EXPOSURE DRAFT

Inserts for

Treasury Laws Amendment (Tax Reform No. 3) Bill 2026: Negative gearing (tranche 2)

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. Schedule X	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	

Schedule X—Negative gearing amendments

Income Tax Assessment Act 1997

1 Subsection 26-155(2) (before the note)

Insert:

Note 1: See also sections 26-156, 26-157 and 26-158 for extensions to these exceptions in certain circumstances.

2 Subsection 26-155(2) (note)

Omit “Note”, substitute “Note 2”.

3 After subsection 26-155(3)

Insert:

(3AA) For the purposes of paragraph (2)(a), in determining when an *ownership interest in a *residential dwelling was last *acquired, disregard the effect of subsection 118-192(2).

(3AB) For the purposes of paragraph (2)(b), if a *residential dwelling would cease to be a *new residential dwelling in relation to you because of the operation of subsection 118-192(2), disregard the effect of that subsection.

4 After section 26-155

Insert:

26-156 Extension of exceptions for non-quarantined residential dwellings—dwelling acquired by surviving spouse

(1) This section applies if:

(a) your *spouse holds an *ownership interest in a *residential dwelling; and

(b) your spouse dies and you *acquire the ownership interest (or part of the ownership interest) in the residential dwelling, either as a surviving joint tenant or because the interest *passes to you as beneficiary in the estate of your deceased spouse.

Residential dwelling originally acquired before 2026 Budget time

(2) If your deceased *spouse *acquired the *ownership interest before the time referred to in paragraph 26-155(2)(a), then for the purposes of that paragraph you are taken to have acquired the ownership interest (or the part of the interest) before that time.

New residential dwelling

(3) If the *residential dwelling was a *new residential dwelling in relation to your *spouse just before dying, then for the purposes of paragraph 26-155(2)(b), the residential dwelling is taken to be a new residential dwelling in relation to you for the *ownership interest you *acquire.

Note: See also section 26-159 (application of extended new residential dwelling exception for capital gains purposes).

Disregard other timing rules for surviving joint tenants and beneficiaries

(4) For the purposes of subsections (2) and (3), disregard the effect of subsection 128-15(2) or 128-50(2) (as applicable) in relation to the timing of the acquisition of the ownership interest.

26-157 Extension of exceptions for non-quarantined residential dwellings—co-owner of dwelling dies

(1) This section applies if:

(a) you and another individual, who is not your spouse, each hold an *ownership interest in the same *residential dwelling as either joint tenants or tenants in common (whether or not there are others who also hold ownership interests in the residential dwelling); and

(b) the other individual dies and you *acquire that deceased individual's ownership interest (or part of the ownership interest) in the residential dwelling, either as a surviving joint tenant or because the interest *passes to you as beneficiary in the estate of the deceased individual.

Residential dwelling originally acquired before 2026 Budget time

(2) If:

(a) you *acquired your existing *ownership interest before the time referred to in paragraph 26-155(2)(a); and

(b) the deceased individual had also acquired the deceased individual's ownership interest before that time;

then for the purposes of that paragraph you are taken to have acquired the deceased individual's ownership interest (or the part of the interest) before that time.

New residential dwelling

(3) If:

(a) for your existing *ownership interest, the *residential dwelling is a *new residential dwelling in relation to you; and

(b) for the deceased individual's ownership interest, the residential dwelling was a new residential dwelling in relation to the deceased individual;

then for the purposes of paragraph 26-155(2)(b), the residential dwelling is taken to be a new residential dwelling in relation to you for the ownership interest you *acquire from the deceased individual.

Note: See also section 26-159 (application of extended new residential dwelling exception for capital gains purposes).

Disregard other timing rules for surviving joint tenants and beneficiaries

(4) For the purposes of subsections (2) and (3), disregard the effect of subsection 128-15(2) or 128-50(2) (as applicable) in relation to the timing of the acquisition of the ownership interest.

26-158 Extension of exceptions for non-quarantined residential dwellings—relationship breakdown

(1) This section applies if, as a result of an order, agreement or award of a kind mentioned in paragraphs 126-5(1)(a) to (f) involving you and your *spouse (or former spouse), you *acquire an *ownership interest in a *residential dwelling from your spouse (or former spouse) (the ***transferor***) or a company or trustee (also the ***transferor***).

Residential dwelling originally acquired before 2026 Budget time

(2) If the transferor *acquired the *ownership interest in the *residential dwelling before the time referred to in paragraph 26-155(2)(a), then for the purposes of that paragraph you are taken to have

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acquired the ownership interest in the residential dwelling before that time.

New residential dwelling

(3) If the *residential dwelling is a *new residential dwelling in relation to the transferor before you *acquire the *ownership interest in the residential dwelling, then for the purposes of paragraph 26-155(2)(b) the residential dwelling is taken to be a new residential dwelling in relation to you for the ownership interest you acquire.

Note: See also section 26-159 (application of extended new residential dwelling exception for capital gains purposes).

26-159 Application of extended new residential dwelling exception for capital gains purposes

If you *acquire an *ownership interest in a *residential dwelling that is taken to be a *new residential dwelling in relation to you under subsection 26-156(3), 26-157(3) or 26-158(3), then for the purposes of subparagraph 115-102(1)(c)(i) the residential dwelling is also taken to be a new residential dwelling in relation to you for the ownership interest you acquire.