2025–2026

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

TREASURY LAWS AMENDMENT (TAX REFORM NO.1) BILL 2026

SUPPLEMENTARY EXPLANATORY MEMORANDUM

AMENDMENTS AND NEW CLAUSES TO BE MOVED ON BEHALF OF THE GOVERNMENT

(Circulated by authority of the Treasurer, the Hon Jim Chalmers MP)

Table of Contents

Glossary

This Supplementary Explanatory Memorandum uses the following abbreviations and acronyms.

Abbreviation	***Definition***
Bill	Treasury Laws Amendment (Tax Reform No. 1) Bill 2026
CGT	Capital Gains Tax
ITAA 1997	*Income Tax Assessment Act 1997* (Cth)
WATO	Working Australians tax offset

General outline and financial impact

CGT Adjustments – Parliamentary Amendments

Outline

The Parliamentary amendments amend Schedule 1 to the Bill to:

- remove the power for the Minister to determine, by legislative instruments, kinds of CGT assets that would retain the 50 per cent CGT discount for individuals and trusts;
- increase the aggregated turnover threshold for entities to access the small business 50 per cent reduction in capital gains from the disposal of active assets to $10 million from $2 million;
- maintain incentives to make deductible charitable gifts or donations by providing for the gains subject to the minimum tax to be reduced where a taxpayer has made a deductible gift or donation; and
- amend the provisions exempting recipients of specified payments from the minimum tax to insert a list of the specified payments and remove the power for the Minister to specify payments by legislative instrument.

This EM also includes corrected versions of examples in the EM to the Bill that contained calculation errors as well as a correction to the text of the EM.

Date of effect

The changes relating to the operation of the minimum tax made by the Parliamentary amendments would, consistent with the amendments in the Bill relating to the minimum tax, commence immediately after the commencement of the Imposition Bill and apply to assessments for the income year that includes 1 July 2027 and later income years.

The other changes made by the Parliamentary amendments would, consistent with the other amendments in the Bill, commence on the first 1 January, 1 April, 1 July or 1 August to occur after the day the Bill receives Royal Assent and apply to assessments for the income year that includes 1 July 2027 and later income years.

Proposal announced

The Parliamentary amendments partially implement the *Tax Reform – Boosting Home Ownership – reforming negative gearing and capital gains tax* measure in the 2026-27

Budget and fully implements the changes to the 50 per cent active asset reduction for small businesses announced by the Prime Minister and Treasurer on 18 June 2026.

Financial impact

Combined, the amendments to Schedules 1 and 2 are estimated to decrease tax receipts by $320 million over the 4 years to 2029-30.

Human rights implications

The Parliamentary amendments do not affect the analysis of human rights issues. See Statement of Compatibility with Human Rights — Chapter 4 of the EM to the Bill.

Compliance cost impact

Outside of the increase to the aggregated turnover threshold for the small business 50 per cent reduction, the compliance cost impact for the Parliamentary amendments to Schedule 1 is materially unchanged

Increasing the aggregated turnover threshold from $2 million to $10 million for the small business 50 per cent CGT reduction is expected to result in minor transitional costs.

Negative gearing – Parliamentary Amendments

Outline

The parliamentary amendments amend Schedule 2 to the Bill to remove the following Ministerial determination powers:

- the power to determine a kind of business or enterprise for which a residential dwelling could be used for that would exempt it from the loss quarantining requirements;
- the power to determine a class of entities which are exempt from the loss quarantining requirements; and
- the power to determine a class of dwellings which are exempt from the definition of residential dwelling (and therefore exempt from the loss quarantining requirements).

The Parliamentary amendments amend Schedule 2 to the Bill to limit the ministerial instrument making powers for the meaning of new residential dwelling and the use or holding of a residential dwelling for certain activities or purposes by setting out requirements the Minister must be satisfied with when making the instruments.

Date of effect

The amendments to Schedule 2 to the Bill, consistent with the other amendments in the Bill, commence the day after Royal Assent.

Proposal announced

The Parliamentary amendments partially implement the '*Tax Reform – Boosting Home Ownership – reforming negative gearing and capital gains tax*' measure in the 2026-27 Budget.

Financial impact

Combined, the amendments to Schedules 1 and 2 are estimated to decrease tax receipts by $320 million over the 4 years to 2029-30.

Human rights implications

The Parliamentary amendments do not affect the analysis of human rights issues. See Statement of Compatibility with Human Rights — Chapter 4 of the EM to the Bill.

Compliance cost impact

The Parliament amendments regulatory impact is materially unchanged.

Working Australians tax offset – Parliamentary Amendments

Outline

The Parliamentary amendments to Schedule 3 to the Bill remove the power for the Minister to determine, by legislative instrument, the amount for the purposes of paragraph 61-160(1)(b) of the ITAA 1997 and replace it with the method for calculating the amount of the WATO under paragraph 61-160(1)(b) based on what would be an individual's basic income tax liability if their taxable income consisted solely of net labour income.

Date of effect

The amendments to Schedule 3 to the Bill, consistent with the other amendments in the Bill, commence on the first 1 January, 1 April, 1 July or 1 October to occur after the day the Bill receives Royal Assent and apply to assessments for the 2027-28 income year and later income years.

Proposal announced

The Parliamentary amendments partially implement the *Tax Reform – cutting taxes with a Working Australians Tax Offset* measure from the 2026-27 Budget.

Financial impact

The Parliamentary amendments financial impact is materially unchanged from the figures disclosed in the Explanatory Memorandum to the Bill.

