Inserts for

Tax Laws Amendment (2012 Measures No. 4) Bill 2012: Lowering the corporate tax rate

EXPOSURE-DRAFT

Commencement information

Column 1	Column 2	Column 3
Provision(s)	**Commencement**	**Date/Details**
1. Schedule 1	The latest of the following: (a) the day this Act receives the Royal Assent; (b) the day the *Minerals Resource Rent Tax Act 2011* receives the Royal Assent; (c) the day the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2011* receives the Royal Assent; (d) the day the *Minerals Resource Rent Tax (Imposition—General) Act 2011* receives the Royal Assent; (e) the day the *Minerals Resource Rent Tax (Imposition—Customs) Act 2011* receives the Royal Assent; (f) the day the *Minerals Resource Rent Tax (Imposition—Excise) Act 2011* receives the Royal Assent. However, the provision(s) do not commence at all unless all the events mentioned in paragraphs (a) to (f) occur.	

Schedule 1—Lowering the corporate tax rate

Part 1—Reducing the corporate tax rate

Income Tax Rates Act 1986

1 Subsection 23(2)

Omit “30%”, substitute “29%”.

2 Paragraphs 23(3)(b), (3A)(b) and (4)(c)

Omit “30%”, substitute “29%”.

3 Subsection 23(6)

Omit “$915”, substitute “$880”.

4 Subsection 23(7)

Omit “45%”, substitute “43.5%”.

5 Paragraph 23A(a)

Omit “30%”, substitute “29%”.

6 Sections 24 and 25

Omit “30%”, substitute “29%”.

Part 2—Consequential amendments

Income Tax Assessment Act 1936

7 Paragraph 159GZZZZG(1)(d)

Omit "30% of the IB amounts", substitute "all of the IB amounts multiplied by the corporate tax rate".

8 Paragraphs 159GZZZZG(2)(e), (3)(e) and (4)(e)

Omit "30% of the IB attributable amount", substitute "the IB attributable amount multiplied by the corporate tax rate".

9 Subsection 160AAB(1) (subparagraph (a)(ii) of the definition of *statutory percentage*)

After "or a later year of income", insert "that is earlier than the 2013-14 year of income".

10 Subsection 160AAB(1) (at the end of paragraph (a) of the definition of *statutory percentage*)

Add:

(iii) if the year of income is the 2013-14 year of income or a later year of income—the corporate tax rate; or

11 Subsection 160AAB(1) (subparagraph (b)(iii) of the definition of *statutory percentage*)

After "or a later year of income", insert "that is earlier than the 2013-14 year of income".

12 Subsection 160AAB(1) (at the end of paragraph (b) of the definition of *statutory percentage*)

Add:

; or (iv) if the year of income is the 2013-14 year of income or a later year of income—the corporate tax rate.

Income Tax Assessment Act 1997

13 Subsection 36-17(5) (example)

Repeal the example, substitute:

Example: For the 2013-2014 income year, Company A has:

- a tax loss of $150 from a previous income year; and
- assessable income of $200 (franked distribution of $71, franking credit of $29 and $100 of income from other sources); and
- no deductions; and
- no net exempt income.

The tax offset of $29 from the franking credit is not stated in Division 67 to be subject to the refundable tax offset rules.

Company A would not have an amount of excess franking offsets for that year if the tax loss were disregarded (see section 36-55). This is because the tax offset of $29 is less than $58, the amount of income tax that Company A would have to pay if it did not have the tax offset and the tax loss. Paragraph (a) therefore does not apply.

If Company A chooses to deduct the full amount of the tax loss, it would have an amount of excess franking offsets of $14.50:

$29 - (($200 - $150) × 29%)

Company A therefore cannot make this choice because of paragraph (b).

However, if Company A chooses to deduct $100 of the tax loss, it would not have an amount of excess franking offsets:

$29 - (($200 - $100) × 29%)

Company A therefore can choose to deduct $100 of the tax loss.

14 Subsection 36-55(1) (example)

Repeal the example, substitute:

Example: For the 2013-2014 income year, Company E has:

- assessable income of $200 (franked distribution of $142 and franking credit of $58); and
- $100 of deductions that are allowable.

The tax offset of $58 from the franking credit is not stated in Division 67 to be subject to the refundable tax offset rules.

Disregarding the tax offset of $58 from the franking credit, the amount of income tax that Company E would have to pay is $29:

(($142 + $58) - $100) × 29%

This amount is $29 less than the tax offset of $58. Company E therefore has an amount of excess franking offsets of $29 for that year.

15 Subsection 115-280(3) (example)

Repeal the example, substitute:

Example: A listed investment company disposes of a CGT asset for $30,000. The asset had a cost base of $10,000. The capital gain is therefore $20,000. The company applies a capital loss of $10,000 against the gain. Its net capital gain is $10,000.

The net capital gain is subject to tax at 29%. The after tax gain is therefore $7,100.

The company pays a fully franked dividend to Daryl, one of its shareholders. It advises Daryl that his share of the attributable part of the dividend is:

$$\$7.10 + (\$7.10 \times 0.29) \div (1 - 0.29) = \$10$$

Daryl, being an individual, can deduct 50% of $10, which is $5.

Part 3—Application

16 Application of amendments

(1) The amendments made by this Schedule apply in relation to the 2013-14 income year and later income years.

(2) The amendment made by item 1 of this Schedule also applies in relation to the 2012-13 income year but only in relation to the taxable income of a company that is a small business entity (within the meaning of section 328-110 of the *Income Tax Assessment Act 1997*) for that year.

(3) If a provision of the *Income Tax Assessment Act 1997* refers to the corporate tax rate, for the purposes of applying that provision in relation to such a small business entity, or a distribution by such an entity, for the 2012-13 income year, treat that reference in the provision as a reference to the corporate tax rate as it applies under subitem (2).