

EXPOSURE DRAFT

2016-2017

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities) Bill 2017

No. , 2017

(Treasury)

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

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
Schedule 1—Main amendments		3
Part 1—Amendments commencing 1 July 2016		3
<i>Income Tax Rates Act 1986</i>		3
Part 2—Amendments commencing 1 July 2017		6
<i>Income Tax Rates Act 1986</i>		6
Part 3—Application of amendments		7
Schedule 2—Consequential amendments		8
Part 1—Amendments commencing 1 July 2016		8
<i>Income Tax Assessment Act 1997</i>		8
Part 2—Amendments consequential on the Treasury Laws Amendment (Enterprise Tax Plan) Act 2017		9
<i>Income Tax Assessment Act 1997</i>		9
Part 3—Amendments of the Treasury Laws Amendment (Enterprise Tax Plan) Act 2017		10
<i>Treasury Laws Amendment (Enterprise Tax Plan) Act 2017</i>		10
Part 4—Contingent amendments		11
<i>Income Tax Rates Act 1986</i>		11

EXPOSURE DRAFT

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 is the *Treasury Laws Amendment (Enterprise Tax Plan*
7 *Base Rate Entities) Act 2017*.

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.
13

Commencement information		
Column 1	Column 2	Column 3
Provisions	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, Part 1	1 July 2016.	1 July 2016
3. Schedule 1, Part 2	1 July 2017.	1 July 2017
4. Schedule 1, Part 3	The day this Act receives the Royal Assent.	
5. Schedule 2, Part 1	1 July 2016.	1 July 2016
7. Schedule 2, Part 2	Immediately after the commencement of Part 1 of Schedule 4 to the <i>Treasury Laws</i>	1 July 2016

No. , 2017 *Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities)* 1
Bill 2017

EXPOSURE DRAFT

EXPOSURE DRAFT

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
<i>Amendment (Enterprise Tax Plan) Act 2017.</i>		
7. Schedule 2, Part 3	Immediately after the commencement of section 2 of the <i>Treasury Laws Amendment (Enterprise Tax Plan) Act 2017</i> .	19 May 2017
8. Schedule 2, Part 4	At the same time as Part 5 of Schedule 1 to the <i>Treasury Laws Amendment (Enterprise Tax Plan No. 2) Act 2017</i> commences. However, the provisions do not commence at all if that Part does not commence.	

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

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

3 Schedules

8 Legislation 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.

EXPOSURE DRAFT

Main amendments **Schedule 1**
Amendments commencing 1 July 2016 **Part 1**

1 **Schedule 1—Main amendments**

2 **Part 1—Amendments commencing 1 July 2016**

3 *Income Tax Rates Act 1986*

4 **1 Subsection 3(1)**

5 Insert:

6 *base rate entity* has the meaning given by section 23AA.

7 *base rate passive income* has the meaning given by section 23AB.

8 **2 Paragraph 23(2)(a)**

9 Omit “small business entity”, substitute “base rate entity”.

10 **3 Paragraph 23(2)(a)**

11 Omit “28.5%”, substitute “27.5%”.

12 **4 Paragraph 23(3)(b)**

13 Repeal the paragraph, substitute:

14 (b) in respect of the standard component:

15 (i) if the company is a base rate entity for a year of
16 income—27.5%; or

17 (ii) otherwise—30%.

18 **5 Paragraph 23(4)(c)**

19 Repeal the paragraph, substitute:

20 (c) in respect of so much of the taxable income as exceeds the
21 PDF component:

22 (i) if the company is a base rate entity for a year of
23 income—27.5%; or

24 (ii) otherwise—30%.

25 **6 Subparagraph 23(6)(b)(i)**

26 Omit “small business entity”, substitute “base rate entity”.

EXPOSURE DRAFT

Schedule 1 Main amendments

Part 1 Amendments commencing 1 July 2016

1 **7 Subparagraph 23(6)(b)(i)**

2 Omit “\$863”, substitute “\$832”.

3 **8 Paragraph 23(7)(a)**

4 Omit “small business entity”, substitute “base rate entity”.

5 **9 Paragraph 23(7)(a)**

6 Omit “42.75%”, substitute “41.25%”.

7 **10 After section 23**

8 Insert:

9 **23AA Meaning of *base rate entity***

10 An entity is a *base rate entity* for a year of income if:

- 11 (a) it carries on a business (within the meaning of the *Income*
12 *Tax Assessment Act 1997*) in the year of income; and
- 13 (b) its aggregated turnover (within the meaning of that Act) for
14 the year of income, worked out as at the end of that year, is
15 less than \$10 million; and
- 16 (c) it does not have base rate entity passive income for that year
17 of 80% or more of its assessable income for that year.

18 **23AB Meaning of *base rate entity passive income***

19 Each of the following is *base rate entity passive income*:

- 20 (a) distributions (within the meaning of the *Income Tax*
21 *Assessment Act 1997*) by corporate tax entities (within the
22 meaning of that Act), other than non-portfolio dividends
23 (within the meaning of section 317 of the *Income Tax*
24 *Assessment Act 1936*);
- 25 (b) non-share dividends (within the meaning of the *Income Tax*
26 *Assessment Act 1997*) by companies (within the meaning of
27 that Act);
- 28 (c) interest income (within the meaning of the Assessment Act),
29 royalties and rent;

EXPOSURE DRAFT

Main amendments **Schedule 1**
Amendments commencing 1 July 2016 **Part 1**

- 1 (d) gains on qualifying securities (within the meaning of
2 Division 16E of Part III of the Assessment Act);
3 (e) capital gains (within the meaning of the *Income Tax*
4 *Assessment Act 1997*); or
5 (f) amounts included in assessable income under Division 5 or 6
6 of Part III of the Assessment Act, to the extent that they are
7 attributable to base rate entity passive income under a
8 preceding paragraph of this definition.