Human rights implications

The Parliamentary amendments do not affect the analysis human rights issues. See Statement of Compatibility with Human Rights — Chapter 4 of the EM to the Bill.

Compliance cost impact

The Parliament amendments regulatory impact is materially unchanged.

Chapter 1: CGT Adjustments – Parliamentary Amendments

Table of Contents:

Outline of chapter

1.1 The Parliamentary amendments amend Schedule 1 to the Bill to:

- remove the power for the Minister to determine, by legislative instrument, kinds of CGT assets that would retain the 50 per cent CGT discount for individuals and trusts;
- increase the aggregated turnover threshold for entities to access the small business 50 per cent reduction in capital gains from the disposal of active assets to $10 million from $2 million;
- maintain incentives to make deductible charitable gifts or donations, by providing for the gains subject to the minimum tax to be reduced where a taxpayer has made a deductible gift or donation; and
- amend the provisions exempting recipients of specified payments from the minimum tax to insert a list of the specified payments and remove the power for the Minister to specify payments by legislative instrument.

1.2 This EM also includes corrected versions of examples in the EM to the Bill that contained calculation errors as well as a correction to the text of the EM.

Context of amendments

1.3 The Bill was introduced into the House of Representatives on 28 May 2026.

1.4 Schedule 1 to the Bill sets out a number of amendments that would adjust the operation of CGT, replacing the 50 per cent CGT discount for individuals and trusts with cost base indexation.

1.5 Among other things, Schedule 1 to the Bill included a power for the Minister to, by legislative instrument, determine that specific kinds of CGT assets retain access to the 50 per cent CGT discount for individuals and trusts. This power was included as a contingency and there was no expectation it would be used.

1.6 Schedule 1 to the Bill also included changes to ensure the amendments did not affect access to the small business CGT concessions. It did not make any changes to the availability of those concessions.

1.7 Schedule 1 to the Bill further introduced a 30 per cent minimum tax on capital gains of individuals. It provided that the recipients of government payments specified by the Minister by legislative instrument would be exempt from the minimum tax in the income year in which they receive the payment. It did not provide for adjustments or exemptions for individuals entitled to deductions, including those resulting from charitable donations.

Summary of amendments

1.8 The Parliamentary amendments amend Schedule 1 to the Bill to remove the power for the Minister to determine, by legislative instrument, kinds of CGT assets that would retain the 50 per cent CGT discount for individuals and trusts. As a result of this change, the only kind of CGT assets that will retain the 50 per cent CGT discount for individuals and trusts from 1 July 2027 are new residential dwellings.

1.9 The Parliamentary amendments also insert new provisions into Schedule 1 to the Bill to amend the requirements for entities to be able to access the small business 50 per cent reduction in capital gains from the disposal of active assets. This concession would now be available for entities with aggregated turnover less than $10 million, rather than less than $2 million, provided the entity meets the other requirements to access the concession. The requirements for access to the other small business CGT concessions will remain unchanged.

1.10 The Parliamentary amendments further amend Schedule 1 to the Bill to provide for the amount on which the minimum tax on capital gains is payable for an individual for an income year to be reduced to reflect deductible gifts or donations, such as those arising from a gift to a registered charity that is a deductible gift recipient.

1.11 The Parliamentary amendments also further amend Schedule 1 to the Bill in relation to the exemption for the recipients of certain government payments (exempting payments) from the minimum tax on capital gains. As a result of these amendments, all exempting payments will be listed in the provisions inserted into the ITAA 1997. The power for the Minister to determine, by legislative instrument, that payments are exempting payments is removed.

Detailed explanation of amendments

1.12 The Parliamentary amendments make 4 principal changes to Schedule 1 of the Bill.

Removal of the power to determine additional kinds of CGT assets that retain access to the 50 per cent discount

1.13 First, the Parliamentary amendments amend item 30 of Schedule 1 to the Bill to remove the proposed provisions that would have provided the Minister with the power to determine, by legislative instruments, kinds of CGT assets that would retain the 50 per cent CGT discount for individuals and trusts. ***[Amendments 1 to 9 and 12, items 13, 24, 27, 28, 30, 42 and 58 of the Bill, table of contents for Subdivision 112-E, paragraphs 114-30(2)(a), section 115-1, paragraph 115-100(a), section 115-102, paragraph 115-102(2)(b), subsection 115-102(3) and paragraphs 115-225(4)(b) and (d) and 119-5(2)(b) of the ITAA 1997]***

Increase to the turnover threshold to access the small business 50 per cent reduction

1.14 Second, the Parliamentary amendments insert new provisions to increase the availability of the small business 50 per cent reduction in capital gains arising from the disposal of active assets. Broadly, an active asset is an asset used in the business for a particular period (generally at least half the ownership period, but a range of special rules can apply – see sections 152-35 and 152-40 of the ITAA 1997).

1.15 For an entity to access any of the small business CGT concessions for an income year, including the small business 50 per cent active asset reduction, broadly the entity must meet one of the following conditions:

- be a CGT small business entity;
- if the CGT asset is an interest in an asset of a partnership, be a partner in that partnership which must be a CGT small business entity;
- satisfy the maximum net asset value test (see section 152-10 of the ITAA 1997) or
- not carry on a business in the income year, provided that the CGT asset to which the concession apply is used in a business carried on by a small business entity that is an affiliate of the entity, an entity

connected with the entity or a partnership in which the entity is a partner (see subsections 152-10(1A) and 152-10(1B) of the ITAA 1997);

1.16 To be a CGT small business entity, an entity must, among other things, have aggregated turnover of less than $2 million.

