|  |
| --- |
| **EXPOSURE DRAFT** |

Inserts for

Treasury Laws Amendment (Measures for Consultation) Bill 2022: Increased Tribunal powers for small business taxation decisions

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1 | The day after this Act receives the Royal Assent. |  |

Schedule 1—Increased Tribunal powers for small business tax decisions

Taxation Administration Act 1953

1 Section 14ZQ

Insert:

***small business taxation assessment decision*** means a taxation decision that is:

 (a) an assessment of tax‑related liabilities (as defined in section 255‑1 in Schedule 1) relating in whole or in part to carrying on a business; and

 (b) made in relation to a small business entity (within the meaning of the *Income Tax Assessment Act 1997*).

2 At the end of section 14ZZB

Add:

 (3) However, despite subsection (1), section 41 of the AAT Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision, subject to the modifications set out in section 14ZZH.

3 After section 14ZZG

Insert:

14ZZH Modification of section 41 of the AAT Act

 Section 41 of the AAT Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision as if the following subsection were inserted after subsection (3):

 “(3A) The Tribunal must not make an order under subsection (2), or an order varying or revoking an order in force under subsection (2), unless:

 (a) the proceeding before the Tribunal is in the Small Business Taxation Division of the Tribunal; and

 (b) if the party requesting the order is not the Commissioner—the party satisfies the Tribunal of all the following matters in relation to the making of the order, when considered in the context of both the particular circumstances ofthe decision under review and the overall taxation system:

 (i) the order is unlikely to prejudice or unduly restrict the Commissioner’s administration of a taxation law;

 (ii) the order is unlikely to undermine the objective or purpose of a taxation law or a provision of a taxation law, or the integrity of the taxation system as administered by the Commissioner;

 (iii) the application for review and the request for making the order is not frivolous, vexatious, misconceived, lacking in substance or otherwise intended to impede the proper administration of a taxation law.”.

4 Section 14ZZM

Before “The”, insert “(1)”.

5 At the end of section 14ZZM

Add:

 (2) However, the application of subsection (1) in relation to a small business taxation assessment decision is subject to any order made under section 41 of the AAT Act (as modified by section 14ZZH of this Act) in relation to the decision.

6 Application

The amendments made by this Schedule apply in relation to applications for review made on or after the commencement of this Schedule.