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Inserts for
**Tax Laws Amendment (2010 Measures
No. 1) Bill 2010: Thin capitalisation**

EXPOSURE DRAFT

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule TC	The day this Act receives the Royal Assent.	
2.		

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Schedule TC—Thin capitalisation

4

Income Tax Assessment Act 1997

5

1 At the end of section 820-300

6 Add:

- 7 (4) For the purposes of paragraph (3)(a), treat treasury shares (within
8 the meaning of *accounting standard AASB 132) in the entity as
9 included in the *ADI equity capital of the entity, to the extent that
10 those shares are part of the entity's eligible tier 1 capital (within the
11 meaning of the *prudential standards).

12

2 Section 820-310 (method statement, step 3)

13 Repeal the step, substitute:

14 Step 3. Add to the result of step 2 the average value, for that
15 year, of all the *tier 1 prudential capital deductions for the
16 entity, to the extent that they are not attributable to:

- 17 (a) any of the entity's *overseas permanent
18 establishments; or
19 (b) any *Australian controlled foreign entities of which
20 the entity is an *Australian controller; or
21 (c) any of the entity's goodwill or intangible assets
22 arising on acquisition which relate to any excess
23 mentioned in paragraph 5.3 of *accounting
24 standard AASB 1038, as issued on 17 November
25 1998; or

26 Note: Paragraph 5.3 of that accounting standard applies to any
27 excess of the net market values of an interest in a
28 subsidiary over the net amount of that subsidiary's assets
29 and liabilities.

- 30 (d) any of the entity's intangible assets comprising
31 capitalised software expenses.

32 The result of this step is the *safe harbour capital*
33 *amount*.

1 **3 Subsection 820-680(1) (note)**

2 After “see”, insert “paragraph (c) of step 3 of the method statement in
3 section 820-310 and”.

4 **4 Application**

5 The amendments made by this Schedule apply to assessments for each
6 income year starting on or after 1 January 2009.