1.17 Additional conditions must be met in certain circumstances, for example if the CGT asset is a share in a company or an interest in a trust.

1.18 The provisions inserted by the Parliamentary amendments provide that, for the purposes of accessing the small business 50 per cent reduction in Subdivision 152-C, an entity will be taken to be a CGT small business entity if it is a small business entity, without also needing to meet the requirement to also have aggregated turnover of less than $2 million.
[Amendment 16, item 79A of the Bill, subsection 152-205(2) of the ITAA 1997]

1.19 The effect of this amendment is to expand access to the 50 per cent reduction in the amount of capital gains from active assets to entities with aggregated turnover of less than $10 million that meet the other requirements to access the concession. It is estimated this will allow more than 98 per cent of active businesses in Australia to benefit from the 50 per cent reduction in the capital gains from the disposal of their active assets, ensuring that these businesses will benefit from concessional treatment of their capital gains. The 50 per cent reduction can apply in addition to a CGT discount or indexation.

1.20 The Parliamentary amendments also update and insert guide material.
[Amendments 14 and 15, items 78A, 78B and 79A of the Bill, sections 152-200 and 152-205 of the ITAA 1997]

1.21 The amendments do not affect eligibility for the small business 15-year exemption, the small business retirement exemption or the small business rollover. These concessions will remain available only to an entity that satisfies the CGT small business entity definition (including having aggregated turnover of less than $2 million) or meets one of the other conditions (outlined above). The amendments also do not affect the eligibility of entities to access the small business 50 per cent reduction if they satisfy the maximum net asset value test, even if the aggregated turnover of the entity is $10 million or more.

1.22 The Parliamentary amendments include changes to the application provision in Schedule 1 to ensure that, consistent with the other amendments made by Schedule 1, the changes to the turnover threshold to access the small business active asset reduction applies in relation to assessments for the income year that includes 1 July 2027 and later income years.
[Amendment 17, item 82 of the Bill]

Minimum tax on capital gains and deductible gifts

1.23 The Parliamentary amendments amend Schedule 1 to the Bill to provide for the amount on which the minimum tax on capital gains is payable by an individual for an income year to be reduced to reflect deductions arising from gifts or donations. This would then reduce any resulting minimum tax liability. This change maintains incentives for charitable giving and is consistent with existing tax incentives in relation to charitable donations.

1.24 Specifically, amendments are made to how the amount of an individual's 'minimum tax capital gain' is determined. As a result of the change, an individual's minimum tax capital gain is reduced by the total amount an individual is entitled to deduct for the income year under Division 30 of the ITAA 1997 (about gifts or contributions) and Division 31 of the ITAA 1997 (about conservation covenants).
[Amendments 10 and 11, item 58 of the Bill, sections 119-1 and 119-5 of the ITAA 1997]

1.25 This would include all currently deductible gifts and donations.

Payments that exempt recipients from the minimum tax

1.26 The Parliamentary amendments amend Schedule 1 to the Bill to list all of the payments that, if received in an income year, make recipients exempt from the minimum tax for the income year.
[Amendment 13, item 58 of the Bill, section 119-15 of the ITAA 1997]

1.27 The payments are:

- Age pension under Part 2.2 of the *Social Security Act 1991*;
- Austudy payment under Part 2.11A of the *Social Security Act 1991*;
- Carer payment under Part 2.5 of the *Social Security Act 1991*;
- Disability support pension under Part 2.3 of the *Social Security Act 1991*;
- Double orphan pension under Part 2.20 of the *Social Security Act 1991*;
- Jobseeker payment under Part 2.12 of the *Social Security Act 1991*;
- Parenting payment (benefit PP (partnered) and pension PP (single)) under Part 2.10 of the *Social Security Act 1991*;
- Special benefit under Part 2.15 of the *Social Security Act 1991*;
- Youth allowance under Part 2.11 of the *Social Security Act 1991;*
- Family tax benefit under the *A New Tax System (Family Assistance) Act 1999*;

- Stillborn baby payment under the *A New Tax System (Family Assistance) Act 1999*;
- Farm household allowance under Part 2 of the *Farm Household Support Act 2014*;
- Parental leave pay under the *Paid Parental Leave Act 2010*;
- Living allowance under the ABSTUDY scheme;
- Age service pension under Division 3 of Part III of the *Veterans' Entitlements Act 1986*;
- Carer service pension under former Division 6 of Part III of the *Veterans' Entitlements Act 1986*, as saved by clause 8 of Schedule 5 to that Act;
- Income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*;
- Invalidity service pension under Division 4 of Part III of the *Veterans' Entitlements Act 1986*;
- Partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986*;
- Veteran payment under section 45SB of the *Veterans' Entitlements Act 1986*;
- War widow/widower pension (being a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at a rate determined under or by reference to subsection 30(1) of that Act; the weekly amount mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004*, including a reduced weekly amount because of a choice under section 236 of that Act; or a lump sum mentioned in subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004)*;
- Double orphan pension under the *Veterans' Entitlements Act 1986* (being a pension under Part II or IV of that Act at a rate determined under or by reference to paragraph 30(2)(a) or (b) of that Act);
- Disability Compensation Payment paid at certain rates (that is, a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at the rate applicable under sections 23, 24 and 25 of that Act); and
- Special Rate Disability Pension under Part 6 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*.