9 **11 Paragraph 25(a)**

10 Omit “small business entity”, substitute “base rate entity”.

11 **12 Paragraph 25(a)**

12 Omit “28.5%”, substitute “27.5%”.

13 **13 Paragraph 28A(a)**

14 Omit “the rate specified in paragraph 23(2)(b) (about companies other
15 than small business entities)”, substitute “the rate specified in
16 paragraph 23(2)(b) of this Act”.

EXPOSURE DRAFT

Schedule 1 Main amendments

Part 2 Amendments commencing 1 July 2017

1 **Part 2—Amendments commencing 1 July 2017**

2 *Income Tax Rates Act 1986*

3 **14 Paragraph 23AA(b)**

4 Omit “\$10 million”, substitute “\$25 million”.

6 *Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities) No. , 2017*
Bill 2017

EXPOSURE DRAFT

EXPOSURE DRAFT

Main amendments **Schedule 1**
Application of amendments **Part 3**

1 **Part 3—Application of amendments**

2 **15 Application of amendments**

3 (1) Subject to the following subitem, the amendments made by Part 1 of
4 this Schedule apply to the 2016-17 year of income and later years of
5 income.

6 (2) The amendments made by Part 2 of this Schedule apply to the 2017-18
7 year of income and later years of income.

EXPOSURE DRAFT

Schedule 2 Consequential amendments

Part 1 Amendments commencing 1 July 2016

1 **Schedule 2—Consequential amendments**

2 **Part 1—Amendments commencing 1 July 2016**

3 *Income Tax Assessment Act 1997*

4 **1 Subsection 36-17(5) (example)**

5 Omit “For the 2015-16 income year, Company A (which is not a small
6 business entity)”, substitute “For the 2017-18 income year, Company A
7 (which is not a base rate entity)”.

8 **2 Subsection 36-55(1) (example)**

9 Omit “For the 2015-16 income year, Company E (which is not a small
10 business entity)”, substitute “For the 2017-18 income year, Company E
11 (which is not a base rate entity)”.

12 **3 Subsection 36-55(2) (example)**

13 Omit “2002-2003”, substitute “2017-2018”.

14 **4 Paragraph 65-30(2)(a)**

15 Omit “*small business entity”, substitute “base rate entity (within the
16 meaning of the *Income Tax Rates Act 1986*)”.

17 **5 Paragraph 65-35(3A)(a)**

18 Omit “*small business entity”, substitute “base rate entity (within the
19 meaning of the *Income Tax Rates Act 1986*)”.

20 **6 Subsection 115-280(3) (example)**

21 Omit “A listed investment company (which is not a small business
22 entity)”, substitute “A listed investment company (which is not a base
23 rate entity)”.

EXPOSURE DRAFT

Consequential amendments **Schedule 2**
Amendments consequential on the Treasury Laws Amendment (Enterprise Tax Plan)
Act 2017 **Part 2**

1 **Part 2—Amendments consequential on the Treasury**
2 **Laws Amendment (Enterprise Tax Plan) Act**
3 **2017**

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

5 **7 Subsection 995-1(1) (definition of *corporate tax rate for***
6 ***imputation purposes*)**

7 Repeal the definition, substitute:

8 ***corporate tax rate for imputation purposes***, of an entity for an
9 income year, means:

- 10 (a) unless paragraph (b) applies—the entity’s *corporate tax rate
11 for the income year, worked out on the assumptions that:
- 12 (i) the entity’s *aggregated turnover for the income year is
13 equal to its aggregated turnover for the previous income
14 year; and
 - 15 (ii) the entity’s base rate entity passive income for the
16 income year is equal to its base rate entity passive
17 income for the previous income year; and
 - 18 (iii) the entity’s assessable income for the income year is
19 equal to its assessable income for the previous income
20 year; or
- 21 (b) if the entity did not exist in the previous income year—the
22 rate of tax in respect of the taxable income of a company
23 covered by paragraph 23(2)(a) of the *Income Tax Rates Act*
24 *1986*.

25 **8 Application of amendments**

26 The amendment made by this Part applies to the 2016-17 income year
27 and later income years.

EXPOSURE DRAFT

Schedule 2 Consequential amendments

Part 3 Amendments of the Treasury Laws Amendment (Enterprise Tax Plan) Act 2017

1 **Part 3—Amendments of the Treasury Laws**
2 **Amendment (Enterprise Tax Plan) Act 2017**

3 *Treasury Laws Amendment (Enterprise Tax Plan) Act 2017*

4 **9 Subsection 2(1) (table items 2, 3 and 19)**

5 Repeal the items.

6 **10 Parts 1 and 2 of Schedule 1**

7 Repeal the Parts.

8 **11 Subitems 57(1) and (2) of Schedule 1**

9 Repeal the subitems.

10 **12 Part 2 of Schedule 5**

11 Repeal the Part.

10 *Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities) No. , 2017*
Bill 2017

EXPOSURE DRAFT

EXPOSURE DRAFT

Consequential amendments **Schedule 2**
Contingent amendments **Part 4**

1 **Part 4—Contingent amendments**

2 *Income Tax Rates Act 1986*

3 **13 Subsection 3(1) (definition of *base rate passive income*)**

4 Repeal the definition.

5 **14 Section 23AB**

6 Repeal the section.

7 **15 Application of amendments**

8 The amendments made by this Part apply to the 2023-24 year of income
9 and later years of income.