
18 Information may be inserted in this column, or information in it  
19 may be edited, in any published version of this Act.

20 **3 Schedules**

21 Legislation that is specified in a Schedule to this Act is amended or  
22 repealed as set out in the applicable items in the Schedule  
23 concerned, and any other item in a Schedule to this Act has effect  
24 according to its terms.

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## Schedule 1 Amendments

### Part 1 Agreement with Germany

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1 **Schedule 1—Amendments**

2 **Part 1—Agreement with Germany**

3 *International Tax Agreements Act 1953*

4 **1 Subsection 3AAA(1) (definition of *German agreement*)**

5 Repeal the definition, substitute:

6 ***German agreement*** means:

- 7 (a) the Agreement between Australia and the Federal Republic  
8 of Germany for the elimination of double taxation with  
9 respect to taxes on income and on capital and the prevention  
10 of fiscal evasion and avoidance; and  
11 (b) the protocol to that agreement;  
12 each done at Berlin on 12 November 2015.

13 Note: In 2016, the text of this agreement was accessible through the  
14 Australian Treaties Library on the AustLII website  
15 ([www.austlii.edu.au](http://www.austlii.edu.au)).

16 **2 Subsection 3AAB(1)**

17 Insert:

18 ***German 1972 agreement*** means:

- 19 (a) the Agreement between the Commonwealth of Australia and  
20 the Federal Republic of Germany for the avoidance of double  
21 taxation and the prevention of fiscal evasion with respect to  
22 taxes on income and capital and to certain other taxes; and  
23 (b) the protocol to that agreement;  
24 each done at Melbourne on 24 November 1972.

25 Note 1: The text of this agreement and protocol is set out in Australian Treaty  
26 Series 1975 No. 8 ([1975] ATS 8).

27 Note 2: Section 11 continues to give this agreement and protocol the force of  
28 law in respect of certain income.

29 **3 Subsection 5(1) (after table item dealing with French  
30 convention)**

31 Insert:

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Amendments **Schedule 1**  
Agreement with Germany **Part 1**

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German agreement

nil

1 **4 Section 11 (heading)**

2 Repeal the heading, substitute:

3 **11 Earlier agreement with Germany**

4 **5 Subsection 11(1)**

5 Omit “Subject to this Act, on and after the date of entry into force of the  
6 German agreement, the provisions of the agreement, so far as those  
7 provisions affect Australian tax, have, and shall be deemed to have  
8 had,”, substitute “Subject to this Act, the provisions of the German 1972  
9 agreement, so far as those provisions affect Australian tax, continue to  
10 have”.

11 **6 Subsection 11(3)**

12 Repeal the subsection, substitute:

- 13 (2) For the purposes of the Assessment Act, income that:
- 14 (a) is derived by a person who is a resident of the Federal  
15 Republic of Germany for the purposes of the German 1972  
16 agreement; and
- 17 (b) is income in relation to which the agreement remains  
18 effective; and
- 19 (c) is income that, under Articles 6 to 8 and 10 to 16 of the  
20 agreement, may be taxed in Australia;
- 21 is taken to be derived from sources in Australia.

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## Schedule 1 Amendments

### Part 2 Technical amendments

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1 **Part 2—Technical amendments**

2 ***International Tax Agreements Act 1953***

3 **7 Subsection 3AAA(1) (note at the end of the definition of**  
4 ***Swiss convention*)**

5 Repeal the note, substitute:

6 Note: The text of this convention and protocol is set out in Australian Treaty  
7 Series 2014 No. 33 ([2014] ATS 33).

8 **8 Subsection 3AAB(1) (note 2 at the end of the definition of**  
9 ***Swiss 1980 agreement*)**

10 Omit “or fringe benefits”.

11 **9 Subsection 24(1) (note)**

12 Repeal the note, substitute:

13 Note: Article 9 of the United Kingdom convention deals with profits of  
14 associated enterprises.

15 ***Taxation (Interest on Overpayments and Early Payments)***  
16 ***Act 1983***

17 **10 Subsection 3A(1A)**

18 Repeal the subsection, substitute:

19 (1A) For the purposes of this Act, a decision to which this Act applies is  
20 made to ***provide correlative relief*** for economic double taxation if:

21 (a) there is a double tax agreement applying to Australia and one  
22 of the following (a ***treaty partner***):

23 (i) a foreign country or a constituent part of a foreign  
24 country;

25 (ii) an overseas territory; and

26 (b) the treaty partner taxes profits, or purports to tax profits, in  
27 accordance with, or consistent with the principles of:



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Amendments **Schedule 1**  
Technical amendments **Part 2**

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- (i) if the treaty partner is the United Kingdom—Article 9 of the United Kingdom convention (within the meaning of the *International Tax Agreements Act 1953*); or
  - (ii) otherwise—a corresponding provision of another double tax agreement; and
- Note: Article 9 of the United Kingdom convention deals with profits of associated enterprises.
- (c) the decision is made in giving effect to subsection 24(3) of that Act.