1.28 The payments covered by this exemption are those that are generally relied upon for basic living expenses and primarily targeted to individuals with low economic means. Government payments provide a practical and wellestablished mechanism for identifying such individuals, as eligibility is often determined through income and asset testing frameworks. Other government payments are tied to the incapacity or limited capacity of the individual to work due to reasons (such as disability, injury or caring obligations), or the identification of specific circumstances requiring government support (such as the loss of both parents).

1.29 As discussed in the EM to the Bill, exempting recipients of these payments ensures that individuals receiving such payments or pensions, which include those generally relied upon for basic living expenses, will not be subject to the minimum tax.

1.30 The amendments ensure that all payments that make recipients exempt from the minimum tax are set out in the primary law. Previously, the exemption only applied to payments determined by the Minister in a legislative instrument. As part of the inclusion of the new list, the amendments remove the Minister’s power to specify payments by determination for this purpose. ***[Amendment 13, item 58 of the Bill, section 119-15 of the ITAA 1997]***

Corrected examples

1.31 Example 1.6 is to be omitted and substituted with the following example:

Example 1.6 Application of indexation formula to purchase in instalments

Marcus agrees to acquire an investment asset in July 2027 for 10 equal quarterly instalments of $10,000. He makes the first payment on 1 July 2027 and then pays a further $10,000 every three months, with the final instalment paid on 1 October 2029.

Under the indexation method, each instalment is treated as a separate amount of expenditure incurred at the time it is paid. Marcus cannot treat the $100,000 as a single cost as this is different to the real cost of the asset that was paid over time. Instead, each of the ten $10,000 payments forms part of the first element of the cost base at the point in time it is paid.

Assuming indexation is available up to the time of disposal, Marcus follows ATO guidance and tools to separately index each instalment with reference to CPI. Each $10,000 payment is multiplied by a factor calculated using the CPI for the quarter in which he sells the asset divided by the CPI for the quarter in which that particular instalment was paid.

1.32 Example 1.8 is to be omitted and substituted with the following example:

Example 1.8 Calculating residential capital gains

On 22 October 2027, Minh Anh becomes the owner of seaside land on which a large, two-level residential dwelling is constructed. She commences using the lower level as her main residence and providing the top level as residential accommodation.

On 8 May 2032, at the ending of a tenancy for the part used for residential accommodation, the dwelling is demolished. A building suitable for use as a wellness retreat is constructed and Minh Anh leases out the property to commercial tenants.

On 14 June 2035, Minh Anh ceases to be the owner of the property when it is sold. The capital gain that would be made on the sale of the property, apart from the application of the CGT main residence exemption and after taking into account cost base indexation, would be $3.9 million.

Minh Anh applies the Subdivision 118-B main residence exemptions to reduce the amount of that capital gain, taking into account:

- the number of non-main residence days in the ownership period (1132 of 2792); and
- the reasonable extent to which the original dwelling was used for an income producing purpose (40 per cent).

On the application of those exemptions, Minh Anh reduces the capital gain of $3.9 million by $1,391,260.

The amount of capital gain to be included in determining if Minh Anh has a net capital gain for the 2034/35 income year is $2,508,740.

None of this gain is a deferred residential capital gain or a deferred non-residential capital gain. The amount of the gain that is a residential capital gain is equal to the amount of the capital gain multiplied by a fraction, being the number of residential accommodation days divided by the total number of days in the post-1 July 2027 ownership period. The remainder of the gain will be a non-residential capital gain.

The residential accommodation days includes the fractional part of those days in which the dwelling was used for providing residential accommodation, with the fraction determined based on the extent of use. Based on the apportionment made for the main residence exemption this is a 4/10th fraction of 1660 days = 664.

Days in the post-2027 ownership period is 2792, reduced by the parts of days for which it is reasonable to expect a capital gain has been disregarded by the operation of the main residence exemption. In Minh Anh's circumstances, it is reasonable to ascertain on the basis of the attribution made under the exemption that this will be a 6/10th fraction of each of the 1660 days. Given this, the days in the post-2027 ownership period are 1796 (2792 less 996).

As a result, Minh Anh has:

- a residential capital gain of $927,507 ($2,508,740 x 664/1796)
- a non-residential capital gain of $1,581,233.

1.33 Example 1.9 is to be omitted and substituted with the following example:

Example 1.9 How to calculate your net capital gain

Asher is an Australian resident who conducts a range of investment activities including in property used to provide residential accommodation. Asher sells the following investments in the 2030/31 income year:

- Rights, purchased in May 2002, for a sale price of $1.2 million;
- Property A, purchased in January 2008 and used from that time to provide residential accommodation, for a sale price of $3.2 million
- Property B, purchased in April 2029 and used to provide residential accommodation, for a sale price of $1.4 million; and
- ASX shares purchased in August 2030 and sold in November of that year for $50,000.

Asher has, for that income year, a carried forward capital loss of $200,000 and a quarantined amount from the conduct of a portfolio of residential property investments of $1.4 million. The capital gains will not meet the conditions for the small business concessions in Division 152.

Asher calculates the following capital gains:

- Rights: a deferred non-residential capital gain of $600,000 and a non-residential capital gain of $400,000.
- Property A: a deferred residential capital gain of $1 million and a residential capital gain of $500,000.
- Property B: a residential capital gain of $280,000.

- ASX shares: a non-residential capital gain of $12,000.

Asher applies the section 102-5 method statement as follows:

Step 1: Asher has:

- Deferred non-residential capital gain of $600,000;
- Deferred residential capital gain of $1 million;
- Non-residential capital gain of $412,000;
- Residential capital gain of $780,000; and

As Asher has no current year capital losses, no reduction is made to these amounts at Step 1.

Step 2: The deferred non-residential capital gains amount of $600,000 is reduced by the carried forward capital loss ($200,000) to $400,000.

Step 3: The deferred residential capital gains amount of $1 million is reduced by the quarantined amount ($1.4 million) to nil.

Step 4: The residential capital gains amount of $780,000 is reduced by the remaining quarantined amount ($400,000) to $380,000.

Step 5: The deferred non-residential capital gain that Asher made on the sale of the rights relates to a pre-1 July 2027 gain and is therefore a discount capital gain. The discount percentage (50 per cent) is applied to reduce the remaining $400,000 of this capital gain to $200,000.

Step 6 does not apply, as the conditions for the small business concessions are not met.

Step 7: Asher has a net capital gain of $992,000 for the 2030-31 income year, made up of $200,000 (deferred non-residential capital gain) plus $412,000 (non-residential capital gain) plus $380,000 (residential capital gain). This amount is included in assessable income.

1.34 Example 1.11 is to be omitted and substituted with the following example:

Example 1.11 Modifying the cost base by an Australian individual

Otis, an Australian resident, purchases shares in January 2020 for $100,000 and sells them on 1 March 2029 for $160,000.

The shares are deemed to be disposed of on 30 June 2027 and reacquired on 1 July 2027. Assuming Otis later elects to use the market value method, the deemed capital proceeds for the deemed disposal at that date are worked out to be $120,000.

The deemed disposal has resulted in a notional gain of $20,000. This notional gain is the amount of Otis' net capital gain for the 2026-27 income year, relating to that CGT asset, calculated according to the old law. The taxing point is deferred until the shares are sold in the future.

Otis sells the shares on 1 March 2029 for $160,000. This is the realisation event. In working out the capital gain for this realisation event, as Otis elects to use the market value method, the cost base of the shares is determined by taking the market value of the shares at the time of their deemed acquisition on 1 July 2027 and applying indexation (that is, indexation is applied to $120,000).

Both the deferred gain from the deemed disposal just before 1 July 2027, and the separate capital gain for the sale (the realisation event) on 1 March 2029, are included in working out Otis' net capital gain for the 2029-30 income year.

1.35 Example 1.17 is to be omitted and substituted with the following example:

Example 1.17 Calculating minimum capital gains tax

Genevieve makes a net capital gain from the sale of listed shares in the 2029 income year. She does not have any other capital gains for that year. After applying the relevant steps in subsection 102-5(1), her minimum tax capital gain is $50,000.

Excluding that capital gain, Genevieve's 2029 taxable income is $40,000.

As a single homeowner with more than $750,000 in assets, Genevieve does not qualify for any government payments, which means that she cannot be exempt from the minimum capital gains tax. Genevieve works out her minimum tax gap amount for the 2029 income year using the method statement in subsection 119-10(2) as follows:

- Step 1: Multiplying her $50,000 minimum tax capital gain by 30 per cent gives a result of $15,000.
- Step 2: Disregarding Division 119, Genevieve's basic 2029 income tax liability on her taxable income of $90,000 under step 2 of the method statement in subsection 4-10(3) is $17, 252.
- Step 3: If Genevieve's step 2 amount was worked out on the basis that her $50,000 minimum tax capital gain was excluded from her $90,000 taxable income (but not

reducing it below nil) her basic 2029 income tax liability on the remaining taxable income of $40,000 would be $3,052.

- Step 4: Subtracting the amount at step 3 ($3,052) from the amount at step 2 ($17,252) gives Genevieve a result of $14,200.
- Step 5: Subtracting the amount at step 4 ($14,200) from the amount at step 1 ($15,000) gives Genevieve a result of $800.
- Step 6: The step 5 result is a whole dollar amount, so rounding it down to the nearest whole dollar is not relevant.
- Step 7: The $800 result, being more than nil, means Genevieve has a $800 minimum tax gap amount for the 2029 income year.

Section 12AA of the Rates Act provides that an additional rate of income tax applies to Genevieve's $50,000 minimum tax capital gain, which results in extra income tax equal to her $800 minimum tax gap amount. That rate is worked out using the formula:

minimum tax gap amount / minimum tax capital gain

Applying that formula (800 / 50,000) results in a 1.6 per cent rate for Genevieve, which results in $800 extra tax when applied to her $50,000 minimum tax capital gain.

1.36 Example 1.18 is to be omitted and substituted with the following example:

Example 1.18 Application of the deemed disposal and reacquisition for pre-CGT assets.

Eileen acquired an investment property in 1980 for $100,000. The property is a pre-CGT asset

On 30 June 2027, the property has market value of $1,000,000.

Under the amendments, Eileen is taken to have disposed of the property just before 1 July 2027 and reacquired it on 1 July 2027. Any capital gain arising from the deemed disposal is disregarded, upon a realisation event, as the asset was pre-CGT.

Eileen is taken to have acquired the property on 1 July 2027 with a cost base of $1,000,000 (being its market value at that time).

In 2030, Eileen sells the property for $1,500,000.

Eileen makes a capital gain worked out by taking the difference between the sale proceeds and the indexed 1 July 2027 cost base.

The gain attributable to the period before 1 July 2027 is not subject to CGT.

Other corrections

1.37 Paragraph 1.126 of the EM to the Bill is omitted and substituted with the following:

> Instead, when the CGT asset is later subject to a realisation event, the taxpayer is then taken to have a capital gain or loss equal to the initial deferred gain or loss. In working out this gain or loss, the rules in section 102-20 about the way you can make a capital gain or loss at the time a CGT event happens are disregarded. This rule needs to be switched off to ensure that the deemed sale and reacquisition of CGT assets just before 1 July 2027 does not crystallise a capital gain or loss in the year of the deemed sale (i.e. 30 June 2027). This mechanism allows the deferred gain or loss to be brought to account in the income year in which the realisation event happens. Also, the gain will be a discount capital gain if the initial deferred gain was a discount capital gain.
> ***[Schedule 1, item 13, subsections 112-160(3) and (4) and 112-170(3) and (4)]***

Chapter 2: Negative Gearing – Parliamentary Amendments

Table of Contents:

Outline of chapter

2.1 The Parliamentary amendments amend Schedule 2 to the Bill to remove the following Ministerial determination powers:

- the power to determine a kind of business or enterprise for which a residential dwelling could be used for that would exempt it from the loss quarantining requirements;
- the power to determine a class of entities which are exempt from the loss quarantining requirements; and
- the power to determine a class of dwellings which are exempt from the definition of residential dwelling (and therefore exempt from the loss quarantining requirements).

2.2 The Parliamentary amendments amend Schedule 2 to the Bill to limit the ministerial instrument making power in paragraph 26-155(2)(c) of the ITAA 1997 by requiring the Minister to be satisfied that the activities or purposes will assist in achieving one or more of the following objectives:

- making available social or affordable housing; or
- improving housing outcomes for:
  - Aboriginal and Torres Strait Islander people;
  - persons with a disability;
  - aged persons;
  - other persons suffering disadvantage.

2.3 The Parliamentary amendments also amend subsection 26-160(4) of the ITAA 1997 to require the Minister to be satisfied the requirements that are determined for the meaning of new residential dwelling will assist in achieving the objective of genuinely adding to the supply of residential dwellings in Australia.

Context of amendments

2.4 The Bill was introduced into the House of Representatives on 28 May 2026.

2.5 Schedule 2 to the Bill set out amendments that quarantine net rental loss deductions to residential dwellings used as residential accommodation. Net rental losses are exempt from quarantining if they relate to new residential dwellings as determined by the Minister by legislative instrument. Schedule 2 to the Bill sets out requirements the Minister may include.

2.6 Schedule 2 to the Bill includes powers for the Minister to, by legislative instrument, determine businesses or enterprises and classes of entities, dwellings and dwellings used for certain activities or purposes that would be exempt from the loss quarantining requirements.

2.7 The powers to determine certain businesses and classes of entities and dwellings were included as a contingency to provide flexibility for the Minister in the event specific exclusions were needed in the future. To provide certainty for individuals and businesses, they will be removed with any future exclusions being given effect through amendments to primary legislation.

2.8 To provider further certainty, the Parliamentary amendments make targeted amendments to the ministerial instrument making powers for the meaning of new residential dwelling and the use or holding of a residential dwelling for certain activities or purposes to set out requirements the Minister must have regard to when making the instruments.

Detailed explanation of new law

Removing Ministerial Determination Powers

2.9 The Bill included a power to determine a kind of business or enterprise for which a residential dwelling could be used for that would exempt it from the loss quarantining requirements. This power was included to deal with new types of residential housing emerging in the future and changes to existing concessional rental accommodation types.

2.10 The Parliamentary amendments remove this power. Should a type of residential housing need to be exempted, a new Bill to amend the ITAA 1997

would be required.
[Amendments 18 and 19, Schedule 2, item 1 of the Bill, subsection 26-155(2)(d) of the ITAA]

2.11 The Bill included a power to determine a class of entities which are exempt from the loss quarantining requirements. This power was included to provide flexibility for the Minister to specify additional types of entities to be excluded should their treatment become inconsistent with the government’s overall housing and tax policy.

2.12 The Parliamentary amendments remove this power. Should a class of entity need to be exempted, a new Bill to amend the ITAA 1997 would be required.
[Amendments 21 and 22, Schedule 2, item 1 of the Bill, subsection 26-155(4)(c) of the ITAA]

2.13 The Bill included a power to determine a class of dwellings which are exempt from the definition of residential dwelling. Classes of dwellings that were determined in this way would have been exempt from the loss quarantining requirements.

2.14 The definition of residential dwelling in the Bill is a new definition. It draws on the definition of dwelling in the ITAA 1997 but includes additions and exclusions such that it meets the policy intent of these tax reforms. This power was included to provide an avenue to add additional exclusions should the need arise.

2.15 The Parliamentary amendments remove this power. Should a type of dwelling need to be excluded from the definition of residential dwelling, a new Bill to amend the ITAA 1997 would be required.
[Amendments 23 and 24, Schedule 2, item 1 of the Bill, subsection 26-160(1)(e) of the ITAA 1997]

Limiting the Ministerial Determination Powers

Activities or purposes

2.16 The Bill includes a power for the Minister to determine, by legislative instrument, activities or purposes for which a residential dwelling is used for that are excluded from the general rule for loss quarantining.

2.17 The Parliamentary amendments amend this instrument making power so that the Minister can only determine activities or purposes that a residential dwelling is used or held for that assist in achieving one or more of the following objectives:

- making available social or affordable housing; or
- improving housing outcomes for:
  - Aboriginal or Torres Strait Islander people;
  - persons with a disability;

– aged persons; or

– other persons suffering disadvantage.

[Amendment 20, Schedule 2, item 1 of the Bill, subsection 26-155(3A) of the ITAA 1997]

2.18 These types of programs or schemes are intended to ensure that entities that support government housing initiatives are not unduly impacted by the restrictions to negative gearing and can continue to reduce their other assessable income by net rental losses for the prescribed activities or purposes.

New residential dwelling

2.19 Schedule 2 to the Bill also includes a power in subsection 26-160(4) of the ITAA 1997 for the Minister to determine, by legislative instrument, requirements that must be met for residential dwellings to be new residential dwellings.

2.20 The Parliamentary amendments amend subsection 26-160(4) of the ITAA 1997 so that the Minister must be satisfied that the requirements set out in the legislative instrument will assist in achieving the objective of genuinely adding to the supply of housing in Australia. This ensures that the focus of the determination of requirements for new residential dwellings is on achieving increased housing supply in Australia.
[Amendments 25 to 27 Schedule 2, item 1 of the Bill, paragraph 26-160(4)(e) and subsection 26-160(4A) of the ITAA 1997]

2.21 The other requirements in Schedule 2 to the Bill that the Minister may have regard to when making the legislative instrument remain unchanged.

Commencement, application, and transitional provisions

2.22 The Parliamentary amendments to Schedule 2 of the Bill commence at the same time as Schedule 2 to the *Treasury Laws Amendment (Tax Reform No. 1) Act 2026.*

2.23 The amendments apply to the 2027-28 income year and later income years.

2.24 No transitional rules are required, as the amendments apply from the commencement of the offset and do not affect prior income years.

Chapter 3: Working Australians tax offset – Parliamentary amendments

Table of Contents:

Outline of chapter

3.1 The Parliamentary amendments to Schedule 3 to the Bill remove the power for the Minister to determine, by legislative instrument, the amount for the purposes of paragraph 61-160(1)(b) of the ITAA 1997.

3.2 The amendments replace the ministerial instrument making power with the method in paragraph 61-160(b) of the ITAA 1997 that calculates the amount as the individual's basic income tax liability as if their taxable income consisted solely of net labour income.

3.3 The amendments also remove subsection 61-160(2) of the ITAA 1997.

Context of amendments

3.4 As introduced, the Bill provided that an individual's entitlement to the WATO was the lesser of $250 and an amount determined by the method set by the Minister by legislative instrument.

3.5 This approach was intended to allow a consistent method for calculating the relevant amount of the WATO. However, as the method is mechanical, fixed, and does not involve any exercise of discretion, it is able to be legislated in the primary law to provide certainty.

3.6 The Parliamentary amendments embed the calculation method directly into the ITAA 1997, improving certainty and transparency.

Detailed explanation of new law

Removal of the Minister's power to determine the method for calculating the WATO

3.7 The Parliamentary amendments remove the power for the Minister to determine, by legislative instrument, the amount of the WATO for the purposes of paragraph 61-160(1)(b) of the ITAA 1997. The amendments also remove subsection 61-160(2), which is no longer required. ***[Amendments 28 to 30, Schedule 3, item 1 of the Bill, paragraph 61-160(b) and subsection 61-160(2) of the ITAA 1997]***

3.8 Embedding the calculation method directly in the ITAA 1997 ensures that the operation of the WATO is set out entirely in primary law.

3.9 As a result, any future changes to the way the amount is calculated must be made by an amendment to the ITAA 1997 enacted by the Parliament.

Method for calculating the amount of the WATO

3.10 The amendments replace paragraph 61-160(1)(b) of the ITAA 1997 with a calculation method that provides that the relevant amount is equal to the amount that would be the individual's basic income tax liability worked out in accordance with section 4-10 of the ITAA 1997 for the income year if their taxable income consisted only of their net labour income worked out under subsection 61-155(2). ***[Amendments 28 and 29, Schedule 3, item 1 of the Bill, paragraph 61-160(b) of the ITAA 1997]***

3.11 The amount of the WATO continues to be the lesser of $250 and the amount calculated in accordance with the calculation method set out under paragraph 61-160(b) of the ITAA 1997.

Operation and policy rationale

3.12 This approach isolates an individual's net labour income from other sources of income and ensures that the WATO is appropriately targeted to labour income.

3.13 The use of a calculation method embedded into the primary law ensures that the calculation does not depend on the exercise of any administrative or Ministerial discretion.

Example 3.1 – Taxpayer receives WATO amount less than $250

An individual has net labour income of $19,000 in the 2027-2028 income year.

The individual's basic income tax liability on that amount, calculated as if it were their only taxable income, is $112. This is calculated as follows:

Particular	***$***
Net labour income	19,000
Less tax-free threshold	-18,200
Net labour income after the tax-free threshold	800
Basic income tax payable on net labour income	112
Amount of the WATO (the lesser of $250 or basic income tax payable on net labour income)	112

As the amount worked out under paragraph 61-160(b) is less than $250, the individual's WATO for the income year is $112.

Example 3.2 – Taxpayer receives WATO of $250

An individual has net labour income of $25,000 in the 2027-28 income year.

The individual's basic income tax liability on that amount, calculated as if it were their only taxable income, is $952. This is calculated as follows:

Particular	***$***
Net labour income	25,000
Less tax-free threshold	-18,200
Net labour income after the tax-free threshold	6,800
Basic income tax payable on net labour income	952
Amount of the WATO (the lesser of $250 or basic income tax payable on net labour income)	250

Although the amount worked out under paragraph 61-160(b) is $952, section 61-160 applies to cap the WATO at $250.

Commencement, application, and transitional provisions

3.14 The amendments contained under this Chapter commence at the same time as Schedule 3 of the *Treasury Laws Amendment (Tax Reform No. 1) Act 2026* commences.

3.15 The amendments apply to assessments for the 2027-28 income year and later income years.

3.16 No transitional rules are required, as the amendments apply from the commencement of the offset and do not affect prior income years.

Chapter 4: Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Treasury Laws Amendment (Tax Reform No.1) Bill 2026

Table of Contents:

Schedule 1 – CGT adjustments – Parliamentary Amendments

Overview

4.1 These parliamentary amendments are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

4.2 The parliamentary amendments amend Schedule 1 to the Bill to:

- remove the power for the Minister to determine, by legislative instrument, kinds of CGT assets that would retain the 50 per cent CGT discount for individuals and trusts;
- increase the aggregated turnover threshold for entities to access the small business 50 per cent reduction in capital gains from the disposal of active assets to $10 million from $2 million;
- maintain incentives to make deductible charitable gifts or donations, by providing for the gains subject to the minimum tax to be reduced where a taxpayer has made a deductible gift or donation; and
- amend the provisions exempting recipients of specified payments from the minimum tax to insert a list of the specified payments and remove the power for the Minister to specify payments by legislative instrument.

Human rights implications

4.3 The parliamentary amendments to Schedule 1 of the Bill do not change the way Schedule 1 to the Bill engages with any of the applicable rights or freedoms.

4.4 The Statement of Compatibility accompanying the Explanatory Memorandum to the Bill identified that Schedule 1 to the Bill engaged with the rights to a fair hearing and trial under Articles 14 and 15 of the ICCPR, as the Schedule 1 altered existing, enforceable tax liabilities and created a new reporting obligation. The parliamentary amendments make no substantive change to the position set out in the Bill on these matters and do not further engage with these rights.

4.5 The Statement of Compatibility accompanying the Explanatory Memorandum to the Bill also identified that Schedule 1 to the Bill engaged with the right to an adequate standard of living under Article 11(1) of the ICESCR as it supports the right to housing through its support for investment in affordable housing and new residential dwellings. It also engaged with the right to an adequate standard of living through the inclusion of a mechanism to exempt income support recipients from the minimum tax.

4.6 The parliamentary amendments make no substantive change to the position set out in the Bill on these matters, with the exception of the mechanism to exempt income support recipients from the minimum tax. In the case of that mechanism, the amendments set out the details of the relevant payments in the primary law and remove the related instrument-making power. This provides additional certainty and clarity about the exemption, further extending the support provide to the right to an adequate standard of living.

Conclusion

4.7 The parliamentary amendments make no substantive change to the position set out in the Bill.

Schedule 2 – Negative Gearing – Parliamentary Amendments

Overview

4.8 The Parliamentary amendments to Schedule 2 to the Bill are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

4.9 The Parliamentary amendments amend Schedule 2 to the Bill to remove the following Ministerial determination powers:

- the power to determine a kind of business or enterprise for which a residential dwelling could be used for that would exempt it from the loss quarantining requirements;
- the power to determine a class of entities which are exempt from the loss quarantining requirements; and
- the power to determine a class of dwellings which are exempt from the definition of residential dwelling (and therefore exempt from the loss quarantining requirements).

4.10 The Parliamentary amendments amend Schedule 2 to the Bill to limit the ministerial instrument making power in paragraph 26-155(2)(c) of the ITAA 1997 by requiring the Minister to be satisfied that the activities or purposes will assist in achieving one or more of the following objectives:

- making available social or affordable housing; or
- improving housing outcomes for:
  - Aboriginal and Torres Strait Islander people;
  - persons with a disability;
  - aged persons;
  - other persons suffering disadvantage.

4.11 The Parliamentary amendments also amend subsection 26-160(4) of the ITAA 1997 to require the Minister to be satisfied the determined requirements for the meaning of new residential dwelling will assist in achieving the objective of genuinely adding to the supply of residential dwellings in Australia.

Human rights implications

4.12 The Parliamentary amendments to Schedule 2 to the Bill do not change the way Schedule 2 to the Bill engages with any of the applicable rights or freedoms.

4.13 The Statement of Compatibility accompanying the Explanatory Memorandum to the Bill identified that Schedule 2 to the Bill engaged with Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – the right to an adequate standard of living. It supports this right to residential property ownership rates for owner-occupiers and increasing housing supply.

4.14 The Parliamentary amendments make no substantive change to the position set out in the Bill on these matters.

Conclusion

4.15 The Parliamentary amendments to Schedule 2 to the Bill make no substantive change to the position set out in the Bill.

Schedule 3 – Working Australians tax offset – Parliamentary Amendments

Overview

4.16 The Parliamentary amendments to Schedule 3 to the Bill are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

4.17 The Parliamentary amendments to Schedule 3 to the Bill remove the power for the Minister to determine, by legislative instrument, the amount for the purposes of paragraph 61-160(b) of the ITAA 1997.

4.18 The amendments replace ministerial instrument making power with the method in paragraph 61-160(1)(b) of the ITAA 1997 that calculates the amount as the individual's basic income tax liability as if their taxable income consisted solely of net labour income.

4.19 The amendments also remove subsection 61-160(2) of the ITAA 1997.

Human rights implications

4.20 The Parliamentary amendments do not change the way Schedule 3 to the Bill engages with any of the applicable rights or freedoms.

Conclusion

4.21 The Parliamentary amendments to Schedule 3 to the Bill make no substantive change to the position set out in the Bill.